



2026:DHC:5234



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Reserved on: 20.03.2026******Pronounced on: 01.07.2026******Uploaded on: 01.07.2026***

+ W.P.(C) 1056/2016 &amp; CM APPL. 4590/2016

PRAKASH PANDEY

.....Petitioner

Through: Mr. Sushil Dutt Salwan, Sr.  
Advocate with Mr. Arjun Garg,  
Advocate.

versus

RASHTRIYA SANSKRIT SANSTHAN

AND ANR

.....Respondents

Through: Mr. Gyan Prakash, Mr. Neeraj &  
Mr. Vaibhav Raj, Advocates for R-  
1.  
Mr Vikram Jetly, CGSC with Ms.  
Shreya Jetly, Advocate for R-2.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****J U D G M E N T**

1. By way of this petition under Article 226 of the Constitution, the petitioner, who was, at the relevant time, the Assistant Director (Research and Publication) of the respondent No. 1-Rashtriya Sanskrit Sansthan [hereinafter, "Sansthan"], challenges a punishment order dated 13.09.2011, passed by the Sansthan. By the impugned order, a major penalty of reduction to a lower stage in the time scale of pay, and withholding of increments for a period of three years, was imposed upon him. He also challenges orders dated 04.12.2012 and 24.07.2015, issued by respondent No. 2-Union of India [hereinafter, "UOI"], by which it rejected the petitioner's appeal and revision against the aforesaid disciplinary order.



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**A. FACTS:**

2. The facts of the case, as they appear from the record, are tabulated hereinbelow:

| DATE       | EVENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| 15.10.1970 | The Sansthan was registered as a society under the Societies Registration Act, 1860.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Thereafter | The petitioner joined services of the Sansthan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 27.09.2000 | The petitioner was promoted as Assistant Director (Research and Publication) of the Sansthan, and was responsible for publication schemes, and the printing and production of Sanskrit literature. He was also the Member-Secretary of the Grants-In-Aid-Committee [“GIAC”] of the Sansthan.                                                                                                                                                                                                                                                                                                                                                                                            |
| 29.04.2005 | <p>A letter was purportedly issued by the Human Resource Development Minister, Government of India [hereinafter, “HRM”]<sup>1</sup> to the Vice-Chancellor of the Sansthan [hereinafter, “VC”], directing him to process an application by one Dr. Ramesh Nirmal [hereinafter, “the author”] for publication of his work - <i>Kaljayee Ujjaini</i> in 3 volumes, alongwith 11 additional books [hereinafter, “the subject work”]. HRM directed “<i>necessary action to release as grant maximum to 80% of self-estimated publication expenditure by author soon and inform him about action taken so far</i>”.</p> <p>HRM also referred to his earlier communication regarding such</p> |

<sup>1</sup> At the relevant time, the Sansthan operated under the aegis of the Ministry of Human Resource Development, Government of India [hereinafter, “HRD Ministry”].



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|            | approval, and also to a letter of the author dated 27.04.2005, wanting to know about the action taken.                                                                                                                                                                                                                                                   |
| 10.05.2005 | Letter of the author to HRM, requesting grant of financial assistance for research and publication of the subject work by the Sansthan. The author referred to HRM's direction for sanction of financial assistance and informed him that the required proforma had been filled and sent. He sought issuance of further directions for immediate action. |
| 12.05.2005 | A note was purportedly sent by HRM to the Director/Joint Director (Production), National Book Trust ["NBT"], seeking verification of the estimate of expenditure submitted by the author for the aforesaid grant. NBT was directed to send the verification, alongwith recommendation on the entire project of the Sansthan.                             |
| 12.05.2005 | Purported communication of HRM to VC, directing that <i>"Approval for Financial assistance as recommended for Sansthan should be approved for the said work"</i> , and also directing recommendation of approval of grant in two steps.                                                                                                                  |
| 24.05.2005 | Letter of VC to HRM stating that, pursuant to his directions, the proposal for release of grant for the publication would be placed before the GIAC on 08/09.06.2005.                                                                                                                                                                                    |
| 24.05.2005 | Letter of the petitioner to the Joint Director (Production), NBT, requesting for the estimate of the subject work in case the evaluation by NBT was complete, and to send the subject work to him for further action by the Sansthan.                                                                                                                    |



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|               | The petitioner also referred to an earlier phone call between them.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 08/09.06.2005 | <p>Meeting of the GIAC was held. It was chaired by the VC, in which the petitioner was present as the Member-Secretary. Five other Members were also present, including Joint Secretary (Languages), HRD Ministry.</p> <p>34 proposals for publication grants, under the Scheme for Production of Sanskrit Literature, were approved.</p> <p>In respect of the author's application, the estimated expenditure was noted as Rs. 39,92,000/-, and the "decision of the Committee" was noted as "स्वीकृत", i.e. "approved". There was also a notation, which reads as follows: "समिति मंत्रालय की विशेष अनुमति से इसकी २००० प्रतियों के प्रकाशन हेतु स्वीकृति देती है", i.e. the Committee accords approval for publication of 2000 copies with the special permission of the Ministry.</p> |
| 09.06.2005    | Minutes of the aforesaid meeting were submitted by the Deputy Director (Administration) for approval of the VC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 12.06.2005    | Purported communication of HRM to VC enclosing a letter of the author, stating that the subject work had been commenced. HRM directed expeditious release of the grant to the author after necessary proceedings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 16.07.2005    | Letter of the petitioner to Deputy Director (Production), NBT, requesting NBT to conduct an inquiry in respect of the financial assistance for the work, and to verify the bill submitted by the author. A dummy copy of the subject work was also sent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



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| 18.07.2005 | Purported communication of Joint Director (Production), NBT, to the petitioner, stating that the cost estimates have been checked on the basis of the dummy copies of the subject work which were verified as Rs. 49,90,000/-, excluding expenditure for travel, lodging and boarding from Mumbai to Ujjain and Bhopal. The communication carries an endorsement of an additional amount of Rs. 3,35,750/- towards such travelling expenses. |
| 23.07.2005 | Purported communication of HRM to the VC, enclosing a copy of the estimate evaluated by NBT, and directing release of an amount of Rs. 39.92 lakhs, being 80% of the evaluated costs of Rs. 49.90 lakhs.                                                                                                                                                                                                                                     |
| 28.07.2005 | Internal note of the Sansthan, fixing the price of each set of the book at Rs.7,984/- on the basis of the sanctioned expenditure of Rs.49.90 lakhs.                                                                                                                                                                                                                                                                                          |
| 28.07.2005 | Letter addressed by the petitioner to the author, informing him of the approved expenditure of Rs. 49.90 lakhs for 2000 copies of the subject work and the grant of 80% of the said amount, amounting to Rs. 39.92 lakhs, as well as the price fixed per set at Rs.7,984/-.                                                                                                                                                                  |
| 05.08.2005 | Internal note by the petitioner to VC, stating that a letter had been received from the author to the effect that 2000 copies of the book had been printed, and seeking constitution of a committee for physical verification of the stock.                                                                                                                                                                                                  |
| 16.08.2005 | Internal note addressed by the petitioner to VC, stating that                                                                                                                                                                                                                                                                                                                                                                                |



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|            | <p>sanction of the subject work had been placed before the GIAC on the direction of HRM to give Rs. 39.92 lakhs for 2000 copies. However, as per convention, publication grant by the Sansthan was normally granted for 1000 copies. He suggested formal approval from the Ministry to be taken for publication of 2000 copies and release of Rs. 39.92 lakhs as estimated.</p> <p>The VC sought a clarification, as to whether 1000 copies were cited in the Scheme, or this was a matter of convention. A copy of the scheme was thereafter submitted by the petitioner to the VC.</p> |
| 23.08.2005 | <p>Meeting of the Finance Committee of the Sansthan chaired by the VC. Deputy Director (Finance) of the Sansthan was present as the Member-Secretary, alongwith four other members, including Joint Secretary (Languages), HRD Ministry.</p> <p>In respect of the subject work, the Finance Committee noted as follows:</p> <p><i>“Special permission for printing 2000 copies may be got approved from the Ministry.”</i></p>                                                                                                                                                           |
| 26.08.2005 | <p>The petitioner, on behalf of the Sansthan, addressed a letter to the Secretary (Education), HRD Ministry, referring to the application of the author, HRM’s directions dated 12.05.2005 and 12.06.2005, and the approval granted by GIAC, and seeking approval for sanction of publication of 2000 copies of the subject work.</p>                                                                                                                                                                                                                                                    |
| 20.09.2005 | <p>The author’s letter to Joint Secretary (Languages), HRD</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |



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|            | <p>Ministry, referring to a meeting in which the Joint Secretary had informed him that the Sansthan had independent powers to decide with regard to publication of 2000 copies, and after approval of the competent committee, reference of the matter to the HRD Ministry by the petitioner was not appropriate. The author raised a grievance with regard to delay in release of the sanctioned amount by the Sansthan, and sought necessary directions in this regard. It was also stated that he had been informed by the Sansthan that the matter was pending for want of approval for publication of 2000 copies by the HRD Ministry, whereas the Joint Secretary had informed him that such approval would be sent immediately.</p> <p>The letter was also copied to the HRM, Secretary, HRD Ministry, VC, and the petitioner as well.</p> |
| 27.09.2005 | Reminder letter addressed by the author to the Secretary (Education), HRD Ministry.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 04.10.2005 | Reminder sent by the author to VC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 22.12.2005 | Meeting of the GIAC held, at which the minutes of the meeting held on 08/09.06.2005 were confirmed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 04.01.2006 | Deputy Director (Finance) of the Sansthan addressed a letter to the petitioner, referring to a letter dated 13.12.2005 of the HRD Ministry and seeking clarification as to how a sanction of Rs. 39.92 lakhs was issued to the author before approval of the HRD Ministry was received.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 06.01.2006 | Response of the petitioner stating that he had followed the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |



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|            | procedure and sent the sanction letter to the author, after approval of the GIAC. He further stated that the direction of the Finance Committee for seeking approval of the HRD Ministry had been issued only one month thereafter, in compliance of which, he issued a letter to the HRD Ministry.                                                                            |
| 07.02.2006 | Letter by the Sansthan to the author, informing him that the HRD Ministry had informed them that a grant for the subject work has already been given to him by another institution, namely Maharshi Sandipani Ved Vidya Pratishthan, Ujjain [hereinafter, “MSVVP”], and therefore a grant cannot be released by them.                                                          |
| 2009       | The author filed W.P.(C) 13679/2009 before this Court, seeking compliance with the sanction letter and release of the sanctioned amount.                                                                                                                                                                                                                                       |
| 09.10.2009 | The petitioner, who was then Principal of the Garli Campus of the Sansthan, was informed that the HRD Ministry had commenced a fact-finding inquiry in respect of the sanction for the subject work, and the petitioner was requested to be present to facilitate the inquiry.                                                                                                 |
| 20.10.2009 | The petitioner submitted a statement to the Fact Finding Authority [hereinafter, “FFA”], stating <i>inter alia</i> that he had received the NBT evaluation, alongwith a note of the HRM. The estimate was not sent to him by NBT, but he relied upon the version sent alongwith HRM’s note. The petitioner also stated that he took HRM’s note as the basis of approval of the |



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|              | <p>HRD Ministry, and issued the sanction order after approval of GIAC. He further stated that he was not aware that the grant proposal had been sent to two different institutions.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| January 2010 | <p>The fact-finding report was submitted, in which it is stated that the inquiry was required to identify the officials of the Sansthan, NBT, and MSVVP, who have attempted to sanction release of grant for publication of the subject work, both by the Sansthan and MSVVP, at different costs.</p> <p>The FFA did not find that NBT had issued two different estimates for the same publication. The only estimate issued by the NBT included an estimate of Rs. 31,42,199/-, which was sent to MSVVP on 20.05.2005, and to the Sansthan on 24.05.2005. The letter was handed over to the author in an open envelope for delivery to the Sansthan, but was not available in the files of the Sansthan at all. The FFA did not find any estimate of Rs. 49.9 lakhs by NBT, and noted the statement of Joint Director (Production), NBT, that his signatures were forged. It also opined that the said NBT officer should not have permitted an open envelope containing the estimate to be handed over to the author, and that the petitioner herein had erred in requesting the NBT to handover the estimate to the author himself. The FFA further observed that the petitioner ought to have made an effort to verify the estimates with NBT, particularly since he was in possession only of a photocopy containing overwriting and lacking the signature of the Joint</p> |



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|                                                          | Director (Production), NBT. The FFA also concluded that the petitioner had issued the sanction order without obtaining the approval of the HRD Ministry. According to the FFA, the note dated 23.07.2005 from HRM could not be construed as approval from the HRD Ministry, especially as the said note was not found in the official records of the HRM.                                                                                         |
| 22.03.2010                                               | VC issued a memorandum of charge to the petitioner, accompanied by a statement of articles of charge.                                                                                                                                                                                                                                                                                                                                             |
| 02.04.2010                                               | The petitioner responded to the memorandum of charge, substantially reiterating the submissions made by him before the FFA.                                                                                                                                                                                                                                                                                                                       |
| 13.04.2010                                               | Inquiry Officer was appointed.                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 28.09.2010,<br>10.10.2010,<br>18.10.2010,<br>28.10.2010, | Proceedings of the Inquiry Officer were conducted in the disciplinary proceedings against the petitioner. Three witnesses gave evidence in support of the charges. The petitioner did not give oral evidence, but submitted a defence statement, and was cross-examined.                                                                                                                                                                          |
| 28.10.2010                                               | The Inquiry Report was submitted.                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 03.02.2011                                               | W.P.(C) 13679/2009, filed by the author, was dismissed by this Court. It was <i>inter alia</i> held that the author was not entitled to receive grants for the same book from two institutions. However, this Court noted that certain communications relied upon by the author, including purported communications dated 18.10.2004 and 08.03.2009 from the Prime Minister's Office to HRM were not verified from official sources. It therefore |



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|            | <p>directed the Registrar General to initiate proceedings against the author under Sections 191, 192, 196 of the Indian Penal Code, 1860 [“IPC”], punishable under Section 193 of the IPC, in terms of procedure in Section 340 of the Criminal Procedure Code, 1973.</p> <p>The judgment <i>inter alia</i> refers to an affidavit filed by the Additional Secretary, HRD Ministry, in which it was stated that the GIAC’s approval in June 2005, included the recommendation that the HRD Ministry’s approval be taken. It was also stated therein that no money was actually released by the Sansthan. In the affidavit, the author was stated to have acted in a manner which was “<i>not entirely above board</i>”, projected different amounts to different organizations, and hidden relevant facts, including not disclosing the sanction by MSVVP to the Sansthan. It also refers to a recommendation of Joint Secretary (Languages) that action be initiated against the petitioner herein, which was approved by HRM on 02.05.2006.</p> |
| 27.04.2011 | A meeting of the Board of Management of Sansthan was held, wherein it was decided that a penalty of reduction to a lower scale in the time scale of pay would be imposed upon the petitioner for a period of three years, and that the petitioner would not earn increments during this period.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 16.05.2011 | Sansthan’s communication to the petitioner, forwarding a copy of the Inquiry Report, and seeking a response.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 03.06.2011 | Written representation of the petitioner to the disciplinary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |



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|            | authority.                                                                                                                                                                                                                                                  |
| 27.07.2011 | The Board of Management of the Sansthan considered the reply and re-affirmed the penalty imposed in its previous meeting.                                                                                                                                   |
| 13.09.2011 | Impugned order issued by the Sansthan to the petitioner.                                                                                                                                                                                                    |
| 25.10.2011 | The petitioner filed an appeal against the aforesaid order before the HRM.                                                                                                                                                                                  |
| 04.12.2012 | The petitioner was informed that the appeal had been rejected.                                                                                                                                                                                              |
| 29.01.2013 | The petitioner made an application for review/revision of the order dated 04.12.2012.                                                                                                                                                                       |
| 13.11.2014 | The petitioner was informed that HRM does not have any appellate powers. The HRD Ministry had concluded that the order dated 04.12.2012 was <i>non-est</i> . The petitioner was directed to submit a revision petition to the Chairman of the Sansthan/HRM. |
| 24.07.2015 | Revision petition filed by the petitioner was also rejected on the ground that there were no new facts placed before the revisional authority.                                                                                                              |
| 31.12.2020 | The petitioner superannuated from government service.                                                                                                                                                                                                       |

**B. SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:**

3. Mr. Sushil Dutt Salwan, learned Senior Counsel for the petitioner, submitted that the disciplinary proceedings against the petitioner were motivated by *mala fides*, and he was being made a scapegoat for following instructions and directions of superior authorities. The petitioner was acting upon the instructions of HRM, conveyed through the VC. It was specifically pointed out that a series of communications



dated 29.04.2005, 12.05.2005, 12.06.2005 and 23.07.2005 were issued by the HRM directly to the VC, which consistently emphasised the need to process the author's proposal expeditiously, and to release the grant for the subject work. The communication dated 29.04.2005 specifically directed that necessary action be taken for release of grant up to 80% of the self-estimated publication expenditure. The subsequent communications dated 12.05.2005 and 12.06.2005 reiterated the urgency attached by HRM to the proposal, and required expeditious processing thereof. Finally, the communication dated 23.07.2005 purportedly enclosed the evaluation received from NBT, and directed release of Rs. 39.92 lakhs, being 80% of the assessed expenditure.

4. Mr. Salwan submitted that these communications created an atmosphere of administrative pressure within the Sansthan. As the Assistant Director (Research and Publication) and Member-Secretary of the GIAC, the petitioner did not have the authority to disobey directions issued by the HRM, and accepted by the VC. He submitted that the Inquiry Officer himself acknowledged, in the Inquiry Report dated 28.10.2010, that the communications attributed to the HRM reflected direct involvement of the HRM in support of the author, but thereafter came to an erroneous finding that the letters were addressed to the VC, and therefore could not have pressurised the petitioner.

5. Mr. Salwan emphasised, in this context, that neither the VC, nor any other member of the GIAC, or the Finance Committee, were subjected to disciplinary proceedings. In this connection, my attention was drawn to the GIAC meeting held on 08/09.06.2005, which was chaired by the VC and attended by several members, including the Joint



Secretary (Languages), HRD Ministry. Thereafter, in the subsequent GIAC meeting held on 22.12.2005, the minutes of the earlier meeting were formally confirmed, without any objection regarding the aforesaid recording. Similarly, the Finance Committee meeting dated 23.08.2005 was chaired by the VC and attended by senior officers, including representatives of the HRD Ministry. He therefore submitted that, if there was any procedural irregularity concerning sanction of 2000 copies, the responsibility could not have been attributed to the petitioner alone, while completely exonerating all superior authorities who participated, and approved of the relevant decisions.

6. Mr. Salwan further drew my attention to the petitioner's note dated 16.08.2005, addressed to the VC, pointing out that approval of the HRD Ministry was required for sanction of publication of 2000 copies, as it is higher than the maximum permissible limit of 1000 copies. Upon receiving the petitioner's note, the VC sought clarification regarding whether the limitation of 1000 copies arose from the scheme itself or merely from convention, which according to Mr. Salwan showed resistance to the petitioner's suggestion. The Scheme was thereafter placed before the VC. Subsequently, the Finance Committee, on 23.08.2005, expressly recorded that special permission for printing 2000 copies should be obtained from the HRD Ministry. Acting pursuant thereto, the petitioner addressed a communication dated 26.08.2005 to the Secretary (Education), HRD Ministry, seeking approval for publication of 2000 copies. According to Mr. Salwan, the petitioner acted strictly in accordance with instructions, and the decision of the GIAC dated 08/09.06.2005.



7. Mr. Salwan also submitted that, pursuant to the judgment of this Court dated 03.02.2011, in the author's writ petition, criminal proceedings have been initiated, in which the petitioner has not been named as an accused at any stage. The charge of fabrication of documents, including purported letters of government officials, has been alleged against the author, and not against the petitioner.

8. Lastly, Mr. Salwan drew my attention to the Inquiry Report dated 28.10.2010, and submitted that the inquiry itself was a farce, as the Inquiry Report was submitted on 28.10.2010 from Nagpur, whereas cross-examination of the petitioner was concluded on the very same day in New Delhi.

9. Mr. Gyan Prakash, learned counsel for the Sansthan, on the other hand, submitted that the petitioner had clearly breached the requirement of the HRD Ministry's approval for publication of more than 1000 copies. They submitted that the petitioner cannot escape responsibility by attributing his actions to the HRM or the VC. Even assuming the petitioner's case at the highest, that certain communications were, in fact, received from the office of the HRM, those communications could not have been treated as a substitute for formal approval of the HRD Ministry, as contemplated under the Scheme.

10. Mr. Prakash submitted that the petitioner notified the VC about the said requirement only on 16.08.2005, whereas, by this time, he had already issued a letter to the author on 28.07.2005, relying upon the GIAC minutes dated 08/09.06.2005. According to Mr. Prakash, even the reliance on GIAC minutes dated 08/09.06.2005 was based upon a misreading of the said minutes, which specifically record that the



sanction was subject to Ministry approval. He also drew my attention to the minutes of the Finance Committee dated 23.08.2005, which also indicated the requirement of such approval.

11. Mr. Vikram Jetly, learned Central Government Standing Counsel, supported the submission of the Sansthan.

**C. ANALYSIS:**

12. The impugned order against the petitioner arises from disciplinary proceedings, which commenced with a Memorandum of Charge dated 22.03.2010. The articles of charge read as follows:

*“1. That Dr. Prakash Pandey, Principal, Rashtriya Sanskrit Sansthan, Garli Campus, VPO Garli, District Kangra, HP while working as Assistant Director (Research and Publication) in Rashtriya Sanskrit Sansthan during the year 2005 with malafide intention and ulterior motive placed, on the basis of forged documents (viz letter No.24-JDP/Misc./2005 dated 18.07.2005 purportedly issued by National Book Trust), before GIAC a proposal to release grant to the tune of Rs.4990000/- to Dr. Nirmal Ramesh, Anvitee Prakashan, 86088, Khadilkar Road, Mumbai-400004.*

*2. That even though GIAC approved released of funds to the tune of Rs.3992000/- subject to the approval of the Ministry of Human Resource Development, Dr. Prakash Pandey with malafide intention and ulterior motive issued the sanction vide number RSks/Pub/GRANT/10201504/04/324 dated 16.08.2005 without specific approval of the Ministry.*

*3. That he has also erred in requesting the NBT to handover the cost estimates of the book “Kalajayi Ujjaiyini” to its author, by passing the official procedure.*

*4. That he has made mistake by relying on the photocopy of the estimate from NBT, which is said to have been received by him from the office of HRM.*

*He is thus guilty of lack of integrity, lack of devotion to duty and of having acted in a manner unbecoming of a Government servant contravening thereby the provisions of Rule 3(1)(i)(ii)(iii) of CCS (Conduct) Rules.*

*The aforesaid lapse on the part of Dr. Prakash Pandey qualified for initiation of Regular Department Action (RDA) against him for major*



*penalty under Rule 14 of CCS (CCA) Rules by which he is governed.”<sup>2</sup>*

13. The petitioner replied to the articles of charge on 02.04.2010, denying the charges sought to be made out against him.

14. The proceedings of the Inquiry Officer were thereafter held, in which three witnesses were examined on behalf of the Sansthan, namely Mr. Parmanand Vatsa, Assistant Registrar (Research and Publication) of the Sansthan, Mr. Satish Kumar, Joint Director (Production), NBT, and Mr. Pawan Mehta, Under Secretary, HRD Ministry. They were also cross-examined by the petitioner, who was represented by an Advocate, acting as his defence representative. The petitioner submitted a defence statement and was cross-examined by the Presenting Officer.

15. The Inquiry Officer submitted a report dated 28.10.2010, in which it has been recorded as follows:

- a. In the evidence of Mr. Vatsa, he had *inter alia* stated that the meeting of the GIAC held on 08/09.06.2005 resolved that it was “*obligatory on the part of the Sansthan to obtain approval from the Ministry as there was publication of 2000 copies*”. The Inquiry Officer noted that the petitioner, in his cross-examination, also admitted that approval of the HRD Ministry was required for publication of 2000 copies.
- b. In the evidence of Mr. Satish Kumar, he had clearly stated that the estimate of Rs. 31,42,199/-, dated 24.05.2005, was handed over to the author, at the request of the petitioner, and that the higher estimate of Rs. 49,90,000/-, was not signed by him and was forged and fabricated.

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<sup>2</sup> Emphasis supplied.



- c. Mr. Pawan Mehta's evidence was to the effect that the HRD Ministry had never given approval for publication of 2000 copies of the subject work.
- d. The petitioner, in cross-examination, had admitted that he issued the sanction letter to the author, despite the lack of approval from the HRD Ministry for 2000 copies, and that it was not permissible to sanction publication of the same book through two different institutions.
- e. The petitioner had failed to explain any provision under which he asked the Joint Director (Production), NBT, to hand over the estimate directly to the author.
- f. The Inquiry Officer thus came to the conclusion that the petitioner had *"given a go-by to the rules and procedure required to be followed in particular under the scheme for financial assistance"*.
- g. The petitioner had exceeded his power in jurisdiction by assessing the estimate at Rs. 49,90,000/-.
- h. The Inquiry Officer has therefore recorded the following conclusion:

*"The evidence of Shri Parmanand Vatsa, cross examination of the delinquent, and statement of Shri Satish Kumar, Jt. Director, NBT, if read as a whole it demonstrates that the evidence is corroborative and further **demonstrates that the delinquent has failed to follow the prescribed procedure under the said scheme and has acted high handedly amounting to malafide.**"<sup>3</sup>*

- i. The Inquiry Officer expressed an apprehension that the purported letter dated 18.07.2006 showing valuation of Rs. 53 lakhs *"may be forged"*, but did not give any finding on this aspect in the absence



of reference to a hand-writing expert.

- j. The petitioner had issued the communication dated 28.07.2005 to the author, despite lack of sanction of the HRD Ministry which he was aware of.
- k. The Inquiry Officer has recorded a further conclusion, as follows:

*“From the above evidence and documents placed on record, I have come to the conclusion that the serious procedural lapses committed by the delinquent as leveled in the charge sheet dated 22.03.2010, Exh. 1 are proved and entitled the delinquent for the penalty. But there is a rider situation. The three letters (xerox copies) written by the then Hon’ble Human Resource Minister to the Hon’ble Vice Chancellor, RSKS University favouring the immediate releasing of the grant amount to beneficiary clearly shows the direct involvement of the then Hon’ble H.R.M in this issue supporting the beneficiary. Efforts to get the originals of H.R.M. letters from the ministry proved in vain. It was told that these letters might have been issued by the minister’s office and not administrative office. Since the regime of the previous H.R.M. is over, no original record of these three letters of the then H.R.M. was traceable hence not provided to me. Dr. Prakash Pandey might have committed the irregularities probably under the pressure from these letters of Hon’ble H.R.M. as claimed by him in deposition, which were worded to show utmost urgency of H.R.M. in getting the work done. Since the letters were addressed to Hon’ble Vice Chancellor, RSKS and not to Dr. Prakash Pandey, there was no question of Dr. Prakash Pandey getting pressurized by these letters. It is difficult to ascertain the genuineness of these xerox copies of HRM’s letters for want of original copies of these letters.*

*The xerox copies of letters of H.R.M., even if taken as genuine, were recommendatory and not sanction letters. That is why Dr. Pandey had to write again and again to M.H.R.D for getting sanction for printing 2000 copies. So it is proved that Dr. Pandey has erred seriously in following the due administrative procedure hence due for penalty befitting the irregularities committed by him as mentioned in the charge sheet in discharging his duties as then Assistant Director,*

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<sup>3</sup> Emphasis supplied.



*Research & Publication, R.S.K.S.”<sup>4</sup>*

16. It is on the basis of this Inquiry Report that the Disciplinary Authority, namely the Board of Management of the Sansthan, decided on 27.04.2011, to impose the impugned penalty upon the petitioner, against which the UOI has declined to interfere.

17. It is evident from the Inquiry Report dated 28.10.2010, that the principal findings of the Inquiry Officer, which have been accepted by the Disciplinary Authority, are as follows:

- a. The petitioner has proceeded on a forged NBT estimate of Rs 49,90,000/-, as publication cost of the subject work.
- b. The petitioner issued a sanction letter dated 16.08.2005 to the author, without specific approval of the HRD Ministry for publication of 2000 copies of the subject work.
- c. The petitioner ought not to have requested the NBT to hand over its estimate to the author himself for submission before the Sansthan.
- d. The petitioner had failed to follow appropriate administrative procedures.

18. Upon consideration of the submissions of learned counsel for the parties, I am of the view that the Inquiry Report, which has been accepted in entirety by the Disciplinary Authority, is manifestly erroneous in the following two material aspects:

- a. The Inquiry Report proceeds on the basis that the GIAC had accorded sanction to publication of 2000 copies, subject to approval of the Ministry. This is, in my view, a fundamental

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<sup>4</sup> Emphasis supplied.



misreading of the minutes of the meeting of the GIAC dated 08/09.06.2005. In respect of the proposal in question, the minutes, in fact, record sanction having been granted, to the extent of Rs. 39,92,000/-, with the following observation:

*"समिति मंत्रालय की विशेष अनुमति से इसकी २००० प्रतियों के प्रकाशन हेतु स्वीकृति देती है", i.e. "the Committee accords approval for publication of 2000 copies with the special permission of the Ministry".*

This indicates that the GIAC's approval was being granted by virtue of special permission of the HRD Ministry for publication of 2000 copies, and not that the sanction was being granted, subject to such approval.

- b. The second aspect on which the Inquiry Report is, in my view, manifestly erroneous, is in stating that the purported letters addressed by the HRM to the VC, would not have the effect of putting pressure upon the petitioner. The Inquiry Officer has found that HRM was directly involved in supporting the beneficiary, on the basis of the copies of letters placed on record, even though those letters were not available in the HRD Ministry. However, the petitioner's contention that he had acted on the basis of severe administrative pressure has been negated, only on the argument that the purported letters were not addressed to him, but to the VC. I find this argument entirely meritless. The VC was the head of the institution in which the petitioner was an officer. The institution, in turn, operates under



the HRD Ministry. Although the Inquiry Officer has rightly declined to ascertain the genuineness of the alleged communications from the HRD Ministry, the observation that these could not have created any pressure upon the petitioner is, in my view, unsupported by the material on record. Such a perfunctory conclusion loses sight of the fact that the petitioner was functioning under the direct supervision and control of the VC, to whom the letters were allegedly addressed, by a functionary at the level of HRM.

19. While observations and conclusions of the Disciplinary Authority are not lightly interfered in writ proceedings, I am of the view that the present case, at least in respect of the two aspects highlighted above, falls within the narrow class of cases in which judicial review is warranted. The proceedings against the petitioner have resulted in a major penalty, principally on the basis of the findings that he had released the sanction letter to the author without requisite approval of the HRD Ministry, and on the basis of a forged NBT estimate. The petitioner's defence in turn relied upon the GIAC minutes granting sanction, and upon directions and communications of the HRM. The minutes have been completely misread by the Inquiry Officer, and the effect of the HRM's communications have also been lightly brushed aside.

20. Despite this position, however, I am of the view that the ultimate conclusion of the Inquiry Officer, that the petitioner had committed certain administrative errors in the process of sanctioning the above proposal, is justified. The Inquiry Officer has rightly found that the petitioner had erred in requesting NBT to hand over the estimate to the



author directly, for further submission to the Sansthan. Such a request ought not to have been made, particularly when the chosen intermediary was the potential beneficiary of the transaction. This has ultimately led to ambiguity with regard to quantum of the estimate and allegations of forgery, which are being considered in the criminal proceedings. Further, the petitioner's position with regard to the requirement of approval of the HRD Ministry, is also inconsistent. Although the GIAC had, as stated above, approved the proposal in its minutes dated 08/09.06.2005, which were subsequently confirmed on 22.12.2005, the petitioner, being the Member-Secretary, cannot be absolved of the responsibility to place the correct procedural requirements before the GIAC. His own subsequent note to the VC, dated 16.08.2005, stated that the approval of the HRD Ministry was required. This was not placed before the GIAC. The Inquiry Officer has rightly found that the petitioner had nonetheless issued a sanction letter dated 28.07.2005 to the author.

21. Mr. Salwan had made two further submissions with regard to the correctness of the Inquiry Report:

- a. He submitted that the Inquiry Officer has erroneously proceeded on the basis that the petitioner was charged with having "*forged the documents issued by the NBT*", whereas the allegation in the chargesheet was not of forgery by the petitioner, but only of reliance upon a forged document. While the Inquiry Report does erroneously summarise the charge as one of forgery by the petitioner, I find that the Inquiry Officer has not proceeded upon a finding that the petitioner had forged any documents. Instead, he has specifically recorded that, although the document "*may be*



*forged*”, he did not render any finding as there was no expert handwriting evidence. I therefore do not accept this submission.

- b. Learned Senior Counsel also submitted that the Inquiry Report is vitiated by the fact that it was signed in Nagpur on the same day as the close of cross-examination in New Delhi. However, I do not consider this a substantial ground, as it is not inconceivable that the Inquiry Report of 14 pages was, in fact, prepared or finalised on the same day, after the cross-examination of the petitioner.

22. For the aforesaid reasons, I am not inclined to accept the petitioner’s submission that the disciplinary proceedings, and the impugned order, are vitiated in entirety.

23. The only question which remains is whether the punishment imposed warrants interference of this Court.

24. The petitioner is admittedly governed by Rule 11 of the CCS (CCA) Rules, which provides for the following penalties:

*“11. Penalties*

*The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant, namely :-*

**Minor Penalties –**

*(i) censure;*

*(ii) withholding of his promotion;*

*(iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;*

*(iii a) reduction to lower stage in the time-scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.*

*(iv) withholding of increments of pay;*

**Major Penalties –**

**(v) save as provided for in clause (iii) (a), reduction to a lower stage in the timescale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;**



(vi) reduction to lower time-scale of pay, grade, post or Service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time-scale of pay, grade, post or Service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period –

(a) the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and

(b) the Government servant shall regain his original seniority in the higher time scale of pay, grade, post or service;

(vii) compulsory retirement;

(viii) removal from service which shall not be a disqualification for future employment under the Government;

(ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.”<sup>5</sup>

25. In the present case, out of the prescribed penalties reproduced above, the petitioner has been subjected to a major penalty of reduction to a lower time scale of pay and withholding of increments for a period of three years.

26. In general, quantum of punishment is matter for the administrative authority. However, the Court has the discretion to interfere, if the penalty imposed shocks its conscience. The Supreme Court, in *B.C. Chaturvedi v. Union of India*<sup>6</sup>, *inter alia* held as follows:

“18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. **The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either**

<sup>5</sup> Emphasis supplied.

<sup>6</sup> (1995) 6 SCC 749 [hereinafter, “*B.C. Chaturvedi*”].



**directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.**<sup>7</sup>

27. The aforesaid judgment has been followed in several later authorities, including *Chairman-cum-Managing Director, Coal India Ltd. v. Mukul Kumar Choudhuri*<sup>8</sup>. The Court emphasised the applicability of the doctrine of proportionality to service jurisprudence, in the following terms:

*“19 The doctrine of proportionality is, thus, well-recognised concept of judicial review in our jurisprudence. **What is otherwise within the discretionary domain and sole power of the decision-maker to quantify punishment once the charge of misconduct stands proved, such discretionary power is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award of punishment which is grossly in excess to the allegations cannot claim immunity and remains open for interference under limited scope of judicial review.***

20. One of the tests to be applied while dealing with the question of quantum of punishment would be: would any reasonable employer have imposed such punishment in like circumstances? Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment.”<sup>9</sup>

28. In *Kendriya Vidyalaya Sangathan v. J. Hussain*<sup>10</sup>, the applicable tests have been formulated as follows:

*“8. The order of the appellate authority while having a relook at the case would, obviously, examine as to whether the punishment imposed by the disciplinary authority is reasonable or not. If the appellate authority is of the opinion that the case warrants lesser penalty, it can reduce the penalty so imposed by the disciplinary authority. Such a*

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<sup>7</sup> Emphasis supplied.

<sup>8</sup> (2009) 15 SCC 620.

<sup>9</sup> Emphasis supplied.

<sup>10</sup> (2013) 10 SCC 106.



power which vests with the appellate authority departmentally is ordinarily not available to the court or a tribunal. The court while undertaking judicial review of the matter is not supposed to substitute its own opinion on reappraisal of facts. (See *UT of Dadra & Nagar Haveli v. Gulabhia M. Lad* [(2010) 5 SCC 775 : (2010) 2 SCC (L&S) 101].) **In exercise of power of judicial review, however, the court can interfere with the punishment imposed when it is found to be totally irrational or is outrageous in defiance of logic.** This limited scope of judicial review is permissible and interference is available **only when the punishment is shockingly disproportionate, suggesting lack of good faith.** Otherwise, merely because in the opinion of the court lesser punishment would have been more appropriate, cannot be a ground to interfere with the discretion of the departmental authorities.”<sup>11</sup>

29. Applying the aforesaid principles to the present case, I am of the view that this case does call for interference with the quantum of punishment. At the outset, it may be noted that the petitioner’s lapses, as found by the Inquiry Authority, were in complying with the required administrative procedure. No allegation of forgery, corruption or any personal benefit has been established against him. Further, the petitioner is not an accused in the connected criminal proceedings. It is also the admitted position that no amount was, in fact, released by the Sansthan to the author<sup>12</sup>. It also bears notice that no other officer of Sansthan, or the HRD Ministry, including the VC or other members of the GIAC have been subjected to any proceedings. The petitioner alone faced disciplinary proceedings, despite the involvement of many others in the chain of command. The petitioner’s reliance upon the purported letters of the HRM, which even the Inquiry Officer has found to have favoured the author, are also a mitigating factor. While such conduct may support a finding of administrative lapses and imprudence, it cannot, in my view,

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<sup>11</sup> Emphasis supplied.



justify a major penalty, which encompasses both deduction in the scale of pay and withholding of increments.

30. The consequence of such a conclusion is generally to remand the matter to the authority for fresh consideration. However, the Courts have recognized that in certain exceptional circumstances, the penalty may be substituted by the Court itself, rather than remanding the matter to the administrative authorities for reconsideration. An indication to this effect is found in the above quoted extract in *B.C. Chaturvedi*. One of the circumstances, specifically recognized as justifying such a course, is delay. This principle is evident from the following observations in a judgment of the Supreme Court in *Bhagwan Lal Arya v. Commissioner. of Police*<sup>13</sup>:

*“14. Thus, the present one is a case wherein we are satisfied that the punishment of removal from service imposed on the appellant is not only highly excessive and disproportionate but is also one which was not permissible to be imposed as per the Service Rules. Ordinarily we would have set aside the punishment and sent the matter back to the disciplinary authority for passing the order of punishment afresh in accordance with law and consistently with the principles laid down in the judgment. However, that would further lengthen the life of litigation. In view of the time already lost, we deem it proper to set aside the punishment of removal from service and instead direct the appellant to be reinstated in service subject to the condition that the period during which the appellant remained absent from duty and the period calculated up to the date on which the appellant reports back to duty pursuant to this judgment shall not be counted as a period spent on duty. The appellant shall not be entitled to any service benefits for this period. Looking at the nature of partial relief allowed hereby to the appellant, it is now not necessary to pass any order of punishment in the departmental proceedings in lieu of the punishment of removal from service which has been set aside. The appellant must report on duty within a period of six weeks from today to take benefit of this*

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<sup>12</sup> Counter Affidavit filed by the Sansthan on 27.07.2016, paragraph 2.

<sup>13</sup> (2004) 4 SCC 560, paragraph 14.



*judgment.*”<sup>14</sup>

The same principle was reiterated by the Supreme Court in *Chief Commissioner of Central Excise v. P. Laxminarayan Reddy*<sup>15</sup>, where the Court observed as follows:

“5. Even assuming so, we do not find that having regard to the charges framed against the officer, the punishment imposed is proportionate to the gravity of charges proved against him. The learned Additional Solicitor General appearing for the petitioner submits out that the matter should be sent back to the disciplinary authority to go into the aspect of proportionality. However, having regard to the fact that the litigations have been going on for the last eleven years, we are of the view that it is only in the interest of justice to give a quietus to the whole issue.”<sup>16</sup>

31. In the present case, the proceedings concern events of the years 2005-06, and disciplinary proceedings commenced by issuance of Memorandum of Charge in the year 2010, more than 16 years ago. In these circumstances, a remand to the Disciplinary Authority, for fresh consideration of the quantum of punishment, would only prolong a dispute that has already remained pending for more than 16 years. I am of the view that this is an appropriate case for the Court itself to mould the relief, rather than remand the matter for reconsideration.

32. Having regard to the facts and circumstances noted above, I am of the view that the penalty imposed by the impugned order dated 13.09.2011, should be set aside, and substituted with the minor penalty of “Censure”.

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<sup>14</sup> Emphasis supplied.

<sup>15</sup> (2015) 14 SCC 708.

<sup>16</sup> Emphasis supplied.



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**D. CONCLUSION:**

33. The writ petition is partly allowed, to the extent that the major penalty imposed upon the petitioner is set aside, and substituted with the minor penalty of “*Censure*”. The respondents are directed to compute the consequential benefits due to the petitioner, and to release them to him within a period of three months from today. The monetary benefits will carry interest at the rate of 6% per annum, from the date they were due until the date of actual payment.

34. Accordingly, the writ petition, alongwith pending application, is disposed of, but without any order as to costs.

**PRATEEK JALAN, J**

**JULY 01, 2026/B/AD/**