In the Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)

Present
Justice Md. Badruzzaman
And
Justice Sk. Tahsin Ali

Writ Petition No. 5475 of 2014

In the matter of:

An application under Article 102 read with Article 44 of the Constitution of the People's Republic of Bangladesh.

-And-

In the matter of:

Md.Sanwar Hossain

……. Petitioner

Vs.

University of Rajshahi, represented by the Vice Chancellor, Uniersity of Rajshahi, Rajshahiand others

…Respondents

Mr. Kaisaruzzaman, Advocate

... for the petitioner

Mr. Md. Abul Kasem, Advocate

… for respondent Nos. 1&3

Mr. Mohammad Imam Hossain Tareq, DAG with
Mr. Mohammad Rashedul Hassan,DAG with
Mr. Shakir Uddin Ahmed Bappy, DAG with
Mr. Mohammad Anowar Hossain, AAG with
Mr. Md. Shahidul Islam, AAG with
Ms. Kamrunnahar Lipi, AAG

..... For the State

Heard and Judgment on: 29.10.2026

Sk. Tahsin Ali, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the impugned Resolution No. 16 adopted at the 450th meeting of the Syndicate of the University of Rajshahi, held on 23 and 24 December 2013, dismissing the petitioner

from his service as Instructor (Music) at the Student-Teacher Cultural Centre, University of Rajshahi (Annexure-F), should not be declared to have been passed without lawful authority and to be of no legal effect, and/or such other or further order or orders as to this Court may seem fit and proper.

The case of the petitioner, as set out in the writ petition, in brief, is that he was serving as Instructor (Music) at the Student-Teacher Cultural Centre, University of Rajshahi, with utmost sincerity and devotion. Initially, he was appointed on a temporary basis on daily payment, and subsequently, upon evaluation of his performance, he was appointed permanently to the said post by a letter dated 23.02.2013. Thereafter, by a letter dated 18.04.2013, being Memo No. যৌ.অ.ক. ৩২/২০১৩, respondent No. 4 requested him to appear before a committee on 20.04.2013 at 2:15 p.m. in connection with an allegation of moral turpitude. Subsequently, respondent No. 5 issued a show-cause notice dated 21.08.2013, being Memo No. 3901(4) ১ই-৫০৬৮/পার্ট/সা:শ:, asking him to explain his conduct in respect of the alleged moral turpitude. The petitioner contends that no copy of the formal complaint, specific statement of allegations or supporting documents was supplied to him along with the said notice. Accordingly, by his reply dated 26.08.2013, he requested the authority to furnish the specific allegations, a copy of the complaint and the relevant inquiry report to enable him to prepare an effective defence.

However, without conducting any further inquiry into the allegations contained in the show-cause notice, the Syndicate, by its impugned Resolution No. 16 adopted at its 450th meeting held on 23 and 24 December 2013, decided to dismiss the petitioner from his service. The said decision was communicated to him by a letter dated 07.01.2014, being Memo No. ০২(১৪)১ই ৫০৬৮/স.শা.. Being aggrieved by the said decision, the petitioner preferred an appeal before the Hon'ble Chancellor of the University of Rajshahi on 03.10.2018 under Section 51 of the Rajshahi University Act, 1973. However, no decision on the said appeal was communicated to him.

Respondent Nos. 1, 3, 4 and 5, on behalf of the University of Rajshahi, filed an affidavit-in-opposition denying the material allegations made in the writ petition. Their case is that, upon receiving a complaint dated 14.04.2013 from Dr. Akter Banu, Associate Professor, Institute of Education and Research, University of Rajshahi, alleging sexual harassment of her minor daughter by the petitioner, the authority initiated an inquiry. Accordingly, a notice dated 18.04.2013 was issued by the concerned committee, namely, the Sexual Harassment and Oppression Prevention Committee, asking the petitioner to appear before it on 20.04.2013. The petitioner appeared before the committee and was given an opportunity to go through the complaint lodged against him. Thereafter, an inquiry committee was constituted, which examined twelve witnesses, including the complainant and the petitioner. Upon

completion of the inquiry, the committee found the allegations against the petitioner to have been established and submitted its report on 06.07.2013, recommending his dismissal from service. The said report was subsequently placed before the Syndicate. The University authority, upon considering the relevant papers and documents, including the complaint, inquiry report, show-cause notice and the petitioner's reply, found the petitioner guilty of the allegations and, by the impugned resolution adopted at its 450th meeting held on 23 and 24 December 2013, decided to dismiss him from service.

Mr. Md. Kaisaruzzaman, learned Advocate appearing for the petitioner, submits that the impugned decision of the Syndicate is wholly without lawful authority, having been taken in violation of the mandatory provisions of Section 55(3) of the Rajshahi University Act, 1973. He submits that although the petitioner was served with a show-cause notice alleging moral turpitude, no inquiry, as contemplated under the said provision, was conducted into the specific charges contained in that notice. He further submits that the petitioner was not furnished with the inquiry report or the materials upon which the allegations were founded, thereby depriving him of a reasonable opportunity to prepare and present his defence. According to the learned Advocate, the proceedings culminating in the petitioner's dismissal were thus conducted in violation of the statutory requirements as well as the principles of natural justice.

Mr. Mohammad Imam Hossen Tareq, learned Deputy Attorney General, appearing for the State, along with the other learned Deputy Attorney Generals and Assistant Attorney Generals, supports the action taken by the University authority and submits that the petitioner was given sufficient opportunity to defend himself. He further submits that an inquiry committee was duly constituted in accordance with the applicable policy, namely, the Sexual Harassment and Oppression Prevention Policy, 2010, and that the committee examined twelve witnesses, including the complainant and the petitioner. Upon consideration of the inquiry report and other relevant materials, the Syndicate lawfully decided to dismiss the petitioner. Therefore, according to the learned Deputy Attorney General, the impugned decision does not call for interference by this Court.

We have heard the learned Advocates for the respective parties, perused the writ petition, the affidavit-in-opposition, the annexures thereto and the other materials available on record.

It appears from the materials on record that the petitioner was initially appointed as Instructor (Music) at the Student-Teacher Cultural Centre, University of Rajshahi, on a temporary basis on daily payment. Subsequently, upon evaluation of his performance, he was appointed permanently to the said post by a letter dated 23.02.2013.

The principal issue that falls for our consideration is whether the impugned decision dismissing the petitioner from service was taken in

compliance with the mandatory requirements of Section 55(3) of the Rajshahi University Act, 1973.

At the outset, it may be observed that a Court exercising judicial review does not ordinarily sit as an appellate authority over the findings of a domestic inquiry committee. However, where the proceedings are vitiated by illegality, procedural irregularity, violation of statutory provisions or breach of the principles of natural justice, this Court is competent to intervene in the exercise of its constitutional jurisdiction.

In order to appreciate the controversy, it would be appropriate to reproduce Section 55(3) of the Rajshahi University Act, 1973, which reads as follows:

> "(3) A teacher or officer of the University may be dismissed only on grounds of moral turpitude or inefficiency, but no such teacher or officer shall be dismissed unless an enquiry into the charges of moral turpitude or inefficiency is held by an enquiry committee on which the teacher or the officer may be represented by a person nominated by him."

A plain reading of the aforesaid provision makes it abundantly clear that a teacher or officer of the University may be dismissed on the grounds specified therein, but such dismissal cannot be effected unless an inquiry into the charges of moral turpitude or inefficiency is held by an inquiry committee. The provision further safeguards the right of the

delinquent teacher or officer to be represented before the inquiry committee by a person nominated by him.

Thus, the statutory requirement is not merely the constitution of an inquiry committee or the holding of an inquiry into an initial complaint. Rather, the inquiry contemplated under Section 55(3) must be directed towards ascertaining the truth or otherwise of the specific charges brought against the delinquent teacher or officer, after he has been called upon to answer those charges.

In the instant case, it appears from the affidavit-in-opposition that, upon receipt of the complaint dated 14.04.2013, an initial inquiry was undertaken by the concerned committee, which examined twelve witnesses, including the complainant and the petitioner, and submitted its report on 06.07.2013. Thereafter, the petitioner was served with a show-cause notice dated 21.08.2013 alleging moral turpitude. The petitioner, by his reply dated 26.08.2013, disputed the allegations and sought the relevant particulars and materials to enable him to submit an effective defence.

It is evident from the record that the inquiry conducted prior to the issuance of the show-cause notice dated 21.08.2013 was, in substance, a preliminary inquiry undertaken to ascertain the veracity of the initial complaint. On the basis of the findings of that preliminary inquiry, the authority proceeded to issue the show-cause notice against the petitioner. However, after the petitioner disputed the allegations by submitting his

reply, no further inquiry appears to have been conducted by an inquiry committee into the specific charges contained in the said show-cause notice.

In our considered view, the distinction between a preliminary inquiry into a complaint and a statutory inquiry into the charges framed against a delinquent teacher is of fundamental importance. A preliminary inquiry may provide the basis for initiating disciplinary proceedings, but it cannot, by itself, be treated as a substitute for the inquiry expressly mandated by Section 55(3) of the Act.

The statutory requirement is that the inquiry committee must examine the specific charges brought against the delinquent teacher or officer. Where such charges are disputed, the authority is under an obligation to conduct an inquiry in accordance with the said provision and afford the delinquent teacher or officer the opportunity of representation through a person nominated by him.

In the present case, although the petitioner was given an opportunity to appear before the preliminary inquiry committee and the said committee examined twelve witnesses, the record does not disclose that, following the issuance of the show-cause notice dated 21.08.2013 and the petitioner's reply thereto, any inquiry was conducted into the specific charges contained in that notice in compliance with Section 55(3) of the Act. Nor do we find any material on record demonstrating

that the petitioner was afforded the statutory opportunity of being represented by a person nominated by him in such an inquiry.

The right to a fair hearing is an essential component of the principles of natural justice. A person proceeded against on specific charges must be afforded a meaningful opportunity to meet those charges before an adverse decision is taken against him. The requirement of an inquiry under Section 55(3) is not an empty formality; rather, it constitutes a mandatory safeguard against arbitrary disciplinary action.

We are, therefore, of the considered view that the inquiry conducted prior to the issuance of the show-cause notice dated 21.08.2013 cannot be regarded as sufficient compliance with the mandatory requirement of Section 55(3) of the Rajshahi University Act, 1973. The failure of the University authority to conduct a statutory inquiry into the specific charges contained in the show-cause notice, after receipt of the petitioner's reply disputing the allegations, goes to the root of the disciplinary proceedings and renders the impugned decision legally unsustainable.

In view of the foregoing discussion, we find merit in the submission of the learned Advocate for the petitioner.

In the result, the Rule is made absolute without any order as to costs.

The impugned Resolution No. 16 adopted at the 450th meeting of the Syndicate of the University of Rajshahi, held on 23 and 24 December

2013, and the consequential order of dismissal communicated to the petitioner vide Memo No. ০২(১৪)১ই-৫০৬৮/স:শা: dated 07.01.2014 (Annexure-F), having been passed in violation of the mandatory provisions of Section 55(3) of the Rajshahi University Act, 1973, are hereby declared to have been passed/issued without lawful authority and to be of no legal effect.The University authority is directed to reinstate the petitioner in his service with effect from 23.12.2013, with all consequential service benefits.

However, this judgment shall not preclude the University authority from proceeding further against the petitioner, if so advised, in accordance with law and by strictly complying with the requirements of Section 55(3) of the Rajshahi University Act, 1973, as well as the principles of natural justice.

Communicate a copy of this judgment to the concerned respondents at once.

(Justice Sk. Tahsin Ali)

I agree

(Justice Md. Badruzzaman)

Shokat (B.O)(F)