

Prof. Ashish Wakhlu vs Prof. M L Bhatt Vice Chancellor K.G.M.C. ... on 5 October, 2026

Author: [Pankaj Bhatia](#)

Bench: [Pankaj Bhatia](#)

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW

CONTEMPT APPLICATION (CIVIL) No. – 936 of 2020

Prof. Ashish Wakhlu

... Petitioners

Versus

Prof. M L Bhatt Vice Chancellor K.G.M.C. Lucknow And Ors.

...Respondents

Counsel for Petitioner(s)

:

Aakash Prasad, Abhishek Dwivedi, Amitav Singh, Anumita Chandra, Dr. V.K. Singh, Sandeep Kumar Ojha, Shubham Singh

Counsel for Respondent(s)

:

Abhinav Trivedi, Lalita Prasad Misra, Shubham Tripathi

CONNECTED WITH

WRIT – A No. – 29638 of 2018

Prof Ashish Wakhlu

... Petitioners

Versus

Hon'ble Chancellor King George Medical University Lko. And Ors.

... Respondents

Counsel for Petitioner(s)

:

Dr. V.K. Singh, Aakash Prasad, Amitav Singh, Rupesh Kumar Kasaudhan

Counsel for Respondent(s)

:

Sameer Kalia, Abhinav N.Trivedi, Kumar Ayush, Shubham Tripathi

A N D

WRIT – A No. – 35784 of 2018

Prof Ashish Wakhlu

... Petitioners

Versus

HonBle Chancellor King George Medical University Lko. And Ors.

...Respondents

Counsel for Petitioner(s)

:

Dr. V.K. Singh, Aakash Prasad, Amitav Singh, Anumita Chandra, Ashwani Kumar Singh, Sandeep Kumar Ojha

Counsel for Respondent(s)

:

Sameer Kalia, Abhinav N.Trivedi, Kumar Ayush, Shubham Tripathi

A N D

WRIT – A No. – 18642 of 2019

Prof Ashish Wakhlu

... Petitioners

Versus

King George Medical University Lucknow Thru Registrar And Ors.

...Respondents

Counsel for Petitioner(s)

:

Dr. V.K. Singh, Aakash Prasad, Amitav Singh, P.R.S. Bajpai

Counsel for Respondent(s)

:

Abhinav N. Trivedi, Amit Dwivedi, Shubham Tripathi

A N D

WRIT – A No. – 33626 of 2019

Prof. Ashish Wakhlu

... Petitioners

Versus

State Of U.P. Thru Addl. Chief Secy. Medical Education Lko and Ors.

...Respondents

Counsel for Petitioner(s)

:

Dr. V.K. Singh, Aakash Prasad, Amitav Singh, Harsh Tripathi, Shubham Tripathi

Counsel for Respondent(s)

:

C.S.C., Abhinav N Trivedi, Kumar Ayush, Sameer Kalia

A N D

WRIT – A No. – 3840 of 2021

Dr. Ashish Wakhlu

... Petitioners

Versus

King George Medical University Lko. Thru. Registrar And Ors.

... Respondents

Counsel for Petitioner(s)

:

Dr. V.K. Singh, Aakash Prasad, Amarjeet Singh Rakhra, Amitav Singh, Anumita Chandra, Dharmendra Kumar Dixit, Madhusudhan

Counsel for Respondent(s)

:

Abhinav Trivedi, Abhinav Trivedi, Akansha Dubey, Lalita Prasad Misra, Shubham Tripathi

Reserved: 15.07.2026

Pronounced: 05.10.2026

Court No. 6

HON'BLE PANKAJ BHATIA, J.

J U D G M E N T

1. All the Writ Petitions and the Contempt Application are being heard together in terms of the directions issued by the Honble Supreme Court.
2. Writ A No.29638 of 2018 was preferred by the petitioner for quashing the Preliminary Inquiry Report dated 25.09.2017 submitted by a three member fact-finding committee, the constitution of the Disciplinary Committee as well as the Notice dated 24.09.2018 communicating the same to the petitioner.
3. Writ A No.35784 of 2018 was preferred by the petitioner challenging the questionnaire dated 01.12.2018 issued to the petitioner by the Disciplinary Committee asking for certain point-wise answers for appropriately framing the Charge Sheet.
4. Writ - A No.33626 of 2019 has been filed by the petitioner challenging the order dated 19.10.2019 whereby the petitioner was placed under suspension on the recommendation of the Disciplinary Committee.
5. Contempt Application (Civil) No. 936 of 2020 was filed by the petitioner alleging deliberate and willful disobedience of the interim order dated 20.12.2018 passed in Writ A No.35784 of 2018 as well as order dated 05.12.2019 passed in Writ A No. 33626 of 2019 by this Court.
6. Writ A No.18642 of 2019 was preferred by the petitioner challenging the Charge Sheet dated 14.06.2019.

7. Writ A No.3840 of 2021 was preferred by the petitioner ultimately challenging the order of termination passed against the petitioner on 10.06.2020.

SEQUENCE OF EVENTS :

8. The petitioner was appointed as an Assistant Professor in the Department of Pediatric Surgery on the respondent/College on 28.01.1999 and was promoted to the post of Associate Professor in 2003 and as Professor in 2005. It is claimed that on 27.10.2009, a meeting was convened by the then Vice Chancellor with different departments regarding implementation and designing of Central Patient Management System (CPMS) in the KGMU. On 02.12.2009, the Registrar informed all the Heads of the Department regarding an in-house study for requirement of CPMS. On 19.03.2010, the petitioner was appointed as Nodal Officer for implementation of the CPMS in pursuance of the decision of the Executive Council in its meeting held on 06.03.2010. On 02.11.2010, work order was released for implementation of the CPMS to M/s Fluid Fantasy. Subsequently, on account of some complaints being made, a Three Member IT Committee was formed on 15.05.2014 to inquire into the complaints made by Dr. Sandeep Bhattacharya, Prof. of Physiology, KGMU regarding irregularities committed by the petitioner in implementation of the CPMS and a report was submitted by the said Committee that the CPMS should be made completely functional and the remaining work should be completed within time. In furtherance of the said, M/s Fluid Fantasy submitted a proposal on 30.06.2014.

9. On 16.05.2017, a meeting was held under the chairmanship of Vice Chancellor, AKTU wherein adverse observations were made against the petitioner with regard to the financial irregularities committed by the petitioner in collusion with a firm which was allotted the execution of the work. On 22.05.2017, the committee constituted under the chairmanship of the Vice Chancellor, AKTU, recommended an inquiry by the Economic Offences Wing (EOW). On 29.08.2017, in a local audit inspection report sent to the Finance Officer, objections were raised regarding the payment of Rs.90 Lakhs to M/s Fluid Fantasy in the process of implementation of CPMS.

10. In furtherance of the said audit inspection, a Three Member Fact Finding Committee was constituted on 31.08.2017 to look into the objections raised by the local audit report and to ascertain the guilt in the alleged irregularities. Ultimately, on 25.09.2017, a Three Member Fact Finding Committee under the Vice Chancellor, AKTU recommended the inquiry to be done through police/competent agency to know the actual money transaction in respect of the audit objections. It recommended initiation of proceedings for necessary action against the petitioner who was found running a business company, Algorithm Infoweb Pvt. Ltd. in violation of the U.P. Government Servant Conduct Rules, 1956 and further directed for a separate inquiry by the competent authority for marketing the intellectual property of KGMU. The same was done in furtherance of a complaint made on 14.09.2017 by Dr. O.P. Prakash who had alleged that the petitioner has a business and has sold the CPMS software which was intellectual property of the KGMU.

11. In view of the gravity of the allegations, on 13.10.2017, the Executive Council constituted a Six Member Disciplinary Committee to inquire into the audit objections and the report of the Fact Finding Committee constituted vide letter dated 31.08.2017.

12. On 02.06.2018, Executive Council vide its resolution reconstituted the Disciplinary Committee in view of the two members of the Disciplinary Committee expressing their inability to be a part of it. The said newly constituted committee comprised of six persons.

13. On 28.06.2018, the objections of the Local Audit Department were dropped by the Joint Director, Local Audit Department, Allahabad, and in view thereof, on 02.08.2018, the Executive Council dropped the audit objection allegations to resolve that the other complaints received through the office of the Chancellor as well as other sources require further investigation, and a decision was taken to continue the committee for further investigation.

14. On 24.09.2018, the petitioner was informed by the Registrar regarding the constitution of the Six Member Disciplinary Committee. The Disciplinary Committee, before framing any charge, took a decision to seek certain information.

15. At this stage, the petitioner preferred Writ A No.29638 of 2018 challenging the Preliminary Inquiry Report dated 25.09.2017 mainly on the ground that the petitioner was not associated with this report as well as the Notice dated 24.09.2018, whereby the Disciplinary Committee was constituted. The said writ petition was heard on 16.11.2018 and the judgment was reserved, although no interim orders were passed.

16. On 01.12.2018, in furtherance of the decision of the Disciplinary Committee, the Registrar issued a letter/questionnaire to the petitioner. On 07.12.2018, the petitioner before replying to the questionnaire asked for certain documents and on 13.12.2018, a modified questionnaire was sent by the Registrar to the petitioner.

17. At this stage, the petitioner preferred Writ - A No.35784 of 2018 challenging the questionnaire issued to the petitioner, however, no challenge was made to the modified questionnaire dated 13.12.2018. The writ petition was heard on 20.12.2018 and an interim order came to be passed permitting the respondents to conclude the disciplinary inquiry, but no final order was directed to be passed till the delivery of the judgment in Writ - A No.29638 of 2018. The order dated 20.12.2018 reads as under:

Heard learned counsel for the parties.

The petitioner is challenging the inquiry report and the constitution of the disciplinary proceeding in Writ Petition No.29638 (S/S) of 2018, in which judgment has been reserved on 16.11.2018, which is under dictation.

On the basis of the inquiry report, the respondents have proceeded to conclude the disciplinary proceeding.

In view of the above, prima facie case has been made out for the grant of interim order.

Respondents are permitted to conclude the disciplinary proceeding, but no final order shall be passed till the delivery of the judgment in the aforesaid writ petition.

18. On 06.02.2019, ultimately Writ A No. 29638 of 2018 was released by the Hon'ble Judge who had reserved the judgment and directions were issued for placing the same before Hon'ble the Chief Justice for nominating another bench.

19. On 25.05.2019, the Executive Council approved the Charge Sheet framed by the Disciplinary Committee and granted two weeks' time to the petitioner to file reply to the same.

20. On 14.06.2019, the Charge Sheet containing 9 Pages was issued along with its annexure (200 pages).

21. At this stage, the petitioner preferred a third Writ Petition being Writ A No.18642 of 2019 challenging the Charge Sheet mainly on the ground that it violated the Statutes and the Rules. While doing so, the petitioner had annexed the entire Charge Sheet received by him along with annexures. Despite having the copy of the Charge Sheet which was annexed as Annexure - 1 to Writ A No.18642 of 2019, the petitioner failed to file a reply to the same. The Disciplinary Committee recommended the Executive Council to place the petitioner under suspension in exercise of its power under Statute 11.11(4)(iii) of the First Statute of KGMU, 2011 and in terms of the same, the Executive Council resolved to suspend the petitioner vide order dated 19.10.2019.

22. On 11.11.2019, the petitioner instead of filing a reply to the Charge Sheet asked for about 20 documents and about 70 witnesses to be examined vide its letter dated 11.11.2019 along with video recording of the proceedings and for providing the legal assistance.

On the said request, the Disciplinary Committee asked the petitioner to submit the notarized affidavits of the persons he wants to be cross-examined and the petitioner was further directed to file a reply to the Charge Sheet within 7 days, failing which the Committee will proceed ex-parte.

23. At this stage, the petitioner preferred a fourth Writ Petition being Writ A No. 33626 of 2019 challenging the suspension order dated 19.10.2019. On the said writ petition, an order came to be passed by this Court staying the suspension order with direction to the petitioner to participate and cooperate in the disciplinary proceedings.

24. Despite the same, the petitioner did not file the reply to the Charge Sheet nor did he file the notarized affidavit of the witnesses as was directed by the communication dated 11.11.2019; the Registrar claims to have given the documents requested by the petitioner on 11.11.2019. It is argued that seven departmental witnesses appeared, verified documents and submitted statements in presence of the petitioner, who was also afforded opportunity to cross-examine but he refused to cross-examine the witnesses.

25. On the next date fixed before the Committee i.e. 23.12.2019, the petitioner failed to appear on the ground that on account of winter vacations he could not be present. On the said date also, the Disciplinary Committee resolved that the petitioner may be permitted to inspect the records and ask for copies which are part of the record and not provided to him and he was directed to file a reply to the Charge Sheet within 15 days. The petitioner was also informed that 11.01.2020 was the next date fixed.

26. On 11.01.2020, the petitioner was present before the Disciplinary Committee but did not submit his reply to the Charge Sheet despite several opportunities.

27. On 04.02.2020, the petitioner inspected the records and asked for documents to which the Disciplinary Committee found that the copies of the documents required by him were not relevant as they were not the relied upon evidences in support of the charges. On the said date, the committee recalled its order of proceeding ex-parte and granted a last opportunity of 15 days to the petitioner to file his reply to the Charge Sheet.

28. On 22.02.2020, the Disciplinary Committee found that the request by the petitioner for providing 2000 and odd pages documents was not relevant and also his request for grant of 4 months time for filing a reply to the Charge Sheet was not justified and ultimately, the Committee directed the departmental witnesses to be examined on the next date i.e. 26.02.2020 with a rider that no adjournment would be granted and the petitioner would be free to cross-examine. It was further recorded that no further opportunity shall be granted and in the absence of any reply, the proceedings will take place ex parte.

29. On 26.02.2020, seven departmental witnesses were examined and the petitioner chose to cross-examine only five of them. The petitioner was not allowed to be assisted by a legal practitioner as he did not submit a reply to the Charge Sheet and the Presenting Officer was not legally trained.

30. On 05.03.2020 - the next date fixed - the petitioner was granted an opportunity to make oral submissions, which he did not do so and on the next date, proceedings were closed and a decision was taken to submit the inquiry report to the appointing authority of the petitioner i.e. the Executive Council.

31. On 15.03.2020, the Inquiry Committee comprising of Vice Chancellor as its Chairman, Justice Mr. S.C. Verma (Retd.), Shri Harcharan, District Judge (Retd.), Shri Umesh Chandra, District Judge (Retd.), submitted an opinion stating that the cause raised by the petitioner in the Writ - A No. 35784 of 2019 was rendered infructuous in view of the fact that the questionnaires impugned in the said writ petition were never relied upon.

32. In view of this said opinion, on 19.03.2020, the Executive Council Committee resolved to issue a show cause notice to the petitioner giving him two weeks time to submit his reply to the inquiry report.

33. On 24.03.2020, instead of submitting a reply to the show cause notice, the petitioner submitted a letter dated 24.03.2020 asking for certain clarifications/inquiry report served upon him.

34. On 08.04.2020, the matter was placed before the Executive Council who gave one week further time to the petitioner to give his reply. Ultimately, as no reply was submitted by the petitioner, the Executive Council took a decision on 08.06.2020 to impose a penalty of termination from service, which order was communicated to the petitioner on 10.06.2020. The order of termination and its communication although were challenged by the petitioner by filing a fifth writ petition being Writ A No. 3840 of 2021.

35. It is also essential to notice that a contempt application being Contempt Application (Civil) No.936 of 2020 was preferred for willful and deliberate disobedience of the order dated 20.12.2018 passed by this Court in Writ - A No.35784 of 2018 and the order dated 05.12.2019 passed in Writ - A No.33626 of 2019.

36. On the said application, notices were issued to the respondents on 19.06.2020 and on some respondents on 12.08.2021. Subsequently, on account of change of the Vice-Chancellor, an impleadment application was allowed and notices were issued to the subsequent Vice-Chancellor on 08.02.2022.

37. Subsequently, an application was filed for deferment of hearing of the contempt application, which was rejected by this Court on 07.04.2022. Respondents challenged the order dated 08.02.2022 and 07.04.2022 passed in Contempt Application (Civil) No.936 of 2020 by preferring SLP No. 6899/6900 of 2022 and an interim order was passed by the Honble Supreme Court staying the operation and effect of the orders dated 08.02.2022 and 07.04.2022 with further direction to keep the contempt proceedings in abeyance.

38. The said interim order was extended vide order dated 11.08.2022. Ultimately, Civil Appeal Nos.5455-5456 of 2022 came to be dismissed by the Hon'ble Supreme Court.

39. On 08.05.2024, the impleadment application for impleading the new members and office bearers of the Executive Council was allowed.

40. Challenging the said order dated 08.05.2024, Special Appeal No.125 of 2024 was preferred on 27.05.2024 which was disposed off vide order dated 30.05.2024 permitting the appellant/respondent herein to move an application for discharge of the notices issued to them with a further request to the Contempt Judge to consider as to whether the appellants were liable for proceeding under the [Contempt of Courts Act](#).

41. The petitioner herein challenged the order dated 30.05.2024 passed by the learned Division Bench before the Hon'ble Supreme Court, however, the Supreme Court refused to interfere with the said order vide its order dated 19.07.2024 passed in SLP (C) No.14479 of 2024. It was, however, clarified that the learned Single Judge would not be influenced by the observations made by the Special Appeal Court.

42. Ultimately, Contempt Application (Civil) No.936 of 2020 came to be dismissed by this Court vide its judgment dated 23.09.2024. The said order dated 23.09.2024 was once again challenged by the petitioner before the Hon'ble Supreme Court by preferring SLP (C) No.27468 of 2024 which was subsequently converted and decided as Civil Appeal No.13016 of 2025 vide judgment dated 27.10.2025, with the following observations:

5. We do not propose to enter into the rival contention. It is evident that once an interim order was in operation from 20th December 2018 and was being extended from time to time, the mere release of the matter on 6th February 2019 could not have constituted a valid ground for violating the order dated 20th December 2018.

6. On this short ground, the appeal deserves to be allowed. The impugned judgment and order dated 23rd September 2024 passed by the Single Judge of the High Court of Judicature at Allahabad, Lucknow Bench is quashed and set aside. The matter is remitted back to the High Court for considering the contempt petition afresh.

7. The High Court may also consider taking up the other connected matters, if any, and hear them together for effective adjudication.

8. Pending application(s), if any, stand(s) disposed of.

ARGUMENTS ON BEHALF OF THE PETITIONERS :

43. Learned counsel for the petitioner argues that the impugned order of termination dated 10.06.2020 passed by the respondents, is ex facie illegal, arbitrary, unsustainable in law and has been passed in flagrant violation of the interim orders passed by this Hon'ble Court. It is further argued that the impugned termination order has been passed without fulfilling the mandatory pre-condition under Clause 10.01(14) of the First Statutes, 2011, as no recommendation was ever made by the Vice-Chancellor to the Executive Committee to terminate services of the Petitioner. It is also argued that the impugned termination order stands vitiated as it was passed without considering the Petitioner's reply to the Show Cause Notice dated 19.03.2020.

44. He further argues that the impugned order of termination has been passed in patent violation of Clause 10.01(14) of the First Statutes of King George's Medical University, 2011, which expressly mandates that the Executive Committee can consider termination of a teacher only upon the recommendation of the Vice-Chancellor.

45. It is argued that it is settled law that where a statute prescribes that a particular act is to be done in a particular manner, the same must be done only in the manner so prescribed or not at all. Any departure from the procedure mandated by the statute renders the action illegal and unsustainable in law. Reliance in this regard is placed upon [Babu Verghese v. Bar Council of Kerala : \(1999\) 3 SCC 422](#) and [State of Jharkhand v. Ambay Cements: MANU/SC/0977/2004](#).

46. It is argued that inspite of the respondent/University having withheld material documents from the petitioner throughout the inquiry proceedings, the petitioner submitted a detailed reply to the Show Cause Notice dated 19.03.2020 as to why his services should not be terminated on the basis of the documents available with him. The said reply was duly received by the respondent/University, however, during the peak of the COVID-19 pandemic, the reply was returned on the pretext of sanitization. Consequently, the Executive Council proceeded to take a decision without considering the defence of the petitioner, causing grave prejudice to the petitioner and vitiating the decision-making process for violation of the principles of natural justice.

47. It is argued that the impugned order of termination has been passed on the basis of an inquiry which itself stands vitiated in law, having been conducted in a manner that was arbitrary, unfair and mala fide. The inquiry was neither fair nor impartial, but was conducted with a premeditated intent to secure the termination of the petitioner, rendering the impugned order unsustainable in law.

48. It is further argued that the inquiry proceedings stand vitiated due to manipulation of the record of the disciplinary proceedings by the Disciplinary Committee. The draft charge sheet which was submitted by the Disciplinary Committee included matters which were beyond the mandate of inquiry which was entrusted to it by the Executive Council vide resolution dated 13.10.2017 and 02.08.2018, evidencing malice, bias and a premeditation to proceed against the petitioner.

49. It is next argued that the inquiry stands vitiated because the condition precedent to conducting a disciplinary inquiry is carrying out a fact finding inquiry as mandated under Clause 11.05 of the KGMU First Statutes 2011, which was never mandated by the Executive Council.

50. Next argument of the petitioner is that the inquiry further stands vitiated on account of non-supply of the complete set of material documents, due to the arbitrary denial of the petitioner's right to examine material witnesses and lead defence evidence, on account of the fact that it places reliance on statutory provisions and rules which are inapplicable to the petitioners case at hand establishing its premeditation and bias towards the petitioner, the charge-sheet failed to disclose the list of prosecution witnesses and their statements and that the charges were held proved merely on verification of documents, though the charges leveled against the petitioner were never proved by leading any oral evidence.

51. It is argued that the Disciplinary Committee framed charges against the Petitioner on the basis of a complaint dated 06.09.2017 submitted by one O.P. Prakash, who was neither an employee of the University nor otherwise connected with its administration or functioning and since the complaint emanated from a private individual, the Disciplinary Committee was mandatorily required to obtain an affidavit from the complainant before acting upon the said complaint, as mandated by Government Orders dated 01.08.1997 and 09.05.1997 applicable to the Respondent University, however, no

affidavit was obtained from the complainant/O.P. Prakash. Subsequently, when the Petitioner specifically pointed out that no affidavit had been obtained from O.P. Prakash and that, consequently, no action could be taken on his complaint, the Disciplinary Committee returned a finding that the complainant's affidavit was already on record and further observed that the petitioner was wrongly alleging before this Hon'ble Court and the University authorities that the complaint was not supported by an affidavit. It is categorically submitted that no affidavit in support of the aforesaid complaint was ever obtained, therefore, if any such affidavit forms part of the record of the disciplinary proceedings, it necessarily follows that the Disciplinary Committee either facilitated manipulation or itself manipulated the record of the proceedings.

52. It is argued that the premeditation and bias of the Disciplinary Committee is further evident from the fact that it proceeded to hold the petitioner guilty of misconduct for asserting that the complaint of O.P. Prakash was unsupported by an affidavit. On that basis, the petitioner was held guilty of providing incorrect information to higher authority i.e. Honble Court/Chancellor under Charges Nos.17, 18 and 21 of the inquiry Report dated 15.03.2020 by invoking sub-clause (5) of Statute 10.07(3) of the KGMU First Statutes, which provision was even otherwise not applicable to the facts of the present case.

53. Further, it is argued that the Disciplinary Committee also held the petitioner guilty of providing wrong information stating that the Petitioner had wrongly averred in Writ Petition No. 29638 (S/S) of 2018 that the Local Audit Objection dated 29.08.2017 was a forged document. It is pertinent to state that the Local Audit Objection which was used by the Registrar to form the inquiry Committee under the Chairmanship of Prof. Vinay Pathak vide notice dated 31.08.2017/01.09.2017 was a completely different document than the one verified by Vishwa Nath Pandey, Assistant Director Local Audit Department of KGMU which is clearly evidenced from a comparison of both the documents. Ultimately, the Disciplinary Committee proceeded to hold the Petitioner guilty under Charges Nos. 17, 18 and 21 of the inquiry Report dated 15.03.2020.

54. It is argued that the complaint of O.P. Prakash was confined to the allegation that the petitioner in association with Vikrant Kumar had formed a private company and had sold the CPMS software, allegedly constituting the intellectual property of KGMU, to AIIMS Rishikesh and AIIMS Jodhpur. In spite of the Executive Council having expressly restricted the scope of the inquiry, the Disciplinary Committee framed charges in respect of matters that had already been expressly dropped by the Executive Council. Further, in blatant disregard of the aforesaid resolution, the Disciplinary Committee proceeded to inquire into the very same allegations that had been dropped by the Executive Council and held the petitioner guilty of misconduct under Charges Nos. 1 to 7, 11 and 12 of the inquiry Report dated 15.03.2020.

The arbitrary and selective approach adopted by the Disciplinary Committee is further evident from the fact that during the course of the inquiry AIIMS Rishikesh while replying to questionnaire dated 01.12.2018 specifically informed that it is hereby confirmed that institute neither purchased an equipment/hardware/software nor taken any service from M/s Algorithm Infoweb Private Limited and M/s Fluid Fantasy in our institute. Similarly AIIMS Jodhpur had also categorically informed they were not using the CPMS software and in fact had got a different software developed specifically to meet their own institutional requirements. Further, the chargesheet did not contain evidence, whatsoever, qua the charge in question. Thus, the very allegation that the petitioner had sold the CPMS software, which formed the gravamen of the complaint of O.P. Prakash, stood substantially demolished by the material collected by the Disciplinary Committee itself. However, instead of returning a finding of not guilty, the Disciplinary Committee chose to leave Charge No.10 open for the University to take further action.

55. It is further argued that the Disciplinary Committee acted wholly without jurisdiction by enlarging the scope of the inquiry to include charges relating to matters pertaining to the CSMMU Welfare Society, an independent private society registered under the provisions of the [Societies Registration Act, 1860](#), in respect of which the University neither had any authority to institute disciplinary proceedings nor any jurisdiction to conduct an inquiry, whatsoever. The inquiry into matters pertaining to the Society was, therefore, wholly without jurisdiction and impermissible, as the University possessed no disciplinary or supervisory authority over its affairs. It is pertinent to state that respondents in Paragraph 12 of the Counter Affidavit filed on their behalf in W.P. No. 29638 (S/S) of 2018 have specifically stated that the Disciplinary Committee would not be enquiring the working of the Petitioner in the capacity of Secretary, CSMMU Welfare Society as sought to be alleged by the Petitioner. However, contrary to this categorical stand, the Disciplinary Committee not only inquired into the affairs of the CSMMU Welfare Society but also framed charges against the petitioner and returned findings of guilt under Charges Nos.8 and 9 of the inquiry Report dated 15.03.2020, which exclusively relate to the purchase of server space by the CSMMU Welfare Society.

56. Further argument is that mala fide conduct of the Disciplinary Committee is evidenced from the fact that even before the issuance of the charge sheet, the Disciplinary Committee required the petitioner to submit his reply to a questionnaire dated 01.12.2018 issued by it which was neither mandated by the Executive Council nor was it within the scope of the inquiry ordered by the Executive Council. It is argued that Charges No.15 & 22 of the inquiry Report dated 15.03.2020 has found the petitioner guilty of indiscipline and alleged violation of Clause 4 of Statute 10.07 of the First Statutes solely for not submitting his reply to questionnaire dated 01.12.2018. The findings recorded by the Disciplinary Committee are ex facie untenable as a plain reading of the aforesaid provision makes it abundantly clear that it merely obligates a teacher to faithfully carry out the lawful instructions, directions or orders issued by the competent authorities in the discharge of his duties as a teacher of the University. The said provision has no application, whatsoever, to the allegation that the Petitioner failed to submit a reply to the questionnaire dated 01.12.2018. Moreover, the said questionnaire was issued by the Registrar, who is not an "authority" within the meaning of Section 23 of the King George's Medical University Act, 2002. Consequently, Clause (4) of Statute 10.07 could not have been invoked to hold the Petitioner guilty of indiscipline under Charges Nos.15 and 22.

57. It is next argued that Clause 11.05 of the KGMU First Statutes 2011 expressly mandates that a teacher shall be terminated only after following proper laid down procedure which shall include the processing of his case through a fact-finding committee, an inquiry committee, issuing a charge sheet and a show cause notice.

58. In the present case, the Executive Council never mandated a fact-finding inquiry. Consequently, the disciplinary proceedings having been initiated directly without holding any fact-finding inquiry stand vitiated for being in contravention of Clause 11.05 of the KGMU First Statutes, 2011.

59. Reliance is placed upon a judgment passed in the case of [Umesh Kumar Singh vs. State of U.P. & Ors.](#): Writ A No.13747 of 2010 decided on 04.04.2018 to argue that it is settled position of law that defect at the initial stage renders the proceedings null and void and the same cannot be cured even at the appellate stage.

60. Next argument on behalf of the petitioner is that although the charge-sheet enclosed a list of the documents proposed to be relied upon, including the inquiry Report dated 25.09.2017 submitted by the inquiry Committee constituted by the Registrar vide notice dated 31.08.2017/01.09.2017 under the Chairmanship of Prof. Vinay Pathak, AKTU, University, only a copy of the Report, without its annexures and supporting documents, was supplied to the petitioner. The Petitioner made several requests to the Disciplinary Committee to furnish the annexures and documents relied upon in the Vinay Pathak Committee Report so as to enable him to effectively respond to the charges, however, the Disciplinary Committee rejected the requests of the Petitioner and proceeded with the inquiry. The withholding of the documents forming the very foundation of the charges levelled against the petitioner deprived him of an effective and meaningful opportunity to defend himself. The inquiry, having proceeded on material which was withheld from the petitioner, stands vitiated for violation of the principles of natural justice, rendering the impugned inquiry Report unsustainable in law.

61. The petitioner after inspecting the record of proceedings on 22.01.2020, specifically sought copies of the records pertaining to the CPMS software, which were indispensable for effectively meeting the allegations of financial irregularity levelled against him. The Disciplinary Committee rejected the request on the ground that the records were voluminous, comprising over 2,000 pages, and merely permitted inspection thereof. It is argued that if the records admittedly comprised over 2,000 pages, it was all the more imperative to furnish copies thereof to the Petitioner to enable the Petitioner to properly examine the material, analyze the allegations, and prepare an effective defense. Expecting the Petitioner to memorize 2000 pages and then prepare his reply was not only unreasonable, unfair and arbitrary but it also effectively deprived the petitioner of an opportunity to defend himself and vitiated the inquiry for violation of the principles of natural justice.

62. It is argued that the Disciplinary Committee arbitrarily denied the petitioner the right to examine material witnesses and to adduce evidence in his defence, thereby causing serious prejudice to the Petitioner and vitiating the inquiry proceedings. The Petitioner specifically sought permission to examine Prof. Vinay Pathak, the author of the Vinay Pathak Committee Report dated 25.09.2017, which was relied upon by the Disciplinary Committee. The said request was, however, rejected by the Disciplinary Committee. Consequently, the petitioner was denied the opportunity to examine the author of the report, while the annexures and supporting documents relied upon therein were also withheld from him. Despite denying the petitioner both the opportunity to examine the author of the report and access to the documents relied upon therein, the Disciplinary Committee proceeded to hold the Petitioner guilty of Charges Nos. 8 and 9 of the inquiry Report dated 15.03.2020, solely on the basis of the said report.

Reliance is placed upon judgement dated 15.04.2026 passed by this Honble Court in the matter of [Sachin Kumar & Ors. vs. Union of India & Ors.](#), passed in WRIT - A No. - 38777 of 2015, wherein this Honble Court was pleased to hold that the denial of an opportunity to cross-examine an expert whose report is relied upon in disciplinary proceedings vitiates the entire process as being violative of principles of natural justice.

63. It is further argued that it is the case of the respondent/University that the Committee Report dated 25.09.2017 was merely a preliminary inquiry report and therefore no prejudice is caused to the petitioner on account of non-supply of documents or denial of examination of Vinay Pathak. The aforesaid contention is wholly untenable in law. It is settled law that all relevant and material documents including the statement of witnesses recorded in the preliminary inquiry or during investigation are to be supplied to the delinquent officer facing the inquiry if such documents are relied in holding the charges framed against the officer and failure to do so constitutes a violation of principles of natural justice and vitiates the disciplinary proceedings. Reliance in this regard is placed upon the following judgments :

[Chandrama Tewari vs. Union of India](#) reported in [MANU/SC/0617/1987](#); [K. Prabhakar Hegde vs. Bank of Baroda](#) reported in [MANU/SC/1119/2025](#).

64. Further, the inquiry proceedings were closed on 05.03.2020 without giving the petitioner any opportunity to produce any witness or lead any evidence in his defense, vitiating the entire proceedings. It is settled legal position that omission to give opportunity to the officer to produce his witnesses and lead evidence in his defence vitiates the proceedings. Reliance in this regard is [Pramod Kumar Singh Sishodia Vs. State of U.P. and Ors.](#) reported in [MANU/UP/0914/2017](#). Relevant paras 6 to 19 and the same are not being reproduced for the sake of brevity.

65. Reliance in this regard is placed upon [Meenglas Tea Estate vs. Workmen](#) reported in [MANU/SC/0139/1963](#) : AIR 1963 SC 1719, wherein the Honble Supreme Court was pleased to hold it is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way of cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of an inquiry of this character and its requirement must be substantially fulfilled before the result of the inquiry can be accepted.

66. It is argued that it is abundantly clear that the Disciplinary Committee was inquiring into matters beyond its jurisdiction, manipulating record and repeatedly relying upon statutory provisions and rules which had no application either to the petitioner or to the allegations under inquiry, which unmistakably demonstrates that the inquiry was conducted with a predetermined intent to return findings of guilt against the Petitioner. In this regard reference be also had to Charges Nos.13 to 16 of the inquiry Report dated 15.03.2020 wherein the Disciplinary Committee found the Petitioner guilty of indulging in private business without seeking the permission of his Appointing Authority in violation of Rule 16 of the U.P. Government Servant Conduct Rules purportedly read with Clause (6) of Statute 10.07 and Sub Clause (23) of Statute 10.07.(3) of KGMU First Statutes.

67. The Disciplinary Committee has relied on Sub Clause (23) of Statute 10.07(3) of the First Statutes which provides that Every teacher shall be treated as a public servant defined in prevailing Laws in its attempt to make the U.P. Government Servants Conduct Rules applicable to the petitioner. However the issue that a teacher of KGMU is not a public servant is no longer res integra as has been categorically held by this Honble Court in the matter of [Neetu Singh vs. State of U.P. & Ors](#) passed in Writ Petition (M/B) No. 24229 of 2019. Further, insofar as the alleged violation of Sub-Clause (23) of Statute 10.07(3) is concerned it is submitted that the same merely prohibits a teacher from engaging in 'private practice' and does not prohibit incorporation of or holding office in a company. Consequently, the said provision has no application, whatsoever, to Charges Nos. 13 to 16.

68. It is argued that the purported verification of documents/purported examination of witnesses which was conducted by the Disciplinary Committee on 12.12.2019 was not carried out in the presence of the petitioner and further it was falsely recorded in the minutes of the meeting that the verification had taken place in the petitioner's presence and that the petitioner had refused to examine the departmental witnesses, which deprived the petitioner opportunity to cross-examine the witnesses. It was only on 26.02.2020 that verification of documents was conducted in the presence of the petitioner, wherein the petitioner got the opportunity to examine the witnesses present, however not all the witnesses that were present on 26.02.2020 were the

same as the ones called on 12.12.2019. The recording of incorrect proceedings in the minutes of the meeting clearly demonstrates that the inquiry was conducted in a bias and arbitrary manner.

69. It is argued that the Disciplinary Committee did not examine a single witness to prove the allegations levelled against the Petitioner or the contents of the documents relied upon in support thereof. The inquiry proceedings merely record the verification of certain documents, without any witness being produced to prove the contents of the documents or charges against the petitioner. It is argued that it is a settled principle of law that although the strict provisions of the [Indian Evidence Act](#) do not apply to departmental proceedings, the charges levelled against a delinquent employee must nevertheless be established by legally admissible evidence. Charges cannot be proved by mere production or verification of documents, the disciplinary authority is required to prove the same through competent witnesses by leading oral evidence which is sine qua non. Reliance in this regard is placed on [Satyendra Singh vs. State of U.P. & Ors.](#) reported in MANU/SC/1219/2024.

70. In view of the submissions made hereinabove, it is argued submitted that the impugned inquiry Report dated 15.03.2020 is wholly vitiated by patent illegality, bias, premeditation, violations of the mandatory provisions of the First Statutes of King George's Medical University, 2011, and gross violations of the principles of natural justice. Consequently, the impugned order of termination dated 10.06.2020, having been passed in flagrant contempt of interim orders passed by this Hon'ble Court, in blatant violation of the mandatory statutory provisions, and being founded entirely upon an illegal, biased and predetermined inquiry Report, is equally unsustainable in law.

71. Learned counsel for the petitioner states that in view of the above, impugned orders be quashed.

ARGUMENTS ON BEHALF OF THE RESPONDENTS :

72. The Executive Council is undisputedly the Disciplinary Authority and Appointing Authority of the petitioner which had resolved in its meeting held on 02.08.2018 that the Disciplinary Committee so constituted vide resolution dated 13.10.2017 and 02.06.2018 shall remain in force in regard to disciplinary action against the petitioner. The resolution dated 02.08.2018 is unchallenged. The Preliminary inquiry report of fact-finding committee cannot be said to have visited the petitioner with any adverse civil consequence or inroad into or infringed any Fundamental Right or any indefeasible legal and statutory right of the petitioner. Ultimately, the service of petitioner has been terminated as result of the Disciplinary inquiry against him vide order dated 10.06.2020 issued by the Registrar, KGMU on the basis of the resolution dated 08.06.2020 of the Executive Council, agreeing with the inquiry Report of the Disciplinary Committee. Against the termination order, the petitioner has filed Writ Petition being WRIT - A No.3840 of 2021 in which amongst various other grounds taken, ground of constitution of preliminary inquiry committee and its report has also been taken. In the said writ petition Counter Affidavit has also been filed by KGMU.

73. The petitioner through Writ A No.35784 of 2018 has challenged the Questionnaire dated 01.12.2018 issued by the Disciplinary Committee asking for certain point-wise answers from the petitioner to facilitate the Disciplinary Committee to appropriately frame Charge Sheet. This Questionnaire was subsequently modified by the Disciplinary Committee vide letter dated 13.12.2018 deleting the reference of petitioner as Secretary of CSMMU Welfare Fund Society and there is no challenge to the amended Questionnaire by the petitioner. However, as the petitioner did not respond to the Questionnaire, the Disciplinary Committee did not proceed with the Questionnaire and instead framed the Charge Sheet on the basis of material already on record before the Disciplinary Committee. In view thereof, the writ petition has lost its efficacy altogether and no prejudice, injury can be said to have been caused to the Writ Petitioner

74. Writ A No.18642 of 2019 has been filed challenging the Charge Sheet on various grounds. The factum of issuance of the Charge Sheet and corresponding stage stands merged in the conclusion of Disciplinary Proceedings and passing of the punishment order by the appropriate authority.

75. Through Writ Petition being Writ - A No.33626 of 2019 the petitioner seeks to challenge the order dated 19.10.2019 placing the petitioner under suspension on the basis of the recommendation of the Disciplinary Committee under Statute 11.11 (4) (iii) as the petitioner was not cooperating in the Disciplinary Proceedings. However, the petitioner was re-instated with regular salary vide order dated 20.01.2020 and the suspension order was not proceeded with further in view of the interim order dated 05.12.2019 passed staying the suspension order on certain conditions and the answering respondents duly honored the interim order. In view of above this Writ Petition, challenging the suspension order has lost all its efficacy and no intervention is required.

76. Alleging deliberate disobedience of the interim order dated 20.12.2018 and order dated 05.12.2019, the instant Contempt Application being Contempt Application (Civil) No.936 of 2020 was filed impleading the then Vice-Chancellor and the then Registrar of KGMU along-with certain members of the Executive Council arrayed as Opposite Party No.1 to 9. Subsequently, the two subsequent appointed Vice Chancellors and the members of the Executive Council were also impleaded. The Contempt Petitioner subsequently filed Writ Petition No.3840 (S/S) of 2021 impugning the Order of termination dated 10.06.2020, Agenda Item No.8 of the Executive Council in its Meeting dated 08.06.2020 and inquiry Report of the Disciplinary Committee wherein no interim order has been passed staying the punishment order.

In Writ - A No.3840 of 2021 among various grounds one ground also has been taken that the impugned punishment order has been passed in disobedience of the interim order dated 20.12.2018 and order dated 05.12.2019.

77. It is argued by learned counsel for the respondents that a Three Member Fact Finding Committee under the chairmanship of Prof. Vinay Pathak, the then Vice Chancellor of Dr. APJ Abdul Kalam Technical University, Uttar Pradesh, was constituted by the Acting Registrar, KGMU with prior approval of the Vice Chancellor for enquiring into: (1) Audit Objection, (2) Irregularities in selecting the firm (3) Irregular payments made and (4) other ancillary issues. Accordingly, being the principal executive, the Vice Chancellor had given due approval to the Registrar on proposal of a Fact Finding Committee. The answering respondents have positively stated in Paragraph No.121 of Counter Affidavit filed in reply to the WRIT - A No. 3840 of 2021, that composition of Fact Finding inquiry Committee was done in pursuance to the approval of Vice Chancellor. Even otherwise, Executive Council is the competent authority for constituting a Disciplinary Committee against a faculty member, however, it is not for the purpose of conducting a Fact Finding inquiry on any matter.

78. It is argued that it is not mandatory that the order initiating the disciplinary proceedings is passed by the appointing authority/disciplinary authority, let alone Preliminary inquiry. It is only the punishment order which has to be passed by the appointing authority. To support the said argument reliance is placed upon judgment of the Supreme Court in the case of [Transport Commissioner, Madras-5 v. A. Rasha Krishna Moorthy](#)

(1995) 1 SCC 332. Reliance is also placed upon another judgment of the Supreme Court in the case of [State of Jharkhand & Ors. v. Rukma Kesh Mishra](#), : 2025 SCC OnLine SC 676.

79. It would also be relevant to mention here that while challenging the Preliminary inquiry Report, the petitioner has alleged malafide against Prof. Vinay Pathak but Prof. Vinay Pathak has not been arrayed as party by name, thus, the allegations of malafide are not sustainable.

So far as the case of petitioner that he was not afforded an opportunity of hearing at the stage of Preliminary inquiry/Fact Finding inquiry Committee, it is argued that constitution of a committee for conducting a fact finding has no concern with the employee/official concerned as it is to ascertain the prima-facie facts.

80. It is argued that in the present case Fact Finding inquiry, though the same was not instituted especially against the petitioner, but while holding the Fact Finding inquiry certain dishonest lapses were found on the part of the petitioner, as such, there is no such requirement of associating a person who has been prima facie found guilty in the Fact Finding Committee report. No prejudice was caused to the petitioner since the report was subsequently shared. Moreover, Dr. Sandeep Bhattacharya was not a member of the said Fact Finding Committee. It is further argued that the Constitution Bench of the Hon'ble Supreme Court in the case of Champak Lal Chiman Lal Shah v. Union of India : AIR 1964 SC 1854, has observed that in so far as preliminary fact finding inquiry is concerned it can be held ex-parte. The said issue was also considered in the case of Vishwa Nath Banerjee v. State of U.P & Ors. (WRIT - A No. 23612 of 2018).

81. It is argued that so far as the allegations pertaining to the complaint of Dr. O.P. Prakash is concerned it is submitted that the said complaint was received in the office of the Vice Chancellor on 26.09.2017 on being marked by the office of the Chancellor to the Vice Chancellor for necessary action. The said complaint related to irregular promotion of Dr. Anupam Wakhlu, Dr. Ashish Wakhlu and Dr. Anupam Wakhlu running a business in the name of Algorithm Infoweb Pvt. Ltd., selling the software developed from KGMU. Some of the said allegations were gone into by the Preliminary inquiry Committee and some were not a subject matter of inquiry of the Fact-Finding Committee, as such, members of the aforesaid committee vide letter dated 27.09.2017 had apprised the Vice Chancellor that two allegations had already been inquired, and the report thereof has been submitted on 25.09.2017 itself, however, the other allegation against the delinquent employee is outside its purview.

82. It is further argued that the report of the three member fact finding committee constituted by order dated 31.08.2017 with prior approval of the Vice Chancellor was placed before the Executive Council in its meeting held on 13.10.2017 and after perusing the records it resolved to constitute a Six Member Disciplinary Committee in accordance with the Clause 11.11 of the First Statute, 2011 to inquire into the issue of Audit Objection and also the report of Preliminary Fact finding committee. Subsequently, the said Disciplinary Committee was re-constituted as 2 of its members expressed their inability to be a part of committee, as such, 2 fresh members were included in their place. Eventually, Executive Council upon taking into consideration the representation of the petitioner dated 06.07.2018 resolved to drop the allegations regarding audit objections but resolved that Disciplinary Committee constituted in meetings held on 13.10.2017 and modified on 02.06.2018 will remain in force to investigate the matter i.e. to inquire upon the report of the Preliminary Fact finding committee and other complaints received through the office of the Chancellor as well as other sources.

83. It is next argued that from the bare perusal of the minutes of meeting dated 02.08.2018 of the Executive Council of the university it is evident that Executive Council did not constitute the Disciplinary Committee only on the basis of the audit objections but the same was constituted also to look into the other complaints received through the Office of the Chancellor as well as the other sources and to inquire upon the report of the Preliminary Fact finding committee. Thus, vide letter dated 24.09.2018, constitution of the Disciplinary Committee was communicated which was constituted to inquire into the allegations levelled against the petitioner as the then Nodal Officer of CPMS, In-charge of I.T. Cell and Secretary CSMMU Welfare Society, which can be seen from the perusal of the fact finding committee report and the complaint, as per the approval of the Executive Council in its meetings held on 13.10.2017, 02.06.2018 and 02.08.2018. In these meetings it was resolved to investigate the matter which related to the report of the fact finding committee and complaints received through the office of the Chancellor.

It is argued that so far as the allegations of the Disciplinary Committee being held without quorum is concerned, the same is denied and is apparent from the perusal of minutes of meeting of Disciplinary Committee. Even otherwise, Section 51 of the KGMU Act, 2002 clearly provides that no proceeding of any Authority or Body or Committee of KGMU shall be invalid merely because of any vacancy or defect of the constitution of the Committee or due to a procedural irregularity. Thus, the none of the ground of petitioner challenging the constitution of the Disciplinary Committee holds water in the eyes of law.

84. It is further argued that charge sheet upon being framed by the Disciplinary Committee was placed before the Executive Council/Appointing Authority. The Executive Council/Appointing Authority in its meeting held on 25.05.2019, approved the Charge Sheet and further resolved that two weeks time may be granted to the petitioner to file its reply to the same. The Charge-sheet containing specific charges was duly served upon the petitioner on five different occasions who returned it three times citing different incorrect reasons in his representation.

It is argued by learned counsel for the respondents that the charge sheet was duly served on 14.06.2019 with all documents which was returned on 15.06.2019, making frivolous and incorrect assertion that the complaint of Dr. O.P. Prakash, Affidavit in support of the complaint and documents in support thereof are not annexed with the charge sheet, although all the said documents were annexed alongwith the charge sheet, which was duly served on the petitioner on 14.06.2019.

85. Intention to cause delay is self-evident from the conduct of the petitioner who on the one hand filed Writ - A No.18642 of 2019 by annexing the complete Charge Sheet including all the documents sought to be relied upon in evidence annexed alongwith charge sheet but on the other hand kept on asking for said documents. Thus, the case of the petitioner that he was served with the charge sheet without complete annexures is self-contradictory, when he himself had filed the WRIT - A No. 18642 of 2019, annexing same documents which he was seeking from the Disciplinary Committee. Thus, it is evident that the petitioner was deliberately not cooperating in Disciplinary Proceedings and not filing his reply to the charge sheet despite various opportunities. It is pertinent to mention here that despite the charge sheet being served to the petitioner in June, 2019 and being provided numerous opportunities he did not furnish his reply to the charge sheet till March, 2020 i.e. till the inquiry report was submitted by the disciplinary committee to the Executive Council.

It is argued that delinquent employee who is not cooperating with the Disciplinary Proceedings is not entitled to challenge the proceedings and punishment. To support the said argument, reliance is placed upon [Bank of India Vs. Apurba Kumar Saha](#) : (1994) 2 SCC 615; [State Bank of India and](#)

86. It is next argued that the petitioner for the first time attended the Disciplinary Committee meeting on 11.11.2019 but he did not file reply to the charge sheet served on him various times earlier. He asked for 20+ documents and 70+ witnesses to be examined in the meeting and vide his letter dated 11.11.2019, along with video recording of proceedings and legal assistance. In the aforesaid meeting, the Disciplinary Committee asked the delinquent to submit the notarized affidavits of the witnesses he wishes to examine, it was stated that there was no need for video recording of the proceedings and that the demand of legal assistance of the petitioner will be considered after the petitioner submits his reply to the charge sheet. The petitioner was directed to submit reply to the charge sheet within further 7 days of receipt of notice, failing which the disciplinary proceedings would be concluded ex-parte.

87. It is further argued that on 12.12.2019, the petitioner was present before the Disciplinary Committee but he neither submitted a reply to the charge sheet nor filed the notarized affidavits of witnesses though the Member Secretary/Registrar had duly informed him to do so vide letter dated 14.11.2019. The Registrar also gave the petitioner documents requested by him on 11.11.2019. Further, 7 departmental witnesses appeared, verified documents, submitted statements in presence of the petitioner and opportunity was given to the petitioner to cross-examine the witnesses, but he refused to do so. However, the petitioner did not appear before the Disciplinary Committee on the next date of the meeting dated 23.12.2019 since winter vacations were going on. The Disciplinary Committee resolved that delinquent may inspect the record and ask for copies which are on record and not provided to him. The Disciplinary Committee asked the delinquent to submit reply to the charge sheet within further 15 days. Consequently, the Registrar/Member Secretary wrote the letter dated 24.12.2019 to delinquent and further intimated him that 11.01.2020 was fixed for meeting of Disciplinary Committee at 2 p.m. in Administrative Block of the University. The petitioner was present at the meeting held on 11.01.2020 but he neither submitted his reply to the charge sheet nor an application to seek inspection of record or extension of time. The Disciplinary Committee was of the view that proceedings may continue ex-parte against the petitioner due to his non-cooperation.

88. It is further argued that the petitioner appeared before the Disciplinary Committee in the meeting dated 13.01.2020 where the Disciplinary Committee accepted the petitioners request for inspection of records on 22.01.2020. The Disciplinary Committee further resolved that there was neither any need to video record the proceedings nor did the rules provide for it. The petitioner asked for cross-examination of Mr. Vinay Pathak, however, the Disciplinary Committee decided that there was no reason for asking Mr. Pathak to be cross-examined as no oral statement was recorded by him as a departmental witness.

The petitioner was allowed to inspect records on 22.01.2020 and he submitted a handwritten letter requesting photostat copies of approximately 2000 pages of documents. This was considered in the Disciplinary Committee meeting dated 04.02.2020 where it was found that all relevant documents have already been annexed to the charge sheet or supplied to the petitioner, and the demand of 2000 pages of documents was irrelevant to the proceedings. However, the petitioner insisted on being given the voluminous record without substantiating the relevancy of these documents to the proceedings or the prejudice being caused to him, even though he had inspected the entire record on 22.01.2020, with the sole intent of delaying the proceedings. The Disciplinary Committee recalled its order of proceedings ex-parte and granted a last opportunity of 15 days to the petitioner to submit a written reply to the charge sheet, failing which the Disciplinary Proceedings shall conclude ex-parte. The petitioner was warned regarding his indecent behavior with the members and the Presenting Officer.

89. It is argued that in the next meeting dated 22.02.2020 the Disciplinary Committee found that the 2000+ pages documents required by delinquent were irrelevant and there was no justification of granting 4 months further time for filing reply to charge sheet, more particularly, when inspection had already been made by the delinquent. On 26.02.2020, the Disciplinary Committee neither found a reply to the charge sheet nor affidavit of witnesses sought to be relied as evidence were filed by delinquent even after affording several opportunities. Seven Departmental witnesses examined by Presenting Officer verified and proved various documents, while the petitioner chose to cross-examine only 5 of them. The Disciplinary Committee resolved that since the petitioner has not filed a reply to the charge sheet and the Presenting officer was not legally trained, there was no requirement of legal assistance for petitioner. The Presenting officer submitted that the charges against petitioner were based on documentary evidence which were all annexed to charge sheet and a part of the Executive Council resolutions and minutes of Disciplinary Committee, which have been served to the petitioner. Since Dr. O.P. Prakash had verified the documents in the meeting dated 12.12.2019 he was cross-examined by the petitioner, however the petitioner misbehaved with him during cross-examination, thus, the Disciplinary Committee had to close his examination on Dr. Prakashs written protest. Further, the request for cross-examination of Prof. Vinay Pathak was rejected as he was not a departmental witness and the petitioner failed to submit the notarized affidavits for the 70+ witnesses demanded by him to be examined. The Disciplinary Committee resolved that the petitioner intended to delay the proceedings and in case did not appear on the next date, the proceedings will continue ex-parte.

90. On 05.03.2020 the petitioner was present in the meeting, however he did not file any reply to the charge sheet despite several reminders. The petitioner again demanded documents in the letter dated 22.01.2020 which had already been dealt with by the Disciplinary Committee. The petitioner was given an opportunity to make oral submissions however, he did not make oral submissions relating to charges and again raised objections which were already dealt with by the Disciplinary Committee in earlier meetings. Since the petitioner behaved unreasonably rather than replying to the charges on merit though several opportunities were given, the Disciplinary Committee closed the proceedings and resolved to submit the inquiry report to the Appointing Authority of the petitioner i.e. Executive Council.

91. Reliance is placed on [State of T.N. v. Thiru K.V. Perumal](#) : (1996) 5 SCC 474 to argue that the delinquent is required to be given the documents annexed with the charge sheet and not the documents or evidence which has not been relied on.

92. It is argued that the inquiry report is detailed, reasoned, based on documentary evidence proved by the concerned officials as departmental witnesses and considers all charges and the representations submitted by the petitioner. The petitioner did not file reply to the charge-sheet despite several opportunities by the Disciplinary Committee falsely citing a lack of documents. It is vehemently denied that the petitioner was disallowed from cross-examining the witnesses or producing his own witnesses.

93. It is next argued that the contention of the petitioner that the entire proceedings are in violation of [Regulation 4.03](#) of Regulations, 2018 is patently misconceived and misleading, as neither the KGMU Act, 2002 nor the First Statute of 2011, prescribes for any statutory requirement for seeking approval of the Finance Officer of KGMU before initiating disciplinary proceedings against a delinquent employee/faculty involved in the charges of

financial irregularity and/or embezzlement. Regulations 2018 provides for recording the view of Finance Officer in respect to the matters involving financial implications and not financial irregularities or financial embezzlement.

[Regulation 4.03](#) of the Regulations, 2018 under the chapter Conduct of Business of Executive Council provides for recording the view of the Finance Officer when passing a resolution for matters involving financial implications in the meeting of the Executive Council and not for initiation of inquiry in allegations concerning financial irregularities or embezzlement.

The statutory authority of University constituted Disciplinary Committee, initiated disciplinary proceedings and terminated Petitioners services in consonance with the procedure prescribed under KGMU Act or the First Statute, 2011.

94. Learned counsel for the respondents further argues that Charge Nos.1 to 12 do not relate to the Audit objection which was dropped by the Executive Council in its meeting dated 02.08.2018. The Disciplinary Committee was required to investigate the complaints received from the Office of the Honble Chancellor and other sources, and thus these charges are levelled after due consideration of all sources. It is further argued that from the perusal of the inquiry Report of Disciplinary Committee, it would be apparent that while selecting Tenderer, the petitioner had violated the terms of the relevant Government Order. The first set of work was allotted based on quotations invited by the petitioner and he recommended for approving the quotation of M/s Fluid Fantasy and the release of payment whereas so far as the second set of work was concerned, this time not even the quotations were called upon and the work was allotted to M/s Fluid Fantasy, the Proprietor of which is a Co-Director in a Company M/s Algorithm Infoweb in which the Petitioner is also a Director.

95. It is further argued that the Minutes of Meeting dated 15.05.2014 does not deal with the release of funds. The Minutes of I.T. Committee Meeting dated 15.05.2014 observed that the work was allotted to M/s Fluid Fantasy through Tender with approval from the Finance Committee. However, the said observation is contrary to the records. The I.T. Committee has also not discussed the fact that the second set of work was allotted to M/s Fluid Fantasy without floating any Tender and without even inviting quotations. The fact that the Proprietor of M/s Fluid Fantasy was a Director in a company namely M/s Algorithm in which the Petitioner was also one of the Directors has not been observed in the I.T. Committee Meeting dated 15.05.2014.

96. It is also argued that the Proprietor of M/s Fluid Fantasy was a Co-Director in a Company M/s Algorithm Infoweb in which the petitioner was also a Director. The petitioner has not denied being a director of M/s Algorithm Infoweb, hence, the petitioner failed to maintain administrative and financial integrity while working as the Nodal Officer for CPMS. M/s Fluid Fantasy was arbitrarily and illegally selected and again re-hired worth ulterior motive to provide illegal financial benefit to the firm.

97. Learned counsel for the respondents argued that in terms of Statute 10.01(12) of the First Statute, 2011 the salary of the teacher is paid and determined by the Government of U.P. which was amended only on 19.02.2021. As per the unamended clause the U.P. Government Servant Conduct Rules, 1956 would apply to the petitioner. Rule 15 of these rules specifically bars a government servant from indulging in any private trade or employment. Thus, in terms of the First Statute, 2011 and Rules, 1956 the petitioner being a whole-time consultant for indoor and outdoor patients and a teacher appointed on whole time basis, before indulging in any Private Trade, the permission of the Appointing Authority i.e. Executive Council was necessitated.

98. Controverting the argument of learned counsel for the petitioner that the impugned order is illegal, arbitrary, in violation of principles of natural justice and contemptuous in nature, learned counsel for the respondents argued that the Disciplinary Committee resolved in meeting dated 05.03.2020 to submit the inquiry report to the Appointing Authority of the petitioner i.e. Executive Council, and vide letter dated 19.03.2020 show cause notice was issued to the petitioner with the inquiry Report dated 15.03.2020 giving two weeks time to reply. The show cause notice sent with the inquiry report is a natural corollary that the basis and evidence regarding the issuance of the show cause notice were clearly enumerated in the inquiry report, to which the petitioner was required to reply within the stipulated time. Since the petitioner failed to reply to the show cause notice the Executive Council again resolved vide resolution dated 08.04.2020 to give one week time as a last opportunity to the petitioner to reply to the show cause notice. The petitioner vide letter dated 24.03.2020 sought preliminary clarifications of the inquiry report rather than answering the charges proved against the petitioner on merits. This objection regarding the show cause notice not indicating the purpose seems to be an afterthought since it does not find mention in the letter dated 24.03.2020 sent by the petitioner to the Executive Council seeking preliminary clarifications. The argument, thus, about the show cause notice being bad in law does not hold water considering the assertions enumerated hereinabove.

After giving time to the petitioner twice to reply to the show cause notice with the inquiry report the Executive Council upon taking into consideration the charge sheet, inquiry report and after due deliberation took the unanimous decision that the misconduct of petitioner amounted to unbecoming of a teacher and accordingly decided to terminate the services of the petitioner vide resolution dated 08.06.2020. It is pertinent to mention that in terms of the directions of Honble Chancellor, Video recording and Voice recording of the Executive Council is secured.

99. It is argued that though the Executive Council has passed a reasoned order after considering the material available and duly deliberating upon the issue, nevertheless, it is no more res integra that the disciplinary authority is not required to record reason for imposing penalty while accepting the finding of the inquiry report. Reliance is being placed upon [Boloram Bordoloi Vs. Lakhmi Gaolia Bank and Ors.](#) : (2021) 3 SCC 806.

100. It is no more res integra that if two views are possible and one had been taken, no contempt can be said to be made out. Thus developments occurred between the date of interim order dated 20.12.2018 and the date of termination order dated 10.06.2020 gives rise to two possible interpretations and therefore, the opposite parties having acted upon on one such possible interpretation, it cannot be said that there is any deliberate disobedience and intentional or willful contempt. Reliance is placed upon [Sushila Raje Holkar Vs Anil Kak \(Retd.\)](#) : (2008) 14 SCC 392 and Anil Ratan Sarkar Versus Hirak Ghosh reported in (2002) 4 SCC 21.

101. It is next argued that a bare perusal of interim order dated 20.12.2018 passed in WRIT - A No. 35784 of 2018 directing the university not to pass final order till delivery of the judgment in WRIT - A No. 29638 of 2018 by itself reveals that same was obtained by misrepresentation on the court, in as much as giving the impression to the Honble Court as if the Disciplinary Proceedings were going to be concluded, whereas, the fact remains that by this point of time, even the Charge Sheet was not issued to the petitioner. A person obtaining an interim order by commission of fraud and misrepresentation is not entitled to allege contempt. Reliance is placed upon [Moti Chand Yadav and others Vs. P. C. Sharma and others](#) : 2003 SCC OnLine All 726, (2003) 52 ALR 529(All), (2003)6 AWC 4807.

Also, Executive Council of the University have no jurisdiction to review its earlier decision and therefore, even presuming that there is dis-obedience by maintaining the Termination Order, the same would not amount to deliberate disobedience and therefore, no contempt is made out against the Opposite Party Nos.11 and 13 to 23. Reliance is placed upon [Dr. Smt. Kuntesh Gupta Vs. Management of Hindu Kanya Mahavidyalaya, Sitapur and others](#) : AIR 1987 SC 2186.

102. In absence of any power of review, the Termination Order cannot be recalled and thus the present Executive Council could not reinstate the petitioner in service and therefore, no deliberate contempt can be said to have been committed. Accordingly, the Contempt Petition be liable to be dismissed.

103. It is further argued that an interim order passed cannot go beyond the scope of writ jurisdiction and since the Notice dated 01.12.2018 was impugned in Writ Petition No.35784 (S/S) of 2018 which was not only modified on 13.12.2018 but both the notices were never acted upon and therefore, interim order dated 20.12.2018 cannot be interpreted so as to mean an indefinite restraint from passing a final order after conclusion of disciplinary proceedings. It would never be an intention of the Court to stall the disciplinary proceedings for an indefinite period. Reliance is placed upon [The State of Orissa Vs. Madan Gopal Rungta](#) : 1952 SCR 28.

104. It is lastly argued by counsel for the respondents that the writ petitions have no substance and deserve to be dismissed with the costs. As regards contempt petition, the action of Disciplinary Authority/Executive Council under some misconception or misbelief or under the legal advice, are overall under the opinion tendered by Disciplinary Committee and cannot be termed as willful disobedience of the interim order 20.12.2018 passed in WRIT - A No. 35784 of 2018, particularly, when the petitioner himself violated the mandate of this Honble Court asking the petitioner to cooperate in the Disciplinary Proceedings while passing interim order dated 05.12.2019 passed in WRIT - A No. 33636 of 2019 and further by Division Bench in Special Appeal No. 29 of 2020. In that view of the matter, the contempt also deserves to be dismissed.

105. In view of the rival submissions recorded above, this Court is to consider whether the order of termination passed against the petitioner can be set aside in exercise of powers of judicial review conferred under [Art. 226](#) of the Constitution.

As all the matters have to be decided simultaneously, I intend to take up matters in their sequence.

Writ A No.29638 of 2018 :

106. The writ petition was filed challenging the preliminary fact-finding inquiry. It is clearly well settled that a writ would not lie against the employer intending to conduct a preliminary or a fact-finding inquiry as at that stage no consequences are entailed against the employee, as such, the writ petition challenging the intent to constitute and carry out a preliminary fact-finding inquiry on the grounds that the same did not associate the petitioner deserves to be dismissed. The allegations with regard to mala fide attributed against Professor Vinay Pathak are also not to be gone into as the personal biases alleged against Professor Vinay Pathak could not be established by an evidence and even otherwise Professor Vinay Pathak has not even been impleaded in the writ petition. Thus, on all the grounds, Writ - A No. 29638 of 2018 fails and is dismissed.

Writ A No.35784 of 2018 :

107. The writ petition was filed by the petitioner challenging the questionnaire dated 01.12.2018. As the said questionnaire was never acted upon by the disciplinary committee and a supplementary questionnaire has been issued to the petitioner which fact is admitted being modified questionnaire dated 13.12.2018, the same cannot be gone into at this stage, more so, when subsequently, a charge sheet was issued to the petitioner and a dismissal order has also been passed which is submit matter of Writ A No. 3840 of 2021, as such, Writ A No.35784 of 2018 is dismissed as having become infructuous.

Question of interim order being passed in the said writ petition would be considered subsequently in the light of the arguments raised by the petitioner.

Writ A No.18642 of 2019 :

108. The said writ petition was filed challenging the charge sheet mainly on the ground that the same is violative of the statute and the rules. The same need not be gone into and to that extent the writ petition is rendered infructuous in view of the subsequent development i.e. the order of dismissal passed against the petitioner which shall be discussed in the subsequent paragraphs. Writ A No.18642 of 2019 is accordingly dismissed.

Writ A No.33626 of 2019 :

109. It is admitted case that despite the pendency of the interim order passed on 05.12.2019 in Writ - A No.33626 of 2019, an order of dismissal from service came to be passed against which a contempt application was also filed and subsequently, a writ petition challenging the final termination order was also filed. Hence, Writ A No.33626 of 2019 is dismissed as having become infructuous.

I intend to decide the contempt application separately.

Writ A No.3840 of 2021 :

110. Coming to the questions raised by the petitioner in Writ - A No.3840 of 2021, which challenges the dismissal order, it is essential to notice that the scope of judicial review is confined to errors in the decision-making process, any perversity in appreciating the evidence or any issues which can lead to a conclusion that the same has resulted in violation of the rights of the petitioner .

It is also fairly well settled that in service law test of prejudice has to be pleaded and established while founding the challenge on ground of not following the procedural due process

111. In the present case, admittedly, the petitioner never filed any reply to the charge sheet. The inquiry was thereafter conducted as is clear from the inquiry report on record. In the said inquiry, the inquiry committee clearly recorded that based upon the fact-finding inquiry, a charge sheet was served, and despite repeated opportunities, no reply has been filed to the charge sheet either admitting or denying the charges leveled against the petitioner, and ultimately, the disciplinary committee, vide its resolution dated 04.02.2020, decided to proceed ex-parte for examination of the departmental witnesses and opportunity to the petitioner to be present and to cross-examine was also recorded in the said resolution.

112. The inquiry report also records that the petitioner had inspected the records and despite inspection did not file any reply to the charge sheet. Thereafter, the departmental witnesses were examined on 12.10.2019 and the petitioner declined to cross-examine the said witnesses on that date. The committee also records that the petitioner was called upon to submit notarized affidavits in respect of the witnesses whom the petitioner intends to cross-examine, which were never submitted by the petitioner. The inquiry committee also records that the Presenting Officer had apprised the committee that despite repeated opportunities, the petitioner neither filed any reply to the charge sheet nor did he submit the list of witnesses whom the petitioner intend to cross-examine as expressed by him. The inquiry report reveals that the charges against the petitioner were substantiated by seven witnesses who were examined in the presence of the petitioner. The inquiry report also noticed that the charges framed against the petitioner were based upon documentary evidences which were duly annexed with the charge sheet and the same were also proved by the management witnesses. It was also recorded that out of the management witnesses who had substantiated the evidences against the petitioner, the petitioner had cross-examined as many as five of the said witnesses and did not proceed to examine the other two departmental witnesses.

113. As regards the request of the petitioner for providing legal assistance/legal representative during the departmental proceedings, a resolution was passed by the inquiry committee that the issue of providing legal assistance would be considered only after the reply is submitted to the charges, whereas no reply has ever been submitted. The said request further did not find favor as the Presenting Officer was not a person having legal background. The disciplinary committee in its inquiry report found Charges No.1 to 7, 11 and 12, which pertain to anomalies alleged against the petitioner i.e. financial irregularities, non-observation of financial/administrative integrity, embezzlement, stand proved.

It was also held that the work of CPMS was allotted to the firm M/s Fluid Fantasy through its proprietor Mr. Vikrant Kumar, who is also Director in a private company namely M/s Algorithm Infoweb Private Limited in which the petitioner is also a Director.

114. The inquiry committee also considered the specific letters of the petitioner wherein the petitioner had requested for engaging M/s Fluid Fantasy. The inquiry committee also recorded that M/s Fluid Fantasy was re-hired for completing the remaining 10% work of CPMS without inviting quotations/tenders for which the bills were also paid and on the basis of the said finding, all the said charges were found to be proved against the petitioner.

115. Charge Nos.8 & 9 are with regard to anomalies and financial irregularities in selecting the firm M/s Fluid Fantasy for the purchase of server space through a company whose Director was Mr. Vikrant Kumar in a private company M/s Algorithm Infoweb Private Limited in which the petitioner is also a Director. The inquiry committee also recorded that the said firm M/s Fluid Fantasy was paid 80% more for the server space than was available in the open market and based upon the said finding the said charges were found to be proved against the petitioner.

116. Charges Nos.13 to 16 were specific against the petitioner, alleging that the petitioner had indulged in private business, that too without seeking permission/approval of his appointing authority and had thus violated Rule 16 of U.P. Government Servants Conduct Rules read with Clause 6 of Statute 10.07 and Sub-clause 23 of Statute 10.07.

117. The inquiry committee recorded that, on the basis of information received, the company M/s Algorithm Infoweb was registered at the residential address of the petitioner, of which Shri Vikrant Kumar was also a partner who was the proprietor of the firm M/s Fluid Fantasy, which has been given the award. The fact with regard to the petitioner being a Director of a private company while in service is not even denied either before the inquiry committee or in reply to the show cause notice or even in the present writ petition. The inquiry committee, based upon the evidence, found the said charges to be proved.

118. Charge Nos.17, 18, and 21 pertain to the charges against the petitioner for providing wrong and an incorrect information to the High Court, which charges were also found to be proved against the petitioner.

119. The inquiry committee did not deliberate on Charge Nos.19 and 20 as was leveled against the petitioner.

120. Charge Nos.15 and 22 pertains to issuance of questionnaire to the petitioner on 01.12.2018/13.12.2018 to which the petitioner never gave any reply, and the said act of not giving the reply was found to be an act of indiscipline against the petitioner.

121. Charge No.10 pertains to the non-cooperation by the petitioner and his business partner Mr. Vikrant Kumar was not deliberated by the inquiry committee, and based upon charges that were proved, the same was forwarded to the disciplinary authority.

122. It is on record that based upon the inquiry report dated 15.03.2020, the petitioner was served with a show cause notice on 19.03.2020 calling upon his reply. The petitioner admittedly did not give any reply to the said show cause notice also and submitted a letter dated 24.03.2020 calling the same as a preliminary clarification on the inquiry report, highlighting the flaws in the inquiry report and requested for inspection of the documents once again which he had earlier inspected on 04.02.2020 (Annexure 91).

123. Ultimately, the disciplinary committee proceeded to pass the order of termination against the petitioner, holding that the inquiry was done in accordance with law, principles of natural justice were observed and despite repeated opportunities, the petitioner did not participate in the inquiry proceedings or submit a reply to the show cause notice, which act was seen as an act unbecoming of teacher and thus, the order of termination was passed.

124. In the light of the said, although, several arguments have been raised by the petitioner, however, there is no explanation for the petitioner not filing a reply to the charge sheet and halfheartedly participating in inquiry at his own whims.

125. The entire sequence of the petitions filed by the petitioner reveals that at every stage the petitioner has avoided in participating in inquiry on one pretext or the other and had repeatedly approached this court by filing successive petitions. In the writ petition, there is no assertion as to the prejudice caused on account of the alleged non supply of documents.

126. Submission of learned counsel for the petitioner that the petitioner has suffered arbitrary action at the hands of the respondents on account of denying the right to examine the material witnesses and lead defense evidences cannot be accepted as admittedly the petitioner did not even file a reply to the charge sheet. The seven witnesses relied upon by the inquiry committee are on record out of which five people were cross-examined by the petitioner despite not having filed a reply to the charge sheet. Two witnesses were refused to be cross-examined.

127. Submission that the petitioner was not permitted to lead defence evidence cannot be accepted as it was open for the petitioner to have taken this ground in the reply to the show cause notice, which he has not done; even in the present writ petition, the petitioner could not even satisfy as to which evidence being allowed to be led would have exonerated the petitioner.

128. The petitioner being a Director of a company which is having a registered office at the residential address of the petitioner of which Mr. Vikrant Kumar is a Director who was awarded the work, is not even denied in the present petition or even in the argument submitted by the petitioner. Thus, even if for the sake of argument the contention of the petitioner with regard to arbitrariness committed by the inquiry committee is accepted to be correct, the specific charge of the petitioner being Director of a company is not even denied even before this court, thus, on that count the petitioner could not satisfy the test of prejudice allegedly caused by the emphatically argued arbitrariness.

129. In the present case, the petitioner has calculatively and selectively spun a web of untrue facts to confuse the entire issue before this court - the volume of the writ petitions speak for themselves. However, in the entire volume presented by the petitioner in all the writ petitions, there is not one assertion that the petitioner was not the director of the company which had a registered office at the residential address of the petitioner and/or Mr. Vikrant Kumar was a not director of the said company who was the proprietor of M/s Fluid Fantasy, which was awarded the contracts at the instance of the petitioner, thus, there was a clear conflict of interest.

130. The petitioner has failed to demonstrate that the petitioner was engaging in private business after incorporation of the company while in service and as to whether the petitioner had any permission to do so in view of there being a bar in the professors engaging in any business that too without any permission.

131. Thus, on a conjoint reading of the submissions made by the petitioner, findings recorded by the inquiry committee and the order of dismissal, apparently there is no material in favor of the petitioner to exercise the power of judicial review for setting aside the termination order as pleaded by the petitioner. The petitioner having failed to give a reply to the charge sheet, give a reply to the show cause notice cannot agitate all his grievances for the first time before this Court, as, at the cost of repetition, it is stated that the scope of judicial review is essentially confined to decision-making process in which apparently no palpable error is seen.

132. The petitioner having failed to deny the main charge of the petitioner engaging in business and awarding contracts to a firm indirectly in which he was associated and having failed to establish the test of prejudice before this Court in respect of the findings recorded by the inquiry committee, no interference is called for in the order of dismissal. Thus, Writ A No.3840 of 2021 is liable to be dismissed on that score also and is accordingly dismissed.

133. Coming to the main submission of learned counsel for the petitioner that in view of there being an interim order passed by this court on 20.12.2018 in Writ - A No.35784 of 2018, the respondents could not have proceeded to pass a termination order which was not only contemptuous but also would be fatal to the dismissal order.

134. The said submission merits rejection in view of the fact that against the interim order passed by this court on 20.12.2018, the documents reveal that an application for vacation of the interim order was filed by the respondents on 25.02.2020. In the said application, it was specifically stated that in view of the subsequent development, the petition had lost its efficacy and thus, was liable to be dismissed with a request to vacate the interim order. The said application could not be disposed of within a period of two weeks in view of the mandate under [Art. 226\(3\)](#) of the Constitution of India. The interim order stood vacated on the expiry of two weeks after the filing of the said application.

It is essential to notice that the order passed by this court was essentially an ex parte order; although, the parties were heard, however, only a prima facie view was formed by this Court while passing the order, and the stand of the respondents, which was not even available before this Court, was not considered on the said date.

Although in terms of the interim order, respondents ought to have waited for vacation of the interim order, however, keeping in view the conduct of the petitioner as is expressed and recorded in the proceedings [referred to above](#), coupled with the fact that the said vacation application had been filed, no error much less a contemptuous error, can be seen at the instance of the respondents in passing the order of termination.

135. The Honble Supreme Court while deciding the Civil Appeal vide its judgment dated 27.10.2025 made an observation in Paras 5 & 6, which are quoted as under :

...

5. We do not propose to enter into the rival contention. It is evident that once an interim order was in operation from 20th December 2018 and was being extended from time to time, the mere release of the matter on 6th February 2019 could not have constituted a valid ground for violating the order dated 20th December 2018.

6. On this short ground, the appeal deserves to be allowed. The impugned judgment and order dated 23rd September 2024 passed by the Single Judge of the High Court of Judicature at Allahabad, Lucknow Bench is quashed and set aside. The matter is remitted back to the High Court for considering the contempt petition afresh.

136. The same would still not have an effect on the finding recorded by this Court as above, as the question of the stay vacation application being filed but not disposed of within two weeks was not considered by the Honble Supreme Court. Thus, the submission of learned counsel for the petitioner that the proceedings would be fatal in view of the interim order passed by this Court and pending cannot be accepted and is rejected.

CAPL No.936 of 2020 :

137. As regards the contempt application, clearly the order was passed by this Court restraining the respondents from passing a final order. Against the said order, an order recall application and an application for dismissal of the writ petitions having become infructuous were filed, however, was not disposed of. This aspect was considered by the disciplinary committee in the light of the legal opinion received and thereafter, a decision was taken to proceed. The same cannot be termed as willful disobedience of the order passed by this Court. Thus, even the contempt application as filed deserves to be dismissed and is accordingly dismissed.

138. This Court deprecates the conduct of the petitioner since the very inception wherein he has evaded the main questions and issues leveled against him and has tried to spin a cobweb so that the justice can be defeated by taking recourse to procedures. The conduct of the petitioner is clearly malafide and cannot be appreciated. Legal remedies, specially extraordinary discretionary remedy under [Art. 226](#) of the Constitution, are available to citizens who implicitly raise their grievances against violation of their statutory or fundamental rights and not for the persons who simply try to thwart the process of adjudication by harping on errors in following procedural due process without caring to address on substantive allegations, in the manner in which the present petitioner has done.

139. For all the reasons recorded above, all the writ petitions and contempt application are dismissed.

October 05, 2026

[Pankaj Bhatia, J.]

Nishant.