



2026:AHC:178024

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 4701 of 2026

Anil Kumar Yadav

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Akhilesh Kumar Tiwari, Ram Prakash Sharma, Shambhavi Tiwari
Counsel for Respondent(s)	: C.S.C.

A.F.R.

Court No. - 6

HON'BLE SIDDHARTH NANDAN, J.

1. Heard Ms. Sambhavi Tiwari, Advocate and Mr. Akhilesh Kumar Tiwari, Advocate appearing on behalf of the petitioner and learned Standing Counsel for the State-respondents.

2. Learned counsel appearing for the petitioner has submitted that the petitioner was appointed on the post of Lecturer in the year 1996 and since 2017, he was working as Head of the Mechanical Engineering Department in Government Polytechnic, Etawah. In the year 2023, he was appointed as Officiating Principal of the college and thereafter, while working as an Officiating Principal, one person namely Bablu, Basarhar Block, District Etawah, made a complaint before respondent no. 1 on 17.01.2025. The said complaint was neither on an affidavit nor the complainant was ever examined during the course of the inquiry, nor did he present himself for participation in the inquiry; and as a matter of fact, it is an admitted fact that the student with whom the alleged indecent act of the petitioner is alleged, has herself never made any complaint.

3. In view of the aforesaid, contention of the learned counsel for the petitioner is that as per the Government Order dated 09.05.1992, in case of complaint received against a Class-I employee of the State Government, credential of the complainant is to be verified by calling for an affidavit; but however, in the present case the complaint was never taken on an affidavit and as such the very inception of the proceeding was against the law. However, on the receipt of the said complaint, an inquiry was initiated against the petitioner under the provisions of Rule 7 of the

U.P. Government Servant (Discipline and Appeal) Rules, 1999 and an Inquiry Officer was appointed. The petitioner was also placed under suspension.

4. Ms. Sambhavi Tiwari, Advocate appearing on behalf of the petitioner further submits that a charge-sheet dated 08.03.2025 was served on the petitioner and along with the said charge-sheet only the complaint dated 17.01.2025 filed by Shri Bablu was made available to him, by way of an evidence. For ready reference, Charge No. 1 is reproduced below:

“आरोप संख्या-01

श्री बबलू, बसहरा ब्लॉक इटावा के शिकायती पत्र दिनांक 17.01.2025 द्वारा शासन को अवगत कराया गया कि विभाग में एक उच्च पदस्थ अधिकारी, कार्यवाहक प्रधानाचार्य, राजकीय पालीटेक्निक , इटावा द्वारा अपने ही विद्यालय की एक छात्रा को अश्लील मैसेज भेजना, अपने विभाग की छवि को दागदार तथा विभाग/संस्था की प्रतिष्ठा धूमिल किये जाने का कार्य किया गया है। प्रधानाचार्य संस्था के छात्र/छात्राओं का अभिभावक भी होता है तथा उसे आचरण का प्रधान होना चाहिए जिसका आपमें अभाव है। आप द्वारा अपने पद की गरिमा का दुरुपयोग करते हुये संस्थागत छात्रा की अस्मिता के साथ छेड़-छाड़ किए जाने का गम्भीर कृत्य किया गया है जो अश्लीलता की पराकाष्ठा है जिससे संस्था विभाग एवं शासन की छवि धूमिल हुई। आपका उक्त कृत्य उत्तर प्रदेश सरकारी सेवक आचरण नियमावली-1956 यथासंशोधित के संगत प्राविधानों का स्पष्ट उल्लंघन है।“

5. She further submits that the charges were very vague in nature as neither the name of the student was disclosed nor the contents of the messages which were alleged to be sent by the petitioner, was mentioned in the article of the charges. The petitioner though had submitted his reply along with letter dated 02.05.2025 to cross-examine the complainant, but the opportunity to cross-examine the complainant or the student was never made available to the petitioner. She has attracted the attention of the Court on the inquiry report and has impressed upon the Court, relying upon the analysis part of the report dated 02.05.2025, that it was the specific case of the petitioner that apart from the exchange of messages on WhatsApp in relation to the curriculum and other activities related to the imparting of education, no other messages were exchanged by the petitioner, with the students; and as such has specifically denied the allegations that untoward messages or indecent photographs were sent.

6. The perusal of the inquiry report clearly indicates, as per the petitioner, that though the mobile number was mentioned in the statement, but the only documentary evidence which was produced by the student was a screenshot which was stored in her mobile phone; and admittedly only the name "Anil Kumar Yadav" can be seen in the screenshot and not the

mobile number.

7. In view of the aforesaid, it is the case of the petitioner that any number can be saved with the name of "Anil Kumar Yadav" and since in the screenshot, the mobile number of the petitioner was not co-related, the finding of the inquiry is absolutely perverse. She has also pointed out that the original message was admittedly deleted from the mobile of the student, though she had alleged that she had also made a complaint to one Ms. Vinita, who was in the Maths faculty of the Government Polytechnic, Etawah; but during the inquiry the said Ms. Vinita was never called upon or examined; and as such in the inquiry report itself the Inquiry Officer has stated that whether the messages was sent from the mobile of the petitioner cannot be ascertained with conviction. For reference, the relevant extract of the inquiry report dated 02.05.2025 is reproduced below:

"छात्रा द्वारा अपने कथन की पुष्टि के लिए अपने मोबाईल संख्या 9258942875 में संरक्षित स्क्रीनशॉट भी तत्समय उपस्थित महिला अधिकारी सुश्री प्रिया शर्मा को अवलोकित कराए गए। छात्रा द्वारा अवगत कराया गया कि यह सभी स्क्रीनशॉट श्री यादव के व्हाट्सएप नम्बर 9410100996 से प्रेषित किए गए मैसेज के हैं। छात्रा द्वारा अवलोकित कराए गए स्क्रीनशॉट तथा आरोप पत्र के साथ संलग्न मैसेज की छायाप्रतियों का पूर्ण गहनता एवं सूक्ष्मता से (मैसेज का समय, अंकित किया गया टेक्स्ट, प्रेषक का नाम, फोन्ट साईज आदि) अवलोकन किया गया। अवलोकन में पाया गया कि आरोप पत्र के साथ संलग्न छायाप्रति में उपलब्ध मैसेज और छात्रा के मोबाईल में संरक्षित स्क्रीनशॉट में भी भौतिक रूप से किंचित मात्र भी भिन्नता परिलक्षित नहीं हो रही है। (जिस प्रकार साक्ष्यों में " अनिल कुमार यादव" नाम अंकित है परन्तु कोई भी मोबाईल संख्या अंकित नहीं है, उसी प्रकार स्क्रीनशॉट में भी अनिल कुमार यादव लिखा हुआ प्रदर्शित है, जबकि कोई भी मोबाईल नम्बर अंकित नहीं है।) समस्त स्क्रीनशॉट्स की प्रकृति और शब्दावली में आरोप पत्र के साथ उपलब्ध कराए गए साक्ष्यों (मैसेज/चित्र) में किसी भी प्रकार की भिन्नता भौतिक रूप से दृष्टिगोचर नहीं हुई। अधोहस्ताक्षरी का मत है कि कदाचित यदि किसी टेक्स्ट/मैसेज का सृजन ए०आई० या किसी अन्य तकनीक से किया जाता तो भौतिक रूप में भी चित्रांकन, शब्दावली या उसकी फान्ट में भिन्नता दृष्टिगोचर होती। छात्रा के मोबाईल पर चित्र एवं टेक्स्ट उसी प्रकार संरक्षित हुए प्रतीत हुए जैसे सामान्यतः संरक्षित होते हैं। चूंकि मैसेज भेजने का माध्यम व्हाट्सएप है जो कि एन्क्रिप्टेड है एवं वर्तमान में प्रश्नगत मैसेज छात्रा द्वारा अपने मोबाईल से डिलीट कर दिए गए हैं और पूर्व में भेजे गये मैसेज के स्क्रीनशॉट मोबाईल में रक्षित हैं। चूंकि मैसेज या चित्र वीडियो आदि व्हाट्सएप द्वारा भेजे गये हैं जिसमें संवाद की विषय वस्तु व्हाट्सएप द्वारा एन्क्रिप्टेड कर दी जाती है अतः इन मैसेज को भेजे जाने की पुष्टि निश्चयात्मक रूप से की जानी सम्भव नहीं है।"

8. The second ground which the learned counsel for the petitioner has taken is by placing reliance upon Rule 7 of 1999 Rules, wherein it has been specifically provided under Rule 7(vii), that the Inquiry Officer shall proceed to call the witnesses proposed in the charge-sheet and record their oral evidence in presence of the charged government servant, who shall

be given opportunity to cross-examine such witness. For ready reference, Rule 7(vii) is reproduced below:

“Rule 7(vii):- Where the charged Government servant denies the charges, the Inquiry Officer shall proceed to call the witnesses proposed in the charge-sheet and record their oral evidence in presence of the charged Government servant who shall be given opportunity to cross-examine such witnesses. After recording the aforesaid evidence, the Inquiry Officer shall call and record the oral evidence which the charged Government servant desired in his written statement to be produced in his defence.”

9. It is the admitted case of the respondents that the statement of the student was recorded on 30.04.2025 and on the said date the petitioner was not given any intimation about the holding of an inquiry; and as such it is a settled principle of law that in absence of intimation to the delinquent employee the date, time and place of the inquiry, the inquiry shall stand vitiate. More so ever, the statement of the petitioner was also recorded but the same was done on a different date, i.e., 23.04.2025; and as such the Inquiry Officer had not adhered to the procedure prescribed under Rule 7(vii) of the Rules, 1999.

10. Per contra, learned Standing Counsel while attracting the attention of the Court to paragraphs 21 has submitted that the screenshot was restored from the mobile of the student in the presence of a female officer Ms. Priya Sharma and the girl had given a categorical statement that the message was sent to her from the mobile number 9410100996, which belongs to the petitioner; and according to the respondent, the said statement was corroborated by the screenshot which was produced by the girl student from where it can clearly be ascertained that the name "Anil Kumar Yadav" was written. For ready reference, para 21 of the counter affidavit filed on behalf of respondents is reproduced below:

“21. That the contents of paragraph No. 24, 25, 26, 27 & 28 of the writ petition in the manner they have been stated are incorrect hence are not admitted. In this connection it is stated here that the Inquiry Officer in his inquiry report has clearly mentioned that regarding inquiry was called by the Inquiry Officer along with one Female Officer Miss Priya Sharma, District Social Welfare Officer (Development) for recording her statement. The girl student in question has informed in presence of aforesaid Officer namely Miss Priya Sharma and stated that charges which was leveled in charge sheet is totally true and whatsapp chatting and screenshot is correct, and the petitioner is sending obscene message and harassing the girl

student in question, and apart from that number of times asked too come with me for shopping at Agra. In this connection also the girl student has also stated that she had not made any complaint on her own, and she came into knowledge regarding inquiry through her family member. The girl student in her statement has submitted her Mobile No.9258942875 restore the screenshot and has also seen the aforesaid screenshot in presence of Female Officer Miss Priya Sharma. The girl student had also said that through Mobile No.9410100996 after seen the screenshot and the whatsapp message, it was found that there is no difference between the message and restore screenshot of mobile in physically, and in the said message, the name of Anil Kumar Yadav was endorsed, but mobile No. was not restored. Similarly in screenshot Anil Kumar Yadav is written, but mobile No. is not written, and as such no difference was found between the screenshot and language, and as such the screenshot of the mobile was found preserved and saved.”

11. I have gone through the complaint dated 17.01.2025 and find that the complaint was not supported by way of an affidavit and even otherwise no details of the message which was alleged to be sent by the petitioner, including the name of the student, to whom the message was alleged to be sent, was mentioned in the complaint.

12. On a pointed query to the learned Standing Counsel, as to on what basis an averment has been made in the paragraph mentioned herein above, that the screenshot was restored from the mobile of the student, in the presence of female officer Priya Sharma; he could not point out any such action being taken during course of the enquiry; and on the contrary the girl student had clearly made a statement that she had deleted the photographs from her mobile phone and only retained the screenshot.

13. I have also perused the statement of the girl student wherein though she had made a categorical statement that certain obscene messages were sent by the petitioner and also that he was pressurizing her to accompany him to Agra, for shopping; but apart from the screenshots which was made available during the inquiry, no other evidence was given. More so ever, when in the complaint she had specifically mentioned that she had made a complaint to a faculty member of the same Institute, i.e., Ms. Vinita of the Maths faculty and she had also forwarded the messages sent by the petitioner to the WhatsApp number of the said Ms. Vinita; it was incumbent for the Inquiry Officer to record the statement of the faculty Ms. Vinita, in order to corroborate the allegations of the student.

14. In the inquiry report also, the Inquiry Officer has himself submitted that it cannot be confirmed that the message was sent by the petitioner; and the entire reliance has been made on a screenshot, wherein the mobile number number of the petitioner was not mentioned or could be ascertained. Furthermore, the holding of the inquiry on two different dates, on which the statement of the petitioner and the girl student was recorded is also in violation of Rule 7(vii) of the Rules, 1999, which provides that it is incumbent upon the Inquiry Officer to call the witnesses proposed in the charge-sheet and record their oral evidence, in the presence of charged Government employee, who shall be given an opportunity to cross-examine such witnesses.

15. This Court as well as the Apex Court time and again held that even in absence of a specific request by the delinquent employee, it is incumbent upon the Inquiry Officer to adhere to the principles of natural justice. The petitioner has also relied upon the Division Bench decision of this Court in **Special Appeal No. 191 of 2007 (Abdul Salam vs. State of U.P. and others)** decided on 21.12.2010 to contend that though indisputably, a departmental proceeding is a quasi-judicial proceeding and Inquiry Officer performs a quasi-judicial function, but the same could not mean to exclude the basic tenets of the principles of natural justice; especially in the matter of inquiry for awarding a major punishment.

16. The *audi alteram partem* rule envisages that in a departmental inquiry a charge-sheet has to be furnished to the delinquent employee, so that he has a clear notice to the charges which is sought to be tried against him, during the departmental inquiry and any vagueness in the charge-sheet could vitiate the departmental inquiry. Furthermore, apart from the fact that the charges should be specific, any documents or witnesses who are proposed to be examined has to be made known to the delinquent employee, so that he can avail the opportunity to cross-examine such witnesses; and more so ever, Rule 7(vii) of Rules, 1999 clearly provides that in case any witnesses are examined and an oral evidence is being recorded, the same has to be done in the presence of the delinquent employee and any deviation of the same, would lead to infringement of principles of natural justice.

17. This Court is of the view that though the procedure in the departmental inquiry may not be very detailed, but it is an established

principle of law that an inquiry commences from the date of supplying of the charge-sheet and is to be followed in every step, apart from adhering to the procedure prescribed under the Rules and Regulations governing the field; and also, the principles of natural justice is to be followed. It is also a settled law that even in case, if there is no specific provision of law to make available certain documents or to give an opportunity for cross-examination, it is incumbent on the Inquiry Officer to provide such opportunity to the delinquent employee, adhering to the principles of natural justice.

18. The Inquiry Officer is required to intimate the date, time and place of inquiry to the delinquent employee and has to proceed with the inquiry by first requiring the person alleging the charges to bring home the charge and it is only thereafter that the onus shifts on the delinquent employee. Further, the delinquent employee also has a right to demonstrate in the inquiry that the evidence which is sought to be relied upon during the inquiry, is not admissible in the course of law.

19. In the present case, the inquiry was initiated on an almost anonymous complainant, who had neither given a complaint on an affidavit, which is a mandatory requirement nor has presented himself during the course of the inquiry, to be examined by the Inquiry Officer or to be cross-examined by the delinquent employee. The said fact was admitted. Further, it is an admitted fact that the girl student has never made a complaint, based on which the inquiry was initiated.

20. However, even if certain incidents of grave nature comes to the knowledge of the department, it cannot be said that they cannot *suo motu* initiate an inquiry, but still they have to adhere to the procedure prescribed, under law and also to the principles of *audi alteram partem* rule; which is found to be wanted in the present case.

21. Learned Counsel for the petitioner has also relied upon a decision of Orissa High Court dated 08.02.2024 in the case of **Debaraj Sahoo and another vs. Union of India (WRIT-C No. 39597 of 2023)** for persuasive values. The said judgment refers to a catena of decision on the issue of cross-examination and gives a conclusion that denial of cross-examination and non-production of witnesses for cross-examination, was violative of principles of natural justice.

22. This Court is also in agreement with the said ratio. For the reasons stated above, this Court is of the view that the impugned order dated 11.02.2026 cannot be sustained in the eyes of law and is hereby set aside; and as a consequence to the aforesaid, respondent No. 1 is directed to reinstate the petitioner to the post of Officiating Principal in Government Polytechnic, Etawah.

23. However, it shall be open to the authorities concerned to initiate proceedings *de novo* in case the law permits so; and in the circumstances the authorities concerned takes a decision to initiate a proceeding, they shall strictly adhere to the procedure prescribed under the Rules, 1999 and the principles of natural justice.

24. With the aforesaid observations and directions, the writ petition is allowed.

(Siddharth Nandan,J.)

August 21, 2026

S.Prakash