

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)**

Single Bench:

Mr Justice Abdur Rahman

Civil Revision No. 3513 of 2023

In the matter of:

Shah Manjur Morshed Chowdhury

...Defendant-Appellant

Petitioner

-Versus-

Md. Shafiul Alam Mondal and others

...Plaintiff-Respondent

Opposite parties

Mr Purnindu Bikash Das

.....For the Petitioner

Mr Md. Humayun Kabir, Advocate

...for the opposite party 1.

Date of Hearing: 27.07.2026 and 06.08.2026

Date of Judgment: 06.08.2026 A.D.

Thursday, 22 Shraban, 1433 B.S.

JUDGMENT:

Abdur Rahman, J:

This revisional application, at the instance of the petitioners, has been filed under section 115(1) of the Code of Civil Procedure, 1908. At the time of issuance of the Rule, the following order was passed:

" Let a Rule be issued calling upon the opposite party No.1 to show cause as to why the impugned Judgment and Decree dated 05.4.2023- passed by the Joint District Judge, 2nd Court, Naogaon in Title Appeal No. 163 of 2020 dismissing the appeal and thereby affirming the Judgment and Decree dated 11.10.2020 passed by the Senior Assistant Judge Sadar, Naogaon in Other Suit No. 36 of 2020 decreeing the suit, should not be set aside and/or why such other or further order or orders should not be passed as to this Court may seem fit and proper."

Concomitantly, this Court was pleased to stay the impugned judgment and decree for a period of 3 weeks from date; however, the stay order was extended later on till disposal of the Rule.

The material facts giving rise to the instant Rule, in brief, are that opposite party No. 1, as plaintiff, was duly appointed as Head Master of Porsha High Madrasah-cum-High School in accordance with the applicable rules and regulations and had served in that capacity for about four and a half years with sincerity, efficiency and good reputation. It is his case that, owing to his efforts, the institution made substantial progress and achieved satisfactory academic results. While the institution was closed for summer vacation, defendant No. 2, the President of the Managing Committee, allegedly convened a special meeting on 18.05.2012 behind the plaintiff's back and, without affording him an opportunity of defense, placed him under suspension on unfounded allegations, including misappropriation of school funds. The suspension was communicated to him by Memo No. 2/12 dated 24.05.2012. The plaintiff denied all allegations and contended that he had never misappropriated any school funds and that the proceedings were initiated out of personal grudge and mala fide intention to remove him from service.

The plaintiff further alleged that he was neither properly served with the requisite show-cause notices nor afforded an effective opportunity of defense during the departmental enquiry. He challenged the constitution and proceedings of the enquiry committee formed on 27.06.2012 and its report as illegal and contrary to the principles of natural justice. He was ultimately dismissed from service by the Managing Committee on 22.07.2012, allegedly without obtaining the prior approval of the Board of Intermediate and Secondary Education, Rajshahi. Contending that the suspension, enquiry, dismissal, and consequential proceedings were illegal, collusive, ineffective, and without lawful authority, the plaintiff instituted the suit under the provisions of the Specific Relief Act, seeking appropriate relief against his alleged illegal dismissal.

The contesting defendants, namely defendant Nos. 1-5, 7 and 9-11, by a joint written statement, denied the material allegations of the plaint and contended, inter alia, that the suit was not maintainable and was barred by section 45 of the Intermediate and Secondary Education Ordinance, 1961 and

section 42 of the Specific Relief Act, 1877. Their case, in substance, is that the school possesses substantial waqf properties, in respect of which proceedings were pending before the Administrator of Waqf, and that the plaintiff, being the Head Master, was entrusted with custody of the relevant waqf deeds and with taking necessary steps in the pending proceedings. According to the defendants, the plaintiff failed to discharge those responsibilities, failed to properly account for the agricultural produce and school funds, and retained the waqf deeds in his personal custody.

The defendants further stated that, upon consideration of such allegations, the Managing Committee convened a special meeting on 18.05.2012, at which serious charges were raised against the plaintiff, including financial irregularities, negligence in maintaining accounts and records, unauthorized absence, and alleged falsification of educational certificates and index records. The plaintiff was called upon to show cause and was suspended by a unanimous decision of the Managing Committee, with Md. Nowshad Ali being entrusted with the duties of Acting Head Master. A show-cause notice was

allegedly served upon the plaintiff on 24.05.2012 through the peon book and was also sent to his present and permanent addresses by registered post. The plaintiff submitted his written reply on 13.06.2012.

Thereafter, at a meeting held on 27.06.2012, the Managing Committee considered the plaintiff's reply and constituted a three-member enquiry committee. Upon enquiry and after giving notices to the concerned persons, the committee submitted its report on 12.07.2012, finding, according to the defendants, evidence of financial irregularities, negligence in preserving the waqf deeds, unauthorized absence and alleged falsification of certificates and index records, and recommended his dismissal. The Managing Committee accepted the report and, by its decision dated 22.07.2012, dismissed the plaintiff from the post of Head Master. The dismissal was communicated to him by Memo No. 13/12 dated 13.08.2012 and, according to the defendants, further notices were sent through the peon book and by registered post to his present and permanent addresses, which he allegedly refused to receive.

The defendants accordingly maintained that the plaintiff had been proceeded against in accordance with the applicable procedure, that the allegations against him were duly enquired into, and that his dismissal was lawful. They denied any mala fide, collusion or violation of natural justice and prayed for dismissal of the suit with costs.

Thereafter, upon completion of the requisite legal formalities and after affording the parties due opportunity of hearing, the learned trial Court concluded the trial and was pleased to decree the suit by its judgment and order dated 11.10.2020, the decree whereof was drawn up and signed on 18.10.2020.

Being aggrieved by and dissatisfied with the said judgment and decree, the defendants preferred Title Appeal No. 163 of 2020 before the learned District Judge, Naogaon, which was subsequently transferred to the learned Joint District Judge, 2nd Court, Naogaon for hearing and disposal. Upon hearing the parties and considering the materials available on record, the learned Appellate Court was pleased to dismiss the appeal by its judgment and order dated

05.04.2023, the decree having been drawn up and signed on 12.04.2023.

Thereby, being dissatisfied with the aforesaid judgment and decree of the learned Appellate Court, the petitioner has invoked the revisional jurisdiction of this Court and obtained the instant Rule.

Upon appearance in the instant Rule, the opposite party No. 1 filed an application for discharging the Rule on the ground, inter alia, that the instant Civil Revision is not maintainable. It has been contended therein that, during the pendency of this Rule the Inspector of Schools, Board of Intermediate and Secondary Education, Rajshahi, by a letter dated 04.03.2025, approved the Ad-hoc Committee of Porsha High Madrasha Cum High School, Porsha, Naogaon, for a period of six months with effect from 04.03.2025, vide Memo No. 1/S/2/1087 dated 04.03.2025.

The opposite party No. 1 has further contended that, at the time of institution of the instant Civil Revision before this Court, the petitioner was the Chairman of the Managing

Committee of Porsha High Madrasa Cum High School, Porsha, Naogaon. According to the opposite party No. 1, a new committee has subsequently been constituted by the competent authority and, consequently, the petitioner has ceased to hold the office of Chairman of the Managing Committee and has thereby lost his locus standi to maintain or prosecute the instant revisional proceeding. On that premise, it has been submitted that the Rule is liable to be discharged.

Mr Purnindu Bikash Das, learned Advocate appearing for the petitioner, submits that both the Courts below failed to appreciate the material facts and relevant provisions of law governing the disciplinary proceeding against the plaintiff. He submits that the Managing Committee, on 18.05.2012, issued a show-cause notice upon the plaintiff alleging several acts of professional misconduct, to which the plaintiff submitted his written reply on 13.06.2012. As the Managing Committee was not satisfied with the explanation so submitted, it constituted an Inquiry Committee comprising three members at its meeting held on 27.06.2012.

Learned Advocate further submits that the Inquiry Committee, after issuing due notice to the plaintiff and affording him an opportunity to participate in the inquiry, conducted the inquiry and submitted its report on 12.07.2012. Thereafter, a general meeting of the Managing Committee was convened on 13.08.2012, and upon consideration of the inquiry report and the materials connected therewith, the Managing Committee resolved to dismiss the plaintiff from service on the ground of professional misconduct.

It is therefore submitted that the Managing Committee proceeded against the plaintiff in accordance with the procedure prescribed under the Non-Government Secondary School Teachers Terms and Conditions of Service Regulation, 1979. According to the learned Advocate, the aforesaid material aspects were not properly considered by either of the Courts below, and the impugned judgment and decree were consequently rendered in disregard of the applicable legal framework, resulting in an error in the decision occasioning failure of justice.

Learned Advocate further submits that both the Courts below failed to appreciate that the Managing Committee, in its general meeting held on 13.08.2012, had resolved to dismiss the plaintiff for his alleged professional misconduct, whereas the plaintiff instituted the suit on 28.08.2012 without awaiting the decision of the Appeal and Arbitration Committee and the Board. It is therefore contended that the suit was instituted prematurely and without exhausting the statutory or regulatory mechanism available to the plaintiff. Consequently, according to the learned Advocate, the suit was not maintainable in its present form, and the Courts below committed an error of law in entertaining and decreeing the same, thereby occasioning failure of justice.

Learned Advocate next submits that it is a settled principle of law that a plaintiff seeking a decree in his favour must establish his own case by adducing cogent and convincing evidence. In the instant case, according to him, the plaintiff was required to establish, inter alia, that the certificates relied upon by him were genuine, that he had not misappropriated any money, and that he had duly and

diligently discharged his official duties. It is contended that, instead of requiring the plaintiff to discharge the burden of proving his own case, both the Courts below erroneously placed the burden upon the present petitioner. Such an approach, according to the learned Advocate, demonstrates a failure to properly exercise judicial discretion and has resulted in an error in the decision, occasioning a failure of justice.

Learned Advocate further draws the attention of the Court to Rule 12 of the Regulation, 1979, and submits that, although the appointing authority is vested with the power to take action against a teacher under Rule 11, an order of suspension or dismissal of a teacher cannot take effect unless and until such decision is scrutinized by the Appeal and Arbitration Committee and approved by the Board.

According to the learned Advocate, in the present case, the Managing Committee duly forwarded its decision regarding the dismissal of the plaintiff to the Rajshahi Board, whereupon the Board referred the matter to the Appeal and Arbitration Committee in accordance with the provisions of the Regulation, 1979. The plaintiff, however, instituted the

suit without awaiting the Appeal and Arbitration Committee's decision. It is therefore argued that the suit was instituted before the prescribed procedure had run its course and was thus premature and not maintainable in law.

The learned Advocate also submits that both the Courts below failed to appreciate this material question of law and thereby committed an error in the decision, occasioning failure of justice.

Learned Advocate has lastly submitted that the decree under challenge is executable and that, unless the operation of the impugned judgment and decree is stayed, the petitioner on behalf of an institution shall suffer serious prejudice and the revisional proceeding may ultimately become infructuous. He therefore prays for an order staying the operation of the impugned judgment and decree during pendency of the Rule.

Per contra, Mr Md. Humayun Kabir, learned Advocate appearing for the opposite party No. 1, submits that the learned trial Court, upon proper consideration of the evidence

and materials on record and upon correct application of the relevant principles of law, rightly decreed the suit.

He further submits that the learned Appellate Court, upon independent consideration of the materials on record, correctly dismissed the appeal and affirmed the judgment and decree of the learned trial Court. According to him, the findings concurrently recorded by the Courts below are based on proper appreciation of the evidence and suffer from no illegality, infirmity or perversity warranting interference by this Court in its revisional jurisdiction.

Learned Advocate further submits that the petitioner was the Chairman of the Managing Committee of Porsha High Madrasa Cum High School, Porsha, Naogaon, but, in the meantime, a new committee has been constituted by the competent authority. Consequently, according to him, the petitioner has ceased to hold the office in question and no longer possesses the necessary locus standi to prosecute the instant revisional proceeding on behalf of the institution.

Learned Advocate further contends that, in the meantime, the opposite party No. 1 has been reinstated in service by the newly constituted Managing Committee and, therefore, no subsisting grievance remains in favour of the petitioner so as to justify continuation of the instant proceeding.

In support of his contention regarding locus standi, learned Advocate has referred to the decision rendered in Writ Petition No. 11522 of 2022, in the case of Nurun Nahar Malik vs. Bangladesh and others, wherein their Lordships observed:

"Moreover, the petitioner is no longer the Chairman of the Managing Committee of the School. Thereafter, she has no locus standi to challenge the order."

Learned Advocate has also referred to the decision in Writ Petition No. 5222 of 2016, in the case of Md. Azizur Rahman vs. Government of the People's Republic of Bangladesh, represented by the Secretary, Ministry of Education, Bangladesh Secretariat Building, Dhaka, wherein

their Lordships, while considering the question of locus standi, observed, in substance, that where a petitioner institutes a proceeding against an order of reinstatement without any resolution of the Managing Committee authorizing him to do so, and no such resolution is forthcoming on the record, the petitioner cannot claim the requisite locus standi to maintain the writ petition, rendering the Rule liable to be discharged.

On the aforesaid premises, learned Advocate for the opposite party No. 1 submits that the petitioner, having ceased to be the Chairman of the Managing Committee and there being no subsisting authorization or resolution empowering him to prosecute the instant proceeding on behalf of the institution, lacks the requisite locus standi to maintain the instant Civil Revision. He therefore prays for discharge of the Rule.

On perusal of the judgment and decree passed by the learned trial Court, it appears that the learned Court, upon consideration of the pleadings and evidence on record, particularly the written statement of the defendants and the deposition of D.W.1, who was the President of the Managing

Committee of the concerned school, found that the defendants themselves had admitted that the Managing Committee informed the Board regarding the dismissal of the plaintiff by Memo No. 12/12 dated 13.08.2012, marked as Exhibit-Kha/5. The learned trial Court further found, upon scrutiny of the entire record and assessment of the evidence, that no prior approval of the Board had been obtained before the plaintiff was dismissed from service. More significantly, the learned Court found that the Board did not subsequently accord approval either to cure or validate the defect in the Managing Committee's decision.

The learned trial Court further noticed that the Managing Committee, in its general meeting held on 22.07.2012, adopted a resolution whereby the plaintiff was dismissed from the post of Headmaster. The learned Court held that such action was in flagrant and fundamental violation of Regulation 12 of the Recognized Non-Government Secondary School Teachers (Board of Intermediate and Secondary Education, Dhaka) Terms and Conditions of Service Regulations, 1979 (hereinafter referred to as "the Regulations,

1979"). Consequently, the learned trial Court came to the conclusion that the purported dismissal of the plaintiff was illegal and void and, accordingly, decided Issue No.2 in favour of the plaintiff.

Concomitantly, the learned appellate Court, being the final Court of fact, upon independent consideration of the materials on record, affirmed the essential findings of the learned trial Court. It was specifically observed by the learned appellate Court that it had not been established that the decision to permanently dismiss the plaintiff had received either prior or subsequent approval from the Board.

The learned appellate Court further found that the decision taken by the Managing Committee in its meeting dated 22.07.2012 to permanently dismiss the plaintiff was unlawful and contrary to the mandatory requirement of Regulation 12 of the Regulations, 1979.

The learned appellate Court also considered the maintainability of the suit instituted by the plaintiff challenging the order of permanent dismissal as illegal, void,

collusive, ineffective and without jurisdiction and found no legal impediment to the institution or continuation of the suit. Upon such consideration, the learned appellate Court concurred with the judgment and decree passed by the learned trial Court and found the same to be correct and well-founded.

I have perused the revisional application, the impugned judgments and decree, the materials placed before this Court and the submissions advanced by the learned Advocates appearing for the respective parties.

Upon such consideration, it appears that the principal question which falls for determination in the instant Rule is whether the Managing Committee possessed lawful authority to impose the extreme penalty of dismissal upon the plaintiff without first obtaining the approval of the Board in the manner prescribed by Regulation 12 of the Regulations, 1979.

At the outset, it is necessary to advert to Regulation 12 of the Regulations, 1979. The said Regulation vests the power to impose a penalty upon the teacher in the authority

competent to make the appointment; however, it expressly qualifies that power by providing that the penalty of dismissal or removal from service shall not be imposed unless the proposal for such penalty is examined by the Appeal and Arbitration Committee and approved by the Board.

The language employed in the proviso to Regulation 12 is neither directory nor permissive. The expression "**shall not be imposed unless**" is prohibitory and mandatory in character. The legislative intent is therefore unmistakable: although the Managing Committee may initiate disciplinary proceedings and may form an opinion that a major penalty is warranted, its decision does not, by itself, attain the status of a legally operative order of dismissal. The proposed penalty must pass through the statutory safeguards prescribed by Regulation 12, namely, examination by the Appeal and Arbitration Committee and approval by the Board.

This distinction is of considerable importance. A Managing Committee may resolve that, having regard to the result of the disciplinary proceedings, dismissal ought to be proposed. Such a resolution may constitute the initiation or

formulation of a proposal. But the imposition of dismissal is a distinct legal act that cannot validly take place until the statutory condition precedent contemplated by Regulation 12 has been satisfied.

The requirement of Board approval is therefore not an empty formality, nor is it an administrative ritual capable of being dispensed with by the Managing Committee. It is a substantive statutory safeguard designed to restrain arbitrary, capricious or otherwise unlawful exercise of disciplinary power by the Managing Committee. The regulatory scheme deliberately distributes the relevant functions between the Managing Committee, the Appeal and Arbitration Committee and the Board. The Managing Committee may initiate and propose; the Appeal and Arbitration Committee examines; and the Board approves or disapproves. The statutory architecture cannot be lawfully reduced to the unilateral decision of the Managing Committee.

The High Court Division has recently reiterated this very legal position in **Writ Petition No. 6625 of 2023**, where it was held, upon consideration of Regulation 12 of the Regulations,

1979, that the Appeal and Arbitration Committee is the authority to examine the proposal, whereas the power of approval rests exclusively with the Board. It was further observed that until the Board approves the decision, the Managing Committee's decision does not attain finality. The said decision is entirely consistent with the statutory language of Regulation 12.

There is also a significant distinction between a case where the Managing Committee merely takes a decision proposing dismissal and thereafter forwards the proposal for statutory examination and approval, and a case where the Managing Committee actually dismisses the teacher and only subsequently informs the Board of an already completed dismissal. In the former situation, the statutory procedure may be complied with if the dismissal is not finally imposed or communicated until the requisite approval is obtained. In the latter situation, however, the Managing Committee assumes a power which Regulation 12 expressly withholds from it.

In the instant case, the findings of both the Courts below are categorical that the plaintiff was actually dismissed

by the Managing Committee on 22.07.2012 and that the Board was merely informed thereafter by Memo No. 12/12 dated 13.08.2012. More importantly, the Subordinate Courts have concurrently found that the Board's approval was never obtained, either before or after the purported dismissal. Thus, the factual matrix of the present case does not disclose a mere procedural irregularity in forwarding a lawful proposal; rather, it demonstrates the exercise of a substantive disciplinary power by an authority before fulfilment of the condition precedent imposed by Regulation 12.

However, **it is a settled principle of administrative and service law that where a statute or statutory regulation expressly makes the exercise of a power conditional upon prior approval, such approval constitutes a condition precedent to the lawful exercise of that power. An authority cannot confer jurisdiction upon itself by doing first what the law permits it to do only after the prescribed approval has been obtained. No scope is available to overlook even a mandatory prohibition.**

In the present case, the Managing Committee could not, by its unilateral resolution, enlarge the scope of its own authority. The fact that the Managing Committee considered itself competent to dismiss the plaintiff cannot create jurisdiction where the Regulation has expressly imposed a limitation upon that power. Jurisdiction must flow from the law and not from the subjective understanding of the authority exercising the power.

It is evident that the subsequent communication of the dismissal to the Board by Memo No. 12/12 dated 13.08.2012 could not, in the facts found by the Courts below, transform an otherwise unauthorized dismissal into a lawful one. Indeed, the evidence does not establish that the Board ever approved the dismissal. The defect, therefore, is not merely procedural or technical; it goes to the very root of the authority of the Managing Committee to impose the penalty.

The principle finds further support in **Sheikh Roushan Ali v. Board of Intermediate and Secondary Education, Jessore and others, 16 BLD (HCD) 204**, wherein, in the context of Regulation 12 of the corresponding 1979 Regulations, it

was held that dismissal could not lawfully be imposed without the requisite approval of the Board and that subsequent approval could not cure the basic infirmity. Though the said decision is a decision of the High Court Division and therefore does not possess the same constitutional binding force as a pronouncement of the Appellate Division under Article 111 of the Constitution, its reasoning is directly relevant and persuasive, particularly because it proceeds upon the same statutory language and regulatory scheme.

The legal position must also be understood in the context of **stare decisis** and judicial discipline. Article 111 of the Constitution provides that the law declared by the Appellate Division shall be binding upon the High Court Division, while the law declared by either Division of the Supreme Court shall be binding upon all subordinate Courts. Thus, the doctrine of precedent in Bangladesh is not merely a matter of judicial convenience; it has constitutional recognition. Judicial consistency is essential to certainty, predictability and equality before law.

Accordingly, this Court is required to apply the binding principles laid down by the Appellate Division concerning the exercise of revisional jurisdiction and the treatment of concurrent findings. In **Abdul Gafur v. Abdur Razzak, 62 DLR (AD) 242**, **Md. Shah Alam v. Musammat Farida Begum, 17 BLD (AD) 145**, and **Mohar Ali Bhuiyan v. Michir Ali Bhuiyan, 15 MLR (AD) 501**, the consistent principle is that concurrent findings of fact recorded by the trial Court and the appellate Court ordinarily cannot be disturbed in revisional jurisdiction unless the findings suffer from misreading or non-reading of material evidence, perversity, or an error of law or jurisdiction falling within the limited scope of section 115 of the Code of Civil Procedure.

The revisional jurisdiction under section 115 of the Code of Civil Procedure is supervisory and corrective in nature. It is not an appellate jurisdiction in disguise. The revisional Court does not ordinarily reassess the entire evidence merely because another view may be possible. Nor can it substitute its own appreciation of evidence for that of the Courts below

merely because the revisional Court might have reached a different factual conclusion.

At the same time, the existence of concurrent findings does not create an absolute or inflexible prohibition against interference. Where the findings are founded upon non-consideration of material evidence, misreading of legally proved evidence, reliance upon inadmissible material, perversity, patent error of law, erroneous assumption of jurisdiction, failure to exercise jurisdiction vested by law, or exercise of jurisdiction not vested by law, the revisional Court remains competent to interfere.

Hon'ble Appellate Division in **Md. Shah Alam v. Musammat Farida Begum, 17 BLD (AD) 145**, has made it clear that the High Court Division cannot superimpose itself as a third Court of fact to make a fresh appreciation of the evidence. The same principle has been reiterated in subsequent decisions, including **Abdul Gafur v. Abdur Razzak, 62 DLR (AD) 242**.

Applying the aforesaid settled principles to the case in hand, I find no ground whatsoever to disturb the concurrent factual findings of the Subordinate Courts. The findings have not been reached on conjecture or surmise; rather, they are founded upon the pleadings, documentary evidence and oral testimony available on record. The defendants' own written statement and the deposition of D.W.1 establish that the Managing Committee had already dismissed the plaintiff and thereafter communicated such decision to the Board. The Courts below have considered the said evidence and drawn a conclusion which is both rational and legally sustainable.

However, there is also no apparent misreading or non-reading of any material evidence or misconstruction of law, which could have materially affected the ultimate decision. No material document has been shown to have been ignored by the Subordinate Courts. No perversity in their appreciation of the evidence has been demonstrated. Equally, no jurisdictional defect has been identified which would justify exercise of the limited revisional power of this Court.

The learned Advocate for the petitioner has failed to demonstrate any legal proposition which would justify the conclusion that the Managing Committee could lawfully dismiss the plaintiff without the approval contemplated by Regulation 12. On the contrary, the Regulation's plain language supports the conclusion reached by both Subordinate Courts.

The concurrent findings of the Subordinate Courts are, therefore, not merely findings of fact. They are findings based on a correct construction and application of Regulation 12 to the facts established by the evidence. The Courts below correctly appreciated the distinction between the authority to initiate disciplinary action and the authority to impose the ultimate penalty of dismissal.

It is also significant that the learned appellate Court did not merely mechanically affirm the judgment of the trial Court. It independently considered the question whether the dismissal had received the approval of the Board and found that no such approval, either prior or subsequent, had been established. It then independently concluded that the

Managing Committee's decision dated 22.07.2012 was unlawful and contrary to Regulation 12. Such independent consideration by the final Court of fact reinforces the findings' conclusiveness for the purpose of revisional jurisdiction.

In these premises, the contention that the learned appellate Court merely concurred with the trial Court without independent consideration of the evidence is not borne out by the record as reflected in the impugned judgment. The appellate Court discharged its statutory duty as the final Court of fact and law by considering the relevant materials and assigning reasons for its conclusion.

Upon an anxious consideration of the entire matter, I am of the view that the central finding of both the Subordinate Courts that the plaintiff was dismissed from service without compliance with the mandatory requirement of Regulation 12 of the Regulations, 1979, is legally sound and fully supported by the materials on record.

The Managing Committee undoubtedly possessed disciplinary authority in respect of teachers within the limits

prescribed by the Regulations. However, such authority was circumscribed by the express proviso to Regulation 12. The power to impose the extreme penalty of dismissal could not be exercised in disregard of the statutory requirement of examination by the Appeal and Arbitration Committee and approval by the Board. The Managing Committee's resolution dated 22.07.2012, insofar as it purported to finally dismiss the plaintiff from service before such approval, was therefore beyond the authority conferred upon it by law.

The subsequent communication of the said decision to the Board by Memo No. 12/12 dated 13.08.2012 did not confer retrospective jurisdiction upon the Managing Committee. More importantly, the concurrent findings of the Courts below establish that the Board never approved the dismissal. Consequently, there was no legal basis upon which the impugned dismissal could attain validity.

The expression "**shall not be imposed unless**" contained in Regulation 12 must be given its ordinary and mandatory meaning. To construe it otherwise would render the proviso substantially nugatory and would permit the Managing

Committee to exercise precisely the power which the Regulation has conditioned upon independent examination and approval by the Board. Such a construction would defeat the very purpose of the regulatory safeguard.

I therefore find that the learned trial Court committed no error of law in holding the dismissal to be illegal and void, and the learned appellate Court equally committed no illegality in affirming the said finding. The concurrent findings are based on a proper appreciation of the evidence and the correct application of the governing law.

In view of the foregoing discussion, I find no patent illegality, material irregularity, jurisdictional error, perversity, misreading or non-reading of material evidence, or misconstruction of the relevant Regulation warranting interference by this Court in exercise of its limited revisional jurisdiction under section 115(1) of the Code of Civil Procedure, 1908.

The Rule, therefore, does not merit interference.

Accordingly, the Rule is discharged without any order as to costs.

The judgment and decree passed by the learned Subordinate Courts are hereby **affirmed and upheld**.

The order of stay, granted earlier by this Court in connection with the impugned judgment and decree, is hereby **recalled and vacated**.

The office is directed to transmit the Subordinate Court Records (SCR), together with a copy of this judgment, to the concerned Subordinate Court forthwith.

(Abdur Rahman, J.)