

Before Rajbir Sehrawat, J.

DR. NISHA KUMARI—*Petitioner*

versus

**PT B.D. SHARMA UNIVERSITY OF HEALTH SCIENCES,
ROHTAK THROUGH ITS REGISTRAR AND OTHERS—**

Respondents

CWP No. 28949 of 2022

December 15, 2022

Constitution of India, Art. 226, 227, Pandit Bhagwat Dayal Sharma University of Health Sciences Act, 2008, Ss. 12, 13—Writ in the nature of Quo Warranto filed challenging the order of Chancellor of University dropping disciplinary proceedings against Professor and Head of Department of Paediatrics—Petitioner stranger matters of disciplinary—does not have any right to question order passed in favour of Respondent No.4 by any authority—Petitioner well aware of the fact that she lacks locus standi—Writ of quo warranto not even maintainable seeking quashing of order of a statutory authority—Chancellor a Head of the University has all the special and residual powers, including the positive power of annulling proceedings of the University which are not in conformity with the Act. Petition found to be totally frivolous, baseless, motivated and filed without locus standi. Dismissed with costs.

Held, that the petitioner does not have any *locus standi* to raise the issue involved in the present petition. The petitioner is a stranger in the matter of disciplinary matter against respondent No.4. She does not have right to question any order passed in favour of respondent No.4 by any authority. The petitioner is well aware of the fact that she lacks the *locus standi*, therefore, she has tried to disguise the present writ petition as a petition seeking writ in the nature of *qua warranto* is not even maintainable for seeking quashing of the order of a statutory authority; as such. Therefore, the petitioner has tried to play the trick upon the court just to make an attempt to make the issue of the *locus standi* as irrelevant. Hence, the present petition is bound to be dismissed for *locus standi* with the petitioner too file the present petition.

(Para 7)

Karan Bhardwaj, Advocate, *for the petitioner.*

RAJBIR SEHRAWAT, J.

(1) The petitioner has filed this petition under Articles 226/227 of the Constitution of India, for issuance of an appropriate writ in the nature of quo warranto calling upon the respondents to show cause as to under authority impugned order dated 24.01.2021 (Annexures P-29) was passed; for quashing of the said order; along with certain other prayers.

(2) Notice of motion.

(3) Mr. Sanjiv Kumar Aggrwal, Advocate accepts notice on behalf of respondent No.1-University.

(4) The facts, as pleaded in the petition, are that the petitioner had raised an issue qua commission of suicide by a Post Graduation student/ Doctor studying in the Respondent-University. Pursuant to the complaint made by the petitioner an FIR No.207 dated 14.06.2019 at Police Station PGIMS Rohtak, District Rohtak under Section 306 IPC, was registered against respondent No.4 who happened to be the Professor and Head of the Department or Pediatrics; where the deceased student/Doctor was pursuing post graduation at the relevant time. In the said FIR the police have filed the cancellation report. However, the said cancellation report has not been accepted by the concerned Magistrate. Beside this the respondent-University had also initiated disciplinary proceedings against respondent No.4. To enquire in to the alleged misconduct, charge-sheet was issued and even the enquiry officer was appointed by the University; alleging harassment, false implication, it being a case of no evidence, collusiveness being manipulated by some vested interest, as well as, non-sustainability of the charge-sheet issued against her. Accepting that representation of respondent No. 4, the order dated 24.01.2021 has been passed by the Chancellor of the University; thereby ordering dropping of the disciplinary proceeding against respondent No.4. It is challenging the said order that the present petition has been by the petitioner.

(5) Arguing the case, Learned counsel for the petitioner has submitted that the Chancellor is not authorized to pass order qua the disciplinary proceedings under the provisions of the Act of the University. Therefore, it was beyond the powers of the Chancellor to pass order dropping of the charge-sheet against respondent No.4. The issuance of charge-sheet cannot be said to be an action against the Act, statute or regulation of the University. However, since the disciplinary proceeding was subject matter between the University and its

employees, therefore, the counsel for the petitioner was asked to point out the provisions regarding her right; under the university Act and Statutes; to raise any dispute qua the charge-sheet against any other employee. However, the counsel for the petitioner has not disputed that there is no provision in the Act and statute of the University giving any right to any employee of the university like the petitioner to rake up the issue qua disciplinary proceedings against another employee, like the respondent No.4.

(6) On the other hand, the counsel for respondent No.-1 University has submitted that the petitioner has no *locus standi*, whatever; in the issue in the present case. The present petition has been filed without any legal right. The counsel has further submitted that the provisions as contained in Section 13 sub- Section 16 of the Pandit Bhagwat Dayal Sharma University of Health Science Act 2008 (in short referred to herein as the University Act) specially empowers an employee, against whom a disciplinary action is taken by the University to approach the Chancellor of the University against such action and the decision taken by the Chancellor on such a representation has been declared by the University Act to be final and binding. Hence, the order passed by the Chancellor is final. The University is not even challenging the said order passed by the Chancellor is final. The University under Section 13 (13) and (14) of University Act and the jurisdiction of Civil Court is barred qua such decision of the Chancellor; as per Section 13 (15) of the University Act. Hence there is no illegality or lack of authority with the Chancellor; qua the impugned order. This petition deserves to be dismissed.

(7) Having heard the counsel for the parties and having perused the case file this court finds that the petitioner does not have any *locus standi* to raise the issue involved in the present petition. The petitioner is a stranger in the matter of disciplinary matter against respondent No.4. She does not have right to question any order passed in favour of respondent No.4 by any authority. The petitioner is well aware of the fact that she lacks the *locus standi*, therefore, she has tried to disguise the present writ petition as a petition seeking writ in the nature of *qua warranto* is not even maintainable for seeking quashing of the order of a statutory authority; as such. Therefore, the petitioner has tried to play the trick upon the court just to make an attempt to make the issue of the *locus standi* as irrelevant. Hence, the present petition is bound to be

dismissed for *locus standi* with the petitioner too file the present petition.

(8) Moreover, after considering the stand of the University and the respondent No.4, the Chancellor has conclusions that the entire proceeding against the respondent No.4 are collusive in nature being carried out at the instance of some vested interest. Further conclusive arrived at by the Chancellor are that there is no evidence with the University to be produced against the respondent No.4, rather the allegations against respondent No.4 are belied even by the facts on record of the University itself. The Chancellor has also appreciated the fact the University itself had asserted that the disciplinary proceedings had too be initiated against the respondent No.4 under pressure of some students and other elements; because of protests and agitation. This court finds no reason to arrive at a different conclusion in the given facts and circumstances of the case. The fact that the present petition has been filed after about two years of the date of passing of the order by the Chancellor itself lends credence to the conclusion of the Chancellor that some vested interest had got the proceedings against respondent No.4 initiated and they are also bent upon continuing the same by hook or crook; just to keep the respondent No.4 away from the lawful position and to cause her the maximum harassment. Surprisingly, the charge-sheet itself states that the petitioner and her companions, had created a pressure upon the University to take action against respondent No.4; which had resulted in initiation of the departmental proceedings against respondent No.4. Therefore, there is no doubt left that the proceedings against the respondent No.4 were creation of the petitioner and her colleagues right from the beginning; for oblique motives and through dubious means of threats, protest and agitations.

(9) Although the counsel for the petitioner has raised the issue qua power of the Chancellor pass the order in question, however, even this argument is not sustainable. It would be appropriate to have reference to the relevant provisions in that regard, which are reproduced hereunder:

“Section 12:- the following shall be the officers of University namely:-

- (i) the Chancellor
- (ii) the vice- Chancellor:
- (iia) the Pro vice-Chancellor;

- (iii) the registrar:
- (iv) the director, Pt. B.D. Sharma PGIMS:
- (v) Deans, Academic Affairs of University:
- (vi) Deans, Pt. B.D. Sharma PGIMS;
- (vii) Deans of Faculties;
- (viii) Principal, Postgraduate Institute of Dental Science, Rohtak;
- (ix) Such other persons in the service of University, as may be declared, by the Statutes, to be the officers of University.

Section 13:-

- (1) The Governor of Haryana by virtue of his office shall be the Chancellor of University.
- (2) The Chancellor shall be the Head of University.
- (3) The Chancellor shall, if present, preside over the convocation of University for conferring degrees and meetings of the Court.
- (4) The Chancellor shall have the right-
 - (i) to cause an inspection to be made, by such person or persons as he may direct, of the affairs and properties of University, its buildings, laboratories, libraries, museums, workshops, equipments etc; and of any affiliated college or institution and also of examinations, teaching and other work conducted and done by University or in respect of any other matter connected with University;
 - (ii) to cause an inquiry to be made in like manner in respect of any matter connected with the administration of finances of University, or institutios.
- (5) The Chancellor shall forward to the Vice Chancellor a copy of inspection report for obtaining the views of the Executive Council thereon, and on receipt of such

views, the Chancellor may give such directions as he considers necessary and fix a time limit for the action to be taken by University.

- (6) The Chancellor may, on the advice of the Government, cause an inquiry to be held in accordance with the principles of natural justice, and remove the Vice-Chancellor from office, if he is found on such inquiry, to be a person patently unfit to be continued in such office.
- (7) The Chancellor shall, in every case, give notice to the University of his intention to cause an inspection or inquiry to be made and on receipt of such notice, the University shall have the right to make such representation to the Chancellor as it may consider necessary.
- (8) After considering the representation, if any, made by the University, the Chancellor may cause to be made such inspection or inquiry as is referred to in sub-section (4).
- (9) Where any inspection or inquiry has been caused to be made by the Chancellor, the University shall be entitled to appoint a representative, who shall have the right to be present and to be heard at such inspection or inquiry.
- (10) The Chancellor may, if the inspection or inquiry is made in respect of University, address the Vice-Chancellor with reference to the result of such inspection or inquiry and the Vice-Chancellor shall communicate to the Executive Council, the views of the Chancellor and the action to be taken thereon, as advised by the Chancellor.
- (11) The Executive Council shall communicate through the Registrar to the Chancellor such action, if any, as it proposes to take or has taken upon the result of such inspection or inquiry.
- (12) Where the Executive Council does not, within a reasonable time, take action to the satisfaction of the Chancellor, the Chancellor may, after considering any

explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall comply with such directions.

- (13) Without prejudice to the foregoing provisions of this section, the Chancellor may, by order in writing, annul any proceedings of University, which are not in conformity with this Act, the Statutes, the Ordinances, or the Regulations: Provided that before making any such order, he shall call upon University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, he shall consider the same.
- (14) The Chancellor may, at any time, require or direct University to act in conformity with the provisions of this Act, the Statutes, Ordinances and Regulations made thereunder.
- (15) The power exercised by the Chancellor under subsection (13) and (14) shall not be called in question in any civil court.
- (16) Any employee of the University, who is aggrieved by the decision of the Executive Council or the Vice-Chancellor in respect of any disciplinary action taken against him, may address a memorial to the Chancellor in such manner, as may be prescribed by the Statutes and the decision of the Chancellor shall be final.
- (17) The Chancellor may, on the advice of the Government, cause an inquiry to be held in accordance with the principles of natural justice, and remove the Director from office, if he is found on such inquiry, to be a person patently unfit to be continued in such office.
- (18) The Chancellor shall exercise such other powers and perform such other duties as may be conferred upon him under this Act or the Statutes made thereunder."

(10) Perusal of the provisions contained in Section 13 sub-Section (2), (13) and (14) of the University Act, makes it clear that the Chancellor is the Head of the University and he has all the special and

residual powers, including the positive power annulling any proceedings of the University which are not in conformity with the Act, Statute or ordinance or the regulations. The only requirement is that before passing any such order the Chancellor shall grant an opportunity to the University to show cause why such an order should not be made. In the present case undisputedly the University had been granted an opportunity to present its case before the Chancellor. Even the case put up by the University before the Chancellor has been considered by the Chancellor and it has been observed that no substantial material has been pleaded by the University to support the proceedings against respondent No.4, rather the University has not denied that the proceedings against respondent No.4 were initiated due to pressure and agitation by petitioner and her colleagues.

(11) Although sub-Section (13) and (14) provide that the Chancellor can interfere if the action of the University is against the Act, statute or regulations, however, initiation and continuation of such a disciplinary action against an employee which is, undisputedly, initiated under a coercion and pressure created by another person or group of persons, which is, undisputedly, based on allegations against the facts on record of the University and which was got initiated by vested interest with oblique motives; can never be said to be in conformity of the Act, the statute or the regulations of the University. Therefore, the action of the Chancellor in passing the order of dropping of such a charge-sheet against the petitioner cannot be faulted.

(12) Furthermore, although the disciplinary action was initiated against the respondent No.4 under Punishment and Appeals Regulations of the University, however, even under the said Regulations the Chancellor has been authorized to entertain and decide memorial or representation from the aggrieved employee. Though the power conferred upon the Chancellor is at the stage of Appeal and Revision, and that power is against the action taken by the Executive Council of the University, but in case of the respondent No.4 even the appointing authority under the statute of University, and thus the punishing authority under the regulations is also the Executive Council of the University. The regulations also provide that the decision to charge the respondent No.4 and to hold an inquiry against her has to be of Executive Council only. But there is nothing shown by the charge-sheet or the proceedings against the respondent No.4 that it was ordered by the Executive Council or was even considered by the Executive Council. Although the Vice-Chancellor is given emergency powers

under Section 14(9) of the University Act however that power does not extend to the matters which may not involve the appointment or removal of an employee. Moreover even under this provision an employee aggrieved against the action of Vice-Chancellor has been given right to make representation. In any case, Section 13 of the Act has given all pervasive residual power, in addition to special powers, to ensure the compliance of the Act, statute and regulation of the University in letter and spirit. Therefore, if the facts and circumstances so demand, there is nothing to stop the Chancellor from cutting-short the process of enquiry and order dropping charge-sheet against an employee. It is well settled that ordinarily the charge-sheet and the disciplinary proceedings are not to interfered with, however there are well known exception to this principle. The charge-sheet issued for oblique motives or under pressure and manipulation of vested interest or as based on allegations which are ex facie against the record of the employer are the case where the charge-sheet itself can be ordered to be quashed or ordered to be dropped. After all no jurisprudential concept mandates that proceedings against employee have to be permitted to complete even if the same are ex-facie malafide, got initiated under pressure for oblique motives and are ex-facie baseless. The same deserves to stopped to prevent under harassment to the employee. In the present case the Chancellor has done only that.

(13) Not only that sub-Section (15) of Section 13 of the Act specifically provides that power exercised by the Chancellor under sub-Sections (13) and (14) shall not be called in question in any civil court. Therefore, it is obvious that a person, who pleads to raise dispute against an order of Chancellor, as a matter of right and thus; which could have been raised before the Civil Court, has been precluded from doing the same by the provisions of the Act itself. This also leads to the conclusion that the petitioner does not have any civil right to question the order passed by the Chancellor, whatever be the nature, quality or legality of such an order. So far as the University, which is the only party who could have raised grievance against the order of the Chancellor, is concerned, it has not raised any dispute against the order passed by the Chancellor. The University itself is satisfied with the order passed by the Chancellor, which again stresses upon the fact mentioned in the charge-sheet that the University was forced to issue the charge-sheet against respondent No.4, in the first place, on account of agitation conducted by the petitioner and her associates.

(14) In view of the above, the present petition is found to be totally frivolous, baseless, motivated and filed without locus standi. Accordingly, the present petition is dismissed with a cost of Rs.15,000/- (Rupees fifteen thousand). The cost amount is ordered to be deposited by the petitioner with the Poor Patient Welfare Fund, PGI, Chandigarh, within a period of four weeks from today.

Reporter-Gaurav Saini