



2024:DHC:8733-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 11.11.2024

+ W.P.(C) 15618/2024
AJAY DARSHAN BEHERAPetitioner
Through: Mr.Abhik Chimni, Mr.Marroof
and Mr.Pranjal Abrol, Advs.

versus

JAMIA MILLIA ISLAMIARespondent
Through: Mr.Pritish Sabharwal, SC with
Mr.Abhishek Mahajan and
Mr.Sharad Pandey, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 65571/2024 (exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 15618/2024

2. This petition has been filed by the petitioner praying for the following reliefs:

- “i. Issue a writ in the nature of Certiorari or any other writ/ order or direction to quash Statute 37 of the Respondent University (ANNEXURE P 21) for being ultra vires of the Constitution of India; AND/OR*
ii. Issue a writ in the nature of certiorari or any other writ/ order quashing the Warning Letter dated 07.09.2022; Office Memo dated 07.09.2022 and Office Memo dated



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09.09.2022 issued by the Respondent University; AND/OR

iii. Issue a writ in the nature of mandamus directing the Respondent University to Reinstatement the Petitioner to the post of Officiating Director of the MMAJ AIS; AND/OR”

3. Admittedly, the petitioner had earlier filed a petition, *inter alia*, making the same prayers as prayers (ii) and (iii) made in the present petition. The said writ petition, being W.P.(C) 14812/2022, was withdrawn by the petitioner on 02.09.2024, with liberty to file a fresh petition challenging the vires of Statute 37 of the Jamia Millia Islamia Act, 1988. The petitioner has now filed the present petition in terms of the liberty so granted.

4. Statute 37, which is challenged before this Court, reads as under:

37.	REMOVAL OF TEACHERS:	
	(1)	Where there is an allegation of misconduct against a teacher, or a member of the academic staff, the Shaikh-ul-Jamia (Vice-Chancellor) may, if he thinks fit, by order in writing, place the teacher under suspension and shall forthwith report to the Majlis-i-Muntazimah (Executive Council) the circumstances in which the order was made:
		Provided that the Majlis-i-Muntazimah (Executive Council) may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.
	(2)	Notwithstanding anything contained in the terms of his contract of service or of his appointment, the Majlis-i-Muntazimah (Executive Council) shall be entitled to remove a teacher or a member of the academic staff on the ground of misconduct.



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(3)	<i>Save as aforesaid, the Majlis-i-Muntazimah (Executive Council) shall not be entitled to remove a teacher or a member of the academic staff except for good cause and after giving three months' notice in writing or on payment of three months' salary in lieu thereof.</i>
(4)	<i>No teacher or a member of the academic staff shall be removed under clause (2) or under clause (3) until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.</i>
(5)	<i>The removal of a teacher or a member of the academic staff shall require a two-thirds majority of the members of the Majlis-i-Muntazimah (Executive Council) present and voting.</i> <i>Provided that the teacher or the member of the academic staff may prefer a review against the penalty of removal from service, which may be considered by the Executive Council.</i>
(6)	<i>The removal of a teacher or a member of the academic staff shall take effect from the date on which the order of removal is made.</i>
(7)	<i>Notwithstanding anything contained in the Statutes, a teacher or a member of the academic staff may resign by giving three months' notice in writing to the Majlis-i-Muntazimah (Executive Council) or on payment to the University of three months' salary in lieu thereof.</i>

5. The learned counsel for the petitioner submits that the above-quoted Statute violates Articles 14 and 16 of the Constitution of India, inasmuch as, it does not prescribe a procedure for an inquiry to be conducted against a teaching staff. He submits that unlike Statute 37, in terms of Statute 38, Ordinance (VI) has been issued for the “*Terms and Conditions of Service of Jamia Employees (other than Teachers, Registrar, and Finance Officer)*”, prescribing the complete procedure to be followed in case of an inquiry against a non-teaching staff.



6. On the other hand, the learned counsel for the respondent, who appears on advance notice, submits that as far as Statute 37 is concerned, the same has no application to the facts of the present case inasmuch as it only applies to a case where a teacher is removed from service. In the present case, the petitioner has not been visited with such a penalty. He further submits that the principles of natural justice have been duly followed in the case of the petitioner.

7. We have considered the submissions made by the learned counsels of the parties.

8. In terms of Clauses (3) and (4) of Statute 37, it is provided that the Majlis-i-Muntazimah (Executive Council) shall not be entitled to remove a teacher or a member of the academic staff except for good cause, and after giving three months' notice in writing or on payment of three months' salary in lieu thereof. It further states that no teacher or member of the academic staff shall be removed until he has been given a reasonable opportunity to show cause against the action proposed to be taken in regard to him. Therefore, the principles of natural justice are inherently incorporated in Statute 37.

9. We, therefore, find no legal ground to challenge Statute 37 before this Court, especially on the ground of it being in violation of Article 14 or Article 16 of the Constitution of India.

10. This Court had earlier also repelled such challenge in its Judgment dated 03.09.2012 passed in W.P.(C) 5254/2012 titled ***Anwar Alam v. Vice Chancellor Jamia Milia Islamia and Ors..***

11. As far as prayers made in prayer (ii) and (iii) are concerned, in our view, the same have to be taken in an appropriate petition before



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the learned Single Judge of this Court, if so advised. We, while making the above observation, are not making any comment on the effect of the petitioner withdrawing his earlier petition *vide* an Order dated 02.09.2024 referred to hereinabove or on the maintainability or merit of a petition that the petitioner may choose to file.

12. With the above observations, the present petition is disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 11, 2024/sg/DG

Click here to check corrigendum, if any