A.F.R.
RESERVED ON 10.10.2022
DELIVERED ON 17.01.2023

Court No. - 38
Case :- WRIT - C No. - 3297 of 2020
Petitioner :- Adil Khan
Respondent :- Vice Chancellor Aligarh Muslim University Aligarh And 4 Others
Counsel for Petitioner :- Prabhakar Dwivedi,Jitendra Kumar,Mohd Zubair,Nasira Adil,Prashant Rai
Counsel for Respondent :- Shashank Shekhar Singh

Hon'ble Salil Kumar Rai,J.

A student of B.A.LL.B. in the Aligarh Muslim University (hereinafter referred to as, 'University') has approached this Court pleading that he has not been treated fairly by the University while passing an order expelling him from the rolls of the University for a duration of five academic sessions on the charge that he had indulged in acts of indiscipline and misconduct as defined in AMU Students' Conduct and Discipline Rules, 1985 (hereinafter referred to as, 'Rules, 1985'). The petitioner pleads violation of the principles of natural justice in the disciplinary proceedings.

The facts of the case are that there were differences between two groups of students on the issue of inviting a political leader in the University Campus, as a result of which violent activities disrupting the academic atmosphere in the University took place on the Campus on 12.2.2019. The petitioner is alleged to have participated in the violence. By order dated 13.2.2019, the Proctor of the University suspended the petitioner and three other students including one Farhan Zubairi. The order dated 13.2.2019 notes that one Manish Kumar had filed a complaint to the Proctor stating that two students of the University had abused and physically assaulted him and blamed the petitioner and Farhan Zubairi for the chaos in the campus. The order dated 13.2.2019 also prohibited the

petitioner from entering the University Campus. On 14.2.2019, two First Information Reports were registered in relation to incident dated 12.2.2019. F.I.R. No. 61 of 2019 was registered at the instance of one Azim Akhtar, an employee of the University, under Sections 147, 323 and 504 of the Indian Penal Code alleging that the accused named in the F.I.R. along with some unknown persons and political leaders had created disturbances at the administrative building of the University. The other First Information Report numbered as F.I.R. No. 62 of 2019 was registered at the instance of one Dr. Nishit Sharma under Sections 147, 148, 149, 307 and 427 of Indian Penal Code alleging that on 12.2.2019, the accused named in the F.I.R. along with certain unknown persons had physically assaulted the informant and students of the University and had also fired at the vehicle of the informant and had set on fire other vehicles. The petitioner was not named as an accused in either of the F.I.R. A charge-sheet dated 13.7.2019 has been filed in F.I.R. No. 62 of 2019. The petitioner has not been shown as an accused in the charge-sheet though Farhan Zubairi has been noted as an accused in the aforesaid charge-sheet.

On 28.2.2019, one Mazhar Siddiqui, an employee of the University, lodged a First Information Report numbered as F.I.R. No. 0089 of 2019 against the petitioner and one Nabil under Sections 307 and 504 of Indian Penal Code alleging that on 28.2.2019, the petitioner along with the co-accused came in the office of the informant and the co-accused fired at the informant by a country-made pistol. It has been alleged in the F.I.R. that the petitioner abused the informant and also instigated the co-accused Nabil to fire at the informant. It has been further stated in the F.I.R. that Nabil Ahmed was apprehended by the informant but the petitioner managed to

escape from the spot with the fire-arm. A charge-sheet has been filed against the petitioner in the aforesaid case. The trial in the said criminal case is pending before the concerned court. It has been stated by the petitioner that the charge-sheet filed in F.I.R. No. 0089 of 2019 has been challenged before this Court under Section 482 Cr.P.C. The proceedings under Section 482 Cr.P.C. pending before this Court are not relevant for the present writ petition and, therefore, the details of the said case are not being narrated in the present judgment.

An inquiry report dated 5.3.2019 was submitted by the Proctorial Board of the University stating that, on 12.2.2019, the petitioner had manhandled and abused the university security personnels and members of the Proctorial Team as well as the district officials and had also instigated the students at the administrative block. The report dated 5.3.2019 also holds other students, namely, Imran Khan, Abdul Mabood, Manish Kumar, Pavan Jadon, Aman Sharma, Ajay Singh and Farhan Zubairi responsible for the incidents of 12.2.2019. Subsequently, disciplinary proceedings were instituted against the petitioner and the other students mentioned above and the matter was referred to the Disciplinary Committee for further inquiry.

The Disciplinary Committee served a charge-sheet on the petitioner. Charge No. 1 was that the petitioner, along with Farhan Zubairi, had assaulted Ajay Singh, Manish Kumar, Pavan Jadon, Aman Sharma and other students and had also created chaos at the University administrative building turning the situation violent which disrupted the academic environment of the University. The other charge against the petitioner was that he, while still under suspension and campus banned, went to the Department of Computer Science Building on 28.2.2019

and was involved in criminal activities for which F.I.R. No. 0089 of 2019 under Sections 307 and 504 of Indian Penal Code had been registered against him.

The petitioner submitted his reply dated 20.3.2019 in which he denied the charge regarding his involvement in the incidents of 12.2.2019 and 28.2.2019. In his reply, the petitioner explained his presence at the Administrative building on 12.2.2019 stating that he had gone there to enquire about his application filed under the Right to Information Act. In his reply, the petitioner stated that there was a conspiracy against him and his family at the instance of one Khillan Sherwani, a contractor with the University, against whom complaints had been made by the father of the petitioner and other teachers residing in the University campus. In his reply, the petitioner demanded the copy of the complaint on which disciplinary proceedings were instituted against him and also video footages and other evidence in support of the charges levelled against him.

The documents filed by the University show that because of his illness, the petitioner did not appear before the Disciplinary Committee which submitted its recommendations proposing that Manish Kumar, Aman Sharma, Pavan Jadon, Abdul Mabood, Irshad Khan, Basim Hilal and Farhan Zubairi be fined Rs.2,000/- and be issued a strict warning to be more careful in future and Ajay Singh as well as the petitioner be expelled from the rolls of the University for five academic sessions. However, the Vice-Chancellor remitted back the matter of the petitioner to the Disciplinary Committee for further inquiry because the initial recommendations were made by the Disciplinary Committee without hearing the petitioner.

The petitioner subsequently appeared before the Disciplinary Committee and made his oral submissions denying the charges levelled against him. The minutes of the Disciplinary Committee show that the petitioner pleaded to be treated leniently and at par with Farhan Zubairi. The Disciplinary Committee submitted its report holding that the petitioner was actively involved in the incident of 12.2.2019. In its report, the Disciplinary Committee further recorded that the petitioner disobeyed the order dated 13.2.2019 which had prohibited him from entering the University Campus and was also involved in the incident that happened on 28.2.2019. On the aforesaid findings, the Disciplinary Committee, being of the view that any further condonation of the extremely violent and deviant behaviour of the petitioner would put to severe risk the life and liberty of other students and staff of the University, submitted its findings proposing that the petitioner be expelled from the rolls of the University for a duration of five academic sessions commencing from Session 2018-19 and be debarred from further studies or admission or re-admission in the University for the duration of the aforesaid period and the University as well as Institutions maintained by it be placed out of bound for the petitioner for the period he remains expelled from the University.

The proposal of the Disciplinary Committee were approved by the Vice-Chancellor vide his order dated 2.9.2019. The documents produced by the University disclose that the Vice-Chancellor had merely noted his approval of the proposals submitted by the Disciplinary Committee. After approval by the Vice-Chancellor, an order dated 4.9.2019 was issued by the Proctor of the University informing the petitioner about the punishments imposed on him.

The petitioner filed an application dated 15.9.2019 before the Proctor seeking certain documents especially the inquiry report dated 5.3.2019, copy of the complaints made to the Proctor regarding the incidents dated 12.2.2019 and 28.2.2019, the video recording and CCTV footages of the incident of 12.2.2019 and also a copy of the report submitted by the Disciplinary Committee. It has been stated in the petition, that the aforesaid documents were required to file an appeal against the orders dated 2.9.2019 and 4.9.2019 but the documents were neither given nor shown to the petitioner.

The orders dated 2.9.2019 and 4.9.2019 were challenged by the petitioner in an appeal filed before the Executive Council under Section 36(B) of the Aligarh Muslim University (Amendment) Act, 1981. In his appeal, the petitioner pleaded that the necessary documents to enable him to defend himself were not given to him and he had been wrongly held to be involved in the incidents of 12.2.2019 and 28.2.2019. In his appeal before the Executive Council, the petitioner again requested that he be treated in the same manner as other students, e.g., Farhan Zubairi, implying that in case, the petitioner was found involved in any act of indiscipline, he may be treated leniently as had been done with other students including Farhan Zubairi.

The Executive Council vide its resolution dated 14.10.2019 rejected the appeal of the petitioner. The resolution dated 14.10.2019 was communicated to the petitioner by the Proctor of the University vide his letter dated 31.12.2019. The orders dated 4.9.2019 and 31.12.2019 have been challenged in the present writ petition.

Before proceeding further, it would be relevant to note

that no prayer has been made in the petition to quash the order dated 2.9.2019 passed by the Vice-Chancellor and the resolution dated 14.10.2019 passed by the Executive Council. However, considering that the order dated 2.9.2019 has been filed by the University and is part of the records of the present case and the resolution dated 14.10.2019 passed by the Executive Council has been *in-verbatim* incorporated in the order dated 31.12.2019 passed by the Proctor and the communications dated 4.9.2019 and 31.12.2019 are only intimations to the petitioner of the order dated 2.9.2019 and the resolution dated 14.10.2019, the Court heard the counsel for the parties on the merits of the order dated 2.9.2019 and the resolution dated 14.10.2019.

It was argued by the counsel for the petitioner that despite repeated applications and representations made by the petitioner to the University, the report of the preliminary inquiry, the complaints on which disciplinary action was instituted against the petitioner, the video footage of the incident as well as the statement of any student or official of the University or any other person and any other evidence showing participation of the petitioner in the incidents of 12.2.2019 was not given to the petitioner during the disciplinary proceedings. It was argued that in its report, the Disciplinary Committee has not referred to any statement of any witness having deposed against the petitioner but refers only to the CCTV footage which only shows the presence of the petitioner at the place of incident on 12.2.2019 and does not show participation of the petitioner in any violent activity that took place on 12.2.2019. It was argued that the petitioner was not named in the first information report or as an accused in the charge-sheet filed by the police in relation to the events of 12.2.2019 but many

students who have been treated leniently by the University and have been given lighter punishments were named in the two F.I.R. registered in relation to the events of 12.2.2019 and have also been named as accused in the charge-sheets filed in the aforesaid cases. It was argued that the aforesaid fact was not considered either by the Disciplinary Committee or by the Vice-Chancellor and the Executive Council while deciding against the petitioner. It was further argued that the petitioner was not involved in the events of 28.2.2019 and the said charge has been held to be proved against the petitioner only on the ground that a charge-sheet had been served on the petitioner in the criminal case registered in relation to the incident of 28.2.2019. It was argued that the findings regarding the incident dated 28.2.2019 has been recorded without taking the statement of the informant and without giving any opportunity to the petitioner to cross-examine the informant. It was argued that the opinion of the Disciplinary Committee that the petitioner is a habitual offender is based on the findings of the Disciplinary Committee that the petitioner was involved in the incidents of 12.2.2019 which, for reasons stated above, is contrary to law. It was further argued that under Part VII Rule 9 of the Rules, 1985, the petitioner was entitled to an opportunity of hearing by the Vice-Chancellor before the report and recommendations of the Disciplinary Committee was approved by the Vice-Chancellor but the order dated 2.9.2019 was passed by the Vice-Chancellor without giving any opportunity of hearing to the petitioner. It was argued that the petitioner was not provided the report of the Disciplinary Committee and was not given any opportunity to make any representation to the Vice-Chancellor against the report of the Disciplinary Committee. It was further argued that the order of the Vice-Chancellor reflects a total non-application

of mind and is a non-speaking order because the order gives no reasons for approving the proposals of the Disciplinary Committee. It was further argued that in light of the fact that lighter punishment had been awarded to other students found guilty of involvement in the events of 12.2.2019, the petitioner has been treated unfairly by being expelled from the University for five academic sessions and the punishment awarded to the petitioner is disproportionate to the charges levelled against him. It was further argued that the resolution dated 14.10.2019 passed by the Executive Council rejecting the appeal filed by the petitioner also shows a total non-application of mind by the members of the Executive Council. It was further argued that the Vice-Chancellor had participated in the meeting of the Executive Council and, therefore, the decision of the Executive Council rejecting the appeal of the petitioner is vitiated due to bias. It was argued that for the aforesaid reasons, principles of natural justice were violated in the entire disciplinary proceedings held against the petitioner and the impugned order passed by the Vice-Chancellor as well as the resolution of the Executive Council have been passed wihout following the principles of natural justice and are liable to be quashed. In support of his arguments, the counsel for the petitioner has relied on the judgments of this Court reported in ***Syed Ehteshamul Haq vs. Aligarh Muslim University, Aligarh & Ors. 2009 (5) ADJ 444*** and the judgment and order dated 2.12.2019 passed by this Court ***in Writ – C No. 32955 of 2019 (Ajay Singh vs. Union of India & Ors.).***

Rebutting the arguments of the counsel for the petitioner, the counsel for the respondent University has argued that the petitioner was given ample opportunity of hearing by the Disciplinary Committee. It was argued that before proposing

the punishment awarded to he petitioner, the Disciplinary Committee had considered the reply of the petitioner and the evidence on record. It was argued that the involvement of the petitioner in the incidents of 12.2.2019 was proved by the CCTV footage. It was also argued that the incidents of 28.2.2019 itself shows that the petitioner had violated the order dated 13.2.2019 wherein he was asked not to enter the University premises and the incident shows the indisciplined nature of the petitioner. It was argued that the petitioner had been treated fairly by the Vice-Chancellor which would be evident from the fact that the initial recommendations of the Disciplinary Committee were remitted back to the Disciplinary Committee by the Vice-Chancellor for giving one more opportunity to the petitioner to defend himself. It was argued that there was substantial compliance of the principles of natural justice before passing the impugned orders and no prejudice has been caused to the petitioner in case any aspect of natural justice has not been followed in the process. It was argued that the case of the petitioner is different from other students because the petitioner was a repeat-offender and for the same reason, the punishment awarded to the petitioner is not disproportionate or unreasonable so as to occasion interference by this Court. It was further argued that the present petition relates to disciplinary proceedings and administration of the internal affairs of the University and, therefore, the court may not interfere in the present proceedings especially in light of the fact that the petitioner was involved in criminal activities. It was argued, in the alternative, that in case, the court finds the impugned orders passed by the Vice-Chancellor and the Executive Council to be bad in law due to violation of the principles of natural justice, it would be appropriate that the

matter be remanded back to the Vice-Chancellor or the Executive Council, as the case may be, for appropriate decision in accordance with law but the petitioner may not be reinstated as a student in the University. It was argued that for all the aforesaid reasons, the writ petition lacks merit and is liable to be dismissed. In support of his arguments, the counsel for the respondent has relied on the judgments reported in ***State Bank of Patiala & Ors. vs. S.K. Sharma 1996 (3) SCC 364; Union of India & Ors. vs. Ashok Kumar & Ors. 2005 (8) SCC 760; K.D. Sharma vs SAIL 2008 (12) SCC 481; V.C. Guru Ghasi Das University vs. Craig Macleod 2012 (11) SCC 275; Chairman, LIC vs. A. Masilamani 2013 (6) SCC 530; Lucknow Kshetriya Gramin Bank & Anr. vs. Rajendra Singh 2013 (12) SCC 372; State of U.P. vs. Sudhir Kumar Singh & Ors. (2020) SCC OnLine SC 847; Union of India & Ors. Amar Singh 2007 (12) SCC 621; Haryana Financial Corporation & Anr. vs. Kailash Chandra Ahuja 2008 (9) SCC 31*** and ***the judgment and order dated 23.9.2022 passed in The Inspector of Panchayats & District Collector, Salem vs. S. Arichandran & Ors***.

Before proceeding further, it would be appropriate to note that in its counter affidavit, the University had raised a preliminary objection that against the decision of the Executive Council, the petitioner had a statutory remedy under Section 13(6) of the Aligarh Muslim University Act, 1921 before the Visitor of the University but during the arguments, the counsel for the respondent – University did not press the said objections in light of the fact that affidavits in the case had already been exchanged between the parties and the matter was pending before this Court since 2020.

I have considered the rival submissions of the counsel for the parties.

In ***V.C. Guru Ghasi Das University (supra)***, the Supreme Court observed that maintenance of discipline in the University was important for a conducive academic environment, that the larger interests of the academic community are more central than the individual interests of a student and the courts should be most reluctant to interfere in matters of discipline or in administration of the internal affairs of a University. However, the Supreme Court in ***Chairman, J & K State Board of Education vs. Feyaz Ahmed Malik and Ors. 2000 (3) SCC 59***, after observing that in matters concerning campus discipline, the duty is primarily vested in the authorities in-charge of the institutions and the court should not substitute their own views in place of the authorities concerned, held that the courts have the power to intervene to correct any error in complying with the provisions of the Rules, Regulations or Notifications and to remedy any manifest injustice being perpetrated on the candidates. Earlier, the Supreme Court had held in ***B.C. Chaturvedi vs. Union of India 1995 (6) SCC 749*** that the courts are concerned with the question as to whether an inquiry on charges of misconduct against a public servant had been held in accordance with the principles of natural justice and whether the concerned individual had received fair treatment. The Supreme Court held that the courts would interfere where the inquiry was held in a manner inconsistent with the principles of natural justice, or was held in violation of statutory rules or where the conclusion reached by the disciplinary authority was based on no evidence. The Supreme Court further observed that the disciplinary authority was the sole judge of facts in disciplinary matters but

the appellate authority had co-extensive power to re-appreciate evidence or nature of punishment. Paragraph nos. 12 and 13 of the judgment containing the observations of the Supreme Court are reproduced below : -

> ***"12.*** *Judicial review is not an appeal from a decision but a review of the manner in which the decision is made.* ***Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court / Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with****. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion.* ***But that finding must be based on some evidence****. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court / Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence.* ***The Court / Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence****. If the conclusion or finding be such as no reasonable person would have ever reached, the Court / Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.*
>
> ***13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment****. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court / Tribunal. In Union of India v. H.C. Goel, this Court held at page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.****"***

(emphasis added)

The observations of the Supreme Court in ***B.C. Chaturvedi*** (supra) were made in a case relating to disciplinary inquiry against civil servants but the observations regarding powers of the court to interfere in disciplinary proceedings, the requirement to follow the principles of natural justice in disciplinary inquiries and that the findings of the disciplinary bodies should be supported by some evidence, applies to all disciplinary proceedings including disciplinary proceedings in educational institutions, especially where the allegations against the student are serious and strict and extreme punishment is awarded to the student as the allegations and punishments could adversely affect the career opportunities of the student. In ***Kumaon Mandal Vikas Nigam Ltd. vs. Girja Shankar Pant & Ors. 2001 (1) SCC 182***, the Supreme Court observed in Paragraph 20 that '*it was a fundamental requirement of law that the doctrine of natural justice be complied with and the same has, as a matter of fact, turned out to be an integral part of administrative jurisprudence of this country*.' At this stage, it would be apt to refer to the observations of the Supreme Court in ***Institute of Chartered Accountants of India vs. L.K. Ratna & Ors. 1986 (4) SCC 537*** made while considering whether a member of Institute of Chartered Accountants charged of misconduct had a right to be heard by the Council of the Institute against the findings of the Disciplinary Committee, which was a standing committee of the Council. The Supreme Court in Paragraph 14 of the judgment observed that '*it is the substance of the matter, the character of the allegations, the far-reaching consequences of a finding against the member, the vesting of responsibility in the governing body itself, all these and kindred considerations enter into the decision of the*

question whether the law implies a hearing ...'

The allegations against the petitioner are serious. The punishment awarded to him is severe and has far-reaching consequences. The punishment not only deprives the petitioner of his educational opportunities and adversely affects his career but also casts a stigma obstructing his future career. The nature of allegations against the petitioner, the strict and extreme punishment awarded to him and the observations of the Supreme Court referred above persuade the court to reject the plea of the University that the court should decline to exercise its power of judicial review because the matter relates to discipline and administration of internal affairs of the University. The punishment given to the petitioner necessitates an examination by this Court, in exercise of its powers under Article 226, as to whether the disciplinary proceedings against the petitioner were held in a manner consistent with the principles of natural justice and whether the impugned orders passed by the Vice-Chancellor and the Executive Council comply with the relevant statutory provisions and with the general rules of administrative law.

At this stage, it would be appropriate to reproduce the statutory provisions relating to discipline in the University and the powers of different authorities / officers of the University to take action against students in cases of indiscipline. Statute 35 of the Statutes of the University relates to maintenance of discipline amongst students of the University. The relevant parts of Statute 35 are reproduced below : -

> ***35. Maintenance of discipline among students of the University -***
>
> ***(1) All powers relating to discipline and disciplinary action in relation to students shall vest in the Vice-***

Chancellor.

(2) *The Vice-Chancellor may delegate all or any of his powers as he deems proper to the Proctor and such other officers as he may specify in this behalf.*

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action in the interest of maintaining discipline as may seem to him appropriate*, the Vice-Chancellor may, in the exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of Study in a College, Department or Institution of the University for a stated period, or be punished with fine for an amount to be specified in the order, or debarred from taking a University or College or Departmental Examination or Examinations for one or more years, or that the results of the student or students concerned in the Examination or Examinations in which he or they have appeared be cancelled.*

(4) to (6) xxx

The students of the University are governed by Aligarh Muslim University Students Conduct and Discipline Rules, 1985 (Approved by the Academic Council in its meeting held on 6.10.1985)

Part – I

General

(1) to (3) xxx

Part – II

Indiscipline and Misconduct

4. Acts of Indiscipline and Misconduct

Any act of misconduct committed by a student inside or outside the campus shall be an act of violation of discipline of the University. Without prejudice to the generality of the foregoing provision, violations of the discipline shall include:

(i) *Disruption of teaching, student examination, research or administrative work, curricular or extra-curricular activity or residential life of the members of the University, including any attempt to prevent any member of the University or its staff from carrying on*

his or her work; and any act reasonably likely to cause such disruption.

(ii) *Damaging or defacing University property or the property of members of the University or any other property inside or outside the University campus.*

(iii) *Engaging in any attempt at wrongful confinement of teachers, offices, employees and students of the University or camping inside or creating nuisance inside the boundaries of houses of teachers, officers and other members of the University.*

(iv) *Use of abusive and derogatory slogans or intimidatory language or incitement of hatred and violence or any act calculated to further the same.*

(v) to (vi) *…*

(vii) *An assault upon, or intimidation of, or insulting behaviour towards a teacher, officer, employee or student or any other person.*

(viii) to (xxvii) *…*

(xxviii) *Any other act which may be considered by the Vice-Chancellor or the Discipline Committee to be an act of violation of discipline.*

Part – III

Officers authorized to take disciplinary action

5. *Without prejudice to the powers of the Vice-Chancellor as specified under Statutes 35(1), (2), (3) of the Statutes, the following persons are authorized to take disciplinary action by way of imposing penalties as specified in part IV of these Regulations;*

1. *Deans of the Faculties / Dean, Students' Welfare*

2. *Principals of the Colleges / Institutions*

3. *Chairmen of the Departments of Studies*

4. *Proctor*

5. *Librarian, Maulana Azad Library*

6. *Provosts of Halls of Residence and N.R.S.C.*

7. *Secretary, University Games Committee*

8. *Any other person employed by the University and authorized by the Vice-Chancellor for the purpose.*

6. (i) Any penalty enumerated in Rule 7 may be imposed by the Vice-Chancellor upon the recommendation of the Discipline Committee

constituted under Ordinances (Academic) Chapter XI.

(ii) *Penalties other than those specified in Clause (ix), (x), (xi), (xii) and (xiii) of Rule 7 may also be imposed by any of the Officers enumerated in Rule 5, within their respective jurisdictions.*

(iii) *Penalties on the offences relating to Examination will be dealt by the relevant bodies.*

Part – IV

7. Nature of Penalties:

The following penalties may, for act of indiscipline or misconduct or for sufficient reasons, be imposed on a student, namely:

(i) *Written warning and information to the guardian.*

(ii) *Fine upon Rs. 500/- which may extent upto Rs. 2,500/-.*

(iii) *Suspension from the Class / Department / College / Hostel / Mess / Library / or availing of any other facility.*

(iv) *Suspension or cancellation of Scholarships, fellowship or any financial assistance from any source or recommendation to that effect to the sanctioning agency.*

(v) *Recover of pecuniary loss caused to University Property.*

(vi) *Debarring from participation in Sports / NCC / NSS and other such activities.*

(vii) *Disqualifying from holding any representative position in the Class / College / Hostel / Mess / Sports / Clubs and in similar other bodies.*

(viii) *Hostel shift and Hall shift.*

(ix) *Sent down.*

(x) *Expulsion from the Department / Faculty / Hostel / Mess / Library / Club for a specified period.*

(xi) *Debarring from an examination.*

(xii) *Issue of Migration Certificate.*

(xiii) Expulsion from the University for a Specified Period.

(xiv) *Disqualifying from further studies, or prohibition of further admission or re-admission.*

8. xxx

> ***9. No penalty, provided in Clause (x), (xi), (xii), (xiii) and (xiv) of Rule 7 shall be imposed without giving the student a reasonable opportunity of being heard*.**

Statute 35 of the Statutes of the University and the Rules, 1985 indicate that the Vice-Chancellor of the University is the final authority to decide on the action to be taken in disciplinary matters. A reading of Rule 6(i) of the Rules, 1985 shows that the power to expel a student from the University for a specified period is to be taken only by the Vice-Chancellor upon the recommendations of the Disciplinary Committee constituted under the Ordinances of the University. Further, no decision expelling a student from the University for a specified period can be imposed without giving the concerned student a reasonable opportunity of being heard.

The petitioner has been expelled from the University for five academic sessions on the recommendations of the Disciplinary Committee. The Committee made the recommendations on its finding that the petitioner was a repeat-offender, meaning thereby that he was involved in the events of 12.2.2019 and also 28.2.2019. In its initial recommendations, the Disciplinary Committee recommended that certain students, which included Farhan Zubairi, who incidentally was accused of participating in the events of 12.2.2019 along with the petitioner, be punished with a fine of Rs.2,000/- and be issued a strict warning to be more careful in future. The Disciplinary Committee justifies the extreme penalty for the petitioner on the ground that the petitioner had violated the prohibitory orders restraining him from entering the University Campus and had also subsequently participated in the events of 28.2.2019 and was, therefore, a repeat-offender.

The minutes of the Disciplinary Committee do not

indicate that any evidence was taken by the Disciplinary Committee to verify the allegations made in complaints filed by any person regarding the events of 12.2.2019 and whether the petitioner was involved in the violence that took place on 12.2.2019. The report of the Disciplinary Committee does not refer to any statement of any witness regarding the participation of the petitioner in the violent incidents that took place on 12.2.2019. The CCTV footage referred by the Disciplinary Committee to support its findings regarding participation of the petitioner in the incidents of 12.2.2019 only shows that the petitioner was involved in some arguments with certain persons which could include the officers of the University or other group of students. The fact that the petitioner was involved in arguments with officials of the University would not be sufficient to conclude that the petitioner was also involved in the violence that erupted subsequently. In case, the Disciplinary Committee relied on the statement of any witness or any report by any authority implicating the petitioner in the violent incidents, such statements had to be referred in its report and had to be supplied to the petitioner to enable him to rebut the allegations regarding his involvement in the activities as contained in the statement of the witness or in the report. It is the case of the petitioner that neither the copy of the complaint nor the statement of any witness, nor even the CCTV footage was given to him at any stage. It is not the case of the University that the circumstances were such that identity of the witness could not be disclosed or the confidentiality of the reports available against the petitioner had to be maintained. In its report, the Disciplinary Committee only narrates the incidents and mechanically, without assessment of any evidence, holds the petitioner to be guilty of participating in

violent activities disrupting the academic environment of the University. It is interesting to note that the report of the Disciplinary Committee does not indicate that even the statement of Manish Kumar who had filed the complaint regarding the incidents of 12.2.2019 or the statement of the informants of F.I.R. No. 61 of 2019 and F.I.R. No. 62 of 2019 were recorded by the Disciplinary Committee. The findings of the Disciplinary Committee regarding the involvement of the petitioner in the incidents of 12.2.2019 is not supported by any evidence on record.

Similarly, even though the petitioner has been charge-sheeted in the criminal case registered on the incident of 28.2.2019, but the Disciplinary Committee has recommended disciplinary action against the petitioner not on ground that he was charge-sheeted in the aforesaid criminal case but ostensibly on the basis of an independent inquiry having been held by the Disciplinary Committee. The report of the Disciplinary Committee does not indicate that any employee of the University had testified against the petitioner and, in case, any statement or complaint was made by any employee of the University, a copy of the same was supplied to the petitioner. The findings of the Disciplinary Committee regarding participation of the petitioner in the incident dated 28.2.2019 is also not supported by any evidence on record.

A reading of the report of the Disciplinary Committee gives the impression that the Committee has treated the charges against the petitioner as evidence of his misconduct and indiscipline. It appears that the nature of the incidents that took place on the University Campus on 12.2.2019 prevailed upon the members of the Disciplinary Committee to recommend a

severe punishment to the petitioner. The findings of the Disciplinary Committee regarding participation of the petitioner in the violence that took place on the campus are based on no legal evidence and the report of the Committee suffers from the infirmity of non-application of mind and stands vitiated.

The order dated 2.9.2019 passed by the Vice-Chancellor approving the recommendations of the Disciplinary Committee merely records its approval of the recommendations submitted by the Committee. The petitioner was, admittedly, not given any opportunity of hearing by the Vice-Chancellor before passing the order dated 2.9.2019. It is also apparent from the pleadings of the parties that the report of the Disciplinary Committee was not supplied to the petitioner to enable him to rebut the findings recorded by the Disciplinary Committee.

As noted earlier, under the Statutes of the University and the Rules, 1985, the final authority to take disciplinary action against the students of the University vests in the Vice-Chancellor. Further, as noted earlier, any punishment expelling the student from the University for a specified period can be taken only by the Vice-Chancellor though the Vice-Chancellor would take such an action on the recommendations of the Disciplinary Committee. The disciplinary proceedings against a student do not end when the Disciplinary Committee submits its recommendations / report to the Vice-Chancellor. The Vice-Chancellor is not bound by the recommendations of the Disciplinary Committee and is expected to apply his independent mind while taking a decision on the recommendations of the Disciplinary Committee. The Vice-Chancellor may agree or disagree with the report of the Disciplinary Committee. The Vice-Chancellor may agree or

disagree with both the findings and the recommendations of the Disciplinary Committee or it may agree with the findings of the Committee but may still disagree with its recommendations regarding punishment to be given to the student. The disciplinary proceedings come to an end only after the Vice-Chancellor passes an order on the recommendations of the Disciplinary Committee – either exonerating the student or awarding any punishment as specified in Rule 7 of the Rules, 1985.

Rule 9 of the Rules, 1985 provides that no penalty under Rule 7(x) to 7(xiv) shall be imposed without giving the student a reasonable opportunity of hearing. The punishment imposed on the petitioner is under Rule 7(xiii). A 'reasonable opportunity of hearing' requires that the person who is proposed to be punished should know the materials on which the competent authority is to take a decision against him. Under the Rules, 1985, the Vice-Chancellor, as a final judge of facts and of the punishment to be awarded to the student, would take a decision on the report of the Disciplinary Committee. In the circumstances, the concerned student should have the opportunity to demonstrate the fallibility in the conclusions of the Disciplinary Committee and its recommendations against him. The said right can be availed by the student only if the report of the Disciplinary Committee and the records on which the Disciplinary Committee relies to support its findings is given to the concerned student and the student is given an opportunity to represent against the report. In this context, it would be appropriate to refer to the observations of the Supreme Court in Paragraph nos. 26 and 27 of its judgment reported in ***Managing Director, ECIL, Hyderabad & Ors. vs. B. Karunakar & Ors. 1993 (4) SCC 727*** : -

*"26. **The reason why the right to receive the report of the enquiry officer is considered an essential part of the reasonable opportunity at the first stage and also a principle of natural justice is that the findings recorded by the enquiry officer form an important material before the disciplinary authority which along with the evidence is taken into consideration by it to come to its conclusions**. It is difficult to say in advance, to what extent the said findings including the punishment, if any, recommended in the report would influence the disciplinary authority while drawing its conclusions. The findings further might have been recorded without considering the relevant evidence on record, or by misconstruing it or unsupported by it. **If such a finding is to be one of the documents to be considered by the disciplinary authority, the principles of natural justice require that the employee should have a fair opportunity to meet, explain and controvert it before he is condemned. It is negation of the tenets of justice and a denial of fair opportunity to the employee to consider the findings recorded by a third party like the enquiry officer without giving the employee an opportunity to reply to it**. Although it is true that the disciplinary authority is supposed to arrive at its own findings on the basis of the evidence recorded in the inquiry, it is also equally true that the disciplinary authority takes into consideration the findings recorded by the enquiry officer along with the evidence on record. In the circumstances, the findings of the enquiry officer do constitute an important material before the disciplinary authority which is likely to influence its conclusions. If the enquiry officer were only to record the evidence and forward the same to the disciplinary authority, that would not constitute any additional material before the disciplinary authority of which the delinquent employee has no knowledge. However, when the enquiry officer goes further and records his findings, as stated above, which may or may not be based on the evidence on record or are contrary to the same or in ignorance of it, such findings are an additional material unknown to the employee but are taken into consideration by the disciplinary authority while arriving at its conclusions. **Both the dictates of the reasonable opportunity as well as the principles of natural justice, therefore, require that before the disciplinary authority comes to its own conclusions, the delinquent employee should have an opportunity to reply to the enquiry officer's findings. The disciplinary authority is then required to consider the evidence, the report of the enquiry officer and the representation of the employee against it**.*

27. It will thus be seen that where the enquiry officer is other than the disciplinary authority, the disciplinary proceedings break into two stages. The first stage ends when the disciplinary authority arrives at its conclusions

> ***on the basis of the evidence, enquiry officer's report and the delinquent employee's reply to it****. The second stage begins when the disciplinary authority decides to impose penalty on the basis of its conclusions. If the disciplinary authority decides to drop the disciplinary proceedings, the second stage is not even reached.* ***The employee's right to receive the report is thus, a part of the reasonable opportunity of defending himself in the first stage of the inquiry. If this right is denied to him, he is in effect denied the right to defend himself and to prove his innocence in the disciplinary proceedings****.”*

(emphasis added)

Though the aforesaid observations of the Supreme Court were made in a case relating to departmental inquiry against civil servants but the same apply in any disciplinary proceedings as they define the contours of the principles of natural justice and ‘reasonable opportunity’.

It has been stated in the petition that the petitioner was not given any opportunity to represent either against the recommendations of the Disciplinary Committee or its findings, the report of the Committee was not supplied to the petitioner and the petitioner was not given any hearing by the Vice-Chancellor. It is not the case of the University that the petitioner was given a personal hearing by the Vice-Chancellor or any opportunity to represent against the recommendations and findings of the Disciplinary Committee or that the report and the recommendations of the Disciplinary Committee had been supplied to the petitioner before the Vice-Chancellor had approved the recommendations of the Disciplinary Committee against the petitioner.

In the present case, an opportunity of hearing to the petitioner by the Vice-Chancellor was also necessary to enable the petitioner to make an attempt to persuade the Vice-Chancellor not to accept the recommendations of the

Disciplinary Committee, at least, regarding the punishment proposed against him, and that be treated leniently considering that other students who were also charged for indiscipline and for being involved in the incidents that occurred on 12.2.2019 were awarded lighter punishment by the University. Evidently, the order dated 2.9.2019 has been passed in violation of the principles of natural justice and Rule 9 of the Rules, 1985.

No reasons have been given by the Vice-Chancellor in his order dated 2.9.2019 approving the recommendations of the Disciplinary Committee. It was argued by the counsel for the University that no reasons were required to be given because the Vice-Chancellor agreed with the recommendations of the Disciplinary Committee. The said contention cannot be accepted. As noted earlier, it is the Vice-Chancellor who is the final disciplinary authority and he is not bound by the recommendations of the Disciplinary Committee. The recommendations of the Disciplinary Committee are only in the nature of a proposal to the Vice-Chancellor. The Vice-Chancellor, whether he agrees or disagrees with the findings and recommendations of the Disciplinary Committee, is not expected to act mechanically and without any application of mind. The principle of fairness demands that every order having adverse civil consequences on the subject of the order must be supported by reasons disclosing application of mind by the decision-maker, whether such a decision is purely administrative or quasi-judicial.

In ***M/s. Travancore Rayon Ltd. vs. Union of India 1969 (3) SCC 868***, the Supreme Court held that it was an unsatisfactory method of disposal of a case if the order does not disclose the points of consideration and the reasons for rejecting

them. It was held by the Supreme Court that disclosure of reasons in support of any order was necessary to enable the aggrieved party to demonstrate that the reasons which persuaded the authority to reject his case were erroneous and further, the obligation to record reasons operates as a deterrent against possible arbitrary action by the executive authority. The observations of the Supreme Court in Paragraphs 9, 10 and 11 of the judgment are reproduced below:-

> ***"9.*** *In a later judgment Bhagat Raja v. The Union of India and Others, the Constitution Bench of this Court in effect overruled the judgment of the majority in Madhya Pradesh Industries Ltd's case. The Court held that the decisions of tribunals in India are subject to the supervisory powers of the High Court under Article 227 of the Constitution and of appellate powers of this Court under Article 136.* ***The High Court and this Court would be placed under a great disadvantage if no reasons are given and the revision is dismissed by the use of the single word 'rejected' or 'dismissed'****. The Court in that case held that the order of the Central Government in appeal, did not set out any reasons of its own and on that account set aside that order. In our view, the majority judgment of this Court in Madhya Pradesh Industries Ltd's case has been overruled by this Court in Bhagat Raja's case.*
>
> ***10.*** *In later decisions of this Court it was held that where the Central Government exercising power in revision gives no reasons, the order will be regarded as void; see State of Madhya Pradesh and Another v. Seth Narsinghdas Jankidas Mehta; The State of Gujarat v. Patel Raghav Natha and Others; and Prag Das Umar Vaishya v. The Union of India and Others.*
>
> ***11.*** *In this case the communication from the Central Government gave no reasons in support of the order; the appellant Company is merely intimated thereby that the Government of India did not see any reasons to interfere "with the order in appeal". The communication does not disclose the "points" which were considered, and the reasons for rejecting them. This is a totally unsatisfactory method of disposal of a case in exercise of the judicial power vested in the Central Government.* ***Necessity to give sufficient reasons which disclose proper appreciation of the problem to be solved, and the mental process by which the conclusion is reached, in cases where a non-judicial authority exercises judicial functions, is obvious. When judicial power is exercised by an authority normally performing executive or administrative***

> ***functions, this Court would require to be satisfied that the decision has been reached after due consideration of the merits of the dispute, uninfluenced by extraneous considerations of policy or expediency. The Court insists upon disclosure of reasons in support of the order on two grounds : one, that the party aggrieved in a proceeding before the High Court or this Court has the opportunity to demonstrate that the reasons which persuaded the authority to reject his case were erroneous; the other, that the obligation to record reasons operates as a deterrent against possible arbitrary action by the executive authority invested with the judicial power."***
>
> (emphasis added)

Subsequently, the Supreme Court in ***Messrs. Mahabir Prasad Santosh Kumar vs. State of U.P. & Others 1970 (1) SCC 764*** observed that orders which *prima facie* seriously prejudice the rights of the aggrieved party without giving reasons negate the rule of law. The Supreme Court observed as follows : -

> ***"6.*** *From the materials on the record it cannot be determined as to who considered the appeal addressed to the State Government, and what was considered by the authority exercising power on behalf of the State Government.* ***The practice of the executive authority dismissing statutory appeals against orders which prima facie seriously prejudice the rights of the aggrieved party without giving reasons is a negation of the rule of law****. This Court had occasion to protest against this practice in several decisions : see Madhya Pradesh Industries Ltd. v. Union of India & Others (per Subba Rao, J.,); Bhagat Raja v. Union of India and Others; State of Madhya Pradesh and Another v. Seth Narsinghdas Jankidas Mehta; The State of Gujarat v. Patel Raghav Natha and Others; and Prag Das Umar Vaishya v. The Union of India and Others. The power of the District Magistrate was quasi-judicial : exercise of the power of the State Government was subject to the supervisory power of the High Court under Article 227 of the Constitution and of the appellate power of this Court under Article 136 of the Constitution.* ***The High Court and this Court would be placed under a great disadvantage if no reasons are given, and the appeal is dismissed without recording and communicating any reasons****.*
>
> ***7.*** *Opportunity to a party interested in the dispute to present his case on questions of law as well as fact, ascertainment of facts from materials before the Tribunal after disclosing the materials to the party against whom it is intended to use them, and adjudication by a reasoned*

> *judgment upon a finding of the facts in controversy and application of the law to the facts found, are attributes of even a quasi-judicial determination.* ***It must appear not merely that the authority entrusted with quasi-judicial authority has reached a conclusion on the problem before him : it must appear that he has reached a conclusion which is according to law and just, and for ensuring that end he must record the ultimate mental process leading from the dispute to its solution. Satisfactory decision of a disputed claim may be reached only if it be supported by the most cogent reasons that appeal to the authority. Recording of reasons in support of a decision on a disputed claim by a quasi-judicial authority ensures that the decision is reached according to law and is not the result of caprice, whim or fancy or reached on grounds of policy or expediency****. A party to the dispute is ordinarily entitled to know the grounds on which the authority has rejected his claim.* ***If the order is subject to appeal, the necessity to record reasons is greater, for without recorded reasons the appellate authority has no material on which it may determine whether the facts were properly ascertained, the relevant law was correctly applied and the decision was just."***
>
> (emphasis added)

In ***The Siemens Engineering & Manufacturing Co. of India Ltd. vs. The Union of India & Anr. 1976 (2) SCC 981,*** the Supreme Court deprecated the tendency of quasi-judicial authorities not to give reasons for their order and observed that administrative authorities should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. The observations of the Supreme Court in Paragraph 6 of the judgment reported in ***The Siemens Engineering (supra)*** are reproduced below : -

> ***"6.*** *Before we part with this appeal, we must express our regret at the manner in which the Assistant Collector, the Collector and the Government of India disposed of the proceedings before them. It is incontrovertible that the proceedings before the Assistant Collector arising from the notices demanding differential duty were quasi-judicial proceedings and so also were the proceedings in revision before the Collector and the Government of India. Indeed, this was not disputed by the learned counsel appearing on behalf of the respondents.* ***It is now settled law that where***

an authority makes an order in exercise of a quasi-judicial function, it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons*. That has been laid down by a long line of decisions of this Court ending with N.M. Desai v. Testeels Ltd. But unfortunately, the Assistant Collector did not choose to give any reasons in support of the order made by him confirming the demand for differential duty. This was in plain disregard of the requirement of law. The Collector in revision did give some sort of reason but it was hardly satisfactory. He did not deal in his order with the arguments advanced by the appellants in their representation dated December 8, 1961 which were repeated in the subsequent representation dated June 4, 1965. It is not suggested that the Collector should have made an elaborate order discussing the arguments of the appellants in the manner of a court of law. But the order of the Collector could have been a little more explicit and articulate so as to lend assurance that the case of the appellants had been properly considered by him. If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative Law, they may have to be so replaced,* ***it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law****. The Government of India also failed to give any reasons in support of its order rejecting the revision application. But we may presume that in rejecting the revision application, it adopted the same reason which prevailed with the Collector. The reason given by the Collector was, as already pointed out, hardly satisfactory and it would, therefore, have been better if the Government of India had given proper and adequate reasons dealing with the arguments advanced on behalf of the appellants while rejecting the revision application. We hope and trust that in future the customs authorities will be more careful in adjudicating upon the proceedings which come before them and pass properly reasoned orders, so that those who are affected by such orders are assured that their case has received proper consideration at the hands of the customs authorities and the validity of the adjudication made by the customs authorities can also be satisfactorily tested in a*

> *superior tribunal or court. In fact, it would be desirable that in cases arising under customs and excise laws an independent quasi-judicial tribunal, like the Income-tax Appellate Tribunal or the Foreign Exchange Regulation Appellate Board, is set up which would finally dispose of appeals and revision applications under these laws instead of leaving the determination of such appeals and revision applications to the Government of India. An independent quasi-judicial tribunal would definitely inspire greater confidence in the public mind.***"**

Recently, in ***Kranti Associates Private Limited & Anr. vs. Masood Ahmed Khan & Ors. 2010 (9) SCC 496***, after referring to the previous judicial precedents on the necessity to give reasons observed that even administrative decisions should record reasons if the decision affects anyone prejudicially. The Supreme Court summarized the law in paragraph 47 of its judgment which is reproduced below :-

> ***"47.*** *Summarizing the above discussion, this Court holds:*
>
> *(a)* ***In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially****.*
>
> *(b) A quasi-judicial authority must record reasons in support of its conclusions.*
>
> *(c)* ***Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well****.*
>
> *(d)* ***Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power****.*
>
> *(e)* ***Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations****.*
>
> *(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
>
> *(g)* ***Reasons facilitate the process of judicial review by superior courts****.*
>
> *(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of*

reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) ***Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process****.*

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor).

(n) ***Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence****. See Ruiz Torija v. Spain EHRR, at 562 para 29 and Anya v. University of Oxford, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".*

*(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".***"**

(emphasis added)

The order of the Vice-Chancellor was subject to appeal before the Executive Council and, therefore, it was incumbent on the Vice-Chancellor to give reasons for his order approving

the recommendations of the Disciplinary Committee. It was observed by the Supreme Court in Paragraph 37 of ***Oryx Fisheries Private Limited vs. Union of India & Others 2010 (13) SCC 427*** as follows : -

> ***"37.*** *Therefore, the bias of the third respondent which was latent in the show-cause notice became patent in the order of cancellation of the registration certificate. The cancellation order quotes the show-cause notice and is a non-speaking one and is virtually no order in the eye of law.* ***Since the same order is an appealable one it is incumbent on the third respondent to give adequate reasons."***

A reading of the judgments of the Supreme Court referred above show that any decision, whether administrative or quasi-judicial, which prejudicially affects any person and is appealable has to be supported by explicit and clear reasons disclosing proper application of mind and that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations. The order of the Vice-Chancellor clearly fails the aforesaid tests. A mere noting of approval on the report of the Disciplinary Committee does not disclose any application of mind by the Vice-Chancellor either to the findings of the Disciplinary Committee or its proposal regarding the punishment to be imposed on the petitioner.

The order dated 2.9.2019 has been passed without giving any opportunity of hearing to the petitioner and without giving any opportunity to the petitioner to represent against the findings and proposal of the Disciplinary Committee. The order does not record reasons for accepting the findings and recommendations of the Disciplinary Committee. Evidently, the order dated 2.9.2019 has been passed without complying with the requirements of natural justice. The order also violates Rule 9 of the Rules, 1985.

Even the Executive Council in its decision dated 14.10.2019 has only mechanically reproduced the recommendations and the report of the Disciplinary Committee. The appeal filed by the petitioner against the order of the Vice-Chancellor has been dismissed by the Executive Council without recording any reasons. The resolution passed by the Executive Council of the University dismissing the appeal filed by the petitioner also reveals a total non-application of mind.

It is evident that the entire disciplinary proceedings against the petitioner culminating in the order of the Vice-Chancellor and the resolution of the Executive Council are in violation of the principles of natural justice and also contrary to Rules, 1985. For the said reasons, the entire disciplinary proceedings against the petitioner including the orders of the Vice-Chancellor and the Executive Council are liable to be quashed.

It is true, as argued by the counsel for the University, that in cases where the orders passed in departmental inquiries or disciplinary proceedings are quashed for violation of the principles of natural justice, the course normally adopted by the Courts is to remit back the matter to the concerned authority to pass fresh orders after following the principles of natural justice. In the present case, the petitioner has been expelled from the University for a period of five academic sessions starting from the academic session 2018-19. The petition was pending before this Court since 2020. The petitioner has already remained under expulsion for more than four years because of orders which, as noted earlier, have been passed without following the principles of natural justice. In the circumstances, it would not be equitable or just to remand back the matter to

the University authorities to hold a fresh inquiry in accordance with the principles of natural justice or to the Vice-Chancellor to pass a reasoned order after giving an opportunity of hearing to the petitioner.

In view of the aforesaid, the order dated 2.9.2019 passed by the Vice-Chancellor and the resolution dated 14.10.2019 passed by the Executive Council are, hereby, quashed. Consequently, the intimations dated 4.9.2019 and 31.12.2019 to the petitioner of the order dated 2.9.2019 and resolution 14.10.2019 also stand quashed.

The Aligarh Muslim Univeristy, Aligarh and its officers shall allow the petitioner to attend his classes in the University and appear in the examinations. The petitioner shall be permitted to appear in the examinations of B.A.LL.B five year course. In case, the period prescribed by the relevant Rules of the University to complete the B.A.LL.B. five year course are to expire before the petitioner gets the opportunity to appear in regular examinations, the University shall hold special examinations for the semesters in which the petitioner could not appear because of his remaining under suspension or under expulsion from the University.

With the aforesaid directions, the writ petition is ***allowed***.

Let this order be communicated to the Vice-Chancellor, Aligarh Muslim University, Aligarh by the Registrar (Compliance) within 48 hours.

Order Date :- 17.1.2023
Satyam