



2025:0004-1 K03:298200

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 14662 of 2025

Vinod Chandra

.....Petitioner(s)

Versus

State Of U.P. Thru. The Prin. Secy. Deptt. Of Higher Edu. Lko. And 4
Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Desh Deepak Singh, Rajat Srivastava
Counsel for Respondent(s)	:	C.S.C., Anurag Kumar Singh, Atul Dixit

Court No. - 18

HON'BLE SHREE PRAKASH SINGH, J.

1. Sri Awadhesh Shukla and Sri Akber Ahmad, advocates, have put in appearance by way of filing vakalatnamas on behalf of respondent nos. 3 & 4, respectively and the same are taken on record.

2. Heard Mr. I.B. Singh, learned Senior Counsel assisted by Mr. Desh Deepak Singh, counsels for the petitioner and Mr. Anurag Kumar Singh, learned counsel for respondent no. 2, Mr. P.K. Singh, learned counsel for respondent no. 1, Mr. Gaurav Mehrotra, learned Senior Counsel assisted by Mr. Akber Ahmad, Ms. Alina, Ms. Manjari, Mr. Gyanesh Bajpai and Mr. Atul Dixit, counsels for respondent no. 4 and Mr. Awdhesh Shukla, learned counsel for respondent no. 3.

3. By means of the present writ petition, the petitioner has assailed the order dated 14.11.2025 as well as the order issued on 29.11.2025.

4. While raising the preliminary objection Mr. Gaurav Mehrotra, learned Senior Counsel for respondent no. 4 submits that there is an statutory remedy prescribed under Section 68 of Uttar Pradesh State Universities Act, 1973,(hereinafter referred to as 'Act 1973') against an order passed under regulation 18.14 of the first statute of Lucknow University. Section 68 of the Act 1973 reads as under:-

"68- If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, or whether any decision of any authority or officer of the University [(including any question as to the validity of a Statute, Ordinance or Regulation, not being a Statute or Ordinance made or approved by the State Government or by the Chancellor)]¹ is in conformity with this Act or the Statutes or the Ordinances made thereunder, the matter shall be referred to the Chancellor and the decision of the Chancellor thereon shall be final : Provided that no reference under this section shall be made- --

(a) more than three months after the date when the question could have been raised for the first time;

(b) by any person other than an authority or officer of the University or a person aggrieved . Provided further that the Chancellor may in exceptional circumstances :

(a) act suo motu or entertain a reference after the expiry of the period mentioned in the preceding proviso ;

(b) where the matter referred relates to a dispute about the election, and the eligibility of the person so elected is in doubt, pass such orders of stay, as he thinks just and expedient ;

(c) [* *]²"*

5. Referring the aforesaid, he submitted that the petitioner, who is aggrieved with the order passed under regulation 18.14, did not challenge the same while instituting reference before the Chancellor. In support of his contentions, he has placed reliance on the judgment and order rendered in the case of **Radha Krishan Industries vs. State of Himachal Pradesh & Ors.**, reported in **2021 6 SCC 771**, wherein, the guidelines laid down in the case of **Whirlpool Corporation vs Registrar Of Trade Marks, Mumbai & Ors (1998 8 SCC, 1)**. Paragraphs 25 to 27 of the aforesaid judgment, extracted as:-

""25. In this background, it becomes necessary for this Court, to dwell on the "rule of alternate remedy" and its judicial exposition. In Whirlpool Corporation v Registrar of Trademarks, Mumbai²¹, a two judge Bench of this Court after reviewing the case law on this point, noted:

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the

High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on" some old decisions of the evolutionary era of the constitutional law as they still hold the field."

(emphasis supplied)

26. Following the dictum of this Court in Whirlpool (*supra*), in Harbanslal Sahnia v Indian Oil Corpn. Ltd.²², this court noted that

"7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1] .) The present case attracts applicability of the first two contingencies. Moreover, as noted, the appellants' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings."

(emphasis supplied)

27. The principles of law which emerge are that :

(i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

(ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

(iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

(iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

(v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

(vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."

6. Referring the aforesaid, he submitted that there are three contingencies provided: first, where the writ petitioners seeks enforcement of any of the fundamental rights; second, if there is failure of the Principle of Natural Justice; and third, where the orders of proceedings are wholly without jurisdiction and if the vires of any act is under challenge.

7. Referring the aforesaid, he submitted that in aforesaid four contingencies, the case of the petitioner is not covered, therefore, the petitioner has essentially an alternative remedy of instituting the reference by invoking the provisions of Section 68 of the Act 1973.

8. He has further made objections regarding the material concealment of facts, while in paragraph 33, it has been mentioned that the petitioner, namely, Vinod Chandra, is holding the charge of Principal (Shri Jai Narain Misra Post Graduate (KKC) College, Lucknow) and has not transferred the charge to anyone, contrary, the respondent no. 4 has already been given the charge on 18.11.2025 and the salary bill of the employees of institution/college has also been sent to the authorities concerned, under the signature of the respondent no. 4, therefore, the aforesaid statement given on affidavit are material concealment of fact and this writ petition is liable to be dismissed on this ground alone.

9. On the other hand, Mr. I.B. Singh, learned Senior Counsel appearing for the petitioner has opposed the contentions aforesaid and submitted that, in fact, the alternative remedy as said to be prescribed under Section 68 of Act 1973 would not come into the way of the maintainability of the present writ petition. He submitted that in fact, the seniority list of year 2020 has never been assailed by the respondent no. 4 rather the seniority list dated 30.06.2023 was disputed, whereafter, the order has been passed by invoking the powers under regulation 18.14 of the first statute of Lucknow University. He further submits that the alternative remedy is not the absolute bar and in support of his contentions, he has placed reliance on the judgment in the case of **Dr. Smt. Abha Sharma, Associate Professor, Department Of English versus State of U.P. through Principal Secretary, Higher Education. Government of U.P., Lucknow and 5 others** reported in 2020 SCC Online Allahabad 70, and has referred paragraph nos. 7 to 9 of the abovesaid judgment:-

""7. The legal position in this regard has been succinctly summarized in the judgment in the case of Commissioner of Income Tax and Ors. Vs. Chhabil Dass Agarwal¹, wherein it was stated as follows :-

"11....It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 despite the existence of an alternative remedy...(SeeÂ State of U.P.Â v.Â Mohd. Nooh AIR 1958 SC 86,Â Titaghur Paper Mills Co. Ltd.Â v.Â State of OrissaÂ (1983) 2 SCC 433, Harbanslal SahniaÂ v. Indian Oil Corpn. Ltd.Â (2003)2 SCC 107 andÂ State of H.P.Â v.Â Gujarat Ambuja Cement Ltd. (2005) 6 SCC 499)

12.Â The Constitution Benches of this Court inÂ K.S. Rashid and SonÂ v.Â Income Tax Investigation CommissionÂ AIR 1954 SC 207,Â Sangram SinghÂ v.Â Election TribunalÂ AIR 1955 SC 425,Â Union of IndiaÂ v.Â T.R. VarmaÂ AIR 1957 SC 882,Â State of U.P.Â v.Â Mohd. NoohÂ AIR 1958 SC 86 andÂ K.S. Venkataraman and Co. (P) Ltd.Â v.Â State of MadrasÂ AIR 1966 SC 1089 have held that though Article 226 confers very wide powers in the matter of issuing writs on the High Court, the remedy of writ is absolutely discretionary in character. If the High Court is satisfied that the aggrieved party can have an adequate or suitable relief elsewhere, it can refuse to exercise its jurisdiction. The Court, in extraordinary circumstances, may exercise the power if it comes to the conclusion that there has been a breach of the principles of natural justice or the procedure required for decision has not been adopted.(SeeÂ N.T. Veluswami ThevarÂ v.Â G. Raja NainarÂ AIR 1959 SC 422, Municipal Council, KhuraiÂ v.Â Kamal KumarÂ AIR 1965 SC 1321, Siliguri

Municipality v. Amalendu Das (1984) 2 SCC 436, *S.T. Muthusami v. K. Natarajan* (1988) 1 SCC 572, *Rajasthan SRTC v. Krishna Kant* (1995) 5 SCC 75, *Kerala SEB v. Kurien E. Kalathil* (2000) 6 SCC 293, *A. Venkatasubbiah Naidu v. S. Chellappan* (2000) 7 SCC 695, *L.L. Sudhakar Reddy v. State of A.P.* (2001) 6 SCC 634, *Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha v. State of Maharashtra* (2001) 8 SCC 509, *Pratap Singh v. State of Haryana* (2002) 7 SCC 484 and *GKN Driveshafts (India) Ltd. v. ITO* (2003) 1 SCC 72)."

8. The aforementioned view that the existence of an alternative remedy does not create an absolute bar on the exercise of writ jurisdiction by a High Court has been reiterated in a recent decision in the case of *Maharashtra Chess Association Vs. Union of India and Others*², in the following words :-

"22...The existence of an alternate remedy, whether adequate or not, does not alter the fundamentally discretionary nature of the High Court's writ jurisdiction and therefore does not create an absolute legal bar on the exercise of the writ jurisdiction by a High Court. The decision whether or not to entertain an action under its writ jurisdiction remains a decision to be taken by the High Court on an examination of the facts and circumstances of a particular case.

23. This understanding has been laid down in several decisions of this Court. In *Uttar Pradesh State Spinning Co. Limited v. R S Pandey* (2005) 8 SCC 264 this Court held:

"11. Except for a period when Article 226 was amended by the Constitution (Forty-Second Amendment) Act, 1976, the power relating to alternative remedy has been considered to be a rule of self imposed limitation. It is essentially a rule of policy, convenience and discretion and never a rule of law. Despite the existence of an alternative remedy it is within the jurisdiction or discretion of the High Court to grant relief under Article 226 of the Constitution..."

24. The principle that the writ jurisdiction of a High Court can be exercised where no adequate alternative remedies exist can be traced even further back to the decision of the Constitution Bench of this Court in *State of Uttar Pradesh v. Mohammad Nooh* 1958 SCR 595 where Justice Vivian Bose observed:

"10. In the next place it must be borne in mind that there is no rule, with regard to certiorari as there is with mandamus, that it will lie only where there is no other equally effective remedy. It is well established that, provided the requisite grounds exist, certiorari will lie although a right of appeal has been conferred by statute. (Halsbury's Laws of England, 3rd Ed., Vol. 11, p. 130 and the cases cited there). The fact that the aggrieved party has another and adequate remedy may be taken into consideration by the superior court in arriving at a conclusion as to whether it should, in exercise of its discretion, issue a writ of certiorari to quash the proceedings and decisions of inferior courts subordinate to it and ordinarily the superior court will decline to interfere until the aggrieved party has exhausted his other statutory remedies, if any. But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies."

25.Â The mere existence of alternate forums where the aggrieved party may secure relief does not create a legal bar on a High Court to exercise its writ jurisdiction. It is a factor to be taken into consideration by the High Court amongst several factors..."

9. Having regard to the facts of the case, and in particular the fact that one of the principal grounds sought to be raised to assail the order impugned in the writ petition is that the statutory authority has not acted in accordance with the provisions of the relevant statutory provisions, this Court is of the view that the writ petition ought to have been heard upon exchange of affidavits and only after consideration of what has been stated by the respective parties in their affidavits a final decision ought to have been taken in the matter.""

10. Referring the aforesaid, he submits that in an identical situation, the Division Bench at Allahabad has passed the aforesaid order, wherein, the preliminary objection has been rejected and it was found that the alternative remedy is no bar.

11. Upon considering the submissions of counsel for the parties, it is apparent that the order under challenge has been passed while invoking the powers under regulation 18.14, prescribed under the first statute of Lucknow University. Admittedly, the provisions prescribed under Section 68 of the Act 1973, provides the statutory reference, which has not been availed by the petitioner.

12. So far as the law is referred in the case of **Dr. Smt. Abha Sharma(supra)** is concerned, this Court finds that the same would not cover the field of preliminary objection raised herein. The aforesaid order was passed under the circumstances, where, the parties did not avail the statutory appeal, as mentioned in paragraph 4.

13. So far as the law rendered in the case Contingencies in that matter, so far as the law rendered in the case of **Radha Krishan Industries(supra)** is concerned, the three contingencies are referred and this Court finds that the counsel for the petitioner has failed to substantiate his case, within the aforesaid three contingencies as the writ petition has not been filed for enforcement of any fundamental rights or there is any failure of the principle

of natural justice including the contingency that the order's proceedings are wholly without jurisdiction or any variance of the Act is under challenge.

14. In this view of the matter, the contentions raised by learned Senior Counsel appearing for the petitioner, have no force.

15. Learned counsel for the petitioner has clarified that as per the understanding of the petitioner, he is having the all documents and charge of the post College and formally the charge has not been handed over; might be some order has been passed for handing over the charge to respondent no. 4.

16. The objection of concealment of fact raised by counsel for the respondent no. 4 is unsustainable, thus, rejected.

17. Consequently, the writ petition is hereby **dismissed**, on the ground of maintainability, as there is an statutory remedy available to the petitioner, under section 68 of the Act 1973.

December 17, 2025

Mayank

(Shree Prakash Singh,J.)