



2026:AHC-LKO:71371-DB

A.F.R.

Reserved On : - September 23, 2026

Delivered On : - October 05, 2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 10 of 2026

Vinod Chandra

.....Appellant(s)

Versus

**State Of U.P. Thru. Prin. Secy. Deptt.
Higher Education Govt. Lko. And 4 Others**

.....Respondent(s)

Counsel for Appellant(s)	: Desh Deepak Singh, Anupam Mehrotra, Rajat Srivastava
Counsel for Respondent(s)	: C.S.C., Anurag Kumar Singh, Avdhesh Shukla, Gyanesh Bajpai

Court No. - 3

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

ABDHESH KUMAR CHAUDHARY, J.: Heard Shri Anupam Mehrotra, learned counsel assisted by Shri Desh Deepak Singh, learned counsel for the appellant, Shri Savitra Vardhan Singh, learned counsel for respondent No.2, Shri Gaurav Mehrotra, learned Senior Advocate assisted by Shri Akber Ahmad, Shri Gyanesh Bajpai, Shri Atul Dixit and Ms. Manjari, learned counsel for respondent No.4 and Shri Avdhesh Shukla, learned counsel for respondent No.3.

2. The present Special Appeal has been preferred by the appellant under Chapter VIII, Rule 5 of the Allahabad High Court Rules, 1952 interdicting an order dated 17.12.2025, passed by a Hon'ble Single Judge of this Court in *Writ-A No. 14662 of 2025 (Vinod Chandra versus State of Uttar Pradesh and others)*, whereby the claim of the Appellant (also the writ petitioner) relating to the legality of the determination of seniority of teachers and his appointment as the Principal of Sri Jai Narayan Mishra P.G. College, an affiliated college of the University of Lucknow, under the provisions of the First Statutes of the University of Lucknow, 1975 was *dismissed as not maintainable* on the ground of availability of alternate remedy.

3. The Appeal was heard on several occasions and during hearing on 23rd of September, 2026, this Court passed the following order:

"1. *Shri Savitra Vardhan Singh, learned Advocate has filed his Vakalatnama on behalf of respondent No.2, which is taken on record.*

2. *Heard Shri Anupam Mehrotra, learned counsel assisted by Shri Desh Deepak Singh, learned counsel for the appellant, Shri Savitra Vardhan Singh, learned counsel for respondent No.2, Shri Gaurav Mehrotra, learned Senior Advocate assisted by Shri Akber Ahmad, Shri Gyanesh Bajpai, Shri Atul Dixit & Ms. Manjari, learned counsel for respondent No.4 and Shri Avdhesh Shukla, learned counsel for respondent No.3.*

3. *After hearing learned counsel for the parties at some length, Shri Gaurav Mehrotra, learned*

Senior Advocate appearing on behalf of respondent No.4 has fairly submitted that he is ready and willing to have the matter decided on merits before the Hon'ble Single Judge and in that regard has sought a time of 10 days to file the counter affidavit before the Hon'ble Single Judge.

4. *Shri Anupam Mehrotra, learned counsel for the appellant herein, in view of the aforesaid submission of learned Senior Advocate appearing for respondent No.4, has requested that he may be also granted a short time to file rejoinder affidavit in that regard and directions may be issued for expeditious hearing of the writ petition before the Hon'ble Single Judge.*

5. *Accordingly, counter affidavit be filed within 10 days; rejoinder affidavit be filed within a period of 3 days from the date of receipt of the counter affidavit by the appellant before the Hon'ble Single Judge.*

6. *In our view, the writ petition was maintainable and accordingly, the Hon'ble Single Judge ought to have heard the matter on merits.*

7. *Accordingly, the impugned order dated 17.12.2025 is quashed and set aside with a direction upon the Hon'ble Single Judge to hear the matter on merits expeditiously, preferably within a period of six weeks. Liberty is granted to the parties to mention this matter before the Hon'ble Single Judge.*

8. *The direction with regard to the time bound manner has been given keeping in mind the fact that the appellant has only one year left in service.*

9. *Detailed judgment is reserved."*

Facts of the Case :-

4. Shorn of unnecessary details, it emerges from the factual matrix of the present appeal that the appellant was appointed as a 'Lecturer' on 28.08.1991 on the recommendation of the Uttar Pradesh Higher Education Services Commission, Allahabad, and was subsequently promoted to the post of 'Principal' of Sri Jai Narayan Mishra Post Graduate College, Lucknow.

5. It emerges from the record that, during the intervening period of 1995-1998, 1998-1999 the appellant availed leave with pay for visiting abroad under the Commonwealth Academic Staff Scholarship Scheme for a total period of 3 years and 335 days. Further, during the period from 1999-2000, 2004-2006 and 2014, the appellant availed leave without pay for a total period of 3 years 338 days. Both these leaves according to the Appellant were duly sanctioned by the competent Authority.

6. In the interregnum, on 10.06.2020, the Principal of Sri Jai Narayan Mishra P.G. College, after inviting objections from stake holders, published a seniority list of teachers of Sri Jai Narayan Mishra P.G. College. In the said seniority list, the name of the appellant was placed at Serial No. 6, whereas the name of the contesting private respondent No. 4 was placed at Serial No. 15. It is not in dispute that the contesting private respondent had been appointed as a 'Lecturer' on 21.06.1990 and that his services were regularized on 14.06.1992.

7. As per the Uttar Pradesh State University Act, 1973 applicable to the facts of the present case read along with the First Statutes of the University of Lucknow, an appeal against the determination of the aforesaid seniority list of teachers was required to be preferred before the Vice Chancellor within the prescribed period. It is an admitted position that no appeal was preferred by anyone, including the contesting private respondent No.4, against the aforesaid seniority list before the competent authority within the prescribed period.

8. Subsequently, a representation dated 14.03.2023 came to be submitted by the contesting private respondent No.4 before the Principal of Sri Jai Narayan Mishra P.G. College. In the representation, the said respondent challenged the seniority determined of the appellant and one Anshumali Sharma on the ground that the leave availed by them was allegedly unauthorized and resulted in a break in their service. Thus, according to the said representation the seniority of the Appellant was wrongly decided.

9. Ostensibly, no order was passed by the Principal on the said representation. However, a seniority list dated 30.06.2023 was issued by the principal of Sri Jai Narayan Mishra P.G. College and the same was submitted to the Vice Chancellor of the University of Lucknow because as per law the senior most teacher was to be appointed as the 'Principal' of the college. Even in the said seniority list, the appellant was placed at Serial No. 4, whereas the contesting private respondent No.4 was placed at Serial

No. 8, thereby maintaining the *inter se* seniority between the parties as reflected in the earlier seniority list.

10. Accordingly, pursuant to the seniority list dated 30.06.2023, the appellant, being the senior-most teacher in the college, was appointed to the post of 'Principal' of Sri Jai Narayan Mishra P.G. College on 01.07.2023 by an order dated 30.06.2023.

11. The contesting private respondent No.4, being aggrieved by the said appointment pursuant to the seniority list, preferred an appeal before the Vice Chancellor, University of Lucknow, challenging the seniority of the appellant, raising an issue regarding the continuity of service of the Appellant from the date of his substantive appointment and thereby challenging his seniority.

12. The appellant filed a reply to the said appeal in accordance with Rules 16.12 and 16.18 of the First Statutes of the University of Lucknow, stating that the leaves in question were duly authorized and, therefore, these leaves could not be treated as resulting in a break in service.

13. It is the case of the appellant that he was informed vide a letter dated 29.05.2024, that a committee had been constituted by the Vice Chancellor, University of Lucknow, for disposal of the appeal preferred by the contesting private respondent No.4. The said committee granted time to the concerned parties to furnish relevant

documents. Apparently, the Manager of Sri Jai Narayan Mishra P.G. College, Lucknow, supported the case of the appellant and stated that all the leaves availed by the appellant were in accordance with the First Statutes of the University of Lucknow and the same had been sanctioned by the Managing Committee. It was also stated that, since, the appellant was senior to the contesting private respondent No.4, the appellant was rightly appointed as Principal of the college.

14. It also emerges from the records that the committee initially constituted to decide the representation/appeal of the contesting private respondent was subsequently dissolved and thereafter, reconstituted to examine the issue of seniority.

15. It appears that certain issues were raised regarding the constitution of the committee and the integrity of its members. In any case, the contention of the Appellant relating to continuity of service did not find any favour with the committee. Thus, the reconstituted committee went on to submit a report dated 03.11.2025 recommending that the length of service of the Appellant was shorter than that of the contesting private respondent No.4 by 40 days and consequently, the said respondent No.4 was senior to the Appellant. The Vice Chancellor, relying on the findings and report of the reconstituted committee, passed the impugned order dated 14.11.2025 and held that the contesting private respondent no.4 was senior to the appellant.

16. Aggrieved by the report of the reconstituted committee dated 03.11.2025 as well as the impugned order dated 14.11.2025, the appellant raised objections, *inter alia*, on various grounds, including violation of the principles of natural justice, non-consideration of reply and not deciding the seniority issue in the correct perspective. The appellant also submitted a representation before the Manager of Sri Jai Narayan Mishra P.G. College, Lucknow objecting to the order passed by the Vice Chancellor. However, it is apparent from records that the Manager/Secretary of the college did not give any relevance to the representation of the appellant and, by an order dated 15/16.11.2025, recommended amendment of the seniority list. Consequently, a notification was issued on 29.11.2025 modifying the seniority list dated 30.06.2023.

17. On the heels of the aforesaid notification, a meeting of the Managing Committee of Sri Jai Narayan Mishra P.G. College, Lucknow, was convened on 30.11.2025 and by a resolution passed on the same date, the contesting private respondent No.4 was declared senior to the appellant and was accordingly granted charge of the post of Principal of Sri Jai Narayan Mishra P.G. College, Lucknow.

18. The appellant being aggrieved by the aforesaid acts and omissions of the Respondent-Authorities, preferred a writ petition before a Hon'ble Single Judge of this Court, challenging, *inter alia*, the impugned order dated 14.11.2025 passed by the Vice-Chancellor as well as the

order passed by the Committee of Management dated 15/16.11.2025, amongst other reliefs. The appellant also sought a direction permitting the Appellant to continue on the post of Principal of Sri Jai Narayan Mishra P.G. College, Lucknow.

19. It emerges that the said writ petition came to be *disposed of* by the Hon'ble Single Judge without calling for a counter-affidavit from the respondents, primarily on the ground that an alternative statutory remedy of appeal was available under Section 68 of the Uttar Pradesh State Universities Act, 1973. The Hon'ble Single Judge, relying on the judgments of the Hon'ble Supreme Court in ***Radha Krishan Industries v. State of Himachal Pradesh and Others***, reported in **(2021) 6 SCC 771**; and ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others***, reported in **(1998) 8 SCC 1**; held that the appellant had failed to establish the existence of circumstances warranting exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India despite the availability of an alternative remedy. The writ petition was accordingly *dismissed* on the ground of maintainability, because of the existence of statutory remedy available under Section 68 of the Uttar Pradesh State Universities Act, 1973 vide the impugned order dated 17.12.2025, passed in *Writ-A No. 14662 of 2025 (Vinod Chandra versus State of Uttar Pradesh and others)*.

20. It is this impugned order, which is the subject matter of the present *intra-court* Appeal.

Submission of the parties :-

21. Mr. Anupam Mehrotra, learned counsel appearing for the Appellant submitted that the impugned order was legally unsustainable, as the same failed to take into consideration that the order dated 14.11.2025 passed by the Vice-Chancellor was vitiated by mala fides and had been passed in gross violation of the principles of natural justice. According to the learned counsel the availability of an alternative remedy is a rule of self-restraint adopted by the High Courts and does not constitute an absolute bar to the exercise of jurisdiction under Article 226 of the Constitution of India.

22. Learned counsel also drew the attention of this Court to the fact that the committee constituted initially was subsequently reconstituted, but the appellant was never informed about such reconstitution. It was submitted that no proper opportunity of hearing was afforded to the appellant before the reconstituted committee and that the entire exercise was undertaken in a mechanical manner, which vitiates the report. It was further submitted that the report of the reconstituted committee was neither fair nor legally sustainable and suffered from several infirmities, including violation of principles of natural justice. On this basis, it was contended that the impugned order passed by the Vice Chancellor, as well as the consequential decision of the Committee of Management, was liable to be set aside. It was further contended that the Vice Chancellor had no jurisdiction to determine whether the leave availed by the

appellant resulted in a break in service, particularly when the said leave had already been duly sanctioned and approved by the competent authorities.

23. Learned counsel submitted that the contesting private respondent had never challenged the seniority list dated 10.06.2020 issued by the Principal within the prescribed period of 60 days under Statute 18.14 of the First Statutes of the University of Lucknow. According to the appellant, the contesting respondent had thereby failed to exercise the statutory remedy within the prescribed period and could not subsequently reopen the issue of seniority after an unexplained delay. In support of his submissions, learned senior counsel for the appellant relied on various judgments of the Hon'ble Supreme Court, including the judgments rendered in **Dr. Bal Krishna Agarwal v. State of U.P.**, (1995) 1 SCC 614; **Managing Director, ECIL, Hyderabad v. B. Karunakar and Others**, (1993) 4 SCC 727; **State of Uttar Pradesh, Principal Secretary, Department of Panchayati Raj, Lucknow v. Ram Prakash Singh**, 2025 SCC OnLine SC 891; and **Union of India and Others v. Mohd. Ramzan Khan**, (1991) 1 SCC 588.

24. *Per contra*, Mr. Gaurav Mehrotra, learned Senior counsel appearing for the contesting private respondent submitted that the present *intra-court* appeal was not maintainable once the discretion had already been exercised by the writ-Court. According to him, an *intra-court* appeal could not be entertained merely because another view was possible. In support of the said

submission, reliance was placed by the learned Senior counsel on the judgment of the Hon'ble Supreme Court in ***Bihar Industrial Area Development Authority and Others v. SCOPE Sales Limited and Another***, reported in ***2026 SCC OnLine SC 112***.

25. Learned senior counsel further submitted that no decision-making power had been delegated by the Vice Chancellor to the committee constituted for examining the dispute and that the committee's report was only recommendatory in nature. It was contended that the contesting private respondent had initially raised the dispute before the Principal and, upon being aggrieved by the decision of the Principal, had thereafter preferred an appeal under Statute 18.14 before the competent authority.

26. It was further submitted that the appellant ought to have raised the issue of jurisdiction before the competent authority at the first instance and could not subsequently challenge the jurisdiction of the committee after participating in the proceedings. Learned senior counsel submitted that the report submitted by the committee was merely recommendatory and that the final decision was taken by the competent authority. He also vehemently disputed the submission regarding violation of the principles of natural justice. It was submitted that adequate opportunity of hearing had been afforded to the appellant by the committee constituted for examining the dispute. Reliance in this regard was placed upon the

judgment of the Hon'ble Supreme Court in ***SBI v. Amit Iron (P) Ltd.***, reported in **2026 SCC OnLine SC 538**.

27. Lastly, learned senior counsel submitted that the appellant had an equally efficacious alternative remedy under Section 68 of the Uttar Pradesh State Universities Act, 1973. It was argued that, without exhausting the statutory remedy available to the appellant, the appellant ought not to have invoked the extraordinary writ jurisdiction of the High Court under Article 226 of the Constitution of India. Reliance was placed upon several judgments of the Hon'ble Supreme Court, including ***Leelavathi N. v. State of Karnataka***, reported in **2025 SCC OnLine SC 2253**.

Discussion and Findings :-

28. Having heard the learned Counsel for the parties and keeping in view the entirety of the facts, this Court vide order dated 23rd of September, 2026 has already remanded the matter to the Hon'ble Single Judge of this Court, with a request for early disposal of the writ petition, preferably within six weeks. Since, this Court has reserved this *intra-court* Appeal for detailed judgment, the additional grounds fortifying the remand order are herein below.

29. This *intra-court* appeal impugns the order of the learned Single Judge dated 17.12.2025, whereby the writ petition was *dismissed* on the ground of maintainability, without calling for a counter-affidavit, solely on the

availability of an alternative remedy under Section 68 of the Uttar Pradesh State Universities Act, 1973. The question is not whether another view was possible on a matter validly decided, but as to whether the writ Court could have dismissed the petition at the very threshold, as not maintainable, on a disputed record where the petitioner had pleaded specific, particularised violations of natural justice. According to this Court, that question must be answered in the first instance, since it conditions everything that follows.

30. Mr. Gaurav Mehrotra, learned Senior counsel has submitted, while relying on the case of *SCOPE Sales (supra)*, that an *intra-court* appeal cannot be entertained merely because another view is possible. There is no doubt about the said proposition of law propounded recently by the Hon'ble Supreme Court. However, it is equally forceful to understand that the said principle presupposes that the writ Court weighed the rival contentions on a complete record and exercised its discretion one way or the other. Admittedly, as far as the facts of the present case, the Hon'ble Single Judge did not test the natural-justice plea against any rebuttal, none was called for by way of counter-affidavit and unfortunately the writ Court went on to hold, on the strength of the petition alone, that the plea did not attract the recognised exceptions to the alternative-remedy rule. According to this Court, an *intra-court* appeal against that determination is not a request for a second opinion on a settled controversy. In our view, it is a challenge to a threshold finding reached without

evidence from the other side. According the judgment of *SCOPE Sales (supra)* is distinguishable.

31. Further, the alternative-remedy rule, which is the epicentre of controversy in the present matter is merely a rule of discretion. It is a self-imposed restraint and not a statutory or a Constitutional bar. In our considered view, the existence of an alternative remedy does not strip away the jurisdiction of the High Court under Article 226 of the Constitution of India. We find that the ***Whirlpool Corporation case (supra)***, the foundation of the impugned order, itself holds that the power under Article 226 of the Constitution is "plenary in nature and is not limited by any other provision of the Constitution," and that the rule of alternative remedy is a "self-imposed" restriction, not a Constitutional or statutory ouster.

32. The hon'ble Supreme Court in ***Radha Krishan Industries case (supra)***, at paragraph 27, restates the principle of law in the following words:-

"27. *The principles of law which emerge are that:*

- (i)** *The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;*
- (ii)** *The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;*

- (iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;*
- (iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;*
- (v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and*
- (vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."*

According to us, the usage of the word "ordinarily" in paragraph 27(iv) relating to availability of an alternative remedy signals a default posture relating to discretion

and entertainability of a writ Court and not an absolute prohibition.

33. Similarly, a three-Judge Bench of hon'ble Supreme Court in the case of ***Assistant Commissioner of State Tax v. Commercial Steel Ltd.***, reported in **(2022) 16 SCC 447**; in para 10 of the judgment held as follows:-

"10. The respondent had a statutory remedy under Section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternative remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:

(i) a breach of fundamental rights;

(ii) a violation of the principles of natural justice;

(iii) an excess of jurisdiction; or

(iv) a challenge to the vires of the statute or delegated legislation."

In the given facts of the present case, we find that although the learned Single Judge, has correctly set out the four recognised exceptions i.e. the enforcement of fundamental rights, breach of natural justice, want of jurisdiction or challenge to *vires*, however, unfortunately it proceeded to hold that the appellant's case fell outside them, and *dismissed* the petition on the ground of maintainability. This according to us, inverts the sequence the authorities in ***Whirlpool Corporation case*** (*supra*) and ***Radha Krishan case*** (*supra*) themselves prescribe.

Maintainability was never truly in issue; the only question was whether, on the facts pleaded, the Court ought to decline to exercise a jurisdiction it indisputably possessed. Framing the dismissal as one of maintainability suggests the writ petition was incompetent and a characterisation unsupported by either authority relied upon.

34. In any case, this Court cannot be oblivious to the fact that, a disputed plea of breach of principles of natural justice cannot be resolved by assuming it away, as has been sought to be done in the impugned order. According to us, the appellant did not invoke vitiation of principles of "natural justice" as a bare incantation to avoid the alternative remedy. Evidently, he pleaded specific facts: (a) the committee originally constituted by the Chancellor was dissolved and reconstituted without notice to him; (b) the reconstituted committee recomputed his length of service without addressing the State Government's approval, dated 13.03.2012, of the very leave now treated as a break in service; and (c) the Vice Chancellor acted on the reconstituted committee's report without him having had an opportunity to meet its altered premise and most importantly even the integrity of the members of the Committee has also been sought to be challenged. As to whether these facts are true or not or had any basis was never tested by the Hon'ble Single Judge, because no counter-affidavit was called for. Therefore, a finding that a case does not fall within the natural-justice exception is itself a finding of fact, as it

presupposes an answer to whether a violation in fact occurred. Such a finding cannot be returned on the strength of the pleading made in the writ petition alone, and cannot then be used as the ground for holding the petition not maintainable, on the ground that it does not fall within any of the exceptions carved out in the **Whirlpool Corporation case** (*supra*). According to this Court, the said ground has to be necessarily decided after hearing the other-side of the story. In view thereof, we have no hesitation in concluding that in the present facts and circumstances, which has come on record, the correct sequence would be as: call for counter affidavits, then test the plea on the rival versions and then determine whether the exception is attracted and lastly decide whether discretion should be exercised in favour of relegating the petitioner to the alternative remedy. According to us, the impugned order collapsed this sequence into a single unrebutted assertion, and dismissed the petition at a stage prior to the one at which the alternative-remedy question could properly arise. Thus, it is concluded that the facts of the present case attract applicability of at least two contingencies, that is (i) violation of principles of natural justice; (ii) enforcement of fundamental rights, as has been carved out in the exceptions of **Whirlpool Corporation case** (*supra*).

35. We also find that the hon'ble Supreme Court while faced with the similar questions relating to the maintainability of a writ petition in the case of an

availability of alternate remedy, it has held in the case of ***M/s Godrej Sara Lee Ltd. v. The Excise And Taxation Officer-Cum-Assessing Authority and Ors.***, reported in **2023 SCC OnLine SC 95**; as follows:-

"4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by article 226 of the Constitution having come across certain orders passed by the High Courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be

*remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not maintainable". In a long line of decisions, this court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the High Courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a High Court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. **Hence, dismissal of a writ petition by a High Court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.***

36. The learned Senior Counsel's ancillary contentions do not cure this defect. His argument that the committee's report was merely recommendatory and that the appellant, having participated before the original

committee and he could not question the reconstituted committee's process, or that the respondent had himself properly pursued Statute 18.14 is of no avail. Each of these is a matter requiring factual determination and participation before one body is not participation before, or waiver as to, a differently constituted one; whether a report is recommendatory does not answer whether the material it relied upon was ever put to the affected party. These are precisely the issues a counter-affidavit exists to resolve, and precisely why summary dismissal foreclosed inquiry rather than answered it.

37. As a sequel to our discussion, the alternative-remedy doctrine could, at most, have permitted the learned Single Judge to weigh only after the natural-justice plea was tested on affidavits and found wanting and then it ought to have been examined as to whether the appellant should nonetheless be relegated to the stage of Section 68 of the University Act or not. The authorities relied upon by the Hon'ble Single Judge do not support, dismissal at the threshold, styled as a question of maintainability, before the plea was actually tested at all.

38. For all the aforesaid reasons, the order of the Hon'ble Single Judge dated 17.12.2025, dismissing the writ petition on the ground of maintainability, is hereby *quashed and set aside*. The petition being *Writ-A No. 14662 of 2025 (Vinod Chandra versus State of Uttar Pradesh and others)*, is restored to its original number

and remitted to the learned Single Judge for fresh consideration on merits, in accordance with law.

39. As already directed vide our order dated 23rd of September, 2026, the respondents shall ensure filing their counter-affidavit(s) within ten days; the appellant shall be at liberty to file a rejoinder within three days thereafter.

40. Needless to say, all contentions on merits, including the question of breach of natural justice are left entirely open for determination by the learned Single Judge, uninfluenced by any observation made herein, which is confined solely to the propriety of dismissal of the writ petition, at the threshold.

41. The *intra-court* appeal is accordingly, ***allowed*** in the above terms.

42. There shall be no order as to cost(s).

(Abdhesh Kumar Chaudhary, J.)

I agree

(Shekhar B. Saraf, J.)

October 05, 2026
Anuj Singh