

**Dr Vishwamohini Pandey vs State Of U.P. And 3 Others on 1
October, 2026**

HIGH COURT OF JUDICATURE AT ALLAHABAD

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WRIT – A No. – 12866 of 2026

Dr Vishwamohini Pandey

..Petitioner(s)

Versus

State of U.P. and 3 others

..Respondent(s)

Counsel for Petitioner(s) : Pradeep Kumar Dwivedi, Sr. Advocate

Counsel for Respondent(s) : C.S.C., Yogesh Kumar Saxena

RESERVED

AFR

Court No. – 6

HON'BLE SIDDHARTH NANDAN, J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard Shri Ashok Khare, learned Senior Advocate, assisted by Shri Pradeep Kumar Dwivedi, learned counsel for the petitioner and Shri Yogesh Kumar Saxena, learned counsel for the respondents.
3. The present writ petition has been filed seeking issuance of a writ of certioari, quashing the order dated 04.08.2026 passed by the D.I.O.S. Farrukhabad (respondent no.3), and also the order dated 01.07.2026, issued by the Manager, Kanya Vidyapeeth Inter College, Kaimganj District Farrukhabad (respondent no.4); by way of which the respondent no.3 has accorded approval to the suspension order dated 01.07.2026.
4. The brief conspectus of facts which gives rise to the present writ petition is that the petitioner was appointed as a Principal, in pursuance of an Advertisement No. 01/2011, by the U.P. Secondary Education Services Selection Board; in Kanya Vidyapeeth Inter College, Kaimganj District Farrukhabad which is a recognized and aided Intermediate College and is governed by the provisions of [U.P. Intermediate Education Act, 1921](#) and U.P. Act No. 24 of 1971.
5. That during the functioning of the petitioner as the Principal of the Institution in question, a complaint was made against one Ms. Raushini Devi daughter of Shri Rajiv Singh, a Kisan Union worker; and thereafter father of Ms. Raushini Devi submitted a written apology and no further action was taken against her.
6. However, the said Shri Rajiv Singh started making frivolous complaints at various levels in the education department as well as district administration; though no action was taken by the education department but the District Magistrate Farrukhabad, by an order dated 19.11.2025, constituted a three-member Committee consisting of D.I.O.S., Farrukhabad, the Circle Officer (Police), Kaimganj Farrukhabad and Deputy District Magistrate, Kaimganj District Farrukhabad to conduct an inquiry and submit a report with regard to the complaints made by Shri Rajiv Singh.

7. The three-member Committee constituted, proceeded to conduct an inspection of the Institution on 28.11.2025 and submitted a report dated 05.12.2025, wherein the allegations against the petitioner were found to be baseless. For ready reference, relevant extract of the conclusion of the report dated 05.12.2025 is reproduced below:-

निष्कर्ष समिति द्वारा दिनांक 28.11.2025 को विद्यालय में उपस्थित होकर जांच किए जाने से पूर्व श्री राजब्वीर सिंह, किसान यूनियन कार्यकर्ता से दूरभाष पर वार्ता करते हुए विद्यालय में उपस्थित होकर अपनी बात कहने के लिए अवगत कराया गया किन्तु श्री राजब्वीर सिंह, किसान यूनियन कार्यकर्ता उपस्थित नहीं हुए। प्रधानाचार्या द्वारा अपने तथ्यों में यह भी अवगत कराया गया कि श्री राजब्वीर सिंह, किसान यूनियन कार्यकर्ता का पुत्रा रोशनी देवी द्वारा विद्यालय में फोन लाकर दूरभाष पर बात करती थी, जिसकी शिकायत करने पर उनके पिता श्री राजब्वीर सिंह, किसान यूनियन कार्यकर्ता द्वारा लिखित रूप से माफी भी मांगी गयी थी, जिसकी छाया प्रति प्रधानाचार्या द्वारा उपलब्ध करायी गयी है। उपरोक्त जांच से स्पष्ट है कि श्री राजब्वीर सिंह, किसान यूनियन कार्यकर्ता द्वारा लगाये गये सभी आरोप निराधार हैं। उक्त के अतिरिक्त प्रधानाचार्या/प्रबन्धक को निर्देश/चेतावनी प्रदान की जाती है कि वे किसी भी शिष्ट मण्डल/शिक्षक-अभिभावक संघ के साथ समय-समय पर बैठक/संगोष्ठी का आयोजन कराते हुये उनके द्वारा प्रस्तुत सुझावों/समस्याओं का निष्पादन कराना सुनिश्चित करें। जांच आख्या साक्ष्यों सहित प्रस्तुत है।

8. Thereafter, Ms. Raushini Devi failed to clear her Class 11th examination and her father made an application to withdraw his ward, from the Institution and consequentially her transfer certificate was also issued to her; but he continued to file complaints against the petitioner.

9. The Additional District Magistrate Farrukhabad, vide an order dated 02.05.2025, constituted another committee to conduct an inquiry in pursuance of the complaint dated 28.04.2026. The petitioner also filed a representation dated 29.05.2026 before the respondent no.3, specifically stating that the allegations are absolutely baseless and a fact finding inquiry has already been held, in which the allegations were found to be baseless. However it appears that the Committee constituted in pursuance of the order dated 02.05.2026, submitted a report which was forwarded by the District Magistrate, Farrukhabad by its letter dated 04.06.2026 to the respondent no3; whereafter a meeting of the Committee of Management of the Institution is said to have been taken place on 28.02.2026, in which a decision was taken to place the petitioner under suspension; but however a copy of the resolution dated 28.06.2026 was never supplied to the petitioner; but in pursuance of the said resolution, the suspension order dated 01.07.2026 has been passed.

10. It is also the case of the petitioner that the inquiry, which formed the basis of the resolution dated 28.02.2026 and the suspension order dated 01.07.2026, was never supplied to the petitioner; in spite of the fact that she had made a request vide her letter dated 06.07.2026 before the respondent no3, for providing a copy of the said report; and even otherwise relying on the decision of a coordinate Bench of this Court in the case of [Madan Kumar and others vs. D.M. Auraiya and Others¹](#), it has been submitted that no action could have been taken, on basis of dictum of Administrative authorities. For ready reference [Para-30 and 31 of the Madan Kumar](#) (supra) case is reproduced below:-

"30. The principle which can be discerned from the above mentioned judgments of the Supreme Court is that if a statute impose a duty on an authority he must exercise that power independently and personally without any supervisory control of some other

authority. Even a superior authority cannot interfere in his decision which he has to take personally. And he should not be guided by any other person/authority.

31. Applying the above principal in the case in hand I find that District Inspector of Schools has completely surrendered his statutory power to the District Magistrate. His letter dated 12.3.1999 to the District Magistrate seeking his guidance in the matter demonstrably established that he abdicated his power to the District Magistrate who is alien to the both Acts viz Act No. II of 1921 and Act No.24 of 1971. Therefore, the order of District Magistrate is ultra vires and without jurisdiction."

11. In adherence to the mandates of [Section 16-G \(6\)](#) of the Act 1921, the Committee of Management forwarded the documents pertaining to the suspension of the petitioner i.e. the particulars and documents as provided in Regulation 39 of Chapter III framed under the Act, 1921. For ready reference [Section 16-G \(6\)](#) and (7) of the Act, 1921; and Regulation 39 of Chapter III are extracted herein below: -

"[Section 16-G \(6\)](#) : Where any Head of Institution or teacher is suspended by the Committee of Management, it shall be reported to the Inspector within thirty days from the date of the commencement of the Uttar Pradesh Secondary Education Laws (Amendment) Act, 1975, in case the order of suspension was passed before such commencement, and within seven days from the date of the order of suspension in any other case, and the report shall contain such particulars as may be prescribed and accompanied by all relevant documents.

(7) No such order of suspension shall, unless approved in writing by the Inspector, remain in force for more than sixty days from the date of commencement of Uttar Pradesh Secondary Education Laws (Amendment) Act, 1975, or as the case may be, from the date of such order; and the order of the Inspector shall be final and shall not be questioned in any Court.

Regulation 39 (a) : The report regarding the suspension of the head of institution or of the teacher to be submitted to the Inspector under sub-section (6) of [Section 16-G](#) shall contain the following particulars and be accompanied by the following document

(a) the name of the persons suspended along with, particulars of the (posts including grades) held by him since the date of his original appointment till the time of suspension including particulars as to the nature of tenure held at the time of suspension, e.g., temporary, permanent or officiating :

(b) a certified copy of the report on the basis of which such person was last confirmed or allowed to cross efficiency bar, whichever later;

(c) details of all the charges on the basis of which such person was suspended;

(d) certified copies of the complaints, reports and inquiry report, if any, of the inquiry officer on the basis of which such person was suspended;

(e) certified copy of the resolution of the Committee of Management suspending such person;

(f) certified copy of the order of suspension issued to such person;

(g) in case such person was suspended previously also, details of the charges, on which and the period for which he was suspended on previous occasions accompanied by certified copies of the orders on the basis of which he was reinstated.

(2) An employee other than a head of institution or a teacher may be suspended by the appointing authority on any of the grounds specified in clauses (a) to (c) of sub-section (5) of [Section 16-G](#). (3) उप-विनियम (2) के अन्तर्गत निलम्बन का कोई आदेश प्रभाव में नहीं रहेगा, जब तक कि ऐसे आदेश के दिनांक से साठ दिन के भीतर निरीक्षक द्वारा इसका लिखित रूप में अनुमोदन न कर दिया जाय।"

ARGUMENTS OF THE PETITIONER

12. The contention of the learned Senior Counsel for the petitioner is that though the petitioner was issued a notice on 18.07.2026, intimating her a date of hearing on 28.07.2026; but however a copy of the inquiry report or the statement on behalf of the Management, along with the documents submitted by them, was never supplied. It has further been urged that the Manager of the Institution was heard on 23.07.2026, in the absence of the petitioner and though it was incumbent upon the respondent no.3 to accord an opportunity to the petitioner, to meet out the objections and submit his reply with respect to the oral hearing which was accorded to the Manager on 23.07.2026; the said opportunity was denied.

13. In view of the aforesaid, Shri Ashok Khare, learned Senior Counsel submits that at the time of consideration of the approval of the order of suspension, no opportunity was provided to the petitioner and the approval order dated 04.08.2026 has been passed in a gross violation of the principles of natural justice.

ARGUMENTS OF THE RESPONDENTS

14. Shri Y.K. Saxena, learned counsel appearing on behalf of respondent no.4 categorically submitted that there was no requirement to supply any documents to the employee prior to the charge sheet, as the charges which have been leveled in the charge sheet is to be proved by the evidence and documents; and only then documents which have been mentioned in the charge-sheet are required to be supplied. He however maintains that the petitioner had never asked for the inquiry report from the answering respondents; and in any case the inquiry report has been annexed along with charge sheet, now.

15. The learned Standing Counsel has also filed his counter affidavit on behalf of respondent no.3 and has submitted that after Ms. Raushini Devi failed in Class 11th (Science Stream) in the Institution in question, she was forcibly issued a transfer certificate and removed from the Institution and when a request was made for evaluation of her answer book by a teacher of another Institution, and a complaint being lodged, a three-member Committee was constituted which submitted a joint report; and it is only in consideration of the same, vide order dated 14.05.2026, the then D.I.O.S. nominated a Committee, which conducted an inquiry in the school on 18.05.2026, wherein adverse facts were found against the petitioner; which was forwarded by the office of the District Magistrate, Farrukhabad on 04.06.2026, to the office of the respondent no.3. On matter being forwarded to the Institution in question, a

resolution in the meeting dated 28.06.2026 was passed and vide order dated 01.07.2026, the petitioner was placed under suspension.

16. It has further been submitted that vide order dated 18.07.2026, the Manager was directed to appear on 23.07.2026 and vide a separate letter dated 18.07.2026, the petitioner was directed to appear on 28.07.2026, to submit their defence/documents; whereafter affording opportunity of hearing to both the sides on 29.07.2026, and in consideration of their respective submissions/evidence, vide order dated 03.08.2026, the approval was accorded to the suspension, in pursuance to the decision taken by the Resolution No.2, in the meeting of the Committee of Management dated 28.06.2026 and the suspension order dated 01.07.2026.

17. This Court, while inviting the counter affidavit from the respondents vide its order dated 20.08.2026, had framed the issue as to whether there is a requirement, for adherence to the principles of natural justice at the stage of approval of the suspension order, by the D.I.O.S., as it was an admitted fact that the inquiry report which was relied upon at the time of passing of the suspension order, and the statements/documentary evidence, which were placed by the Management of the Institution in question, were not supplied to the petitioner. For ready reference the extract of the order dated 20.08.2026 is reproduced below:-

10. In view of the above, the issue which is to be considered in the present writ petition, is that whether at the time of approval by the D.I.O.S., the tenets of principles of natural justice has to be meticulously followed and in view of the same, any document which is sought to be relied upon or any statement against the delinquent employee which is being sought or a hearing being afforded, the petitioner is required to be supplied a copy of the same or at the time of the oral hearing, the statements may be recorded in his presence, so that he has an opportunity to present his side.

18. Shri Ashok Khare, learned Senior Counsel has submitted that when the D.I.O.S. is considering to approve or disapprove the order of suspension under [Section 16-G](#) of the Act, 1921, he is required to adhere to the principles of natural justice and grant an opportunity of hearing not only to the concerned teacher/Principal but also to the Management; and pass a reasoned order indicating in brief the reasons for granting his approval or disapproval to the suspension of the teacher. He has placed reliance on a decision of a Division Bench of this Court dated 25.03.2015 in Special Appeal No. 169 of 2015 ([Hari Singh Rajput Vs. State of U.P. and 2 Others](#)) to contend that the issue involved in the said appeal was two fold:-

(i) Whether, reasons are required to be recorded by D.I.O.S., while granting approval; and

(ii) Whether, an opportunity of being heard is a prerequisite, while passing an order of approval or disapproval.

19. A perusal of the judgment dated 25.03.2015 indicates that the Division Bench while considering the facts of the case, held that it is a well settled principle of law that the D.I.O.S., must pass a reasoned order and an opportunity of being heard ought to be granted to the teacher, the the Principal and the Management. Reliance has also been placed upon a

judgment in the case of [Committee of Management Maharajganj Inter College Vs. D.I.O.S. Maharajganj and Another](#)².

20. The perusal of the judgment in the case of [Committee of Management Maharajganj Inter College](#) (supra), demonstrates that the respondent-employee in the said case was placed under suspension and he had made a representation to the D.I.O.S.; and the D.I.O.S. without examining the papers submitted to him along with resolution for the suspension, had declined to approve of the suspension without giving any reasons and did not address himself to relevant papers forwarded along with the letter seeking approval of suspension, on consideration of the representation made by the respondent-teacher.

21. In view of the aforesaid, in the case of [Committee of Management of Maharajganj Inter College](#) (supra) the Division Bench of this Court held that "If the suspension is to be disapproved on consideration of any defect pointed out by the concerned teacher by means of representation, opportunity has to be afforded to the Management before disapproving of the suspension on any such defect in the proceedings.

22. In view of the aforesaid Shri Ashok Khare, learned Senior Counsel submits that when an opportunity has to be afforded to the Management before disapproving of the suspension, likewise opportunity is also to be given to the teacher, prior to approving of the suspension.

23. He has also placed reliance on a decision of the coordinate Bench of this Court in the case of [Deshraj Singh Vs. State of U.P. and Ors.](#)³, wherein a judgment of this Court in [Satya Pal Singh Vs. State of Uttar Pradesh](#)⁴, was considered and the learned Single Judge of this Court, after noticing the provisions of the Act, had observed that the D.I.O.S. while granting approval to the resolution of the Managing Committee, for placing the teacher under suspension, is required to record reasons and he is under a legal duty to pass a reasoned order under [Section 16-G \(7\)](#) of the Act, 1921.

24. He has further held that though the Committee of Management while issuing the suspension order is not required to give an opportunity of hearing to the Teacher or the head of the Institution; therefore, at this stage when the order of suspension is being approved and the Inspector is required to apply his mind, it is at that stage, a bare minimum opportunity of hearing is required to be given to the suspended Teacher or the Principal, as the case may be. The said consideration is supported by a reasoning that when the papers are forwarded by the Committee of Management under [Regulation 39](#), it may contain the reasons, which are only one sided; and the other side of the coin should also be considered; and eventually the court held that the Inspector is also required to give an opportunity of hearing and hear the version of the suspended Teacher or the Principal before approving or disapproving the order of suspension. A reliance has also been placed in the judgment of this Court in [Hari Singh Rajput](#) (supra).

25. It is in this backdrop, the submission advanced by the learned counsel for the petitioner is that, the satisfaction of the Inspector for the purposes of grant of approval must flow from an objective consideration of relevant material available on record. Further reliance has been placed on a decision of a Co-ordinate Bench of this court dated 28.06.2021 in Writ No. 1193 of 2021 ([Neelam Vs. State of U.P.](#) and 3 Others), which has also followed the decision of this

Court in [Hari Singh Rajput](#) (supra) case and [Committee of Management Janta Inter College Vs. State of U.P. and Others](#)⁵. For ready reference Para- 20 of the judgment in the case of [Committee of Management Janta Inter College](#) (supra) is reproduced below: -

20. Scope of consideration under Section 16G(7) read with [Regulation 39](#) is very limited as has also been explained in the case of Ram Autar Verma (supra). Thus, a conjoint reading of the afore-noted four judgments reveal that if all the required papers and informations as prescribed under sub-section (7) of [Section 16G](#) of the Act, 1921 and [Regulation 39](#) have been submitted by the Management to the District Inspector of Schools to obtain approval of suspension, then opportunity of hearing at the stage of granting approval or disapproval is not required to be afforded to the Management or the employee. But if the employee has submitted any representation or objection against the order of suspension, then the District Inspector of Schools shall afford an opportunity of hearing to the Management and the concerned employee while passing the order of approval or disapproval which must contain brief reasons. This view is further supported by the provisions of sub-Section (8) of Section 16G, which specifically provides for an opportunity of hearing at the subsequent stage to the Management by the District Inspector of Schools while considering to revoke an order of suspension passed under sub-section (7) when the Inspector is satisfied that the disciplinary proceedings against the head of the Institution or teacher, is being delayed for no fault of the head of the Institution or the teacher:"

26. Shri Y.K. Saxena, Advocate appearing on behalf of respondents submits that a Division Bench of this Court in the case of Ram Kripal Katiyar Vs. the D.I.O.S. Shahjahanpur⁶, not only considered the legal position that the order of suspension is not a punishment and, therefore, while placing a delinquent employee under suspension, no notice or show cause or any opportunity of hearing is mandatory; and also held that there are no statutory provisions wherein such opportunity was necessary. For ready reference Paragraph Nos. 4, 5 and 7 of the judgment in the case of Ram Kripal Katiyar (supra) is reproduced below:

4. From a perusal of the above provision, it is evident that the Committee of Management has jurisdiction to place head of the institution or a teacher under suspension but it has to report to the District Inspector of Schools about such order of suspension and the same would be operative for a period of sixty days unless approved by the District Inspector of Schools. Sub-section (8) of [Section 16-G](#) of the Act further empowers the District Inspector of Schools to revoke the order of suspension passed under [Section 16-G \(6\)](#) of the Act, if it is found that the disciplinary proceeding is being delayed for no fault of the delinquent teacher after affording opportunity to the Committee of Management to make representation. Obviously, the Legislature provided for taking approval of the District Inspector of Schools by introducing sub-section (7) to protect the head of the institution or the teacher from arbitrary and mala fide order of suspension.

5. In the instant case it is admitted position that the District Inspector of Schools has given approval. The only grouse of the appellant is that opportunity of hearing ought to have been extended while considering the grant of approval. In support of this

contention, Sri P.K. Jain, learned counsel for the appellant could not point out any statutory provision wherein such opportunity was necessary. While considering the grant of approval the District Inspector of Schools is required to ensure that there exists some reasonable ground for proceeding against the head of institution or teacher and there exists necessary reason to place him under suspension. However, while considering the grant of approval he would not embark upon the merits of charges. In other words, he cannot hold a parallel inquiry as [Regulation 39](#) does not require furnishing proof of charges. Under [Regulation 39](#) the Committee of Management is required to forward together with the order of suspension, details of charges, certified copies of complaints, reports and inquiry report, if any, etc. in order to find out as to whether charges are non-est or does not constitute misconduct. [The Act](#) and the Regulation nowhere envisages about providing opportunity of hearing at the stage of grant of approval by the District Inspector of Schools. However, the person aggrieved by such resolution of the Committee of Management can approach the District Inspector of Schools straightaway to show that the order of suspension is not justified or warranted in the facts of the case. In the case of *Govind Swarup Pandey v. Authorized Controller, Adarsh Inter College, Manikpur Banda and another*, 1981 UPLBEC 17, this Court has held that it is open to the person aggrieved to approach the District Inspector of Schools straightaway and to satisfy him that the order of suspension has been passed illegally or mala fide even undeservedly. No reason or explanation has come before us as to what prevented the appellant from approaching the District Inspector of Schools against the decision of the Committee of Management placing him under suspension. It is well settled legal position that the order of suspension is not a punishment and, therefore, while placing a delinquent employee under suspension, no notice or show cause or any opportunity of hearing is mandatory. The only requirement is that there must exist some prima facie misconduct on the part of the employee and for which regular departmental proceeding is under contemplation or is already initiated.

7. The employer or the appointing authority before taking decision to initiate proceeding may hold a fact finding inquiry wherein the employee cannot claim right to be heard or to participate. Right of delinquent employee of hearing or affording opportunity arises only from the stage when the charges are framed against him in the disciplinary proceeding and not at any stage anterior to the framing of charges. The order suspending an employee in a pending proceeding or contemplated proceeding is not a quasi judicial order but an administrative order and, therefore, it is not necessary to obtain explanation of the Government servant before placing him under suspension. At the time of passing of order of suspension the authority is only required to consider that the alleged charge does not appear to be groundless, non-est or mala fide and it requires inquiry, and to hold fair inquiry it is necessary to keep him away from duty. [See [Mohd. Ghouse v. State of Andhra Pradesh](#), AIR 1957 SC 246]. We are, therefore, clearly of the view that at the stage of passing of order of suspension in a contemplated or pending departmental proceeding, there is no requirement of any opportunity of hearing to the Government servant or even to call for show cause. Thus, in view of the above legal position, non-affording of opportunity of hearing to the petitioner-appellant would not vitiate the impugned order of suspension.

27. The aforesaid judgment referred by the learned counsel for the respondents seems to have considered by a co-ordinate Bench of this court in the case of [Deshraj Singh](#) (supra); and it was sought to be distinguished on the ground that the Division Bench for the purposes of holding that opportunity of hearing is not required to be given before passing of an order of approval, examined the nature of the order of suspension and considered that suspension is not a punishment and therefore no opportunity of hearing is required to be given before passing such an order of suspension. It seems to have created a distinction regarding the stage when an order of suspension is passed and then a subsequent stage when an order of approval to the said suspension order is to be passed by the D.I.O.S. under [Section 16-G \(7\)](#) of the Act, 1921. However the Division Bench in the case of Ram Kripal Katiyar (supra) not merely considered the nature of suspension order being temporary in nature and not a punishment; but also it considered that there are no provision under the Act and the Regulation, which envisages about providing opportunity of hearing, at the stage of grant of approval by the D.I.O.S..

28. At this stage, it may be appropriate to consider whether an opportunity of hearing or adherence to the principles of natural justice is to be made, when such a requirement is mandated under the statutory provisions or even in absence of such a specific requirement under the Act and Regulations, can it be said that the violation of audi alteram partem rule, can be fated.

29. The Apex Court in the recent case of [Md. Rahim Ali @ Abdul Rahim Vs. State of Assam and Others](#)⁷ it has been specifically held that even in absence of specific provisions, for adherence to the principle of natural justice, it is trite in law that the principle of justice has to be followed. (Ref: Para 25 and 26 of Sabitri Dey alias [Swasthi Dey & Others Vs. Union of India and Others](#)⁸; [Para 19 of Krishnadatt Awasthy Vs. State of Madhya Pradesh and Others](#)⁹); but whether the same applies in the framework of the Act, 1921; is another question to be examined.

30. Learned counsel for the respondents has [placed reliance upon](#) a Division Bench judgment of this court in the case of [Smt. Nirmal Saxena Vs. State of U.P. and Ors.](#)¹⁰ For ready reference Para- 5 and 6 of the judgment in the case of [Shrimati Nirmal Saxena](#) (supra) is reproduced below:-

5. The question as to whether the District Inspector of Schools is required to pass a reasoned order while granting approval or disapproval to the suspension order under sub-section (7) of [Section 16-G](#) of U.P. Intermediate Education Act, 1921 is no longer res-integra. The Division Bench of this Court in the case of Committee of Management Sri Mahanthu Radha Krishna Inter College, Sakarpura, Distt. Vallia v. District Inspector of Schools and another, 1988 UPLBEC 226(1), has held as under :

"As discussed earlier, a District Inspector of Schools while exercising power under sub-section (7) of Section 16-G acts in a supervisory capacity, and his decision may have adverse effect on either party which is before him. Since the party affected adversely by his order invariably comes to Court, he must record brief reasons for according or refusing to accord approval to an order of suspension passed by a Committee of Management although a detailed judgment is not required. In the present case, the

District Inspector of Schools has disapproved the resolution of the Committee of Management without giving any reason whatsoever. In absence of any reason, this Court is unable to find fault with the resolution of the Committee of Management suspending the respondent No. 2. Therefore the order of the District Inspector of Schools must be held to be illegal and arbitrary."

It has been held by another Division Bench of this Court in the case of [Tejnarain Singh v. State of U.P. and others](#), 2008(4) ESC 2301 (DB), as under:

"We are of the considered opinion that the District Inspector of Schools, while exercising the power under Section 16-G (7), has only to examine on prima facie basis as to whether the charges have any substance and as to whether there is material available in support of the charges. He is not required to enter into any disputed issue as to whether charge would be finally made out or not. The issue in that regard has to be examined in departmental enquiry to be held against the Principal."

6. In view of the Division Bench decisions of this Court supra, we are of the considered opinion that recording of reasons while approving or disapproving the suspension order is sine-qua-non and if no reasons are recorded by the District Inspector of Schools, the order would be vitiated and cannot be upheld.

31. Placing reliance on the aforesaid decision of this court, Shri Y.K. Saxena, Advocate appearing on behalf of respondents submits that since the D.I.O.S. in exercise of his powers under Section 16-G (7), which are supervisory in nature, is only required to examine as to whether the charges have any substance on prima facie cases and as to whether there are material available in support of the charges; and he cannot examine the charges on its merits, as such the statements on behalf of Management and the documents supplied, were only prima facie examined and no finding has been recorded but the reasons for approval; and in this view of the fact also, for want of supply of the inquiry report or the statements, the approval order cannot be said to be suffering from the vice of illegality.

32. He further places reliance on the decision of this Court in the case of [Tej Narain Singh Vs. State of U.P. and Ors¹¹](#), to submit that the D.I.O.S. while exercising the powers under Section 16-G (7) is only required to look into the material available in support of the charge and since he is not required to enter into any dispute, as to whether the charges would be finally made out or not, no prejudice shall be caused to the delinquent employee, for want of supply of the said documents; but however in case he approaches the Authorities concerned, his objection can be examined to the extent that, as to whether requirement as envisaged under the Regulation 39-A is being met; and in case on the representation of the employee, the Inspector is of the view that there is a defect in the resolution of the Committee of Management, it is only in that circumstance an opportunity is to be afforded to the Management, as has been held in the case of [Committee of Management of Maharajganj Inter College](#) (supra).

33. Reliance has also been placed upon a Division Bench decision in the case of The Managing Committee Dayanand Inter College, Gorakhpur and Another Vs. The D.I.O.S. and Others¹²; wherein the Division Bench of this Court in the backdrop of a well settled rule of

interpretation that, interpretation ought to be placed which may result in suppressing the mischief and advancing the object or the remedy, held that in order to check the Head of the Institutions, Teachers and other employees not to be subjected to arbitrary suspension orders passed by the Management, the legislature considers it necessary to introduce a provision by way of U.P. Secondary Education Laws (Amendment) Act, 1975 to mitigate this arbitrariness; and accordingly the interpretation has to be made of the provision, to ensure that an umbrella of protection is not removed, by way of harmonious interpretation of the Rules and Regulations, governing the field.

34. In the facts of the case, it was held that the Management, apart from requirement of sending report containing particulars which may be prescribed and the relevant documents, it has in law no right to be afforded an opportunity at the stage where the Inspector considers the question of approval or disapproval of the order of suspension. For ready reference Para-17 of the judgment in the case of The Managing Committee, Dayanand Inter College (supra) is reproduced below:

17. In regard to the next submission of the learned counsel that in absence of any opportunity having been afforded to the management, the impugned order against respondent no. 3 would stand vitiated in law. Here again we are unable to agree. In view of our analysis of the provisions above we are clearly of the view that at the stage where the Inspector considers the question of approval or disapproval of the order of suspension, the management, apart from the requirement of sending the report containing particulars as may be prescribed and the relevant documents, it has in law no right to be afforded an opportunity as contemplated in sub-section (8). The present was not a case of revocation of an already approved order of suspension.

35. From the analysis of the various judgments cited across the Bar, there appears to be prima facie contradictions on the point in issue, which are now being discussed herein below: -

I. In the case of [Hari Singh Rajput](#) (supra), the Division Bench of this Court has laid down the ratio that an opportunity of being heard ought to be granted to the Teacher, Principal and the Management. For ready reference, the relevant extract is reproduced below:

When the District Inspector of Schools considers whether to approve an order of suspension under [Section 16-G](#) of the Act, it is a well settled principle of law that an opportunity of being heard ought to be granted to the teacher, the Principal and the Management. Moreover, it is also a well settled principle of law that the District Inspector of Schools must pass a reasoned order indicating at least brief reasons for granting his approval or, as the case may be, disapproval to the suspension of a teacher.

II. In [Satya Pal Singh](#) (supra) , the Court expressed its opinion that at the stage when the order of suspension is being approved and the Inspector is required to apply his mind, it is at this stage, a bare minimum opportunity of hearing is required to be given to the suspended Teacher or the Principal, as the case may be; as the papers forwarded by the Committee of Management under [Regulation 39](#) only contains reasons which are one sided and the other side of the coin should also be considered; consequently opined

that the Inspector is required to give an opportunity of hearing to the suspended Teacher or the Principal, before approving or disapproving the order of suspension. The same has also been considered with approval in the case of [Deshraj Singh](#) (supra) case. For ready reference, [Para-12 of the Satya Pal Malik](#) (supra) is reproduced below:

12. Under Clause (5) of Section 16-G, the Committee of Management could suspend a teacher or a Head of the Institution on certain grounds mentioned therein. The order was forwarded under clause(6) along with the papers prescribed under [Regulation 39](#) of Chapter-III. These papers were required to be considered and the Inspector was required to apply his mind and was required to give the reasons while according approval or disapproval of the suspension order. In the present case, no reasons have been recorded and, therefore it is clear, that the Inspector did not apply his mind to the facts and the circumstances of the case. There is another aspect of the matter. The Committee of Management while issuing the suspension order is not required to give an opportunity of hearing to the teacher or the head of the institution. Therefore, at the stage when the order of suspension is being approved and the Inspector is required to apply his mind, it is at that stage, a bare minimum opportunity of hearing is required to be given to the suspended teacher or the Principal, as the case may be. This is the bare minimum requirement of the principles of natural justice, which is required to be given at that time, by the Inspector, while approving or disapproving the suspension order. This is on account of the fact, that the papers forwarded by the Committee of Management under [Regulation 39](#) of Chapter in may contain the reasons, which are only one sided. The other side of the coin should also be considered and that is when the suspended teacher or the Principal would come into the picture. Consequently, in the opinion of the Court, the Inspector is also required to give an opportunity of hearing and hear the version of the suspended teacher, or the principal before approving or disapproving the order of suspension. In the present case, no opportunity of hearing was provided to the petitioner."

III. In the case of [Committee of Management Maharajganj Inter College](#) (supra), this Court held that if the suspension is to be disapproved on consideration of any defect pointed out by the concerned teacher, by means of a representation, an opportunity has to be afforded by the Management before disapproving of the suspension, on any such defect in the proceeding. The relevant extract of the judgment is reproduced below:

If the suspension is to be disapproved on consideration of any defect pointed out by the concerned teacher by means of representation, opportunity has to be afforded to the Management before disapproving of the suspension on any such defect in the proceedings.

IV. In Ram Kripal Katiyar (supra) case, this Court held that in absence of any statutory provision, wherein any opportunity is required to be given while considering the grant of approval, there is no requirement of giving an opportunity of hearing; however, though the Inspector at this stage could not embark upon the merits of the charges and hold a parallel inquiry, as [Regulation 39](#) does not require furnishing proof of charges; but the consideration is only to be confined, to the documents forwarded in consonance

with [Regulation 39](#), with the order of the suspension i.e. details of charges, certified copies of complaints, reports and preliminary inquiry reports, if any etc. in order to find out as to whether charges are non est and does not constitute misconduct.

V. The said observation was also in the backdrop that it is a well-settled legal position that the order of suspension is not punishment, therefore while placing delinquent employee under suspension, no notice or show cause or any opportunity of hearing is mandatory; and the only requirement is that there must exist some prima facie misconduct and for which the departmental proceeding is under contemplation or is already initiated. The said order is only an administrative order and not a quasi-judicial order and therefore, it is not necessary to obtain explanation of the Government servant before placing him/her under suspension.

For ready reference, Paragraph Nos. 4, 5, 6 and 7, of Shri Ram Kripal Katiyar (supra) are reproduced below:

4. From a perusal of the above provision, it is evident that the Committee of Management has jurisdiction to place head of the institution or a teacher under suspension but it has to report to the District Inspector of Schools about such order of suspension and the same would be operative for a period of sixty days unless approved by the District Inspector of Schools. Sub-section (8) of [Section 16-G](#) of the Act further empowers the District Inspector of Schools to revoke the order of suspension passed under [Section 16-G \(6\)](#) of the Act, if it is found that the disciplinary proceeding is being delayed for no fault of the delinquent teacher after affording opportunity to the Committee of Management to make representation. Obviously, the Legislature provided for taking approval of the District Inspector of Schools by introducing sub-section (7) to protect the head of the institution or the teacher from arbitrary and mala fide order of suspension.

5. In the instant case it is admitted position that the District Inspector of Schools has given approval. The only grouse of the appellant is that opportunity of hearing ought to have been extended while considering the grant of approval. In support of this contention, Sri P.K. Jain, learned counsel for the appellant could not point out any statutory provision wherein such opportunity was necessary. While considering the grant of approval the District Inspector of Schools is required to ensure that there exists some reasonable ground for proceeding against the head of institution or teacher and there exists necessary reason to place him under suspension. However, while considering the grant of approval he would not embark upon the merits of charges. In other words, he cannot hold a parallel inquiry as [Regulation 39](#) does not require furnishing proof of charges. Under [Regulation 39](#) the Committee of Management is required to forward together with the order of suspension, details of charges, certified copies of complaints, reports and inquiry report, if any, etc. in order to find out as to whether charges are non-est or does not constitute misconduct. [The Act](#) and the Regulation nowhere envisages about providing opportunity of hearing at the stage of grant of approval by the District Inspector of Schools. However, the person aggrieved by such resolution of the Committee of Management can approach the District Inspector of

Schools straightaway to show that the order of suspension is not justified or warranted in the facts of the case. In the case of *Govind Swarup Pandey v. Authorized Controller, Adarsh Inter College, Manikpur Banda and another*, 1981 UPLBEC 17, this Court has held that it is open to the person aggrieved to approach the District Inspector of Schools straightaway and to satisfy him that the order of suspension has been passed illegally or mala fide even undeservedly. No reason or explanation has come before us as to what prevented the appellant from approaching the District Inspector of Schools against the decision of the Committee of Management placing him under suspension. It is well settled legal position that the order of suspension is not a punishment and, therefore, while placing a delinquent employee under suspension, no notice or show cause or any opportunity of hearing is mandatory. The only requirement is that there must exist some prima facie misconduct on the part of the employee and for which regular departmental proceeding is under contemplation or is already initiated.

6. In the case of [Badri Prasad v. President, District Board, Mirzapur](#), AIR 1952 All 681, a Division Bench of this Court has held that the order of suspension in a pending departmental enquiry is something temporary and does not involve punishment. Similar view has been expressed by the Apex Court in the case of [Khem Chand v. Union of India and others](#), AIR 1963 SC 687, where in para 15, Their Lordships observed that the real effect of the order of suspension is that the employee continues to be a Government servant except that he is not permitted to work.

7. The employer or the appointing authority before taking decision to initiate proceeding may hold a fact finding inquiry wherein the employee cannot claim right to be heard or to participate. Right of delinquent employee of hearing or affording opportunity arises only from the stage when the charges are framed against him in the disciplinary proceeding and not at any stage anterior to the framing of charges. The order suspending an employee in a pending proceeding or contemplated proceeding is not a quasi judicial order but an administrative order and, therefore, it is not necessary to obtain explanation of the Government servant before placing him under suspension. At the time of passing of order of suspension the authority is only required to consider that the alleged charge does not appear to be groundless, non-est or mala fide and it requires inquiry, and to hold fair inquiry it is necessary to keep him away from duty. [See [Mohd. Ghouse v. State of Andhra Pradesh](#), AIR 1957 SC 246]. We are, therefore, clearly of the view that at the stage of passing of order of suspension in a contemplated or pending departmental proceeding, there is no requirement of any opportunity of hearing to the Government servant or even to call for show cause. Thus, in view of the above legal position, non-affording of opportunity of hearing to the petitioner-appellant would not vitiate the impugned order of suspension.

VI. In the case of *The Managing Committee, Dayanand Inter College (supra)* in Para-17, this Court after its analysis the provisions, held that at the stage where the Inspector considers the question of approval or disapproval of the order of suspension, the Management apart from the requirement of sending the report containing particulars as may be prescribed and the relevant documents, it has in law no right to afford an opportunity as contemplated in [sub-section 8](#).

17. In regard to the next submission of the learned counsel that in absence of any opportunity having been afforded to the management, the impugned order against respondent no. 3 would stand vitiated in law. Here again we are unable to agree. In view of our analysis of the provisions above we are clearly of the view that at the stage where the Inspector considers the question of approval or disapproval of the order of suspension, the management apart from the requirement of sending the report containing particulars as may be prescribed and the relevant documents, it has in law no right to be afforded an opportunity as contemplated in sub-section (8). The present was not a case of revocation of an already approved order of suspension.

36. From the aforesaid discussion and consideration of various judgments, this Court has no hesitation to hold that while exercising the power under Section 16-G (7), the Inspector is only required to form his subjective satisfaction and to examine a prima facie case, as to whether the charges have any substance; and the said satisfaction is to be based on the material which is available before him i.e. material which has been forwarded by the Management along with the order of suspension, for his consideration, to either approve the suspension or disapprove the suspension; and he is not required to enter into any issue, examining the same on merit; since the issue in that regard has to be examined in the departmental inquiry, to be held.

37. The second ratio which emerges is also a settled principle of law that the D.I.O.S. must pass a reasoned order indicating reasons in brief, so as not to touch the merit of the charges; but a prima facie view in approving or disapproving the suspension order.

38. The third contentious issue which this Court finds is in conflict, is the issue of adherence to the principles of natural justice, at the stage of approval or disapproval of the suspension order, under [Section 16-G](#) of the Act, 1921.

39. While this Court finds that in the case of [Hari Singh Rajput](#) (supra), [Satya Pal Singh](#) (supra), [Deshraj Singh](#) (supra), and [Committee of Management, Maharajganj Inter College](#) (supra), the Division Bench of this court has opined that an opportunity of hearing is to be accorded to the Management, the Teacher or the Principal, as the case may be; whereas in the case of Ram Kripal Katiyar (supra), and The Managing Committee Dayanand Inter College (supra), in their considered view, in absence of any specific statutory provision, has held that opportunity of hearing at the stage of grant of approval by the D.I.O.S. is not necessary.

40. However, in the case of [Committee of Management Janta Inter College](#) (supra), this Court held that though the opportunity of hearing at the stage of grant of approval or disapproval is not required to be afforded to the Management or the employee; but if the employee has submitted any representation or objection against the order of suspension, then the D.I.O.S. shall afford an opportunity of hearing to the Management and the concerned employee, while passing order of approval or disapproval, which must contain brief reasons.

41. It is also no longer res integra that in case a Single Judge of the High Court is inclined to defer from the view taken by the earlier Division Bench or Single Judge of the High Court, he should refer the matter to a Large Bench or place the papers before the Honble Chief Justice, to enable him to constitute a Larger Bench; and the same has been considered as a healthy

principles of judicial decorum and propriety. However, here is a situation, where this Court prima facie finds that there is a conflict in the ratio between two Division Bench; and therefore it shall not be appropriate for this court to give its opinion to agree or disagree with the ratio of either of the decisions rendered by the Division Bench.

42. For ready reference, Para-18 of the decision in the case of [Lala Shri Bhagwan and Another Vs. Ram Chand and Another](#)¹³ is reproduced below:

18. Before we part with this appeal, however, we ought to point out that it would have been appropriate if the learned single Judge had not taken upon himself to consider the question as to whether the earlier decisions of the Division Benches of the High Court needed to be re-considered and revised. It is plain that the said decisions had not been directly or even by necessary implication overruled by any decision of this Court, indeed, the judgment delivered by the learned single Judge shows that he was persuaded to re-examine the matter himself and in fact he had substantially recorded his conclusion that the earlier decisions were erroneous even before his attention was drawn to the decision of this Court in Laxman Purshottam Pimputkar's case (1964) 1 SCR 200: (AIR 1964 SC 436) (supra). It is hardly necessary to emphasise that considerations of judicial propriety and decorum require that if a learned single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a single Judge, need to be reconsidered, he should not embark upon that enquiry sitting as a single Judge, but should refer the matter to a Division Bench or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety. It is to be regretted that the learned single Judge departed from this traditional way in the present case and chose to examine the question himself.

(Ref: [Central Board of Dawoodi Bohra Community and Another Vs. State of Maharashtra and Another](#)¹⁴; [Union of India and Another Vs. Raghubir Singh \(Dead\) By Lrs.](#) ETC.¹⁵; and [Mahadeolal Kanodia Vs. Administrator-General of West Bengal](#)¹⁶)

43. In view of the aforesaid facts, I am of the considered view that following questions arise for consideration by a larger Bench:

(I) While exercising powers under Section 16-G (6) read with sub-clause (7) of the [U.P. Intermediate Education Act, 1921](#) at the stage of approval or disapproval of the suspension order being passed under Section 16-G (5) and the same being forwarded to the D.I.O.S. together with the particulars and documents, as provided in [Regulation 39](#) of Chapter III framed under the Act, whether any opportunity of hearing ought be extended to the Management, Teacher or the Principal, as the case may be.

44. Since also, prima facie, it appears that entire proceeding which has been initiated against the petitioner and also the resultant exercise to pass a suspension order, as against the petitioner appears to have emancipated from the inquiry which was setup by the District Authorities; where as it is no longer res integra that the initiation of the proceedings is

outside the realm of the District Authorities and within the sole domain of the Educational Authorities, and as such it is hereby provided that the impugned order dated 04.08.2026 as well as the order dated 01.07.2026, shall be kept in abeyance, in the meantime.

45. Accordingly, let the papers of this case be placed before Honble The Chief Justice, for consideration, to constitute an appropriate bench to hear the matter.

(Siddharth Nandan,J.) October 1, 2026 Sumit K.