



2025:AHC:225541

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Reserved on 03.12.2025

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**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - A No. - 19080 of 2006**

Rajesh Singh

.....Petitioner(s)

Versus

Board of Governors, Motilal Nehru National  
Institute of Technology and another

.....Respondent(s)

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Counsel for Petitioner(s)

: Abhishek Srivastava, Arvind  
Srivastava, Ashwani Kumar Mishra,  
Manish Tandon, Rahul Srivastava,  
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Counsel for Respondent(s)

: C.S.C., Shivendu Ojha

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**Court No. - 32**

**HON'BLE SAURABH SHYAM SHAMSHERY, J.**

1. Petitioner was a Lecturer in the Department of Computer Science and Engineering in Motilal Nehru National Institute of Technology, Allahabad. He joined the Institute on 31.03.1999. An Ex-student (Girl) of Institute made a written complaint dated 08.01.2003 addressed to the Director of Institute inter alia alleging therein that when she was a student of Master of Computer Education in the Institute from 1997-2000, petitioner has made physical relationship with her and she described an occurrence took place on 16.11.1999 that it was against her will. Though

she further stated that later on they had consensual physical relationship even after she left the Institute. A symbolic marriage was also took place between them but it appears that she being of a different religion, therefore, parents of petitioner did not allow to solemnize a proper marriage and thus their relationship was broken, therefore, she made a complaint that she was subjected to physical and emotional harassment.

2. On basis of said complaint, Director of Institute constituted a Five Members Committee and a show cause notice dated 10.01.2003 was issued to petitioner to submit reply to the complaint. A copy of complaint was admittedly served upon petitioner. A questionnaire was also submitted to petitioner. Petitioner thereafter submitted his reply that complainant was an student of petitioner between July, 1999 to June, 2000 and he admitted that it was a consensual relationship which developed during that period and continued even thereafter. They wanted to marry but due to different religion marriage could not take place.

3. On basis of record it appears that the Five Members Committee has not arrived to any conclusion and submitted a report that they do not have expertise to establish a fact that any rape was committed and that petitioner and complainant were in relationship even after complainant left the Institute and complaint was filed only when petitioner was engaged with some other girl in November, 2002. No specific conclusion was made in the report.

4. On basis of above inquiry petitioner was put under suspension vide order dated 17.01.2003 and there was an observation in said order that a charge sheet will be issued shortly. Subsequently, a One Man Inquiry Commission was constituted by Institute headed by Justice N.L. Ganguly, Former Judge, Allahabad High Court, who issued notice dated 10.06.2003 to petitioner and sought reply and that petitioner can produce any evidence, oral or documentary. Petitioner thereafter submitted a detailed

reply on 12.09.2003 and has appeared before One Man Inquiry Commission also. Complainant has also made a written statement before One Man Inquiry Commission. The Commission also recorded statements of few witnesses as well as took note of observations made by Five Members Committee. The Commission also framed certain issues for consideration and finally submitted a report dated 27.12.2023 whereby petitioner was found guilty of misconduct on ground that he has shown special favour with complainant, when she was a student in the Institute and his conduct as a Lecturer of Institute and having affair with his student was contrary to the tenets of relationship of student and Teacher. His act of physical relationship with his student was considered to be an immoral conduct and it was found to be contrary to the values of a Teacher in society and according to Section 49-A of the State Universities Act, 1973 and Clause 16.04 of the First Statutes, 1976 of University of Allahabad it was proposed that petitioner be terminated from services. For reference relevant part of One Man Commission's report is reproduced hereinafter:

*"I have considered the facts and circumstances in great details and I find that Mr. Rajesh Singh is guilty of misconduct on the ground that he had shown special favour with Ms. Valentina Kujur when she was student in the institute. He had shown special favour to her by giving her special lessons for home work and would question on the said subject on the following day which act was an act of special favour shown by him to Ms. Valentina. This was not done in case of any other girl student or boy student. The conduct of Mr. Rajesh Singh as a Lecturer of the college and having affairs with Ms. Valentina Kujur when she was student of the college itself, calling her to participate in birth-day celebration in the Hotel Kanha Shyam shows and fortifies the findings recorded against him. Mr. Rajesh Singh, when Ms. Valentina Kujur was his student and was in the college, was photographed in the residential*

room in such a pose which is not proper for the teacher with his own girl student. I have already discussed above that Mr. Rajesh Singh was standing behind the chair on which Ms. Valentina Kujur was sitting and he was leaning on the shoulders of Ms. Valentina Kujur putting both his hands on upper portion of her breast and she was holding his wrist. This cannot be imagined to be a proper pose with a girl student by his teacher. The sexual act continued from February till May 1999, as stated by Ms. Valentina Kujur. This act committed by Mr. Rajesh Singh is immoral conduct and in no manner can be excused. Even after Ms. Valentina Kujur ceased to be the student of Mr. Rajesh Singh, he continued having sex relationship with her, taking her to Hotels at Agra stayed there for two days and five days at Khajuraho are such facts which show that Mr. Rajesh Singh had lost all moral values of Indian culture which is never expected from a teacher. In our country teachers are worshipped and their place is at high pedestal गुरुर ब्रह्मा, गुरुर विष्णु, गुरुर देवो महेश्वरा ।

After considering the facts and circumstances in detail, I have no option left to record the finding that Mr. Rajesh Singh committed gross misconduct and according to Section 49-D of the State University Act, 1973 and Clause 16.04 of the First Statutes, 1976 of the University of Allahabad deserves to be terminated from the services. If such a teacher is permitted to continue in an educational institute of repute like MNNIT where girl students from various parts of the country come to study, there is no guarantee that he will not repeat his actions again.

I suggest that proper punishment would be termination from service so that he may be able to do other job in places other than educational institutions. The suspension allowance already paid may not be recovered back from him, but he shall not be entitled for any further emoluments.

*The report of the Commission is submitted before the Chairman of the Board of Governors of MNNIT, Allahabad for his consideration and for consideration by the Board of Governors.”*

5. A copy of aforesaid report was served upon petitioner who submitted his reply on 23.06.2004 that the report be set aside. The report and petitioner's reply was considered by Board of Governors in their 5<sup>th</sup> Meeting held on 18.01.2005 and accordingly a notice dated 22.02.2005 was issued to petitioner. Petitioner thereafter submitted his reply dated 05.03.2005 and subsequently impugned order dated 28.02.2006 was passed by Director of Institute whereby petitioner was dismissed from service with disqualification.

6. The aforesaid order dated 28.02.2006 is impugned in present writ petition.

7. This writ petition was filed in the year 2006 wherein no interim order was passed. Later on it was dismissed for want of prosecution on 11.07.2013 and restored vide order dated 26.07.2023.

8. Sri Abhishek Srivastava, learned counsel for petitioner has argued that service conditions of an employee of MLNIT is governed by a resolution adopted by Board of Governors in its 4<sup>th</sup> Meeting held on 04.05.2004 which provides procedure for disciplinary action, penalties and appeal also and for reference the same are reproduced hereinafter:

***“8. Procedure for Imposing Penalties***

*The procedure for imposing penalties listed in Para 3 shall be as under:*

*(i) No order imposing on any member of the staff any of the penalties specified at (iv) to (vii) above shall be passed by any authority subordinate to that by which he was appointed and except after an enquiry has been held and the member of the staff has been given reasonable opportunity of showing cause of the action proposed to be taken in regard to him.*

*No order imposing on any member of the staff any of the penalties specified at (i) to (iii) above shall be passed by any authority subordinate to that by which he was appointed and unless the member of the staff concerned has been given an opportunity to make a representation to the Appointing Authority.*

*Notwithstanding the above provisions, it shall not be necessary to follow the procedure mentioned above in the following cases:*

*(a) where an employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge;*

*(b) where the authority empowered to dismiss or remove the person or to reduce him in rank is satisfied that, for some reason to be recorded by that authority in writing, it is not reasonably practicable to give that person an opportunity of showing cause; or*

*If any question arises whether it is reasonably practicable to give any person an opportunity of showing cause under clause (b) above, the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.*

*(ii) Formal penalties must be recorded in the Service Book of the employee and a copy kept along with his/her Confidential Reports. Other punishments need not be recorded, except that a Warning given after disciplinary proceedings should be recorded.*

*(iii) In case of an officer on deputation, the borrowing authority may start proceedings but the lending authority should be informed and vice-versa. If at the conclusion of the proceedings started by him, the borrowing authority is of the view that a major penalty should be imposed on the delinquent official, the borrowing authority should replace his/her services at the disposal of the lending authority and transmit the record of the proceedings to the lending authority. The borrowing authority can impose a penalty on the delinquent officer but if this is not agreed to by the lending authority, then his services shall be replaced at the disposal of the lending authority.*

(iv) A Flow Chart of various steps after receiving a complaint is given as under:

**9. Acts, Conduct And Commissions/Omissions Which Amount To Misconduct Leading To Disciplinary Action**

*The employees of the Institute shall be governed by the Conduct Rules as laid down in Schedule 'B' and any violation of these rules may lead to disciplinary action.*

*I. The initiation of disciplinary proceedings for various penalties depends on the gravity of derelictions to be judged by the Disciplinary Authority.*

*II. Generally, for minor penalty proceedings at Serial (i) to (iii), could be dereliction of duty such as inefficiency or incompetence disobeyance of orders habitual late coming or minor violation of conduct rules constitute the basis.*

*III. Cases which may generally mere action of imposing one of the Major penalty at Serials (iv) to (vii) are,*

*1. Where there is a reasonable ground to believe that a penal offence has been committed by the employee but the evidence forthcoming is not sufficient for prosecution in a court of law, e.g.*

- a) possession of disproportionate assets;*
- b) obtaining or attempting to obtain illegal gratification;*
- c) misappropriation of Government property, money to stores;*
- d) obtaining or attempting to obtain any valuable thing or pecuniary advantage without consideration or for a consideration which is not adequate.*

*2. Falsification of Government/Institute records.*

*3. Gross irregularity or negligence in the discharge of official duties with a dishonest motive.*

*4. Misuse of official position or power for personal gain.*

*5. Disclosure of secret or confidential information even though it does not fall straightly within the scope of the Official Secrets Act.*

6. *False claims on the Institute like TA, Reimbursement etc.*

7. *Sexual harassment*

#### **10. *Principles of Natural Justice***

*The principles of natural justice have been evolved through various judicial pronouncements and are intended to provide the minimum protection to an individual against any arbitrary procedure that may be adopted by the authorities in departmental inquiries. These principles require:*

- (a) *That every person against whom disciplinary proceedings are contemplated must have a reasonable notice of the case he has to meet;*
- (b) *That he must have a reasonable opportunity of being heard in his defence;*
- (c) *That the hearing must be conducted by an impartial, unbiased officer(s) that is, a person who is neither directly nor indirectly a party to the case or has an interest in it.*
- (d) *That the disciplinary authority must act in good faith and not arbitrarily but reasonably*

*The reasonable opportunity mentioned at (b) above includes:*

- (i) *An opportunity to the person concerned to deny his guilt and establish his innocence. He will get an opportunity if he is told clearly what the charges leveled against him are and the allegations on which such charges are based.*
- (ii) *An opportunity to defend himself by cross-examining the witnesses produced against him and by examining himself and any other witnesses in support of his defence; and,*
- (iii) *An opportune to make his representation as to why the punishment should not be inflicted on him. This opportunity can be provided only if the competent authority after applying its mind to the gravity or otherwise of the charges against him proposes to*

*inflict the appropriate penalty out of the list of penalties provided for in the rules relating to such disciplinary matters.*

*For unbiased hearings mentioned at (c) above, the Inquiry Officer should not obviously have any personal interest in the case. During hearings, he is expected to be serene and even-handed, even though his patience at times may be tried. At the same time, he cannot permit either party to engage in every trick to delay proceedings and put a spoke the wheel of justice.*

#### ***11. Proceedings for Inquiry***

*The flow chart of various steps in the conduct of an enquiry and award of a punishment after receiving a complaint is given at Annexure 1 and the guidelines as as under:*

*(a) The proceedings commence with the issue of a charge-sheet to the delinquent official. The charge-sheet should contain facts and circumstances serving as the basis for the charge so that the delinquent official may have a reasonable opportunity to known fully what the charges levelled against him are and what the background is, so that he may be in a position to answer the charges and prepare himself in the departmental inquiry.*

*The charge-sheet to be issued to the delinquent official should include the following:*

- (i) a statement of charges*
- (ii) a statement of imputation of misconduct/misbehaviour leading to a distinct charge*
- (iii) a list of witnesses and a list of documents in support of charges and*
- (iv) a memorandum requiring the delinquent official to submit a reply within a reasonable time (say 10 days from the date of receipt) asking him to state whether he pleads guilty and whether he wishes to be heard in person*

(b) After receiving the explanation from the delinquent official, the disciplinary authority may appoint an impartial officer to hold the inquiry on his behalf.

(c) When the Inquiry Officer is appointed, the disciplinary authority should simultaneously appoint a Presenting Officer. It should not be difficult to except in very complex cases for the disciplinary authority to appoint a staff member from the Institute, conversant with the case other than the one who has carried out a preliminary inquiry into it. The Presenting Officer is to conduct the proceedings on behalf of the Institute before the Inquiry Officer. He will lead evidence in support of the charges and cross-examine the witnesses deposing on behalf of the delinquent official.

The delinquent official may be allowed to have a staff member of the institute as Defence Assistant. Refusal to engage a Lawyer/Advocate to the delinquent official does not amount to denial of reasonable opportunity or violation of the natural justice. If however the disciplinary authority appoints a legal practitioner as a Presenting Officer, it is only appropriate that the delinquent official should be informed and also allowed to engage a legal practitioner.

(d) The departmental inquiry should be commenced with an advance notice to the delinquent official intimating him the date, time and place of inquiry and calling upon him to appear before the Inquiry Officer together with his witnesses, if any. A list of witnesses to be examined for the Institute should be furnished to the delinquent official in advance.

(e) On the first day of inquiry if the delinquent official who is served with the notice of the inquiry is absent, the inquiry officer may give him another opportunity to appear instead of proceeding with the inquiry.

(f) When the delinquent official appears with reference to the notice of hearing, the Inquiry Officer should read the charges in the presence of the delinquent official and say these charges have bee levelled against him on the evidence of certain persons and documents, if any.

(g) The witnesses on behalf of the disciplinary authority should be examined in the presence of the delinquent official and the evidence taken

*and recorded in his presence. The strict provisions of the Evidence Act however do not apply to such domestic inquiries. The delinquent official should be called upon to cross examine the witnesses and the Inquiry Officer should record the statements made by them on such cross examinations in the presence of the delinquent official.*

*(h) The Inquiry Officer may take the signatures of the delinquent official on each day's proceedings and if he refuses to sign, such refusal may be noted by the Inquiry Officer in the proceedings.*

*(i) After the Institute closes its side, the delinquent official should be given a reasonable opportunity to produce his witnesses to give evidence of his side. He and his witnesses may be cross-examined by the Presiding Office. If the delinquent official says that he has no evidence to offer or he fails to appear before the Inquiry Officer or protects the proceedings inspite of reasonable opportunities to produce his evidence, the Inquiry Officer should record it in the proceedings and he may then close the case. The Inquiry Officer should then obtain a brief from the Presenting Officer as well as from the Defence Assistant/Delinquent Employee.*

*(j) The Inquiry Officer may also take the signature or each witness to the evidence recorded by him. This equally applies to the evidence of the delinquent official.*

*(k) The Inquiry Officer should then draw to the report and forward it to the disciplinary authority. This should contain a brief resume of the charges framed against the delinquent official, the explanation of the delinquent official, the substance of the evidence of witnesses examined during the inquiry and the documentary evidence placed on record. It should also set out the conclusions on the charges, supported by the evidence placed on record. He should conclude which of the imputations/charges are proved. In case a particular charge, as such is not established, but part of the allegation referred to it in the statement of imputations is established, the Inquiry Officer should specifically bring this point out. The Inquiry Officer should forward along with his report all the record and the proceedings of the Inquiry.”*

9. Learned counsel by referring the above referred procedure has submitted that there is no provision to constitute a One Man Inquiry Commission and its report could only be a supporting document and could not be a basis to take action against petitioner. No charge sheet was issued to petitioner. No oral evidence was recorded. Petitioner was not granted any opportunity to cross-examine complainant or witnesses. A detail procedure is prescribed for inquiry but not followed. Therefore, the order of removal from service based on a report of One Man Inquiry Commission is illegal.

10. Learned counsel further submitted that there is no explanation that once complainant has left the Institute and according to her case she remained in relationship with petitioner so much as that they perform a symbolic marriage and this relationship goes for about three years, even after she left the Institute, then such a belated complaint cannot be formed basis to a report of Inquiry Commission. Moreso it was filed only when the marriage was not solemnized and petitioner was got engaged with another girl. In support of his submissions, learned counsel placed reliance on judgments passed by Supreme Court in **Avinath Nagra vs. Navodaya Vidyalaya Samiti and others (1997)2 SCC 534; Allahabad Bank and others vs. Deepak Kumar Bhola (1997)4 SCC 1; and, State of Tamil Nadu vs. Pramod Kumar and others (2018)17 SCC 677.**

11. Per contra, Sri R.K. Ojha, learned Senior Advocate assisted by Sri Shivendu Ojha, learned counsel for respondents, has submitted that petitioner was not prejudice since he has opportunity to place his case which he availed also. The contents of complaint are substantially accepted by petitioner. Being a Teacher petitioner has to preserve a higher standard of morality which he fails to do. Admittedly he made physical relationship with his student probably on ground to give her benefit and even after she left the Institute, he remained in relationship and failed to marry her. Such relationship between a Teacher and his student is contrary

to the basic tenets of Guru Shishya Parampara and such a Teacher cannot be allowed to serve in a Institute, which has a high reputation.

12. Heard learned counsel for parties and perused the material on record.

13. In the present case, it not in dispute that disciplinary proceedings against petitioner was not undertaken in terms of procedure prescribed in a resolution adopted by Board of Governors in its 4<sup>th</sup> Meeting held on 04.05.2004, which is referred in detail in earlier paragraphs. Said procedure prescribes that principles of natural justice are to be followed. There is a very detail procedure for inquiry which commenced with issuance of charge sheet to delinquent official, a statement of charges, a statement of imputation of misconduct, a list of witnesses and a list of documents in support of charges and a memorandum requiring the delinquent official to submit a reply within a reasonable time etc. An Inquiry Officer was requested to be appointed to conduct an inquiry. A Presenting Officer was also required to be appointed. A detail procedure has also further provided and admittedly in the present case since no Inquiry Officer was appointed, therefore, further procedure as prescribed was also not followed.

14. Now the question is, whether a One Man Inquiry Commission can bye pass the detail procedure prescribed for conducting a disciplinary proceeding. It is no doubt that the One Man Inquiry Commission was headed by a Former Judge of this Court wherein petitioner and complainant appeared and recorded their respective statements.

15. The Commission has recorded statements of independent witnesses. Though no cross-examination was conducted but on basis of material available before One Man Inquiry Commission, essentially on a ground that petitioner has accepted his relationship with victim even after she left the Institution and it was found that petitioner has conducted a

misconduct. Essence of order passed by One Man Inquiry Commission was based on standard of morality of a Teacher, relationship between a Teacher and student as well as that a Teacher has to keep morality at a very high pedestal and that if petitioner was allowed to work in the Institution, he might have repeated such act.

16. Court finds that since petitioner has substantially accepted the allegations made by complainant, therefore, only on ground that a detail proceeding in terms of above referred resolution, was not conducted and an inquiry was conducted by One Man Inquiry Commission would not prejudice him so much as that allegation is concerned. Petitioner has accepted that he had relationship with complainant (a student) for few months which continued even after she left the Institution and they wanted to marry but it could not happen since they belong to different religion. Therefore, it is not a case where the petitioner is prejudice or if inquiry was conducted as per the procedure, outcome of inquiry report would be different.

17. Now the Court proceed to discuss and consider, whether in such circumstances when the complainant was a willing partner in the relationship and though it commenced when she was a student of petitioner and continued even after she left the Institution for three years, therefore, after such a lapse of time, specifically when marriage was not solemnized, whether such a complaint and admit nature of relationship, could invite a major penalty to petitioner. Admittedly the complainant has not lodged any FIR against the petitioner.

18. On basis of material on record maximum it may be a case of false promise of marriage but to contend by complainant that she was forced to enter into physical relationship about three and half years ago even though she remained in relationship with petitioner for more than three years does not inspire confidence.

19. There is one more factor also that in present case, complaint was filed by an Ex-student after three years, she left the Institution and after being in relationship with petitioner for these three years that whether such a complaint could be cognizable specifically in absence of any FIR lodged by complainant.

20. In aforesaid circumstances, the Court finds that on basis of material on record, as referred above, the only reason to terminate the petitioner from service with disqualification is 'morality', i.e., a standard of morality is required to be maintained by a Teacher with their students. No doubt the petitioner has not followed or kept high standard of morality but there is another factor that except the said allegation there is no other allegation against petitioner despite he was doing job for almost three years before the order of termination was passed. In case petitioner got married with complainant after their relationship of three years, possibly no complaint was filed. Therefore, Court finds that morality has to be judged on further conduct of petitioner also and since there is no other complaint placed on record, therefore, the Court finds that punishment is shockingly disproportionate.

21. It is not a case of sexual harassment, rather admittedly it is a case of consensual relationship which continued even after the complainant left the Institution for almost three years, therefore, it may not be a case of major punishment prescribed at Serial Nos. (iv) to (vii) of Para 3 of Administrative Orders and alternatively some minor punishment may be imposed.

22. The Court further takes note that major penalties are defined at Serial Nos. 4 to 6 of Clause 9 of the Resolution. Para 3 of Administrative Orders under the heading of "Disciplinary Action, Penalties and Appeal" provides major penalties at Serial Nos. (iv) to (vii), i.e., reduction to lower service, grade or post or to lower time scale or to a lower stage in a time

scale; compulsory retirement; removal from service which shall not be a disqualification for future employment in the Institution; and, dismissal from service which shall ordinarily be a disqualification for future employment in the Institute as well as minor penalties are prescribed at Serial Nos. (i) to (iii) of same Para, i.e., censure; withholding of increments or promotion; and, recovery from whole or part of any pecuniary loss caused to the Institution by negligence or breach of orders.

**23.** In view of above, impugned order dated 28.02.2006 is interfered qua to quantum of punishment and matter is remitted to Disciplinary Authority to pass a fresh order so far as quantum of punishment is concerned, keeping in view of observations of this Court.

**24.** The writ petition is accordingly disposed of.

**(Saurabh Shyam Shamshery, J.)**

**December 16, 2025**

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