

IN THE HIGH Court OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6968 of 2025

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Arvind Kumar Mehta Son of Ramu Mehta, Resident of Village- Thuthi, P.O.-
Balua Bazar, P.S.-Bhimpur, District-Supaul (Bihar)- Pin 854339.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar, Patna.
2. Aryabhatta Knowledge University, Gyan Parisar, Mithapur, Patna.
3. The Vice Chancellor, Aryabhatta Knowledge University, Gyan Parisar, Mithapur, Patna.
4. The Registrar, Aryabhatta Knowledge University, Gyan Parisar, Mithapur, Patna.
5. The Examination Controller, Aryabhatta Knowledge University, Gyan Parisar, Mithapur, Patna.
6. The Principal Government Medical College, Bettiah (W. Champaran).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y V Giri, Sr. Adv. Mr. Ramchandra Singh, Adv.
For the State	:	Mr. Prashant Pratap, GP-2
For the AKU	:	Mr. P K Verma, Sr. Adv. Dr. Anand Kumari, Adv. Ms. Tooba Hera, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 10-08-2026

Heard Mr. Y V Giri, learned Senior Advocate with Mr. Ramchandra Singh, learned Advocate for the petitioner. The State is represented through Mr. Prashant Pratap, learned GP-2, whereas Mr. P K Verma, learned Senior Advocate with Dr. Anand Kumar, learned Advocate appearing on behalf of the Aryabhatta Knowledge University.

2. The petitioner, a student of 3rd professional MBBS Part-I course pursuing at Government Medical College, Bettiah,



has invoked the jurisdiction of this Court seeking issuance of a writ in the nature of certiorari for quashing of the order bearing reference no. 5124 dated 12.11.2024, issued by the Vice Chancellor of the University, under the signature of Controller of Examination of University, whereby and whereunder, pursuant to the decision of the 57th Unfairmeans Committee meeting, the admission of the petitioner has been cancelled consequent upon expulsion from the University; the decision has further been conveyed to the Principal, Government Medical College, Bettiah, West Champaran (hereinafter referred to as “College”).

3. The facts of the case are in narrow compass that in course of examination of 3rd professional MBBS Part-I Examination 2023, held on 27.09.2024 at various centers of the University, one of which was also in the campus and building of the University. While examination of the subject of ENT had commenced, on verification of the admit card of examinees, it was noticed that the petitioner, a student of MBBS course of the College, having Registration No. 19201 209091, for Session 2019-2024, and pursuing his course in 3rd professional MBBS Part-I final year, by adopting the method of impersonation, allowed a student, namely Abhishek Kumar, who was also the



student of the College in 3rd professional MBBS Part-II, to appear on his behalf in the paper of ENT subject. The invigilator upon query being satisfied that the aforementioned students are indulged in impersonation, submitted a report on 27.04.2024 itself to the University that the Abhishek Kumar has been caught while appearing in writing in the examination of ENT paper in place of another student, namely Arvind Kumar Mehta, the present petitioner.

4. The Centre Superintendent of examination also verified the incidence and submitted its report acknowledging the aforesaid facts. The Observer of the examination also produced a confidential report admitting the factum of impersonation. Mr. Abhishek Kumar, upon being caught for appearing in the examination in place of another student, was handed over to the local police station, and a formal FIR has been registered as Jakkanpur PS Case No. 554 of 2024.

5. A show-cause notice was duly issued by the Controller of Examination of the University in terms of Rule 7 of the Rules for Unfairmeans of the University; the petitioner submitted his show-cause denying the allegation. The petitioner also requested to drop the proceedings. Subsequently, the petitioner was directed to ensure his physical presence before



the Unfairmeans Committee of the University on 23.10.2024 for hearing on the point of allegation levelled against him. The petitioner appeared before the Committee and reiterated that due to illness, he could not appear in the examination, and the allegation that he made someone else appear on his behalf is incorrect.

6. The Unfairmeans Committee, after considering the allegation and the reports submitted by the invigilator, Centre Superintendent and Observer, found that the act of impersonation alleged against the petitioner is proved, resolved to cancel the admission of the petitioner and expel him from the University. In pursuant to the decision of the Unfairmeans Committee, by the order of the Vice Chancellor, bearing Reference No. 5124 dated 12.11.2024, the decision to cancel the admission of the petitioner and consequent expulsion from the University was conveyed to the Principal of the College, and further, it was also communicated to the petitioner vide Memo No. 1741 dated 20.11.2024.

7. Mr. Y. V. Giri, learned Senior Advocate appearing on behalf of the petitioner, at the outset, submits that the issue involved in the present writ petition and the order impugned passed by the Vice Chancellor under the signature of Controller



of Examination of the University, bearing Reference No. 5124 dated 12.11.2024, as well as the office order through which the decision of the 57th Unfairmeans Committee Meeting of the University held on 23.10.2024, was duly approved by the Vice Chancellor and communicated to the petitioner, were subject matter of the writ petition bearing CWJC No. 19657 of 2024 along with other analogous cases.

8. It is further contended that on 27.09.2024, altogether five students, including the petitioner and Abhishek Kumar, were found to have indulged in the act of impersonation, and they were also inflicted with the identical punishment of cancellation of their admission and expulsion from the University, upon the recommendation of the Unfairmeans Committee, taken in its 57th meeting held on 23.10.2024. The student Abhishek Kumar, who is said to have been appearing in place of the petitioner in 3rd year MBBS ENT examination on 27.09.2024, on being aggrieved with the one and the same impugned order, has also preferred CWJC No. 538 of 2025, which was heard along with CWJC No. 19657 of 2024 with other two cases and finally, the learned co-ordinate Bench of this Court has been pleased to hold “that such a punishment of permanent expulsion is nothing short of a “death knell” to the



academic career of a young student, amounting to placing a full stop on his future prospects and aspirations.” Having concluded, the learned Single judge further held that the punishment imposed upon the petitioner is unduly harsh and disproportionate to the nature of the alleged misconduct. Besides, the Court observed that the Vice Chancellor, despite being vested with the statutory discretion to impose a range of punishments, has failed to exercise such discretion in a judicious and balanced manner, which would be evident from the impugned orders. The approach adopted by the respondents has been held to be purely punitive to the exclusion of any reformatory consideration, thereby overlooking the petitioner’s potential to reform.

9. Keeping in view the peculiar facts of the case and the career of the students, in exercise of its power under Article 226 of the Constitution of India, the Court modified the penalty of cancellation of admission and permanent expulsion from the University to expulsion from the university for a period of three years reckoned from the date of the order of the Vice-Chancellor. Besides, with respect to a candidate, Vishal Kumar, who has already completed his MBBS course in the year 2024, in his case, the order is modified to the extent that the said



Vishal Kumar shall not be conferred MBBS degree for a period of two years, as well as a payment of fine of Rs. 5 lakhs, which shall be deposited by him before expiry of two years.

10. Mr. Giri, learned Senior Advocate taking this Court through the above referred order passed by the learned co-ordinate Bench of this Court has submitted that the student, namely Abhishek Kumar, who was caught by the invigilator while he was appearing in place of petitioner, after being subjected to identical proceeding inflicted with the similar punishment of cancellation of admission and expulsion from the University. However, on being found such order harsh and disproportionate, stood modified by this Court to the extent noted hereinabove. He thus submitted that uniformity demands similar treatment, which is the hallmark of the judiciary.

11. After having referred to the aforesaid decision, he further argued that the Aryabhatta Knowledge University Act 2008, empowers under Section 27 to make statutes. Section 27(16) of the Act further provides that Statute may be framed regarding the maintenance of discipline amongst employees and students of the University, College and institution. Consequently Statute 2011 was framed and duly notified in the Official Gazette on 27th of May, 2011, where Vice Chancellor of the



University has been assigned with the power to take action for maintaining discipline and disciplinary action in relation to the students and employees of the University, as per the provisions contained in its statute.

12. Referring to Section 27 of the Statute 2011, especially clause (d) thereof, it is submitted that the Vice Chancellor has been vested with the discretion to take such action as may seem to him appropriate for the maintenance of the discipline. Hence, the provisions of punishment for various reported cases of Unfairmeans cases in examination during end semester, special examination, is not mandatory in nature and it is expected that the Vice Chancellor, being the guardian of the student, must exercise his discretion in the interest of the students. The relevant Section and the Rules for Unfairmeans duly framed by the University under Section 27(f) has been elaborately dealt with by the learned Single Judge in paragraph numbers 88 to 96, and the Court in no uncertain terms observed in the relevant paragraphs that the Vice-Chancellor must exercise his discretion in consonance with constitutional mandates and cannot be fettered or nullified by subordinate rules or executive instructions, which cannot override the statute itself.



13. To support the aforesaid contention, he further drew the attention of this Court to paragraphs no. 90 to 96 of the above referred decision, which are reproduced hereinbelow for ready reference.

“90. It is trite law that a rule cannot override the Act or the Statute nor can it restrict the ambit of the parent legislation. In the context of the present case, this principle means that the Rules for Unfair Means, being subordinate legislation framed in exercise of the enabling power conferred by the Statute, cannot operate to curtail or take away the discretion expressly vested with the Vice Chancellor of the University under Section 27(d) of the Statute to impose one or more punishment enumerated therein. The subordinate legislation is intended to be in aid of, and not in derogation of, the parent Statute. It is well settled that such rules must be read harmoniously with the provisions of the parent Statute and cannot be so interpreted as to render the substantive statutory provision otiose or nugatory. Therefore, even though the Rules framed under Section 27(f) prescribe a specific punishment of cancellation of admission and consequent expulsion for the offence of impersonation, such prescription cannot be construed as fettering the statutory discretion of the Vice Chancellor of the University to consider and impose any of the punishment provided under Section 27(d) of the Statute, as the facts and circumstances of the case may warrant.

91. In the present case, the



statutory framework under Section 27(d) of the Statute vests the Vice Chancellor of the University with a range of discretionary options in awarding punishment. Section 27(f), while empowering the framing of elaborate rules of discipline, expressly states that such rules are to operate 'without prejudice to the powers of the Vice Chancellor'. This legislative phrase indicates that such rules supplement, rather than supplant, the discretion conferred by Section 27(d). The Vice Chancellor, therefore, remains under duty to apply his independent mind to the facts of each case and select a punishment commensurate with the gravity of the misconduct, guided by but not bound in absolute terms with the subordinate legislation.

92. This Court finds guidance from the decision of the Supreme Court, in the case of Dharani Sugars and Chemicals Ltd. v. Union of India, reported in (2019) 5 SCC 480, wherein the Supreme Court, while interpreting similar 'without prejudice' clause, held that such expressions indicate that the powers conferred are additional to, and not in derogation of, other powers contained in the same enactment. Furthermore, As held by the Supreme Court, in the case of BSNL v. TRAI, reported in (2014) 3 SCC 222, and reaffirmed in Union of India v. Pfizer Ltd., reported in (2018) 2 SCC 39, the words 'without prejudice' make it clear that the enumerated powers are only illustrative of the general power and do not restrict or curtail it.



93. Applying this principle in the case at hand, Section 27 (f) of the Statute, under which the Rules for Unfair Means are framed, expressly states that it is without prejudice to the powers of the Vice Chancellor. This means that the discretion of the Vice Chancellor, under Section 27(d), to impose a range of punishments for misconduct, remains intact and cannot be curtailed by the subordinate legislation framed under Section 27(f). The Rules for Unfair Means must, therefore, be read as supplementary to the statutory discretion of the Vice Chancellor. Any interpretation to the contrary would amount to allowing subordinate legislation to override the parent statute, which is impermissible in law.

94. From the plain reading of the impugned orders, it is manifest that the Vice Chancellor mechanically accepted the recommendation of the Unfair Means Committee without recording any reason to demonstrate an independent exercise of discretion. The penalty imposed in the present case, i.e., cancellation of admission and permanent expulsion is the maximum available punishment under the rules and no consideration is evident as to whether a lesser, but still deterrent, penalty would meet the ends of justice, especially in the case of students and first-time offenders. This absence of application of mind is in itself a ground for judicial interference, independent of the question of proportionality.

95. Now, come to the question of doctrine of proportionality and the



necessity of a reformist approach.

96. Having examined the statutory framework of the University, this Court has found that the relevant statute vests discretion with the Vice Chancellor to decide the appropriate course of action in disciplinary matters. Such discretion, however, must be exercised in consonance with constitutional mandates and cannot be fettered or nullified by subordinate rules or executive instructions, which cannot override the statute itself.”

14. After having read all the aforereferred paragraphs, learned Senior Advocate urged that the issue having been concluded requires quietus by giving similar treatment to the petitioner. He would thus place reliance upon a decision rendered in the case of ***State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors., (2015) 1 SCC 347*** that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India.

15. Per contra, Mr. P.K. Verma learned Senior Advocate appearing on behalf of the University dispelling the aforesaid contentions submitted with all his vehemence that



once the facts are admitted to the extent that the petitioner had allowed someone to appear on his behalf in an examination duly conducted by the University, and thereby found indulged in impersonation, and this fact has also been admitted by the petitioner in his show-cause filed before the authorities concerned, undoubtedly the charge of impersonation stands proved. Hence, the petitioner ought to be obviously dealt with the rules for Unfairmeans duly framed under the Act 2008.

16. Clause 5.1 deals with impersonation and in 5.1(a) it is clearly stated that if the impersonator is identified to be a student of the University, his/her admission be cancelled and he/she will be expelled from the University. He/she will be also handed over to the police/Magistrate for action under law. Clause 5.1(b) says that if the impersonator is identified to be other than a student of the University, he/she will be also handed over to the police/Magistrate for action under law. Clause 5.1(c) is with respect to the student for whom the impersonator was appearing and in this case, such student shall be punished with cancellation of his admission and expulsion from the University.

17. Seeking attention of this Court to the Rules for Unfairmeans, it is submitted that the separate provisions of punishment for various reported cases of unfairmeans in



examination has been precisely framed and the punishments have been imposed proportionate to the different charges of Unfairmeans. Once the petitioner has been found to be indulged in impersonation and identified that he is the student of the University, in such circumstances, the only punishment which can be inflicted upon him is cancellation of his admission and expulsion from the University.

18. Adverting to the facts, he further drew the attention of this Court to the show-cause affidavit filed on behalf of the petitioner, the copy of which is marked as Annexure-P/2, and submitted that the petitioner himself admitted the commission of offence of impersonation, and this fact has also been corroborated with the report submitted by the invigilator, Center Superintendent, as well as Observer, based upon which the Unfairmeans committee recommended for appropriate punishment duly prescribed under the rules for Unfairmeans, and accordingly, the punishment has been inflicted.

19. It is further argued that while exercising the power of judicial review, what is required to be looked into as to whether the petitioner has been given fair opportunity of hearing or there is any violation of the principle of natural justice, or the



State and its authority has committed serious error of law and/or the manner which was required to be followed has been completely overlooked. Once the materials available on record clearly suggest that there is no error or any infirmity in the procedure adopted by the University, the interference in the order of punishment does not warrant, which is beyond the domain of the Court unless it shocks the conscience of the Court.

20. Referring to a decision passed by a Bench of this Court in ***Prashant Bharti Vs. Aryabhatta Knowledge University & Ors., AIR 2020 Pat 154***; it is further argued that in the said case, the petitioner, who was also a student of 3rd professional MBBS Part II examination of the Aryabhatta Knowledge University, was caught hold by the invigilator, while he was found in possession of a chit and copying answer in the answer sheet from the said chit, which led to cancellation of his examination of all the four papers. The Court having noticed the rules for Unfairmeans, has held that in absence of any animus and *mala fide* pleaded in the inquiry, and the petitioner had an opportunity of making his defense, there would be no reason before this Court to interfere with the order passed against him, cancelling his current examination of all the four papers.



21. The learned Single Judge while passing the order in the case of ***Prashant Bharti*** (supra) has taken reference of the decision of the Hon'ble Supreme Court in the case of ***Board of High School and Intermediate Examination, U.P., Allahabad & Anr. Vs. Bagleshwar Prasad & Anr., AIR 1966 Supreme Court 875***, wherein the Apex Court has laid down the test which guide the High Court while exercising its jurisdiction under Article 226 of the Constitution in dealing with the case of inquiries by the universities and/or by educational bodies into the use of Unfairmeans.

22. Mr. Verma, learned Senior Advocate further argued that the petitioner has committed the offence in connivance with Mr. Abhishek Kumar, which is connected and related to the right of the public at large, and such offense is against the society at large, and in such case, he deserves no sympathy from the Court. Such kind of offense gaining exponential rise is a menace for the society. Moreover, once the petitioner has admitted his guilt and there is no allegation of *mala fide* and the petitioner failed to establish violation of any rules and regulations, the impugned order does not warrant any interference.

23. On the other hand, Mr. Prashant Pratap learned



Advocate for the State submitted that so far the order passed by the learned coordinate Bench of this Court in the case of ***Bhawesh Kumar Bhaskar in CWJC No. 19657 of 2024*** and other analogous cases are concerned, the same has been passed without taking note of the earlier Bench decision of this Court in the case of ***Prashant Bharti*** (supra) and, as such, per incuriam. Besides, the petitioner cannot seek parity with those of the petitioners of CWJC No. 19657 of 2024, if such decision is per incuriam, and University has also questioned the legality of the said order in a properly filed LPA No. 613 of 2026 and other analogous appeals.

24. At this stage, Mr. Giri learned Senior Advocate interjected and submitted that the decision referred in the case of ***Prashant Bharti*** (supra) is clearly distinguishable, as in the said case, the provisions of the Statute 2011, especially Section 27(d), which empowers the Vice Chancellor to impose a range of punishments of misconduct, was not raised and, moreover, in the case of ***Bhawesh Kumar Bhaskar*** (supra), the Court has elaborately discussed each and every aspect of the matter, including the question of doctrine of proportionality and the necessity of a reformist approach, which plea has never been raised in the earlier decision of ***Prashant Bharti*** (supra). Thus,



in no circumstances, it can be said to be per incuriam.

25. This Court has meticulously heard and given anxious consideration to the submissions advanced by learned Senior Advocates/Advocates for the respective parties and also perused the materials available on record. The facts are not in dispute, as has been culled out from the records that the petitioner had allowed one Abhishek Kumar to appear in the examination of ENT subject of 3rd professional MBBS examination, duly conducted by the University. The report of the invigilator reveals the facts of the case of impersonation, and accordingly prepared a report, which was also signed by said Abhishek Kumar. The entire incident has also been verified and admitted by the Center Superintendent for the examination as well as the Observer, who submitted the confidential report acknowledging the factum of impersonation.

26. In the aforesaid backdrop, the FIR was also instituted bearing Jakkanpur P.S. Case No. 554 of 2024, and a show-cause notice was duly served upon the petitioner, which was responded by the petitioner vide Annexure-P/2. It would be pertinent to note here that in the reply to the show-cause, the petitioner has admitted that “*after seeing me in this vulnerable state, my friend Abhishek Kumar offered to help me when I*



stated about my situation and fear of failing this ENT paper due to lack of study because of above-mentioned situation. That knowing I will fail this paper and considering my career, Abhishek Kumar offer to sit in the last examination on my behalf so that I will pass this paper. I acknowledge knowing the individual involved and take full responsibility for the lapse. I understand the severity of this incident and assure you that it was an isolated mistake.”

27. On receipt of the reply offered by the petitioner, he was called upon to physically appear before the Unfairmeans Committee of the University and a personal hearing was given to him, which was also video-graphed. The Unfairmeans Committee in its meeting held on 23.10.2024, after considering the allegation and the reports of different authorities as well as the reply of the petitioner, returned the finding that the charges levelled against the petitioner is found proved. The offence committed by the petitioner falls under the offence as prescribed under Category 5.1(c) of Rules of Unfairmeans, which deals with respect to the student for whom the impersonator was appearing, with the prescribed punishment that the admission of such student be canceled and he will be expelled from the University. Besides, he will be also handed over to the



police/Magistrate for action under the law.

28. On the recommendation of the Unfairmeans Committee, the Vice Chancellor of the University, passed the impugned order canceling the petitioner's admission and further expelled from the University. With regard to the offense of impersonation, admittedly, Abhishek Kumar was also proceeded besides three other students, who were also found indulged in impersonation, leading to identical proceedings by the Unfairmeans Committee, which culminated into identical punishment.

29. The aforesaid order of punishment was subject matter of CWJC No. 19657 of 2024 and other analogous cases where the learned co-ordinate Bench of this Court vide its order dated 19.09.2025 has been pleased to modify the order of punishment and treating it to be extreme penalty and a kind of "death knell" to the academic career of young students, modified the punishment by reducing it for a period of three years, reckoned from the date of the order of the Vice Chancellor in view of Section 27(d) of the Statute 2011, except with respect to one Vishal Kumar, in whose case, different order has been passed modifying his punishment considering the fact that he has already completed his MBBS course and undergone



one year compulsory rotatory internship.

30. Now the point for determination before this Court is as to whether the uniformity demands similar treatment to the petitioner, with those of the other students, especially Abhishek Kumar, in case the order of punishment has been modified and reduced to three years, in view of the order passed by the learned co-ordinate Bench of this Court in CWJC No. 19657 of 2024 and other analogous cases and/or as to whether the order passed by the learned Single Judge referred hereinabove in case of **Bhawesh Kumar Bhaskar** (supra) is per incuriam to the decision rendered by the earlier co-ordinate Bench of this Court in **Prashant Bharti** (supra) and/or the learned co-ordinate Bench has failed to consider relevant aspects, require further clarification by a larger Bench.

31. This Court being conscious of the scope and ambit of the power of judicial review proceeds further. “In **B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749]**, the Court underscored that the power of judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily



correct in the eyes of the court. While exercising the power of judicial review, the Court does not act as an appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. However, the Court may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence.”

32. Coming to the decisions rendered by the Hon’ble Supreme Court in the case of ***Bagleshwar Prasad*** (supra), where a Three-Judge Bench of the Hon’ble Supreme Court categorically laid down the test which ought to be followed while exercising the jurisdiction under Article 226 of the Constitution of India when dealing with the cases of inquiries by the universities and by educational bodies into the use of Unfairmeans. It would be worth benefiting to encapsulate paragraph no. 12 thereof, which reads as follows:-

“12. In dealing with petitions of this type, it is necessary to bear in mind that educational institutions like the Universities or Appellant 1 set up Enquiry Committees to deal with the problem posed by the adoption of unfair



means by candidates, and normally it is within the jurisdiction of such domestic Tribunals to decide all relevant questions in the light of the evidence adduced before them. In the matter of the adoption of unfair means, direct evidence may sometimes be available, but cases may arise where direct evidence is not available and the question will have to be considered in the light of probabilities and circumstantial evidence. This problem which educational institutions have to face from time to time is a serious problem and unless there is justification to do so, courts should be slow to interfere with the decisions of domestic Tribunals appointed by educational bodies like the Universities. In dealing with the validity of the impugned orders passed by Universities under Article 226, the High Court is not sitting in appeal over the decision in question; its jurisdiction is limited and though it is true that if the impugned order is not supported by any evidence at all, the High Court would be justified to quash that order. But the conclusion that the impugned order is not supported by any evidence must be reached after considering the question as to whether probabilities and circumstantial evidence do not justify the said conclusion. Enquiries held by domestic Tribunals in such cases must, no doubt, be fair and students against whom charges are framed must be given adequate opportunities to defend themselves, and in holding such enquiries, the Tribunals must scrupulously follow rules of natural justice; but it would, we think, not be



reasonable to import into these enquiries all considerations which govern criminal trials in ordinary courts of law. In the present case, no animus is suggested and no malafides have been pleaded. The enquiry has been fair and the respondent has had an opportunity of making his defence. That being so, we think the High Court was not justified interfering with the order passed against the respondent.”

33. Highlighting the aforesaid decision, a Bench of this Court in the case of **Prashant Bharti** (supra) while dealing with identical facts where a student of 3rd Professional MBBS Part-III Examination of Aryabhata Knowledge University was caught, while he was in possession of a chit and copying answer in the answer-sheet from the said chit, which led to culmination of his cancellation of examination of all the papers, has precisely clarified the legal position.

34. On challenge, the Court has categorically taken note of the fact that the show-cause reply submitted by the petitioner did not deny the recovery of chit from his possession. However, he took a plea that he saw the piece of paper near his desk and decided to remove that piece of paper from his vicinity and, in the meanwhile, he was caught by the invigilator. The Court did not persuade with such submission of the petitioner and observed that once the Unfairmeans Committee of the



University is considered, the show-cause submitted by the petitioner and recommended for such punishment, the same does not require any interference. It was further observed that the education institutions, like, the Universities or the Boards set up enquiry committee to deal with the unfairmeans adopted by the candidates. It is within the domain of such domestic tribunals to decide the relevant questions in the light of the materials placed before them. While dealing with the validity of the impugned orders passed by the Universities in unfair means cases, under Article 226 of the Constitution of India, the High Court is not expected to sit in appeal over the decision in question.

35. The Court finally concluded that once the rule of unfairmeans, as noted hereinabove, framed by the University were scrupulously followed while holding enquiry into the offence alleged against the petitioner and no animus and *mala fide* has been pleaded and the inquiry has been fair and the petitioner had an opportunity of making his defence, there would be no reason before this Court to interfere with the order passed against him.

36. On a plain reading of the decision rendered in ***Prashant Bharti*** (supra), it is not in dispute that in the said case,



the provisions and import of Section 27(d) of the Statute was not under consideration. Hence, in the considered opinion of this Court, the judgment in ***Bhawesh Kumar Bhaskar*** (supra) can not be said to be strictly per incuriam to the decision rendered in ***Prashant Bharti*** (supra). Nonetheless, with due regard to the findings of the learned Single Judge, in the case of ***Bhawesh Kumar Bhaskar*** (supra) especially in paragraph nos. 93 and 94, where it is said that the Vice-Chancellor had the discretion to impose a range of punishments, in the opinion of this Court, it requires a fresh consideration. Since, any discretion, vested upon any authority depends upon the choice available. In the case at hand, the statutory rules framed under Section 27(d) of the statute provides one and only punishment of cancellation of admission and permanent expulsion in case of proved impersonation by the Unfairmeans Committee. Any finding of the learned Bench contrary to such position that the penalty imposed in the present case is maximum available punishment under the rule and no consideration is evident, as to whether a lesser, but still deterrent, penalty would meet the ends of justice, shall with due regard to the learned Co-ordinate Bench, it not only disrobe the power of Unfairmeans Committee, but nullify the rules prescribing punishment



proportionate to the act complained of. We must appreciate that this is not a case where the charge of impersonation is yet to be proved rather the students admitted the fact of impersonation before the Unfairmeans Committee.

37. Furthermore, the action of the respondent Vice-Chancellor cannot be said to be without application of mind, unless there would be finding of no consideration of the materials available on record or consideration of the extraneous and irrelevant materials or the Vice-Chancellor has reached on a conclusion, where no prudent person can ordinarily reach. In fact, in the present case the action of the Vice-Chancellor appears to be in consonance with the statutory rules extending punishment on the recommendation of the Unfairmeans Committee. Hence, in no stretch of imagination it can be termed as non application of mind. Even though, the Court accepts that the authority empowered under Section 27(d) may exercise his discretion by adopting a reformatory approach but he failed to do so, the matter could have been referred to him for fresh consideration, in accordance with law.

38. Before proceeding further, it would also be relevant to take note of the adverse impact of Unfairmeans, which was duly considered and taken note of by a Bench of



***High Court of Punjab and Haryana at Chandigarh in CWP
No. 24547 of 2023 decided on 02.11.2023.*** The relevant
paragraph is quoted hereinbelow for highlighting the menace of
Unfairmeans:-

*“34. This Court also has to
borne in mind that:-*

*Using unfair means in
examinations is not only unethical but
also detrimental to the overall
development of individuals and the nation
as a whole. MBBS students, who are
pursuing a career in medicine, are
expected to adhere to the highest ethical
standards due to the critical nature of
their profession. Some reasons, why using
unfair means in examinations can hinder
their ability to contribute to the nation's
well- being can be summed up as under:-*

*a) Medical professionals are
entrusted with the well-being and lives of
patients. Using unfair means in
examinations demonstrates a lack of
integrity and ethical values, which can be
a serious concern when making life-or-
death decisions in the health care field.*

*b) The medical field requires a
deep and thorough understanding of
scientific and medical knowledge.
Cheating or using unfair means to pass
exams can lead to a lack of competence,
potentially endangering the health and
lives of patients.*

*c) Trust is a cornerstone of the
doctor-patient relationship. If it becomes
known that a medical professional
cheated their way through their*



education, it can erode the trust that patients and the public have in the health care system.

d) Using unfair means in examinations can have legal consequences, such as getting expelled from the program or facing legal charges. This can hinder one's ability to practice medicine and contribute to the nation's health care system.

e) Ethical and competent doctors contribute to medical research and advancements. Cheating can hinder one's ability to engage in research, which is essential for medical progress.

f) When students use unfair means in examinations, it can negatively influence their peers and create a culture of dishonesty. This can further erode the ethical standards within the medical community.

g) Even if some individuals manage to graduate through unfair means, their lack of competence and ethical standards may catch up with them in their professional careers, leading to disciplinary actions or legal consequences.

The MBBS students, are expected to uphold the highest ethical standards and demonstrate competence and integrity in their work. Using unfair means in examinations not only jeopardizes their own careers but can also have serious consequences for the nation's health care system and the well-being of its citizens. Building a nation's health care infrastructure and ensuring the health and safety of its citizens requires a strong foundation of ethical



and competent medical professionals.

Such act especially by MBBS (Bachelor of Medicine, Bachelor of Surgery) students is detrimental not only to the individuals involved but also to society at large. Here are some key reasons why this is at pain and concerned:-

- *Patient Safety: MBBS students are trained to become medical professionals responsible for the health and well-being of individuals. If they resort to cheating or unethical practices during their education, it can compromise their knowledge and skills, ultimately putting patients at risk.*

- *Erosion of Trust: Society places immense trust in health care providers. Cheating erodes this trust, as it raises questions about the competence and integrity of future doctors. It can lead to skepticism and apprehension among patients, affecting the doctor-patient relationship.*

- *Public Health Impact: A poorly trained doctor can make mistakes with serious consequences. Unfair means in medical education can result in substandard doctors entering the workforce, potentially leading to medical errors, misdiagnoses, and inadequate patient care.*

- *Legal and Ethical Violations: Cheating and unfair means often involve legal and ethical violations. Engaging in such activities can result in legal consequences, disciplinary actions, and damage to one's professional reputation.*

Undermining Education Standards: Fair and rigorous assessment



is essential to maintain the quality of medical education. Unfair means undermine the integrity of the education system, devaluing the qualifications of those who have studied diligently and harming the reputation of educational institutions.

35. Addressing this issue requires a multi-faceted approach, including enforcing strict anti-cheating measures, promoting a culture of academic integrity, and ensuring that MBBS students are held to high ethical and professional standards. Ultimately, the responsible education and training of health-care professionals are vital for the well-being of society and the individuals.”

39. This Court is also not oblivious to the settled legal position that while exercising the power of judicial review, it must not ordinarily interfere with the functioning and orders of the educational authority, unless there is a clear violation of some statutory rules or legal principle. Moreover, the educational authorities are well equipped with a mechanism under its regulation to deal with such cases. The petitioner and others by using unfair means, stealing march over students, who work hard to prove their worth and to get away with it on account of sympathy will certainly undermine the entire academic decision.

40. It would be worth benefiting to recapitulate the



decision rendered in the case of ***Karthik Deepak Sharma Vs. Director General, Nirma University, 2023 SCC OnLine Guj 992***, where the Hon'ble Court observed "*Sympathy for students using unfair means out of place. It is indeed the need of the hour, but only for the students actually using unfair means circumstances. As regards sympathy, the Apex Court mentions some exceptional circumstances lesser punishment can be given.*"

41. This Court also takes note of the decision of the Hon'ble Supreme Court in ***Director (Studies), Dr. Ambedkar Institute of Hotel Management, Nutrition & Catering Technology, Chandigarh & Ors. Vs. Vaibhav Singh Chauhan, (2009) 1 SCC 59***, where the Court has stressed on the need to maintain purity and strict discipline in the conduct of examinations, deeming it to be necessary for the overall progress of the nation. Copying and cheating in examinations is like Plague. It is a pandemic which can ruin society and the educational system of any country. If the same is left unchecked or if leniency is shown, the same can have a deleterious effect. For any country's progress, the integrity of the educational system has to be infallible. Whether it is paper setters maintaining utmost confidentiality, students not cheating,



invigilators being vigilant, examiners doing their job with utmost alacrity knowing that the future of students is in their hands, Universities and colleges not tampering with results - the conduct of all stakeholders has to reflect commitment and also be unblemished.

42. Having considered the rival submissions advanced, as also in view of the discussions and upon analysis of statutory prescription in the light of the above referred decisions, this Court with utmost regards, is of the view that the judgment and finding of learned co-ordinate Bench rendered in ***Bhawesh Kumar Bhaskar*** (supra) requires a further consideration especially, in view of the divergent findings of this Court and the earlier decision of the learned co-ordinate Bench in the case of ***Prashant Bharti*** (supra) which was not brought to the knowledge of the Court while passing the order in ***Bhawesh Kumar Bhaskar*** (supra).

43. This Court, guided by the judicial discipline, refer the matter to the learned Division Bench after taking consent of Hon'ble the Chief Justice, in order to give quietus to the divergent views taken by this Court with the learned co-ordinate Bench in the case of ***Bhawesh Kumar Bhaskar*** (supra). Since this Court is also apprised that the University has preferred



Letters Patent Appeal bearing No. 613 of 2026, let this matter be also placed along with the aforesaid case. Petitioner is further directed to submit a second copy of the writ petition alongwith counter affidavit, besides of any other petition(s) filed in this case.

44. Suffice it to observe that this matter shall be abide by the final decision of learned Division Bench.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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