

Neutral Citation No.-2023:AHC:227032
Judgment Reserved on 24.11.2023
Judgment Delivered on 1.12.2023

Court No. - 35

Case :- WRIT - A No. - 15912 of 2023

Petitioner :- C/M Jubilee Sanskrit College And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shivendu Ojha, Sneh Pandey, Sr.
Advocate

Counsel for Respondent :- C.S.C., Lakshman Tripathi, P.K.
Upadhyay, Shesh Kumar Srivastava

Hon'ble Vikas Budhwar, J.

1. Counter affidavit filed on behalf of the second and the third respondent is taken on record.

2. Heard Sri R.K. Ojha, learned Senior Counsel assisted by Sri Shivendu Ojha, for the writ petitioners, Sri Shailendra Singh, learned Standing Counsel who appears for the respondent no.1, Sri Shesh Kumar Srivastava, learned counsel for the respondents no. 2 and 3 and Sri Ashok Khare, learned Senior Counsel assisted by Sri P.K. Upadhyay, for the fourth respondent.

3. The case of the writ petitioners who are two in number is that it is an institution by the name of Jubilee Sanskrit College, Ballia which is affiliated to Sampurnanand Sanskrit Vishwavidyalaya, Varanasi and it is also grant in aid list of State Government, provisions of U.P. Act No. 24 of 1971 stands applicable.

4. According to the writ petitioners pursuant to the retirement of one Sri Baij Nath Pandey, who was working as a Principal of the petitioners' institution the vacancy stood arisen

which was advertised in two widely circulated news papers and the fourth respondent, Dr. Rakesh Kumar Tripathi applied for the post of Principal in the petitioners' institution.

5. In para 10 of the writ petition it has been asserted that the fourth respondent in order to show experience had relied upon a certificate issued by the Principal of Sri Ramanand Peeth Sanskrit Mahavidyalaya dated 12.1.2015 showing the fact that the fourth respondent had teaching experience since July, 2004 till the issuance of the teaching experience certificate dated 12.1.2015.

6. The interviews pursuant to the said selection was conducted on 3.4.2016 and the fourth respondent thereafter proceeded to furnish another education teaching certificate dated 23.7.2015 mentioning therein that he was appointed in the month of July, 2010 in the institution, Sri Ramanand Peeth Sanskrit Mahavidyalaya and he is teaching till the issuance of the certificate.

7. Based upon the eligibility and experience certificate so submitted by the fourth respondent he was appointed as a Principal in the petitioners' institution and he assumed the charge on 15.6.2016 and was placed under probation from 15.6.2016 to 15.6.2017.

8. It is also the case of the writ petitioners that with respect to the verification of the teaching experience certificate submitted by the fourth respondent dated 23.7.2015 on 1.6.2017, the petitioners' institution made a communication to the Manager of Sri Ramanand Peeth Sanskrit Mahavidyalaya regarding verification of the said certificate.

9. On 3.7.2017 as per the writ petitioners a communication was sent by the Manager of the Sri Ramanand Peeth Sanskrit

Mahavidyalaya wherein according to the writ petitioners' the teaching experience certificate submitted by the fourth respondent under the signature of the Principal Sri Ramanand Peeth Sanskrit Mahavidyalaya was stated to be forged and in para 4 it was stated that fourth respondent was at no point of time appointed in the institution, Sri Ramanand Peeth Sanskrit Mahavidyalaya. Faced with these circumstances, the petitioners' institution issued a notice requiring the fourth respondent to submit explanation/clarification to the same.

10. Pleadings further reveal that an inquiry was conducted by the Inquiry Committee appointed by the petitioners' institution which tendered his inquiry report dated 4.2.2018 holding that the experience certificate submitted by the fourth respondent was forged and the allegations stood proved against the fourth respondent.

11. The inquiry report was placed before the Committee of Management of the institution in question and accordingly a decision was taken on 18.2.2018 by the Committee of Management of the petitioners' institution whereby the fourth respondent was placed under suspension and charge was directed to be handed over to the senior most teacher namely Sri Siddharth Shankar Ojha. A consequential order placing the fourth respondent under suspension was issued on 19.2.2018. On the same day i.e. 19.2.2018 a charge sheet was issued to the fourth respondent. The matter with regard to suspension of the writ petitioners was referred to the Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi, second respondent for approval on 20.2.2018.

12. According to the writ petitioners an objection dated 3.3.2018 was preferred by the fourth respondent against the charge sheet and after verifying the certificate furnished by the

fourth respondent an order is stated to have been passed by the writ petitioners Committee of Management on 7.6.2018 cancelling the appointment of the fourth respondent.

13. Challenging the order dated 7.6.2018 cancelling the appointment of the fourth respondent the fourth respondent preferred Writ-A No.3813 of 2023, Dr. Rakesh Kumar Tripathi vs. State of U.P. which came to be disposed of on 27.4.2022 granting liberty to the fourth respondent to approach the Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi who was directed to take decision on the said issue within a period of two months.

14. Post passing of the order dated 27.4.2022 in Writ-A No.3813 of 2022 the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi thereafter proceeded to appoint the Ex District Judge, Prayagraj as the Inquiry Officer who conducted an inquiry wherein it found that the fourth respondent was not qualified for the post of Principal and based upon the said inquiry report dated 28.10.2022 an order is stated to have been passed on 14.11.2022 holding that the cancellation of the appointment/termination of the services of the fourth respondent was valid.

15. Being against the said order the fourth respondent preferred **Writ-A No.20232 of 2022** which came to be decided on 13.12.2022 while passing the following order:-

1. Heard Shri Ashok Khare, Senior Advocate, assisted by Shri P.K. Upadhyay, learned counsel for the petitioner; learned Standing Counsel; Shri Avneesh Tripathi, learned counsel for the respondent University and Shri Hari Kesh Singh, learned counsel for the Committee of Management.

2. Challenge has been raised to the order dated 14.11.2022 passed by respondent no.2/Vice Chancellor, Sampurnanand Sanskrit University, Varanasi. By that order, the said authority has granted approval to the order dated 07.06.2018 passed by respondent no.6 and cancelled the petitioner's appointment on the post of Principal at Jublee Sanskrit College, Ballia.

3. Submission of learned counsel for the petitioner is, in the first place, the conclusion drawn by the Vice Chancellor is wholly unreasoned. Further, noticing the facts of the case, abrupt conclusion has been reached on the report dated 02.05.2022 submitted to the Vice Chancellor, by four member Committee constituted by him to examine the merits of the case. That report is stated to be clearly in favour of the petitioner.

4. On the other hand, learned counsel for the Committee of Management would contend, the petitioner had obtained appointment on a completely fake certificate. He was never entitled to such appointment. The order passed by the Committee of Management is therefore not a punishment order. Also, he has made reference to the earlier report submitted to the Vice Chancellor to contend, due procedure of law had been followed. Learned counsel for the respondent University has referred to the fact narration made in the impugned order, to justify the same.

5. Having heard learned counsel for the parties and having perused the record, it is mandatory that reasons be recorded by quasi-judicial authorities before they may reach any conclusion as may determine the civil rights of a citizen. Insofar as the order passed by the Committee of Management could not have been given effect to except after approval of the Vice Chancellor, the later authority was obligated to base his conclusions on appropriate reasons emerging from the facts before him. Therefore, while it may have been open to the Vice Chancellor to the University to pass an order in favour of either party, he remained obligated to give reasons for the same.

6. Seen in that light, the impugned order is devoid of any reason. After recording the respective case set up before him and after taking note of the enquiry report submitted before him, the Vice Chancellor has merely recorded his conclusion.

7. In view of the above, the impugned order is wholly unsustainable. No useful purpose would be served in keeping the present petition pending or calling for counter affidavit at this stage as the defect noticed is procedural and it goes to the root of the matter.

8. Accordingly, the impugned order dated 14.11.2022 is set aside. Matter is remitted to the respondent no.2/Vice Chancellor, Sampurnanand Sanskrit University, Varanasi to pass an appropriate order after hearing both sides, as expeditiously as possible, preferably within a period of two months from today.

9. As to the further claim of the petitioner to be entitled to subsistence allowance, it has to be recognized that the petitioner had remained under suspension during pendency of the proceedings before the Vice Chancellor. Accordingly, subject to such claim being made, appropriate order may be passed by the Committee of Management to ensure payment of subsistence allowance to the petitioner, from the date of suspension till the date of final order passed by the Vice Chancellor.

10. With the aforesaid observation, present petition stands disposed of."

16. Consequent to the passing of the above stated order on 16.4.2023 another order was passed whereby the second respondent, Vice Chancellor, Sampurnanand Sanskrit Vishwavidyalaya, Varanasi has approved the suspension and the cancellation of appointment of the fourth respondent.

17. Again challenging the order dated 16.4.2023 passed by the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi the fourth respondent preferred **Writ-A No.9080 of 2023** which came to be decided on **23.5.2023** while passing the following order:-

“Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri P.K.Upadhyay, learned counsel for the petitioner, learned Standing Counsel for the State respondent nos. 1,4,5 and 6, Sri Dev Kaushi, learned Advocate holding brief of Sri Sesh Kumar Srivastava, learned counsel for respondent nos. 2 and 3, Sri Hari Kesh Singh, learned counsel for respondent no. 7 and Sri R.K.Ojha, learned Senior Advocate assisted by Sri C.B.Dubey, learned counsel for respondent no. 9.

The main plank of the argument advanced by learned Senior Advocate is that the earlier order passed by the Vice Chancellor dated 14.11.2022 was set aside by this Court vide order dated 13.12.2022 passed in Writ A No. 20283 of 2022 filed at the instance present petitioner for the order being devoid of any reason, and yet on remand of the case, while passing order afresh, the Vice Chancellor has simply taken note of the enquiry report submitted before him, referred to the respective stand of parties and has proceeded to reach to a conclusion without rendering his finding as to the issues involved. In the circumstances, direction was issued to pass fresh order .

Learned Counsel for the petitioner has argued that this time Vice Chancellor again did commit same mistake by just producing the earlier order in the first three pages dated 14.11.2022 and then has come to record that all the facts have already been stated in the previous order quoted above and so he proceeds to return a finding that the resolution adopted by Committee of Management and consequential orders passed dispensing with services of the petitioner holding his experience certificates as forged and fraudulent one, cannot be faulted with.

Sri Khare, argued that presentation of forged or fake experience certificate itself was the charge, and therefore, Vice Chancellor was required to record his independent findings after evaluating statements recorded before him may be previously in his order. He was required to record independent finding of fact to reach out to a conclusion that petitioner did obtain appointment by submitting

forged and fraudulent experience certificate so as to make his appointment for void ab initio.

Upon bare perusal of the order impugned and the order passed by the authority and previous order passed by it and order of the High Court, prima facie I find substance in the arguments advanced by learned Senior Advocate.

However, at this stage learned Advocate appearing for the respective respondents submit that the matter may be directed to be decided afresh and parties may be directed to appear before the Vice Chancellor who this time may record his own independent finding to reach out to conclusion.

In view of above and with the consent of the parties, the order passed by the Vice Chancellor dated 16.4.2023 is hereby quashed. The matter is remitted to the authority, namely, Vice Chancellor who will this time give patient hearing to the petitioner as well as Committee of Management and also hear the District Inspector of Schools who had submitted the report. Parties are directed to appear before the Vice Chancellor concerned on or before 15th June, 2023 who shall thereafter fix a date for personal hearing to be afforded to all the concerned parties. Vice Chancellor this time is expected to first evaluate/ appreciate submissions so made before him by respective parties and the written submissions if any made by the respective parties and then consider the report of the District Inspector of Schools. He will record independent findings of fact as to whether petitioner did obtain appointment by producing fraudulently a forged experience certificate. It is after recording independent finding to the effect that he will proceed to pass final order in the matter. The Vice Chancellor is expected to dispose of the matter under remand within maximum period of three months from the date of appearance of the parties before him.

However, continuance of the petitioner in service and payment of salary to him shall abide by the order to be passed by the Vice Chancellor afresh.”

18. Post remand now an order has been passed by the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi whereby the approval to the suspension and the cancellation of appointment of the fourth respondent has been disapproved on 17.8.2023.

19. Questioning an order dated 17.8.2023 the writ petitioners have filed the present writ petition in which on **28.10.2023** the following order has been passed:-

“The contention of learned Senior Counsel for the writ petitioner is that the order dated 17.08.2023, passed by the second respondent, Vice Chancellor, Sampurnanand Sanskrit

Vishwavidyalaya, Varanasi suffers from patent error, particularly in view of the fact that once there happens to be a report of the inquiry officer that the certificate submitted by the fourth respondent is forged and it is not verifiable with relation to the certificate issued by the Incharge, Principal Devbani Pracharak Janta Mahavidyalaya, Barhari Pipra Daulakadam, Deoria and of Shri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi, thus without there being any reason, so as to make it verifiable, the order impugned could not have been passed. He submits that on earlier two occasions the order in question was set aside on the ground being not passed with independent application of mind relying upon the findings of the inquiry officer but that would not cloth the fourth respondent as well as the University to completely discard the same without considering the same while applying independent application of mind.

Sri Ashok Khare, learned Senior Counsel, who appears for the fourth respondent as well as Sri Shesh Kumar Srivastava, learned counsel, who appears for the respondent nos.2 and 3 have raised objection regarding the maintainability of the writ petition on the ground that the matter can be referred under Section ? 68 of the U.P. State Universities Act. Be that as it may be this Court at this stage is only adjourning the matter on 08.11.2023. Put up this case on 08.11.2023, as fresh. On that date, Sri Shesh Kumar Srivastava, learned counsel, who appears for the respondent nos.2 and 3 shall obtain instructions.”

20. On **8.11.2023** further order has been passed in the present writ petition which is quoted herein:-

“A short counter affidavit has been filed today on behalf of the fourth respondent, which is taken on record.

Sri R.K. Ojha, learned Senior Counsel seeks time to file response to the same.

Since Sri Shesh Kumar Srivastava, learned counsel, who appears for the respondent-University has received instructions, he seeks a short indulgence for filing his response.

On the request of the learned counsel for parties, put up this case on 17.11.2023 as fresh.”

21. A counter affidavit has been filed by the second and the third respondent sworn by Law Officer (Sampurnanand Sanskrit Vishwavidyalaya, Varanasi) dated 12.11.2023 followed by a counter affidavit by respondent no.4 dated 5.11.2023. A rejoinder affidavit has been filed to the counter affidavit filed on behalf of fourth respondent which is available on record.

22. Sri R.K. Ojha, learned Senior Counsel for the petitioners on instructions submits that he does not propose to file any

response to the counter affidavit filed on behalf of the second and the third respondents.

23. Since the learned counsel for the rival parties do not propose to file any further response thus the writ petition is being decided at the fresh stage.

24. Sri R.K. Ojha, learned Senior Counsel for the writ petitioners has submitted that the order dated 17.8.2023 passed by the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi cannot be sustained for a single moment as not only the said order is bereft of any valid reasons but the same is also cryptic, non-speaking and unreasoned and it skips and overlooks the fundamental and core issues which were required to be gone into by the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi.

25. Elaborating the said submission that the learned Senior Counsel for the writ petitioners has submitted that as per the advertisement in question for the appointment of the post of Lecturer besides the educational qualifications, teaching experience for a period of five years was mandatory requirement which was to be fulfilled in all eventualities for an applicant who applies for the appointment of the Principal. He submits that in the present case as apparent from the order impugned the fourth respondent had relied upon two certificates one issued by Harihar Yadav Ex. Officiating Principal, Sri Devbani Pracharak Janta Mahavidyalaya, Deoria as well as the second certificate of the Officiating Principal Sri Sri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi showing the fact that the fourth respondent had the teaching experience from July, 2010 to July, 2015.

26. Sri R.K. Ojha, learned Senior Counsel for the writ petitioners submits though the fourth respondent had relied upon the teaching experience certificate issued by the Principal of Sri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi dated 12.1.2015 and 23.7.2015 but the said certificates are of no aid and assistance to the fourth respondent, particularly when they have not been issued by the appointing authority being the Committee of Management of the institution in question. He further submits that on a communication being made on 1.6.2017 by the petitioner-Committee of Management before the Manager of Sri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi a reply was received on 3.7.2017 wherein the experience certificate dated 23.7.2015 was questioned not being issued from the office of the said institution. He further submits that an inquiry committee was constituted which conducted the inquiry and it was found from the inquiry report that the said teaching experience certificate is not genuine and verifiable and accordingly an order has been passed for suspension/cancellation of appointment of the fourth respondent.

27. Submission is that pursuant to the order passed in writ court on 27.4.2022 in Writ-A No.3813 of 2022, the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi on the basis of a report of the Inquiry Officer appointed by it, District Judge, Prayagraj proceeded to approve the suspension/cancellation of appointment of the fourth respondent.

28. Submission is though the order dated 14.11.2022 approving the cancellation of the appointment of the fourth respondent was set aside in Writ-A No.20283 of 2022 on 13.12.2022 but the ground on the basis whereof the said order

was passed by this court was that the second respondent had not applied independent mind but it considered the inquiry report in toto. Sri Ojha, thus submits that the said inquiry report is still in existence but the same has been totally ignored and skipped in the order impugned despite the fact that the said inquiry report proceeds to hold that the teaching experience certificate of the fourth respondent is not verifiable.

29. Further submission of the learned Senior Counsel for the writ petitioners is that post remand another order has been passed on 16.4.2023 wherein again the approval had been accorded in favour of the petitioner-Committee of Management regarding cancellation of the appointment of the fourth respondent, however the said order dated 16.4.2023 of the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi was set aside being not in accordance with law on 25.3.2023 but findings recorded in the report of the Inquiry Committee is still intact.

30. Lastly it has been submitted by Sri Ojha that in order impugned in the writ petition without there being any valid reason it holds the teaching experience certificate of the fourth respondent to be genuine skipping the fundamental and core issues which were required to be addressed in this regard. He thus submits that the order in question be set aside and the matter be remitted back for fresh decision.

31. Sri Ashok Khare, learned Senior Counsel assisted by Sri P.K. Upadhyay, for the fourth respondent have submitted that the present writ petition at the behest of the writ petitioners is not maintainable as they have alternate efficacious remedy of taking recourse to provisions of Section 68 of the U.P. State Universities Act, 1973 while filing the reference before Chancellor. According to him since disputed question of facts

are involved, thus it would not be appropriate for this Court to adjudicate the dispute raised in the present writ petition.

32. Sri Ashok Khare, learned Senior Counsel for the fourth respondent submits that though the writ petitioners seek to rely upon the inquiry report of the Ex.District Judge Prayagraj dated 28.10.2020 however the said inquiry report stands substituted by another inquiry report dated 5.7.2022 which holds that the procedure adopted by the petitioner-Committee of Management while either cancelling or terminating the services of the fourth respondent was in direct teeth of of the provisions contained under Statute 17.04 (1) and (2) of the respondent-University.

33. According to Sri Khare on earlier two occasions approval was accorded by the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi holding that the certificates furnished by the fourth respondent were not verifiable however this time by virtue of the order dated 17.8.2023 necessary spade work has been done by the second respondent as it had summoned the Officiating Principal, Sri Sri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi who himself gave a statement before the Vice Chancellor of the respondent University that the fourth respondent had teaching experience in institution in question from July, 2010 to July, 2015. He further submits that rightly in the order impugned by the writ petitioners it has been recorded that there had been procedural irregularity, infirmity in conducting inquiry proceedings against the fourth respondent as the same was against the Statute 17.04(1) and (2) of the Sampurnanand Sanskrit Vishwavidyalaya, Varanasi.

34. Further submission is that so far as the reliance placed upon by the writ petitioners upon the communication dated 3.7.2017 is concerned the same is patently misconceived

besides being out of context as the only objection raised by the Manager of the institution, Sri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi that the said certificate was issued by the Principal and not by the Management. He further submits that the said letter dated 3.7.2017 is self contradictory in this regard. According to him the order impugned in the writ petition is liable to be affirmed.

35. Sri Shesh Kumar Srivastava, learned counsel for the respondents no. 2 and 3 on the strength of the averments contained in the counter affidavit has argued that the order impugned is perfectly valid in accordance with law no fault whatsoever may be attributed particularly when the Principal of the institution in question who had issued the teaching experience certificate was himself present before the University and made a statement that the certificate was verifiable. He further submits that the writ petitioners have alternate remedy of taking recourse to reference under Section 68 of the U.P. State Universities Act, 1973 and thus in view of the existence of alternative remedy the writ petition is not maintainable.

36. Sri Shailendra Singh, learned Standing Counsel for the respondent no.1 has adopted the argument of Sri Khare and he submits that he has nothing more to add.

37. I have heard learned counsel for the parties and perused the record.

38. The first and foremost question which falls for consideration before this Court is as to whether the writ petition preferred by the writ petitioners is liable to be dismissed and the writ petitioners be relegated to file a reference under Section 68 before the Chancellor in view of the provisions contained under the U.P. State Universities Act, 1973 or not.

39. Before answering the said question it would be apposite to just have a brief scan of the sequence of the events.

40. The facts of the case are not much in dispute as it is admitted to the parties that for the selection and appointment on the post of Principal not only an academic qualifications but teaching experience of five years is required. It is also not in dispute that the fourth respondent had relied upon two certificates first, of Sri Harihar Yadav Ex. Officiating Principal, Sri Devbani Pracharak Janta Mahavidyalaya, Deoria and second of Officiating Principal Sri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi for the period July, 2010 to July, 2015. So far as the first certificate is concerned as per the impugned order the same is not verifiable as the records are not available. Now comes the second certificate which is the disputed aspect though the fourth respondent relied upon the certificate issued by the Principal of the said institution dated 12.1.2015 and 23.7.2015 but on a communication made by the petitioner-Committee of Management from the institution, Sri Ramanand Peeth Sanskrit Mahavidyalaya, Karnghanta, Varanasi dated 1.6.2017 the writ petitioners' claim to have received a communication dated 3.7.2017 wherein the said certificate is stated to be not verifiable. Inquiry Officer was appointed by the petitioner-Committee of Management and after holding the inquiry it was found that the said certificate was not verifiable which entailed passing of an order dated 7.6.2018 for the cancellation of appointment the fourth respondent and on the matter being referred to the Vice Chancellor of the respondent-University on the basis of the inquiry report of the Ex. District Judge, Prayagraj dated 28.10.2020 orders were passed on 14.11.2022 approving the cancellation of appointment of the fourth respondent. It is also

not in dispute that the order dated 14.12.2022 was set aside in Writ-A No.20283 of 2022 and the matter was remitted back to the Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi who thereafter again approved the cancellation of appointment of the fourth respondent on 16.4.2023 which was again set aside in Writ-A No.9080 of 2023 on 23.5.2023 and ultimately post remand now the order dated 17.8.2023 has been passed.

41. There are two reports which are available on record, one report of the Ex. District Judge Prayagraj dated 28.10.2020 which the writ petitioners seek to rely upon while contending that the teaching experience certificate of the fourth respondent was found to be forged. However, according to the fourth respondent a communication was issued by the said Inquiry Officer that the inquiry proceedings held earlier was not proper and thereafter on 5.7.2022 another inquiry report has been submitted whereby it was held that the inquiry proceedings conducted against the fourth respondent was in the direct teeth of the Statute 17.04 (1) & (2) of the respondent-University.

42. This Court has perused the inquiry report dated 5.7.2022 and finds that there is nothing in the said inquiry report showing the fact as to how and what circumstances a deviation has been taken from the earlier inquiry report holding that the educational teaching certificate of the fourth respondent was verifiable and genuine. The entire emphasis is upon Statute 17.04 (1) & (2) of the respondent-University which deals with the procedure for conducting inquiry.

43. This Court finds that even on this count also the order impugned cannot be sustained particularly when no reasons are forthcoming in the order impugned as to how it can be inferred that the inquiry proceedings were not conducted in accordance

with law. Only conclusion has been drawn without according any reasons in coming to the conclusion which obviously makes the order not only vulnerable but also vitiated.

44. Apart from the same once it is not disputed by the parties that five years teaching experience was required and the first certificate, of Sri Devbani Pracharak Janta Mahavidyalaya, Deoria was not verifiable then obviously some more spade work ought to have been done at the end of the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi in order to come to the conclusion that the certificate issued by Sri Ramanand Peeth Sanskrit Mahavidyalaya Karnghanta, Varanasi was a valid certificate. Merely on the basis of a statement of an Officiating Principal that the certificate is genuine is not a sufficient compliance of the requirement which was needed to be done by the second respondent, particularly in view of the fact that there happens to be a report of a Ex. District Judge/Inquiry Officer dated 28.10.2020 holding that the said certificate was not genuine. Apart from the same this Court finds that the order impugned dated 17.8.2023 of the second respondent is not only non-speaking, unreasoned but also does not come within the four-corners of law.

45. Bearing in mind the aforesaid factual background this Court finds that it is not a fit case wherein the writ petitioners may be relegated to file a reference under Section 68 of the U.P. State Universities Act, 1973 though existence of an alternate, remedy may be a factor for non entertaining of the writ petition but the same cannot be said to be an abstract proposition as the facts and the circumstances of the individual case is to be kept in mind while deciding as to whether the matter needs to be

entertained by the writ court or to be relegated before the forum,

46. As already noticed the order impugned in the writ petition of the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi does not contain valid reasons in coming to the conclusions thus this Court finds that the order in question cannot be sustained and is liable to be set aside.

47. Though Sri Ashok Khare, learned Senior Counsel for the fourth respondent has invited the attention towards paragraph 8 and 12 of the counter affidavit so as to contend that it is the Committee of Management of the institution in question which is taking all sorts of vindictive action against the fourth respondent which became instrumental in cancellation of appointment of the fourth respondent but, unfortunately the Court finds that the said aspects which the fourth respondent seeks to raise have not been reflected in the order impugned. Thus, this Court is not addressing the said issue in the present proceedings.

48. Accordingly, the writ petition is allowed. The order dated 17.8.2023 passed by the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi is set aside. The matter stands remitted back to the second respondent, Vice Chancellor Sampurnanand Sanskrit Vishwavidyalaya, Varanasi to pass a fresh order strictly in accordance with law in view of the observations passed in the body of the writ petition within a period of two months from the date of the production of the certified copy of this order.

Order Date :- 1.12.2023

piyush