

Court No. - 29

Case :- SPECIAL APPEAL No. - 175 of 2025

Appellant :- The Committee Of Management Adarsh Shriram
Sanskrit Mahavidyalaya

Respondent :- Vinay Dubey And 3 Others

Counsel for Appellant :- Adarsh Singh, Indra Raj Singh

Counsel for Respondent :- C.S.C., Shesh Kumar
Srivastava, Shivendu Ojha

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Donadi Ramesh, J.

1. Respondent Vinay Dubey was appointed as Principal of Adarsh Shriram Sanskrit Mahavidyalaya Chhangapur, Leduka, District Jaunpur. His appointment was approved by the Vice-Chancellor of Sampurnanand Sanskrit Vishwavidyalaya, Varanasi. He started working in 2015. His services were terminated by the Committee of Management vide order dated 28.6.2019 on the ground that a fabricated experience certificate was relied upon for securing appointment. This order was challenged before the learned Single Judge of this Court in Writ-A No.5649 of 2020, which was allowed vide order dated 6.3.2024. Learned Single Judge found that neither the termination was approved nor any enquiry was conducted and even the basic principles of natural justice were not followed. Learned Single Judge also made following observations in para 17 to 19 of the judgment dated 6.3.2024:-

"17. Besides the above, the settled legal principle is that fraud is a question of fact which needed inquiry. Whether the petitioner had really submitted the experience certificate of Sri Durga Devi Adarsh Sanskrit Mahavidyalaya or the one petitioner claims to have submitted of Sri Ram Roop Sanskrit Mahavidyalaya, required inquiry which is lacking in the matter. Had the petitioner been issued with a prior notice to explain his misconduct in the matter as alleged by the Committee of Management, petitioner would have certainly produced the document. It is interesting to notice that petitioner's have five years experience certificate from Sri Ram Roop Sanskrit Mahavidyalaya dated 13.11.2013, whereas the experience certificate document claimed by the respondents as of Sri Durga Devi Adarsh Sanskrit Mahavidyalaya is of 05.11.2014, there arises a question as to why a candidate would submit such a experience certificate of subsequent date, when he had a five years teaching certificate of an earlier date available with him. The experience certificate claimed by the petitioner bears the letter number whereas the experience certificate in the original record does not bear letter number.

18. Upon looking from the bare eyes, I also find that the experience certificate of Sri Durga Devi Adarsh Sanskrit Mahavidyalaya available in the original record is quite a fresh piece of paper as compared to the other academic documents relating to the petitioners. All these things if were properly inquired into would have led to have a definite finding of fact as to whether petitioner was guilty of fraud or misrepresentation or not. In the

absence of any inquiry as such, the order cannot be sustained in law which casts stigma. There was no notice ever issued to the petitioner by the Committee of Management on any point of time questioning his academic records including his experience certificate, therefore, it can be safely concluded that there has been no proceedings ever initiated.

19. In view of the above, the writ petition succeeds and is allowed. The order passed by the Committee of Management dated 28.06.2019 is hereby quashed. Petitioner shall be reinstated and shall be paid salary including arrears of salary." (emphasis supplied by us)

2. The judgment of learned Single Judge was assailed in Special Appeal No.406 of 2024, which was dismissed by the Division Bench with liberty reserved to the Management to initiate enquiry against the respondent petitioner. The Committee of Management unsuccessfully challenged the judgment of the Division Bench before the Supreme Court, and consequently, the judgment of learned Single Judge has attained finality. It is thereafter that the Committee of Management has placed the respondent petitioner under suspension while initiating disciplinary enquiry. This order of suspension has been set-aside by the learned Single Judge on the finding that the issuance of chargesheet is contrary to the previous adjudication made by this Court.

3. Learned Senior Counsel for the appellant submits that the Division Bench had made it open for the Committee of Management to hold fresh enquiry, and therefore, the finding returned by learned Single Judge in para 9 cannot be sustained.

4. Taking note of such contention, this Court passed following interim order in the matter on 21.3.2025:-

"1. It has been argued by learned counsel for the appellant Sri Ashok Khare assisted by Sri Indra Raj Singh that a bare perusal of the order dated 6.3.2024 passed in Writ-A No.5649 of 2020 clearly shows that the learned Single Judge in that case also had kept the option of having an enquiry open. He further submits that the Division Bench, when the present appellant had approached earlier, had also clearly mentioned that it was open for the Management to initiate an inquiry against the petitioner strictly in accordance with law if it was needed. Learned counsel for the appellant, therefore, states that the appellant had never overreached any order of the Court and, therefore, the inquiry by the order dated 25.10.2024 was initiated.

2. Matter requires consideration.

3. Respondent no.1 is represented by Sri Shivendu Ojha while respondent no.3 is represented by Sri Shesh Kumar Srivastava.

4. List this case on 10.4.2025 as fresh.

5. Till the next date of listing, the portion of the order dated 7.3.2025 by which the cost had been imposed on the appellant herein shall remain stayed. The inquiry shall continue and the petitioner shall co-operate in the inquiry."

5. When the matter is heard today, learned counsel for the

appellant submits that the judgment of learned Single Judge since proceeds on non-consideration of the earlier Division Bench judgment, as such, the same is liable to be set aside.

6. Sri R.K. Ojha, learned Senior Counsel for the respondent, on the other hand, contends that the Committee of Management had acted for extraneous reasons and only because its illegal demands were not met that on flimsy ground Vinay Dubey was terminated. It is also submitted that the certificate of experience relied upon by the Managing Committee was not the certificate relied upon at the time of appointment and the experience certificate relied upon by the management is manufactured by the Committee of Management itself to cook up a charge against the respondent. Reliance is placed upon observation of the learned Single Judge in para 18 of the judgment to submit that the experience certificate is recently prepared.

7. We have heard Sri Ashok Khare, learned Senior Counsel for the appellant and Sri R.K. Ojha, learned Senior Counsel for the respondents and have perused the material on record.

8. It is undisputed that in the previous round of litigation, this Court has already granted liberty to the Managing Committee of the institution to conduct fresh enquiry against Vinay Dubey, in accordance with law. The initiation of disciplinary action against the respondent petitioner, therefore, is in conformity with the observations made by this Court in the previous round of litigation. We find substance in the contention of the appellant that learned Single Judge erred in interfering with the disciplinary action on the ground that it is inconsistent with the previous orders. The observations made by learned Single Judge in para 9 of the judgment, therefore, cannot be sustained and is set-aside.

9. Managing Committee of the Institution would be entitled to conduct disciplinary enquiry against the respondent petitioner, who undertakes to cooperate. Considering the fact that there is no other charge or allegation against the respondent, who had satisfactorily discharged his duties as Principal for almost 10 years and the only issue for consideration in the disciplinary enquiry is the legality of the experience certificate, we do not deem it appropriate to allow the appellant to place the respondent under suspension. We also find that imposition of cost upon the respondent, in such circumstances, was also not called for.

10. Special appeal, consequently, succeeds and is allowed. The judgment and order of the learned Single Judge dated 7.3.2025,

passed in Writ-A No.2960 of 2025, is accordingly modified. The appellant shall be entitled to conduct disciplinary enquiry against the respondent in which the respondent petitioner undertakes to cooperate. Based upon such enquiry the decision of the disciplinary authority would be forwarded to the University in terms of Section 35 of the State Universities Act. Till an appropriate order is passed by the University in terms of Section 35 of the State Universities Act, the respondent petitioner would be allowed to continue as Principal and would also be paid his salary as and when it falls due from month to month. The observation of learned Single Judge in para 18 that the certificate relied upon by the Management is a fresh piece of document shall also be borne in mind while taking appropriate decision in the matter.

Order Date :- 10.4.2025

Anil