



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE ANAND PATHAK
&
HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 3rd OF JULY, 2026

WRIT PETITION No. 6329 of 2015



Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Manoj Sharma - Senior Advocate assisted by Shri Quazi
Fakhruddin - Advocate for the petitioner.*

*Shri Abhijeet Awasthi - Deputy Advocate General for the respondent
No.1/State.*

Shri Shreyash Pandit - Advocate for the respondent No.2.

ORDER

Per. Justice B. P. Sharma

With consent, heard finally.

1. This petition under Article 226 of the Constitution of India has been preferred by the petitioner calling in question the legality and validity of the order dated 13.03.2015 whereby the State Government, acting upon the recommendation made by the Full Court of the High Court of Madhya



Pradesh on the administrative side, has imposed upon the petitioner the major penalty of dismissal from service under Rule 10(9) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966. By the aforesaid order, the petitioner, who was serving as a Civil Judge Class-I in the Madhya Pradesh Judicial Service, has been removed from judicial service after conclusion of a regular departmental enquiry. The petitioner has prayed for quashment of the order of dismissal with all consequential benefits.

2. The relevant facts are that the petitioner joined the Madhya Pradesh Judicial Service as a Civil Judge Class-II and after earning promotion in the ordinary course, came to be posted as Civil Judge Class-I at Beohari, District Shahdol. During the course of his tenure at the said station, certain judicial orders passed by him while discharging judicial functions attracted administrative attention. The administrative side of the High Court directed a preliminary enquiry into the matter. Upon consideration of the material collected during the preliminary enquiry, the Administrative Committee (Lower Judicial Service) formed an opinion that the allegations disclosed *prima facie* misconduct warranting initiation of regular disciplinary proceedings. Accordingly, a memorandum of charges containing two articles of charge together with a statement of imputations was served upon the petitioner.

3. The first article of charge related to an order dated 04.10.2012 passed by the petitioner in Forest Offence No.9546/2004. The allegations disclose that the Forest Department had seized a tractor and trolley allegedly used for illegal transportation of sand and proceedings for confiscation under the



provisions of the Indian Forest Act, had already been initiated by the competent Officer. Intimation regarding initiation of confiscation proceedings had also been communicated to the jurisdictional Magistrate in terms of Section 52(4) of the Forest Act. It was further alleged that an earlier application filed under Sections 451 and 457 of Code of Criminal Procedure seeking interim release of the same vehicle had already been rejected by the JMFC. The revision preferred against the said order had also been dismissed by the learned Additional Sessions Judge and proceedings before the High Court had likewise culminated without grant of any relief. According to the charge-sheet, despite complete knowledge of the aforesaid facts and judicial orders already operating in the matter, the petitioner entertained another application filed by the same claimant and directed release of the seized tractor and trolley on *Supurdginama*. The disciplinary authority alleged that the petitioner consciously ignored the statutory scheme governing confiscation proceedings as well as settled judicial principles and thereby exhibited conduct unbecoming of a judicial officer. It is further alleged that the manner in which the order came to be passed gave rise to a reasonable inference that the exercise of judicial power was not in conformity with the standards of judicial discipline expected from a member of the district judiciary.

4. The second article of charge pertained to Criminal Case No.666/2012 titled State v. Bhim Gole, instituted under the provisions of the Madhya Pradesh Excise Act. The record reveals that during the course of trial the accused Bhim Gole admitted his guilt and the petitioner convicted him on the



basis of his plea. According to the disciplinary authority, after recording the conviction the petitioner proceeded to observe that another individual, namely Radhika Prasad Tiwari, also appeared to be involved in the commission of the offence solely on the basis of a statement allegedly made by the convicted accused. Acting upon such observation, the petitioner directed issuance of notice to the said person notwithstanding the admitted position that no FIR had been registered against him, no investigation had been conducted qua him, no police report or charge-sheet had been filed against him and no order taking cognizance had ever been passed. It was further alleged that although the said individual never appeared before the Court and only an application through his manager came to be filed, the petitioner simply directed that the proceedings be filed. According to the disciplinary authority, the entire procedure adopted by the petitioner was unknown to criminal jurisprudence, dehors the provisions of the CrPC and wholly inconsistent with accepted judicial procedure.

5. The petitioner submitted a detailed written statement of defence denying the allegations. In respect of the first charge, it was asserted that the petitioner merely exercised jurisdiction vested in the criminal Court under Sections 451 and 457 of CrPC. It is contended that criminal courts retained jurisdiction to release seized vehicles notwithstanding initiation of confiscation proceedings. According to the petitioner, at the highest, if another legal interpretation was possible, the order passed by him might be regarded as legally erroneous but could never amount to misconduct warranting disciplinary action. The petitioner categorically denied having



acted under any extraneous consideration, corrupt motive or mala fide intention.

6. In relation to the second charge, the petitioner pleaded that while deciding the criminal case, he noticed material indicating involvement of another person and, therefore, considered it appropriate to issue notice so that no guilty person escaped the process of law. It is further submitted that after considering the explanation placed before the Court, no further proceedings were considered necessary and, therefore, the matter was simply directed to be filed. According to the petitioner, every action complained of was taken while exercising judicial functions and no allegation of bribery, corruption or abuse of office had ever been made by any litigant or by any person connected with the proceedings.

7. A regular departmental enquiry thereafter commenced and the petitioner actively participated in the enquiry. Oral as well as documentary evidence was adduced. The petitioner cross-examined the departmental witnesses, produced documents in defence and also submitted elaborate written arguments. Upon appreciation of the evidence, the Enquiry Officer returned findings holding both articles of charge proved. The Enquiry Officer concluded that the petitioner had consciously exercised judicial powers in patent disregard of settled legal principles with mala fide intention. The enquiry report was thereafter considered by the Administrative Committee, which accepted the findings and issued a second show-cause notice proposing the punishment of dismissal from service. The petitioner submitted a detailed reply reiterating the defence already taken during the



enquiry. The Administrative Committee, upon consideration of the reply, resolved to recommend the punishment of dismissal. The matter was thereafter placed before the Full Court, which accepted the findings recorded in the enquiry and resolved to recommend dismissal from service. Acting upon the recommendation of the Full Court, the State Government passed the impugned order dated 13.03.2015 dismissing the petitioner from service.

8. Learned Senior Counsel for petitioner assailed the impugned order on several grounds and submitted that the entire disciplinary action is founded upon an erroneous assumption that every judicial order, subsequently found to be legally unsustainable, necessarily amounts to misconduct. According to the learned counsel, the petitioner has not been proceeded against on the basis of any complaint alleging corruption, abuse of office, illegal gratification or extraneous consideration. The entire departmental enquiry rests exclusively upon two judicial orders passed by the petitioner while exercising judicial functions. It is contended that the legality or correctness of judicial orders can always be examined by the appellate or revisional forum provided under law, but the same cannot constitute the foundation for disciplinary proceedings unless there exists cogent material establishing recklessness, mala fide exercise of jurisdiction, lack of integrity or conduct wholly unbecoming of a judicial officer. It is submitted that by treating alleged judicial errors as misconduct, the respondents have ignored the settled constitutional principle that judicial officers must remain free to exercise their judicial discretion fearlessly and independently.

9. Learned counsel for petitioner further argued that judicial



independence constitutes one of the essential features of the Constitution and cannot be preserved unless judges are protected against disciplinary proceedings founded merely upon differences of legal opinion. Every judicial officer is required to interpret statutes, appreciate evidence and decide complex legal issues. Such exercise necessarily involves the possibility of error. If every judicial error is permitted to become the basis of disciplinary action, judicial officers would begin deciding cases under constant fear of administrative consequences rather than according to their independent judicial conscience. Such an approach, would seriously undermine the administration of justice and defeat the very object sought to be achieved by Article 50 of the Constitution.

10. The first submission advanced by learned counsel for petitioner relates to the evidentiary standard applicable in disciplinary proceedings. Reliance is placed upon the judgment of the Hon'ble Apex Court in *Roop Singh Negi v. Punjab National Bank & Others, (2009) 2 SCC 570*, the Hon'ble Apex Court held that a departmental enquiry is a quasi-judicial proceeding and the Enquiry Officer discharges a quasi-judicial function. Consequently, the charges levelled against the delinquent employee must be established by legal evidence and not by conjectures, suspicion or assumptions. It is submitted that in the present case no witness has deposed that the petitioner accepted any illegal gratification, acted under any extraneous influence or exercised judicial powers for an improper purpose. The enquiry officer has merely inferred lack of integrity from the judicial orders themselves.

11. Learned counsel for petitioner has also placed reliance upon *P.C. Joshi*



v. State of Uttar Pradesh & Others, (2001) 6 SCC 491, particularly paragraphs 4 to 12. It is submitted that the Hon'ble Supreme Court in the said case was considering disciplinary proceedings initiated against a judicial officer solely on the basis of judicial orders passed by him. The Apex Court observed that a judicial officer is expected to decide matters independently according to his understanding of law and facts and cannot be exposed to disciplinary proceedings merely because another authority forms a different opinion regarding the correctness of the judicial order. The Higher Court cautioned that judicial officers cannot discharge their constitutional duties fearlessly if every judicial order is liable to be examined from the standpoint of departmental misconduct. It is submitted that the ratio of the aforesaid decision squarely applies to the present case, where the disciplinary proceedings are founded solely upon judicial orders passed by the petitioner.

12. Learned counsel for petitioner further submitted that the enquiry itself stands vitiated on account of non-compliance with the mandatory procedure prescribed under the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966. In this regard reliance is placed upon the **Ministry of Finance & Another v. S.B. Ramesh, (1998) 3 SCC 227**, particularly paragraphs 13 and 15. It was argued that where statutory rules require the Enquiry Officer to confront the delinquent employee with the incriminating circumstances appearing against him and to afford him an opportunity to explain the same, compliance with such procedure is mandatory. According to the petitioner, Rule 14(18) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules of 1966 casts a corresponding



obligation upon the Enquiry Officer. Since the petitioner was never generally examined after closure of the departmental evidence so as to explain the circumstances appearing against him, the enquiry suffers from a fundamental procedural defect which vitiates the entire proceedings.

13. The principal reliance of the petitioner, however, is placed upon the recent judgment of the Hon'ble Supreme Court in *Abhay Jain v. High Court of Judicature for Rajasthan through Registrar General & Another*, (2022) 13 SCC 1. It is submitted that the Hon'ble Supreme Court, after undertaking of the earlier decisions governing disciplinary proceedings against judicial officers, reiterated that independence of the judiciary constitutes a constitutional value of the highest importance and judicial officers cannot be punished merely because another authority disagrees with the view taken by them in the discharge of judicial functions. The Court observed that disciplinary proceedings become permissible only where there exists cogent material indicating recklessness, mala fide exercise of jurisdiction, corrupt motive, abuse of judicial office or conduct wholly inconsistent with judicial standards. It is argued that *Abhay Jain (supra)* clearly draws a distinction between a bona fide judicial error and misconduct and the disciplinary authority in the present case has completely ignored the aforesaid distinction.

14. Reliance is also placed upon *Krishna Prasad Verma v. State of Bihar & Others*, (2019) 10 SCC 640, particularly paragraphs 11 to 16. It is submitted that the Hon'ble Supreme Court once again reiterated that judicial officers cannot be punished merely because their judicial orders are subsequently found to be legally unsustainable. The Court observed that while a wrong



judicial order may furnish a ground for appeal or revision, it cannot, in the absence of additional circumstances demonstrating lack of integrity or abuse of office, furnish the basis for disciplinary action. It is contended that the petitioner has throughout acted in discharge of judicial duties and there is not even an allegation, much less proof, that he acted for any collateral purpose. Therefore, according to him, the ratio of aforesaid decision directly supports the petitioner.

15. Learned counsel for petitioner thereafter invited the attention of the Court to the recent judgment of the Hon'ble Supreme Court in *Nirbhay Singh Suliya v. State of Madhya Pradesh, (2026) 3 SCC 325*. It is submitted that the Hon'ble Supreme Court set aside disciplinary action initiated against a judicial officer where the disciplinary authority had inferred misconduct merely because while granting bail the judicial officer had omitted to advert to Section 59-A of the M.P. Excise Act. The Supreme Court observed that omission to notice a statutory provision or adoption of an erroneous legal interpretation, by itself, cannot justify an inference of lack of integrity or misconduct unless supported by independent material indicating abuse of office or improper motive. It is submitted that the present case stands on an even stronger footing because the respondents have not produced any material whatsoever indicating corruption, favouritism or abuse of judicial office on the part of the petitioner.

16. Reliance is further placed upon another Division Bench judgment of this Court in *Jagat Mohan Chaturvedi v. State of Madhya Pradesh, W.P. No.15070 of 2016, decided on 14.07.2025*, paragraphs 12 to 22. It is



submitted that this Court reiterated that judicial errors, however serious, cannot by themselves amount to misconduct and the disciplinary authority must establish something more than mere legal incorrectness of the judicial order. According to him, the present disciplinary proceedings fail to satisfy the aforesaid test.

17. Learned Senior Counsel for the petitioner has also relied upon the decision of the Hon'ble Supreme Court in *Ramesh Chander Singh v. High Court of Allahabad & Another, (2007) 4 SCC 247*. It is submitted that the Hon'ble Supreme Court, while examining disciplinary proceedings initiated against a judicial officer, made a significant distinction between an erroneous judicial order and misconduct. The Court observed that every judicial officer discharges difficult and sensitive functions requiring appreciation of facts and interpretation of law and, therefore, bona fide judicial mistakes are inevitable. Such mistakes, the Hon'ble Supreme Court observed, are liable to be corrected in appellate or revisional proceedings and not by resort to disciplinary action. The Court further cautioned that if judicial officers begin functioning under constant apprehension that every order passed by them may result in disciplinary proceedings, fearless administration of justice would become impossible. It is submitted that the ratio of the aforesaid decision directly applies to the facts of the present case.

18. Reliance is thereafter placed upon *Coimbatore District Central Cooperative Bank v. Coimbatore District Central Cooperative Bank Employees Association & Another, (2007) 4 SCC 669*. Learned counsel for petitioner submitted that the Hon'ble Apex Court explained the doctrine of



proportionality in disciplinary matters and held that punishment imposed by the disciplinary authority must bear a reasonable nexus with the gravity of misconduct established. Constitutional Courts are empowered to interfere where the punishment imposed is so disproportionate as to shock the conscience of the Court. It is argued that even assuming, without admitting, that the petitioner committed any legal error while passing the judicial orders in question, the extreme penalty of dismissal from service is wholly disproportionate, particularly when there is no allegation or proof of corruption, pecuniary gain, illegal gratification or any previous finding regarding lack of integrity.

19. Learned counsel for petitioner further submitted that the disciplinary authority has completely overlooked the fact that no litigant, advocate, police officer or public servant ever complained that the petitioner had demanded illegal gratification or exercised judicial powers for any collateral purpose. The petitioner enjoyed an otherwise unblemished judicial career and the present disciplinary proceedings are founded exclusively upon two judicial orders passed by him while deciding cases before the Court. According to learned counsel, suspicion, however strong, can never substitute legal proof and the findings recorded by the Enquiry Officer rest merely upon assumptions arising from the judicial orders themselves. It is urged that in the absence of direct or circumstantial evidence demonstrating mala fide exercise of judicial power, the findings recorded by the disciplinary authority cannot be sustained.

20. It is also argued that the preliminary enquiry itself was conducted



behind the back of the petitioner and the entire disciplinary proceedings have been initiated solely on the basis of observations recorded during such preliminary exercise. It is submitted that the preliminary enquiry was neither fair nor objective and the authorities had virtually predetermined the petitioner's guilt even before initiation of the regular departmental proceedings. It is urged that the regular enquiry merely became an empty formality because the disciplinary authority had already formed an adverse opinion against the petitioner. Therefore, it is prayed that the impugned order dated 13.03.2015 be quashed and the petitioner be directed to be reinstated in service with all consequential benefits.

21. *Per contra*, learned counsel appearing for the State and learned counsel appearing on behalf of the High Court of M.P. opposed the writ petition and submitted that the writ petition proceeds on a erroneous assumption that the petitioner has been punished merely because certain judicial orders passed by him were considered legally unsustainable and incorrect. The disciplinary authority has never held that every erroneous judicial order amounts to misconduct. Rather, the enquiry officer, the Administrative Committee and the Full Court have concurrently concluded that the conduct of the petitioner, reflected conscious disregard of settled statutory provisions, accepted judicial procedure and standards expected from a member of the judicial service. It is, therefore, argued that the present case falls squarely within the category of misconduct recognised by the Hon'ble Supreme Court in *Union of India v. K.K. Dhawan, (1993) 2 SCC 56*.

22. It is further submitted that the High Court while exercising writ



jurisdiction cannot function as an appellate authority over departmental proceedings by re-appreciating evidence or substituting its own conclusions merely because another view is possible. Unless the petitioner demonstrates violation of principles of natural justice, absence of evidence, perversity of findings or procedural illegality causing prejudice, interference is wholly impermissible. In support of the aforesaid proposition, reliance is placed upon *Union of India v. K.G. Soni*, (2006) 6 SCC 794, wherein the Hon'ble Supreme Court held that judicial review in disciplinary matters is confined to examining the legality of the decision-making process. The High Court cannot reassess the evidence recorded during the enquiry or substitute its own opinion regarding the guilt of the delinquent employee. According to the respondents, the present petition seeks nothing short of a complete re-appreciation of the evidence, which falls outside the scope of judicial review.

23. Learned counsel for the respondents further relied upon **K.K. Dhawan (supra)**, which constitutes the leading authority governing disciplinary proceedings against officers exercising judicial or quasi-judicial functions. It is submitted that the Hon'ble Supreme Court expressly recognised that while every erroneous judicial order does not amount to misconduct, disciplinary proceedings are fully maintainable where the officer acts recklessly, in conscious disregard of statutory provisions, in deliberate violation of settled legal principles, where the conduct reflects lack of integrity or where judicial powers are exercised in a manner inconsistent with accepted standards of public service. It is submitted that the petitioner seeks to rely only upon one part of the legal principle, namely that judicial errors do not amount to



misconduct, while completely ignoring the equally important exceptions carved out by the Hon'ble Supreme Court in the very same judgment. According to the respondents, the findings recorded in the present enquiry clearly bring the petitioner's conduct within the exceptions recognised in **K.K. Dhawan (supra)**.

24. The respondents further submitted that members of the judicial service occupy a unique constitutional position and are expected to maintain standards substantially higher than those applicable to ordinary government servants. Public confidence in the administration of justice rests not merely upon the correctness of judicial decisions but also upon the integrity, fairness and discipline of the judges who render them. Consequently, any conduct tending to erode such confidence necessarily warrants strict disciplinary control. In support of the aforesaid submission, reliance is placed upon *Government of Tamil Nadu v. K.N. Ramamurthy, (1997) 7 SCC 101*, wherein the Hon'ble Supreme Court observed that the office held by a judicial officer demands unimpeachable integrity, devotion to duty and strict adherence to judicial discipline. The Court emphasised that even conduct giving rise to a reasonable apprehension regarding the propriety of the exercise of judicial power has the potential to undermine public confidence in the institution and, therefore, cannot be viewed lightly.

25. The respondents further submitted that the challenge founded upon alleged non-compliance with Rule 14(18) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 is wholly misconceived. It is argued that the petitioner throughout the enquiry actively



participated in the proceedings. He filed a comprehensive written statement of defence, cross-examined every departmental witness, produced documentary evidence in support of his defence, submitted elaborate written arguments before the Enquiry Officer and, after receipt of the enquiry report, once again submitted a detailed representation before the disciplinary authority. At no stage during the enquiry proceedings did the petitioner object that he had been denied any opportunity contemplated under Rule 14(18) of the Rules, 1966.

26. Addressing the merits of Charge No.1, it is submitted that the factual foundation of the charge is virtually admitted by the petitioner himself. It is not disputed that confiscation proceedings had already commenced before the competent Authorised Officer and intimation regarding initiation of confiscation proceedings had already been communicated to the jurisdictional Magistrate. The petitioner also does not dispute that an earlier application filed under Sections 451 and 457 of the CrPC seeking interim custody of the same tractor and trolley had already been dismissed by the same criminal court. The revisional court had affirmed the said order and proceedings before the High Court had also culminated. Despite complete knowledge of the aforesaid facts, the petitioner entertained another application filed by the same claimant and directed release of the vehicle. It is further submitted that the disciplinary authority has not merely found the judicial order to be legally incorrect. Rather, the enquiry officer has concluded that the petitioner consciously exercised judicial power in disregard of the statutory framework and the existing settled judicial



precedent.

27. In support of the aforesaid contentions, reliance is placed upon the judgment of the Hon'ble Supreme Court in *State of Madhya Pradesh v. Uday Singh, (2020) 12 SCC 733*. It is submitted that the Hon'ble Supreme Court, after undertaking an exhaustive analysis of the provisions contained in Sections 52, 52-A, 52-B and 52-C of the Indian Forest Act, 1927, as amended in the State of Madhya Pradesh, categorically held that once confiscation proceedings are initiated by the Authorised Officer and intimation thereof is sent to the jurisdictional Magistrate under Section 52(4) (a) of the Act of 1927, the jurisdiction of the criminal court under Section 451 of Code of Criminal Procedure stands excluded.

28. The petitioner's reliance upon *the State of Madhya Pradesh v. Madhukar Rao, (2008) 14 SCC 624*, learned counsel submitted that the petitioner has proceeded upon a complete misconception of the ratio of the said judgment. It is argued that **Madhukar Rao (supra)** arose under the provisions of the Wild Life (Protection) Act, 1972, wherein the Hon'ble Supreme Court held that the said enactment did not expressly exclude the jurisdiction of the Magistrate under Section 451 Cr.P.C. to grant interim custody of seized property. The respondents contended that the statutory scheme of the Wild Life (Protection) Act materially differs from the scheme incorporated in the Indian Forest Act as amended in the State of Madhya Pradesh. In fact, the Hon'ble Supreme Court itself in *Uday Singh (supra)* has expressly distinguished **Madhukar Rao (supra)** by observing that while the Wild Life (Protection) Act did not contain provisions equivalent to Sections



52-A, 52-B and 52-C, the amended Forest Act constitutes a self-contained code excluding the jurisdiction of criminal courts after initiation of confiscation proceedings. It is, therefore, submitted that the reliance placed by the petitioner upon **Madhukar Rao (supra)** is wholly misplaced.

29. Turning to Charge No.2, learned counsel for the respondents submitted that the petitioner has not been able to point out any provision under the CrPC authorising the peculiar procedure adopted by him. It is argued that after recording the conviction of accused Bhim Gole on the basis of his plea of guilt, the petitioner issued notice to another person against whom there existed neither a complaint, nor a police report, nor a charge-sheet, nor any order taking cognizance. Thereafter, despite the said person never entering appearance before the Court, the proceedings were simply directed to be filed. It is submitted that the enquiry officer rightly observed that such a course is wholly unknown to criminal jurisprudence. According to the respondents, this was not a case of choosing between two legally permissible interpretations. Rather, the petitioner exercised judicial power in a manner dehors the statutory framework itself. Such conduct clearly falls within the parameters of misconduct recognised by the Supreme Court in **K.K. Dhawan (supra)**.

30. Learned counsel for the respondents further submitted that the punishment imposed upon the petitioner cannot by any stretch of imagination be described as disproportionate. It is argued that a judicial officer is not an ordinary government servant. Members of the judicial service exercise sovereign judicial power and, therefore, are expected to maintain standards



of conduct substantially higher than those applicable to other public servants. The enquiry officer, the Administrative Committee and the Full Court have all independently examined the material and have concurrently reached the conclusion that the petitioner was not fit to continue in judicial service. Such institutional assessment made by the constitutional authority entrusted with control over the district judiciary deserves great weight and should not be lightly interfered with by a writ court. On the strength of the aforesaid submissions, it is prayed that the writ petition, being devoid of merit, deserves to be dismissed.

31. Heard the submissions advanced by learned counsel of the parties and have carefully perused the entire material available on record.

32. It is well settled that the scope of judicial review in disciplinary matters is limited. This Court does not sit as an appellate authority over the findings recorded in a departmental enquiry and cannot re-appreciate the evidence or substitute its own conclusions unless the findings are shown to be perverse, based on no evidence, or the enquiry is vitiated by violation of statutory provisions or principles of natural justice. The principles laid down by the Hon'ble Supreme Court in **K.G. Soni (supra)** govern the present case.

33. The principal contention of the petitioner is that the charges arise merely out of judicial orders passed by him while discharging judicial functions and, therefore, disciplinary proceedings were not maintainable. The submission cannot be accepted in its absolute form. While judicial independence is a basic feature of the Constitution and bona fide judicial errors are liable to be corrected in appellate proceedings, judicial



independence cannot be equated with judicial immunity. As held by the Hon'ble Supreme Court in **K.K. Dhawan (supra)**, disciplinary action is maintainable where a judicial officer acts recklessly, in conscious disregard of statutory provisions or in a manner unbecoming of the office held. The disciplinary authority is not concerned merely with the correctness of the judicial order but with the manner in which judicial power has been exercised.

34. The judgments relied upon by the petitioner undoubtedly reiterate that a judicial officer cannot be proceeded against merely because another court takes a different legal view. However, those judgments were rendered on their own facts and do not lay down that judicial officers enjoy absolute immunity from disciplinary jurisdiction. In the present case, the disciplinary authorities have not punished the petitioner merely because his judicial orders were found to be legally incorrect, but after recording findings that the manner in which judicial powers were exercised disclosed conduct falling within the exceptions recognised in **K.K. Dhawan(supra)**. Therefore, the aforesaid decisions do not advance the petitioner's case.

35. So far as Article-I is concerned, the material on record establishes that confiscation proceedings under the Indian Forest Act had already been initiated, intimation thereof had been received by the criminal court and an earlier application seeking release of the vehicle had already been rejected which was upheld by the Revisional Court and the High Court. The Enquiry Officer, after considering the entire judicial record and the petitioner's explanation, concluded that despite complete knowledge of these facts, the



petitioner entertained a subsequent application and granted identical relief against the settled principle of law. The disciplinary authority has not merely differed with the legal interpretation adopted by the petitioner but has examined the surrounding circumstances in which judicial discretion was exercised. The findings of the disciplinary authority are based on settled principles of law and cannot be said to be perverse or unsupported by the record.

36. Likewise, Article-II also stands on stronger footing. After recording the conviction of the accused on his plea of guilt, the petitioner issued notice to another individual against whom there was neither any complaint, FIR, charge-sheet nor order of cognizance and after issuance of notice, without causing appearance, proceeding against said individual was filed. When that individual was never figured in any manner in investigation or trial then issuance of such notice to that individual amounts to causing harassment to a person by resorting to abuse of process of law. If notice was issued then why petitioner did not wait for his appearance (reply) is another act which evoke mala fides and is an act raising integrity as well as intellect issues. The whole manner of trial conducted indicates that petitioner rendered himself unbecoming of a Judicial Officer. The petitioner has been unable to point out any provision of the CrPC authorising such a course. The disciplinary authorities have rightly concluded that the procedure adopted by the petitioner dehors the statutory framework governing criminal trials. The findings recorded in respect of Article-II are based upon the judicial record and cannot be characterised as arbitrary or unsupported by evidence.



37. The contention regarding non-compliance of Rule 14(18) of the Rules, 1966 also deserves rejection. On perusal of the original enquiry record, this Court finds that the Enquiry Officer duly complied with the requirements of Rule 14(18) by generally questioning the petitioner with respect to the incriminating circumstances appearing against him and affording him adequate opportunity to explain the same. The enquiry proceedings clearly demonstrate full compliance with the statutory requirement. Consequently, no elaborate discussion on the issue is called for, and the decisions relied upon by the petitioner regarding procedural irregularities have no application to the facts of the present case.

38. The challenge to the preliminary enquiry is equally devoid of merit. A preliminary enquiry is only for the purpose of ascertaining whether disciplinary proceedings should be initiated. Once a regular departmental enquiry has been conducted after serving a charge-sheet and affording full opportunity of defence, alleged defects in the preliminary enquiry lose significance and do not vitiate the final proceedings. It is also pertinent to mention here that final report of disciplinary proceedings is not based upon the Preliminary Enquiry.

39. The submission regarding disproportionality of punishment is also liable to be rejected. The Enquiry Officer, the Administrative Committee and thereafter the Full Court, after independently examining the material on record, concurrently found both charges proved and looking into the gravity of the matter, recommended the petitioner's dismissal from service. Members of the judicial service are expected to maintain the highest standards of



integrity, propriety and judicial discipline. The punishment imposed cannot, therefore, be said to be arbitrary or shockingly disproportionate so as to warrant interference in exercise of writ jurisdiction.

40. In view of the foregoing discussion, this Court is satisfied that the departmental enquiry was conducted in accordance with law, the findings recorded by the Enquiry Officer are based on cogent evidence, the petitioner was afforded adequate opportunity of defence, Rule 14(18) was duly complied with and no procedural illegality or perversity is made out. Consequently, no ground exists for exercising powers of judicial review under Article 226 of the Constitution.

41. Accordingly, the writ petition, being devoid of merit, is *dismissed*. The order dated 13.03.2015 dismissing the petitioner from service is hereby affirmed. There shall be no order as to costs.

(ANAND PATHAK)
JUDGE

(B. P. SHARMA)
JUDGE

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