

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Justice PARTHA SARATHI SEN

WPA 2474 OF 2018

DR. MRS. INDRANI DATTA (CHAUDHURI)
-Vs-
VIDYASAGAR UNIVERSITY & ORS.

With
WPA 7019 OF 2019
DR. MRS. INDRANI DATTA (CHAUDHURI)
-Vs-
VIDYASAGAR UNIVERSITY & ORS.

For the Petitioner:

Mr. Subir Sanyal, Sr. Adv.
Mr. Dwarikanath Mukherjee, Adv.
Mr. Ratul Biswas, Adv.
Mr. Surajit Mukherjee, Adv.

For the Respondents:
[Vidyasagar University]

Mr. Jaydeep Kar, Sr. Adv.
Ms. Debjani Sengupta, Adv.
Ms. S. Haque, Adv.
Mr. Abhijit Chatterjee, Adv.

Hearing concluded on:
Judgment on:

24.09.2026
30.09.2026

PARTHA SARATHI SEN, J. : –

1. Since in these two writ petitions the parties are identical and since some common questions of facts and laws are involved, this Court proposes to dispose of the instant two writ petitions by a common judgment.

2. The subject matter of WPA 2474 of 2018 is the charge-sheet dated 24.11.2017 as has been submitted by the respondent University against the petitioner/delinquent.
3. The subject matter of WPA 7019 of 2019 is the enquiry report as has been forwarded to the writ petitioner under cover of a letter dated 06.03.2019 by the respondent no. 4 authority in connection with a disciplinary proceeding as has been initiated by the respondent no. 1 Vidyasagar University ('University' in short). In the said enquiry proceeding the Enquiry Officer found that the charges as framed against the writ petitioner have been proved.
4. It is pertinent to mention herein that the writ petitioner is the Assistant Professor in the Department of English of the said University and he was served with a memorandum of charges dated 24.11.2017 containing articles of charges under 8 heads together with statements of imputations along with the memorandum of charges. The University authority also provided the list of documents and the list of witnesses in connection with the said enquiry proceeding.
5. At the time of hearing both Mr. Sanyal, learned Senior Advocate appearing on behalf of the writ petitioners and Mr. Kar, learned Senior Advocate appearing on behalf of the respondent University submitted before this Court that since during the pendency of WPA 2474 of 2018 the enquiry authority has submitted his enquiry report which is the subject matter of WPA 7019 of 2019 on the basis of the charge-sheet which is impugned in WPA 2474 of 2018, the

fate of WPA 2474 of 2018 will be governed by the outcome of WPA 7019 of 2019.

6. For disposal of the instant two writ petitions, the facts are taken from WPA 7019 of 2019.

7. In course of his submission Mr. Sanyal, learned Senior Advocate appearing on behalf of the writ petitioners at the very outset took me to minutes of the meeting dated 17.09.2018, a copy of which has been annexed at page no. 136 of the instant writ petition. It is argued that from the said minutes of the meeting dated 17.09.2018, it would reveal that on the said day 17 numbers of prosecution witnesses have been examined by the Enquiry Officer and the present writ petitioner being the delinquent was deprived from cross-examining the said prosecution witnesses. It is further submitted by Mr. Sanyal that the present writ petitioner being not an expert in the legal field was given no time to cross-examine the prosecution witnesses despite submission of her prayer in writing for providing copies of the depositions of the PWs on the self same day dated 17.09.2018 which would be evident from Annexure- 'P2' at page no. 139 of the instant writ petition.

8. It is submitted by Mr. Sanyal that recording of depositions of 17 prosecution witnesses in an enquiry proceeding in between 11:20 A.M. to 6:30 P.M. on a single day is an unusual procedure and for the said reason the writ petitioner under cover of her letter dated 17.09.2018 requested the enquiry Officer to provide copies of the deposition of the said 17 prosecution witnesses which was not considered favourably by the Enquiry Officer. It is submitted by

Mr. Sanyal that for not giving adequate opportunity to the writ petitioner for cross-examination of the prosecution witnesses the Enquiry Officer in the said enquiry proceeding have violated the principle of natural justice and, therefore, the enquiry report as impugned in the instant writ petition may be interfered with in judicial review.

9. In his next limb of submission Mr. Sanyal took me to the depositions of the prosecution witnesses as have been annexed at page nos. 145 to 168 of the instant writ petition. It is submitted by Mr. Sanyal that on careful perusal of the deposition of the prosecution witnesses it would reveal that the Enquiry Officer had put all the questions of the witnesses despite the presence of the presenting Officer and, therefore, the said Enquiry Officer in the said disciplinary proceeding practically acted like a prosecutor which is unknown to the service jurisprudence and on account of such irregularity, the entire enquiry proceeding may be held to be vitiated.

10. Drawing attention to page no. 188 of the instant writ petition being a copy of the forwarding letter dated 06.03.2019 as issued by the respondent no. 4 authority, it is argued by Mr. Sanyal that from the wordings of the said forwarding letter it would reveal that the executive council of the University without awaiting for the reply of the writ petitioner against the enquiry report of the Enquiry Officer had accepted the said enquiry report by holding the charges leveled against the delinquent have been proved which indicates predetermined decision of the respondent authorities.

11. In course of his submission Mr. Sanyal requested me to look to the minutes of the meeting dated 17.09.2018, a copy of which has been annexed at page no. 136 as well as the copy of the minutes of the meeting dated 29.09.2018, a copy of which is also annexed at page no. 144 of the instant writ petition. It is submitted by Mr. Sanyal that on comparative study of the said two minutes dated 17.09.2018 and 29.09.2018 it would reveal that on 17.09.2018, 17 prosecution witnesses have been examined whereas the exhaustive minutes and the witness account were finalized on 29.09.2018. It is submitted by Mr. Sanyal that the procedure adopted by the Enquiry Officer, in the said enquiry regarding recording of evidence of the prosecution witnesses and finalization of such depositions on a subsequent day is equally unknown to the service jurisprudence and the same is de-hors to the established procedure for conducting an enquiry proceeding.

12. Drawing attention to the list of witnesses as have been forwarded with the memorandum of charges, it is further argued by Mr. Sanyal that the said list of witnesses are vague in nature inasmuch as the names of most of the prosecution witnesses of the said enquiry proceeding were not disclosed at the earliest opportunity and, therefore, the writ petitioner was deprived of prior notices with regard to the identity of witnesses who are going to depose on behalf of the prosecution. It is further submitted by Mr. Sanyal that in the said enquiry proceeding some new documents have been introduced and despite written objection submitted by the delinquent/ writ petitioner, such documents

were exhibited causing a serious prejudice to the interest of the present writ petitioner.

13. It is further submitted by Mr. Sanyal that the Enquiry Officer in its report though came to a finding that the alleged activity of the writ petitioner tantamounts to moral turpitude, however, no charge of moral turpitude was framed. It is thus submitted by Mr. Sanyal that sufficient materials have been placed before this Court that in the said enquiry proceeding of the delinquent/ writ petitioner not only the principle of natural justice has been violated but also the Enquiry Officer in the said enquiry proceeding had failed to observe the established procedure for conducting a departmental enquiry which vitiates the decision making process of the Enquiry Officer and thus, the writ petitioner is entitled to the reliefs as prayed for in the instant writ petition.

14. In support of his contention Mr. Sanyal places his reliance upon the following reported decisions:

- (i) ***Ayaaubkhan Noorkhan Pathan v. State of Maharashtra & Ors.* [(2013) 4 SCC 465],**
- (ii) ***State of Uttaranchal & Ors. v. Kharak Singh* [(2008) 2 CLJ (SC) 238],**
- (iii) ***Moni Shankar v. Union of India and Another* [(2008) 3 SCC 484],**
- (iv) ***Nripendra Nath Bagchi v. Chief Secretary, Government of West Bengal* [AIR 1961 CAL 1],**
- (v) ***M.V. Bijlani v. Union of India & Ors.* [(2006) 5 SCC 88].**

15. Per contra, Mr. Kar, Learned Senior Advocate duly assisted by Ms. Sengupta in course of their argument took me to the memorandum dated 24.11.2017 containing articles of charge under 8 heads as well as the statement of imputation of misconduct in support of the said articles of charge. Attention of this Court is also drawn to the reply dated 27.06.2018 as given by the writ petitioner/ delinquent against the said charge-sheet. It is submitted on behalf of the respondent University that since the respondent University was not satisfied with the reply given by the writ petitioner/ delinquent, the enquiry proceeding against her proceeded and on conclusion of the same the Enquiry Officer submitted her enquiry report which is impugned in the instant writ petition.

16. It is submitted by Mr. Kar that the minutes of the enquiry proceeding dated 04.08.2018, 01.09.2018, 17.09.2018 and 29.09.2018 are required to be looked into wherefrom it would reveal that there was no blatant illegality and/or irregularity in conducting the said enquiry. It is argued by Mr. Kar that on conjoint perusal of the said minutes it would reveal that in every stage of the said enquiry proceeding the writ petitioner/ delinquent was permitted to participate and she has been provided with all information, documents and the details of the witnesses. It is further submitted that no miscarriage of justice occurred in conducting the said enquiry proceeding against the writ petitioner/ delinquent simply because 18 prosecution witnesses have been examined in a day in presence of the writ petitioner/ delinquent and the writ petitioner/ delinquent had subsequently cross-examined all the prosecution witnesses. It

is further argued that since in an in-house proceeding the Enquiry Officer is not bound to follow the strict rules of procedure and also since in such proceeding, strict rules of evidence have got no manner of application, there was no illegality on the part of the Enquiry Officer to examine all the charge-sheeted witnesses on a single day.

17. In course of his argument Mr. Kar duly assisted by Ms. Sengupta also took me to every page of the minutes of the meeting of the Enquiry Committee as held on 17.09.2018 and 29.09.2018. It is submitted that though it has been contended on behalf of the writ petitioner/ delinquent that she was not given due opportunity to cross-examine the prosecution witnesses and that she was not provided with the copy of the depositions of the PWs, however, such contention of the writ petitioner cannot be allowed to stand in view of the fact that on careful perusal of the detailed minutes dated 17.09.2018 as has been finalised on 29.09.2018 in presence of all concern including the writ petitioner, it would reveal that the present writ petitioner/ delinquent not only participated in the said enquiry proceeding but also cross-examined all the prosecution witnesses subsequently and, therefore, the allegation as levelled by the writ petitioner regarding violation of principle of natural justice is contrary to the truth.

18. It is further argued by Mr. Kar that admittedly all the prosecution witnesses' depositions were recorded on 17.09.2018 which were subsequently finalised on 29.09.2018 upon which the writ petitioner/ delinquent put her signature and thereafter submitted her deposition with 15 exhibits as would be

evident from page no. 173 of the instant writ petition. It is thus submitted by Mr. Kar that since at that material time, the writ petitioner/ delinquent did not raise any doubt with regard to any procedural illegality, she may be estopped to raise the issue of procedural illegality/ irregularity at this stage. It is further argued by Mr. Kar that had the writ petitioner/ delinquent got any objection with regard to finalisation of the depositions of the prosecution witnesses, she would have raised her objection at the earliest opportunity and in not doing so, she may be estopped to raise such plea at the time of hearing of the instant writ petition. It is further argued by Mr. Kar that even after completion of deposition of the delinquent, the writ petitioner/ delinquent made no request to the Enquiry Officer for allowing her to further cross-examine the PWs. It is thus submitted by Mr. Kar that in absence of any glaring illegality and/or irregularity in conducting the said departmental enquiry the interference as called for may not be entertained.

19. In his next limb of submission Mr. Kar took me to page No. 188 of the instant writ petition being a copy of the letter dated 06.03.2019 whereby and whereunder the then Registrar of the respondent University as per decision of the Executive Council of the said University had forwarded a copy of the enquiry report to the delinquent for her observations and opinions. It is argued by Mr. Kar that the word 'accepted' as has been mentioned in the 5th line of the said letter, is to be construed as 'received' as otherwise the Executive Council would not have sought for reply of the delinquent under cover of the letter of the writ petitioner/ delinquent dated 06.03.2019. To substantiate his

contention Mr. Kar places his reliance upon the judgment passed in the case of ***Kalpana Mehta & Ors. vs. Union of India & Ors.*** reported in **(2018) 7 SCC 1.**

20. It is argued by Mr. Kar that in the reported decision of ***Kalpana Mehta (Supra)*** the Hon'ble Supreme Court emphasises that acceptance of a report does not mean that the facts stated in the report stand proved and thus, the respondent's right to dispel conclusions and findings in the report is not taken away and the said respondent is free to prove his case in accordance with law. It is argued by Mr. Kar that in the event the letter dated 06.03.2019 is viewed in the context of the aforementioned legal parameter, there is hardly any scope to come to a conclusion that before seeking any reply from the delinquent the Executive Council of the said University had come to a conclusion that the enquiry report as submitted against the delinquent stand proved.

21. It is further submitted by Mr. Kar that the argument that the Enquiry Officers in the said enquiry proceeding acted like a prosecutor is no way helpful for the writ petitioner since the writ petitioner has failed to show any prejudice caused to her on account of such alleged action by the Enquiry Officer. It is argued further by Mr. Kar that sufficient materials have been placed before this Court to show that the writ petitioner/ delinquent got due opportunity of cross-examination of all the prosecution witnesses. It is further argued that in course of the enquiry proceeding the delinquent did not object to the said alleged action of the Enquiry Officer.

22. Raising the point of maintainability of the instant writ petition it is argued by Mr. Kar that it is well settled that ordinarily an enquiry report cannot be assailed before a High Court in its writ jurisdiction since an enquiry report does not cause any prejudice to the writ petitioner/ delinquent and/or adversely affect the writ petitioner/ delinquent rather it is only when a final order imposing some punishment or otherwise adversely affecting a party is passed that the said party can be said to have any grievance.
23. In this regard, Mr. Kar places his reliance upon the judgment as passed in the case of ***Union Of India And Another vs. Kunisetty Satyanarayana*** reported in **(2006) 12 SCC 28**. Mr. Kar also places his reliance upon the judgment as passed in the case of ***Director General of Police, Railway Protection Force & Ors. vs. Rajendra Kumar Dubey*** reported in **(2021) 14 SCC 735** wherein the limited scope of interference by the High Court in exercise of its jurisdiction in respect of a disciplinary proceeding has been reiterated.
24. It is further argued by Mr. Kar that the argument of Mr. Sanyal that in the event the enquiry report is set aside by this Court the appropriate relief would be to reinstate the writ petitioner is contrary to the settled principle of law inasmuch as it is the settled legal proposition that once the Courts set aside an order of punishment on the ground of the enquiry was not properly conducted, the Court cannot reinstate the employee and it must remit the case to the disciplinary authority for conducting the enquiry from the point that it stood vitiated and concluded the same.

25. It is further argued by Mr. Kar that the reported decision of **Ayaaubkhan Noorkhan Pathan (Supra)** is distinguishable from the facts and circumstances of the instant writ petition inasmuch as sufficient materials have been placed that the writ petitioner/ delinquent availed the opportunity of cross-examination of all the PWs. It is further argued by Mr. Kar that the judgment of the Hon'ble Supreme Court in the case of **Moni Shankar (Supra)** is also distinguishable from the facts and circumstances inasmuch as the articles of charges if stand proved as against the delinquent that would not attract any major punishment. It is thus submitted by Mr. Kar that it is a fit case of dismissal of the instant writ petition.
26. Since at the time of hearing Mr. Kar learned Senior Advocate raised the point of maintainability of WPA 7019 of 2019, this Court proposes to deal with the said point at the very outset. Undisputedly in WPA 2474 of 2018 the charge-sheet dated 24.11.2017 is impugned. As discussed in the foregoing paragraphs that on the basis of the said charge sheet the respondent University proceeded with the enquiry and the Enquiry Officer submitted his report which is impugned in WPA 7019 of 2019.
27. To substantiate his contention Mr. Kar in course of his submission places his reliance upon the judgment of the Hon'ble Supreme Court in the case of **Kunisetty Satyanarayana (Supra)** wherein the Hon'ble Supreme Court while dealing with the maintainability of a writ petition against a charge-sheet expressed the following view:

“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge-sheet or show-cause notice vide *Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh* [(1996) 1 SCC 327 : JT (1995) 8 SC 331] , *Special Director v. Mohd. Ghulam Ghouse* [(2004) 3 SCC 440 : 2004 SCC (Cri) 826 : AIR 2004 SC 1467] , *Ulagappa v. Divisional Commr., Mysore* [(2001) 10 SCC 639] , *State of U.P. v. Brahm Datt Sharma* [(1987) 2 SCC 179 : (1987) 3 ATC 319 : AIR 1987 SC 943] , etc.

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.”

28. At his juncture, this Court shall make an endeavour to decide as to whether a writ petition against an enquiry report is at all maintainable or not and in doing so this Court proposes to look to the judgment of the Hon’ble Supreme Court in the case of **Managing Director, Madras Metropolitan**

Water Supply & Sewerage Board & Anr. vs. R. Rajan & Ors. reported in **(1996) 1 SCC 338**. In the reported decision of **R. Rajan (Supra)** the Hon'ble Supreme Court had occasion to consider the entertainability of a writ petition against a report of the Enquiry Officer wherein the Hon'ble Supreme Court expressed the following view:

“3. After the receipt of the Enquiry Officer's report, the General Manager of the Board issued notices to the respondents calling upon them to submit their defence, if any, within seven days of the receipt of the said notices. A copy of the Enquiry Officer's report along with depositions of witnesses was enclosed with the said notices. At that stage, the respondents approached the Madras High Court by way of writ petitions contending that the Board is bent upon dismissing them from service, that they were being victimised for union activities and that the General Manager who has issued the aforesaid notices has no jurisdiction to impose the punishment of dismissal....

4. The learned Single Judge dismissed the writ petitions on the ground that no interference is called for at that stage of the disciplinary proceedings but observed at the same time that “even if the charges are held proved against the petitioners, the punishment of dismissal from service shall not be imposed on the petitioners in the light of the statement made on behalf of the respondents”. (In the above extract, the expression ‘petitioners’ means the writ petitions who are respondents in these appeals and the expression ‘respondents’ means the appellants herein.)

5. The respondents filed two writ appeals against the judgment of the learned Single Judge. The Division Bench was also of the opinion that at the present stage of disciplinary proceedings, no interference is warranted by the Court under Article 226 of the Constitution of India. The Bench observed that “this is not the stage at which the Court can issue a direction as to what punishment should be imposed and what not”. But then, it noted, “however, in the light of the assertion on the part of the Managing

Director that he has powers to impose a penalty of compulsory retirement, it becomes necessary to indicate what are his powers relating to the officers having revised pay scales of Rs 2000-760-2300-75-3200-100-3500.”.....

7. As rightly held by the learned Single Judge and the Division Bench, no interference was called for at an interlocutory stage of the disciplinary proceedings. The enquiry was no doubt over but the competent authority was yet to decide whether the charges against the respondents are established either wholly or partly and what punishment, if any, is called for. At this stage of proceedings, it was wholly unnecessary to go into the question as to who is competent to impose which punishment upon the respondents. Such an exercise is purely academic at this stage of the disciplinary proceedings.

8.We only affirm the view of the learned Single Judge and the Division Bench that at this stage of the disciplinary proceedings, no interference is warranted by the High Court under Article 226 of the Constitution.”

[Emphasis Supplied]

29. In view of the aforementioned two reported decisions namely, **Kunisetty Satyanarayana (Supra)** and **R. Rajan (Supra)** it thus appears to this Court that WPA 2474 of 2018 wherein the charge-sheet dated 24.11.2017 is impugned and WPA 7019 of 2019 wherein the enquiry report of the Enquiry Officer as forwarded to the writ petitioner under cover of a letter dated 06.03.2019 is impugned are **both held to be not maintainable**.

30. For the sake of argument even if I accept that WPA 7019 of 2019 is otherwise maintainable, even then the said writ petition being WPA 7019 of 2019 is liable to be dismissed for the reasons recorded herein.

31. In course of his submission Mr. Sanyal strongly contended that in the enquiry proceeding principle of natural justice has been vehemently violated at the instance of the Enquiry Officer since the present writ petitioner/ delinquent was deprived of cross-examining the prosecution witnesses and despite submission of request in writing, copies of the deposition of the prosecution witnesses were not provided to the writ petitioner. While disputing such contention learned Advocate for the respondent University took me to the various minutes of the said enquiry proceeding as have been annexed to the instant writ petition.

32. This Court has carefully gone through the entire minutes of the said enquiry proceeding. It appears that the Enquiry Officer recorded the evidence of the prosecution witnesses on 17.09.2018. Admittedly, on the said day 17 numbers of prosecution witnesses have been examined. On careful perusal of the entire deposition of the said 17 prosecution witnesses, it appears to this Court that the present writ petitioner being the delinquent have extensively cross-examined all the prosecution witnesses except PW1 and in case of PW1 the delinquent declined to cross-examine him on the plea that the copy of the deposition of PW1 was not provided to him.

33. It is trite that this Court sitting in judicial review cannot assess the quality of depositions of the prosecution witnesses. However, from the materials as placed before this Court it appears that in course of recording of evidence of the prosecution witnesses, the Enquiry Officer gave due opportunity to the writ petitioner/delinquent to cross-examine the prosecution

witnesses and the writ petitioner availed the said opportunity. In view of such, this Court finds no merit in the submission on the learned Advocate for the petitioner that in the said enquiry proceeding the Enquiry Officer deprived the writ petitioner from cross-examining the prosecution witnesses.

34. In course of his argument Mr. Sanayal was also very vocal regarding the mode of recording of evidence by the writ petitioner of the prosecution witnesses. It was strongly contended that the Enquiry Officer on 17.09.2018 recorded the depositions of the 17 prosecution witnesses which is an unknown procedure. It is equally trite that strict rules of procedure and strict rules of evidence are not applicable to the departmental proceedings and thus, in absence of any material illegality and/ irregularity in the process of recording of the deposition of the prosecution witnesses, this Court cannot deprecate the alleged conduct of the Enquiry Officer regarding recording of evidence of all the prosecution witnesses on a single day.

35. In considered view of this Court the reported decision of ***Ayaaubkhan Noorkhan Pathan (Supra)*** as cited from the side of the petitioner is distinguishable from the facts and circumstances of the instant writ petition inasmuch as in the said judgment of ***Ayaaubkhan Noorkhan Pathan (Supra)*** the Hon'ble Supreme Court while considering the judgment of ***Engineering Kamgar Union vs. Electro Steels Castings Ltd.*** reported in ***(2004) 6 SCC 36***, ***Karamjeet Singh vs. Union Of India*** reported in ***(1992) 4 SCC 666***, ***Vinoy Kumar vs. State of U.P.*** reported in ***(2001) 4 SCC 734*** and ***Simranjit Singh Mann vs. Union of India*** reported in ***(1992) 4 SCC 653*** observed that

denial of opportunity to cross-examine the witnesses would violate the principle of natural justice. This Court has already observed that admittedly in course of the said enquiry proceeding the writ petitioner on 17.09.2018 submitted a request for providing a copy of the entire deposition of the PWs however, on the said very day she not only participated in the said enquiry proceeding, but also extensively cross-examined at least 16 prosecution witnesses.

36. In view of such, this court is constrained to hold that the allegation of the writ petitioner that in the said disciplinary proceeding principle of natural justice has been violated, in considered view of this Court has got no leg to stand upon.

37. This Court is in agreement with the argument of Mr. Kar that in absence of any prejudice as alleged to have been caused to the writ petitioner, this Court may decline appropriate relief to the writ petitioner even if the principle of natural justice has been violated as has been held in the case of ***State of Uttar Pradesh vs. Sudhir Kumar Singh*** reported in ***(2021) 19 SCC 706***.

38. Mr. Sanyal in course of his argument was very vocal with regard to the finalization of the depositions of the prosecution witnesses on 29.09.2018 though such depositions were recorded on 17.09.2018. It has been argued by Mr. Sanyal that recording of depositions of the prosecution witnesses on a particular day and the finalization of the said depositions on another day is a glaring example of procedural illegality which affects the very root of the enquiry proceeding. In considered view of this Court, such argument cannot be accepted inasmuch as on comparative study of the minutes of the meeting

dated 29.09.2018 and 17.09.2018, it appears to this Court that all the parties to the said enquiry proceeding including the writ petitioner/ delinquent jointly agreed to such procedure and they have consciously signed on the said two minutes. In view of such, this Court is unable to comprehend the argument of Mr. Sanyal that there occurred a procedural illegality in the impugned disciplinary proceeding.

39. In his next limb of submission Mr. Sanyal argued that the Enquiry Officer in the impugned enquiry proceeding acted like a prosecutor inasmuch as the said Enquiry Office himself/herself put all the questions to the prosecution witness.

40. To substantiate his contention Mr. Sanyal places his reliance upon the judgment of ***Kharak Singh (Supra)***. In considered view of this court the reported judgment of ***Kharak Singh (Supra)*** is equally distinguishable from the facts and circumstances of WPA 7019 of 2019 inasmuch as in the reported decision of ***Kharak Singh (Supra)***, the Enquiry Officer most unilaterally proceeded with the enquiry proceeding without securing the presence of a presenting officer and even put leading questions to the witnesses.

41. Admittedly, while recording deposition of the prosecution witnesses in the enquiry proceeding in question the said Enquiry Officer took a proactive role to enquire the matter, however, this Court has noticed that in the said enquiry proceeding, more specifically, in course of recording of the deposition of the prosecution witnesses the presenting officer was also present and participated in the recording of the deposition of the prosecution witnesses. In

considered view of this Court simply because the Enquiry Officer put several questions to the witnesses the entire enquiry proceeding cannot be said to have been vitiated since in considered view of this Court no material could be placed before this Court that the main moto of the Enquiry Officer was to cause prejudice to the writ petitioner.

42. In course of his submission Mr. Sanyal strongly criticized the letter dated 06.03.2019 as issued by the writ petitioner and the respondent University enclosing therewith a copy of the report of the Enquiry Officer which has been forwarded to the delinquent. It was contended by Mr. Sanyal that the said letter clearly reveals that the executive council of the University had accepted the said enquiry report without waiting for the reply of the writ petitioner.

43. In considered view of this Court the rules of appreciation of evidence requires that Court should not draw conclusions by picking up an isolated sentence/ word of a witness without adverting to the submission as a whole as held in the case of **Sunil Kumar Sambhudayal Gupta (Dr.) & Ors. vs. State of Maharashtra** reported in **(2011) 1 C.Cr.L.R. (SC) 373: (2010) 13 SCC 657**.

44. In the light of the reported decision of **Sunil Kumar Sambhudayal Gupta (Supra)** if the aforementioned letter dated 06.03.2019 is viewed, it appears that admittedly the Registrar of the said University had used the word “**accepted**” however, the same has to be construed as a word “**received**” as otherwise the executive council of the said University ought not to have called

for the views of the delinquent by forwarding a copy of the impugned enquiry report.

45. It further appears to this Court that while conducting the said departmental enquiry, list of witnesses and documents were forwarded to the writ petitioner along with memorandum of charges and further in the articles of charges the last charge was the alleged activity of the writ petitioner amounting to moral turpitude. This Court is constrained to hold that the argument of Mr. Sanyal in these regards, namely; not providing the details of the prosecution witnesses and holding guilty by the Enquiry officer on the ground of moral turpitude is/are not correct.

46. In view of the discussion made herein above this court thus finds no merit in WPA 7019 of 2019. Consequently, WPA 7019 of 2019 is dismissed.

47. Consequently, WPA 2474 of 2018 is also dismissed.

48. There shall be no order as to cost.

49. Urgent photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

(PARTHA SARATHI SEN, J.)