

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3947 OF 2026

Bhaurao Shankar Khute

..Petitioner

Versus

The Secretary, Central Hindu Military Education
Society, Nashik Division, Nashik and Ors

...Respondents

Mr. Prashant D Patil, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATE : 10th APRIL 2026

ORDER:

1. Heard Mr. Prashant Patil, the learned Counsel for the Petitioner.
2. This Petition, under Article 227 of the Constitution of India, assails the legality, propriety and correctness of a judgment and order dated 21st March 2023 passed by the learned Presiding Officer, Savitribai Phule, Pune, Shivaji and Solapur University and College Tribunal, Pune (“the University Tribunal”) in Appeal No. 4 of 2019 preferred by the Petitioner under Section 81 of the Maharashtra Public Universities Act, 2016 (“the Act, 2016”) against an order dated 7th February 2019 of dismissal from service passed by Respondent No.1, the Employer/ Disciplinary Authority.
3. Respondent No.1 runs Bhonsla Military College, Nashik (R2). The Petitioner joined R2 as a peon on 1st October 1993. Disciplinary proceedings were instituted against the Petitioner on the grounds of (a)

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absenteeism, (b) temporary misappropriation of money entrusted to the Petitioner and (c) indulging in corruption by accepting money from the parents of the wards on the pretext of securing admission in the Bhonsla Military College (R2).

4. A charge-sheet was served on the Petitioner on 1st January 2018. The Enquiry Officer conducted the enquiry. During the course of which Dattatraya Rangnath Nirgude, came to be examined as the Employer's witness. The Enquiry Officer, post conclusion of the enquiry, submitted a report finding the Petitioner guilty of the misconduct for which he was charged. A copy of the Enquiry Report was served on the Petitioner.

5. After considering the reply, the Employer (R1), by an order dated 7th February 2019, imposed the major penalty of dismissal from service, with effect from 11th February 2019.

6. Being aggrieved, the Petitioner preferred an Appeal before the University Tribunal.

7. By the impugned judgment and order, the learned Presiding Officer, University Tribunal, found no reason to interfere with the penalty imposed by Respondent No.1. It was found that the enquiry was conducted after providing an effective opportunity of hearing to the Petitioner and in accordance with the rules and fundamental principles of natural justice. The findings recorded by the Enquiry Officer were also found to be based on evidence. Thus, neither the enquiry was vitiated

nor the findings were perverse, held the University Tribunal. Even upon an independent analysis, the University Tribunal came to the conclusion that the charge of misconduct was duly proved and, having regard to the gravity of the charge, the punishment of dismissal from service did not appear to be disproportionate so as to warrant interference.

8. Being further aggrieved, the Petitioner has invoked the writ jurisdiction.

9. Mr. Prashant Patil, the learned Counsel for the Petitioner made a valiant attempt to persuade the Court to hold that the impugned order warrants interference in the exercise of power of judicial review. A three-pronged submission was canvassed. First, the findings of absenteeism and temporary misappropriation of money were not substantiated by the material on record. Second, even otherwise, the purported misconduct on these counts was not such as to warrant the extreme penalty of dismissal from service. Third, the charge of indulging in corruption by accepting money from parents of the wards on the pretext of securing admission in the college cannot be said to have been duly proved, as the persons who had allegedly given the money were not examined as the Employer's witnesses. In any event, Mr Patil would urge, the entire money was refunded by the Petitioner. There was no intention to deceive either the college or the students and their parents. Thus, the punishment of dismissal from service was shockingly

disproportionate to the gravity of the alleged misconduct, submitted Mr. Patil.

10. To begin with, it is necessary to keep in view the nature of judicial review exercised by the Writ Court. In essence, judicial review is an appraisal of the decision making process, and not the merits of the decision itself. The objective of judicial review is to ensure fairness in the process and treatment, and not the correctness of the conclusion arrived at by the Disciplinary Authority. Generally, the power of the judicial review is to be exercised to correct patent and manifest errors of law or procedure which entail injustice, or where the offending action is an outcome of bias or gross unreasonableness.

11. A useful reference in this context can be made to the decision of the Supreme Court in the case of **B.C. Chaturvedi Vs Union of India And Ors,**¹ wherein both the nature of judicial review and the quality and reliability of the material in the matter of disciplinary proceedings were expounded as under:

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether

1 (1995) 6 SCC 749.

the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to re- appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India Vs H.C. Goel*, (AIR 1964 SC 364), this Court held at

page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”

12. To put it in other words, judicial review is not an Appeal in disguise. The jurisdiction is circumscribed by limits of correcting errors of law, procedural errors or violation of the principles of natural justice leading to manifest injustice.

13. On the aforesaid touchstone, reverting to the facts of the case, it becomes abundantly clear that the Enquiry Officer had provided an efficacious opportunity of hearing to the Petitioner. Indeed, only one witness was examined on behalf of the Employer. However, the material on record indicated that the Petitioner had virtually admitted the imputations by submitting letters tendering apologies for the misconduct in which the Petitioner had allegedly indulged in.

14. The submission of Mr. Patil that the evidence on the aspect of inducing the parents to part with the money was wholly inadequate, as the persons who allegedly paid the amount to the Petitioner were not examined, does not merit acceptance. Not only the parents had addressed communications to the Principal of Respondent No.2, making allegations against the Petitioner of having duped them, but the Petitioner admitted the said fact by tendering a letter of apology. To add to this, the Petitioner had entered into a Memorandum of Understanding

with one of the parents, acknowledging the fact that the Petitioner had demanded a sum of Rs. 2,40,000/- from the said person, a sum of Rs.1,04,000/- was returned and the balance amount of Rs.1,36,000/- would be returned by post-dated cheques. Thus, the Enquiry Officer was justified in returning a finding of guilt on the basis of the aforesaid material, which appeared to be unimpeachable.

15. In regard to the charge of absenteeism, the University Tribunal has noted that in the year 2017, the Petitioner remained unauthorisedly absent from duty for 102 days. On the charge of misappropriation, it was found that the Petitioner was entrusted with the sale of journals and the Petitioner had misappropriated a sum of Rs.43,836/- and eventually deposited the said amount on 18th April 2017. The Petitioner had not given the account of the sale of the journals and the amount received. Thus, a clear case of temporary misappropriation of the said amount was made out.

16. Upon a careful evaluation, the learned Presiding Officer, University Tribunal, has found the findings recorded by the Enquiry Officer on each counts of charge to be sustainable. As noted above, the sufficiency or adequacy of the material cannot be delved into in the exercise of the writ jurisdiction. Thus, the findings recorded by the Enquiry Officer and affirmed by the University Tribunal cannot be said to be either perverse or based on no evidence.

17. The submission of Mr. Patil that the punishment of dismissal from service is shockingly disproportionate to the gravity of misconduct is required to be stated to be repelled. Misappropriation and corruption are the categories of misconduct which warrant the punishment of dismissal from service. Such punishment cannot be said to be disproportionate to the gravity of the misconduct.

18. Lastly, Mr. Patil endeavoured to salvage the position by canvassing a submission that, since the Petitioner had repaid the entire amount, which was allegedly misappropriated, to the College (R2) and also returned the entire amount paid by the parents of the ward, the punishment of dismissal from service is required to be modified. I am afraid to accede to this submission. It is trite law that mere repayment of money does not absolve an employee of the serious charge of misappropriation and corruption (**Narendra Nath Bhalla vs State of Uttar Pradesh**)²

19. The conspectus of the aforesaid consideration is that no interference is warranted with the impugned order in the exercise of supervisory jurisdiction.

20. Hence, Petition stands dismissed. No costs.

[N. J. JAMADAR, J.]

² (2007) 15 SCC 775.