



2025:AHC:186564

A.F.R.

Reserved

**HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT – A No. - 10029 of 2025**

Krishna Kant

.....Petitioners(s)

Versus

State of U.P. And 2 Others

.....Respondents(s)

Counsel for Petitioners(s)	: Prem Prakash
Counsel for Respondent(s)	: Ashish Kumar (Nagvanshi), C.S.C., Sunil Kumar Dubey

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. Prem Prakash Sharma, learned counsel for the petitioner, Mr. Anoop Trivedi, learned Senior Advocate assisted by Mr. Ashish Kumar Nagvanshi, learned counsel for the Secretary, U.P. Basic Education Board, Prayagraj, Mr. Sunil Kumar Dubey, learned counsel for the respondent nos.2&3 and Mr. Hare Ram, learned Standing Counsel for the State-respondent.

2. The present writ petition challenges the legality and validity of the impugned order dated 04.07.2025 passed by respondent no. 2, whereby the petitioner's appointment has been declared void ab initio with effect from the date of appointment, i.e., 31.03.1998.

3. The brief facts relevant for the purpose of the present case are that:-

(i) Earlier, the petitioner was terminated from service on 20.12.2021, without initiating any disciplinary proceeding, pursuant to a complaint lodged by Smt. Snehlata. The petitioner challenged the said termination order before this Court by means of filing Writ-A No.1254 of 2022, wherein by an interim order dated 15.02.2022, relief was granted in

favor of the petitioner. Subsequently, the writ petition was allowed by order dated 06.03.2024, with a direction for payment of regular salary.

(ii) Against the order dated 06.03.2024, the respondents filed Special Appeal Defective No. 233 of 2025 and Special Appeal No. 234 of 2025, which were disposed of vide order dated 24.04.2025. The Division Bench affirmed the order dated 06.03.2024 and gave a further direction that the employer would be entitled to conduct a fresh inquiry in accordance with law, and the current salary of the petitioner would also be paid. However, the question of arrears of salary from 2021 would abide by the fresh inquiry to be concluded by the employer.

(iii) Pursuant to the order dated 24.04.2025, a disciplinary proceeding was initiated on 07.05.2025, and a charge sheet dated 20.05.2025 was served upon the petitioner. However, the impugned order dated 04.07.2025, was passed without adhering to the procedure mandated by the Division Bench's order dated 24.04.2025. After passing the impugned order dated 04.07.2025, and during the pendency of the present writ petition, the respondents have filed a Civil Misc. Review Application (Defective) No. 81 of 2025 in Special Appeal Defective Nos.233/2025 and 234/2025, seeking to set aside the judgment and order dated 24.04.2025. The respondents have also filed a stay application to stay the effect and operation of the aforesaid order dated 24.04.2025, which is expected to be heard within a week.

(iv) If the stay application or the review petition is allowed, the entire disciplinary proceeding, including the impugned order dated 04.07.2025, passed by Respondent No. 2, would become infructuous. Consequently, this writ petition would also become infructuous, as the entire proceeding is based on the Division Bench's order.

(v) In the present case, the respondents allege that the petitioner obtained compassionate appointment through fraudulent means. Two FIRs have been lodged against the petitioner: One on 29.04.2022, under Section 420 IPC at Police Station Lalganj, District Mirzapur, and another on 20.05.2023, under Sections 420, 193, 467, 468, 471, 120-B IPC, and

Section 7 of the Prevention of Corruption Act, 1988, at Police Station Varanasi Sector (Vigilance Establishment). Both FIRs have been stayed by the Co-ordinate Bench of this Court, vide orders dated 23.07.2024 (CRLP No. 12327 of 2024) and 19.03.2025 (CRLP No. 17783 of 2022), respectively.

(vi) The alleged forged documents submitted by the father of the petitioner, i.e. Legal Heir Certificate and Succession Certificate, were issued by the competent authority and have not been challenged by the respondents or the complainant. The criminal proceedings related to these documents have been stayed by this Court. Therefore, it is not established that the documents are forged. Until the charges are proved in the criminal proceedings, mere allegations of submitting forged documents cannot be considered a finding of guilt, as held by the Co-ordinate Bench of this Court in **Shiv Mangal Verma vs. State of U.P. and others**¹.

(vii) The Hon'ble Supreme Court in case of **Siddhartha Vashisht @ Manu Sharma Vs. State**², held that in the Indian criminal jurisprudence, an accused is placed in somewhat advantageous position than under different jurisprudence of some countries of the world. The criminal justice administration system in India places human rights and dignity for human life at a much higher pedestal. In our jurisprudence an accused is presumed to be innocent till proved guilty, the alleged accused is entitled to fairness and true investigation and fair trial of the prosecution is expected to play balanced role in the trial of a crime.

(viii) Therefore, without proving guilt through evidence, the petitioner cannot be punished in the disciplinary proceeding based solely on assumptions that the Legal Heir Certificate and Succession Certificate are forged, relying on the complainant's statement.

(ix) The materials brought through the counter affidavit are not part of the charge sheet as evidence and are not relevant to the issues in the writ

1 (2020) 6 ALJ 145

2 (2010) 6 SCC 1

petition. Therefore, they cannot be relied upon. It is settled law that extraneous material cannot be considered in a disciplinary inquiry.

(x) The petitioner's father had two wives, namely, Yashoda Devi and Sumitra Devi. Smt. Sumitra Devi, the petitioner's mother, was appointed as an Assistant Teacher in the Basic Education Department on 22.03.1976, and died in harness in the year 1990. After attaining majority and acquiring the requisite qualifications, the petitioner applied for compassionate appointment in place of his mother and was appointed as an Assistant Teacher in the Basic Education Department vide appointment order dated 31.03.1998.

(xi) After serving for over 20 years, a dispute arose between the petitioner and his younger sister, Smt. Snehlata. She subsequently filed a complaint with the National Human Rights Commission, New Delhi, alleging that the petitioner obtained his appointment using forged documents. Following this, the petitioner was served with a charge sheet dated 18.10.2021, containing three charges. Despite submitting a reply, the petitioner was terminated vide order dated 20.12.2021 passed by Respondent No. 2, without following due procedure.

(xii) The petitioner challenged the termination order by means of filing Writ-A No. 1254 of 2022³. The Court stayed the termination order on 15.02.2022, and ultimately allowed the writ petition on 06.03.2024. Pursuant to the stay order, the petitioner was permitted to join duty on 23.03.2022, in compliance with the Court's order.

(xiii) The petitioner filed Contempt Petition No. 3288 of 2024 due to non-payment of salary despite the Court's order dated 06.03.2024. Notice was issued, which apparently prompted Respondent No. 2 to file two special appeals with a delay of over a year: Special Appeal Defective No. 233 of 2025 and Special Appeal Defective No. 234 of 2025. However, both appeals were disposed of vide order dated 24.04.2025, affirming/upholding the order dated 06.03.2024.

3 (Krishna Kant vs. State of U.P. and others)

(xiv) The Division Bench of this Court vide order dated 24.04.2025, allowed the employer to conduct a fresh inquiry in accordance with law, while stipulating that the issue of arrears of salary from 2021 would depend on the outcome of the new inquiry. Pursuant to this order, Respondent No. 2 initiated disciplinary proceedings on 07.05.2025, based on the same facts, and appointed Respondent No. 3 as the Inquiry Officer.

(xv) Respondent No.3 issued a letter dated 14.05.2025, directing 11 persons, including the petitioner's family members, to record statements on 19.05.2025 in the office of Respondent No. 2. The said date has been mentioned in the inquiry report and the impugned order also. However, in the counter affidavit, Respondent No. 2 claimed that the letter was issued for a vigilance inquiry, raising questions about the role of Respondent No. 3, as he was initially appointed as a Inquiry Officer for a disciplinary inquiry.

(xvi) The petitioner submitted his reply to the letter on 19.05.2025, requesting that the inquiry proceedings adhere to relevant statutory provisions and Government Orders.

(xvii) An identical letter/notice dated 29.05.2025 was also issued, and in the said notice, the hearing dates in the vigilance inquiry, as alleged by respondent No. 3, were mentioned as 19.05.2025, 05.06.2025, 09.06.2025, 11.06.2025, and 13.06.2025. Notably, the petitioner was not afforded an opportunity for a hearing in the disciplinary inquiry, despite this being mentioned in the impugned order.

(xviii) The respondents issued a supplementary charge sheet dated 20.05.2025, levelling 9 vague charges against the petitioner without following due procedure or applying judicious mind. The petitioner submitted replies to the supplementary charge sheet on 04.06.2025, 23.06.2025, and 28.06.2025, via registered post, but the respondents failed to consider them, as evident from the postal receipts annexed.

(xix) Thereafter, on 30.06.2025, the petitioner appeared before Respondent No. 2, as per the letter dated 23.06.2025, and submitted his reply to the charge sheet. The petitioner also brought to notice the actions of Sri Sanjay Kumar, Khand Shiksha Adhikari, Rajgarh, Mirzapur (Inquiry Officer), through a letter, which is acknowledged in the impugned order. However, the impugned order's findings do not address the petitioner's contentions.

(xx) Respondent No.2 seemingly attempted to circumvent the contempt petition by passing the impugned order dated 04.07.2025, and filing it with an affidavit, just days before the scheduled personal appearance on 07.07.2025. This action appears to be an effort to avoid salary payment.

4. Learned counsel for the petitioner has made the following contentions:-

(i) The punishment imposed upon the petitioner is not prescribed under the 1999 Rules. It is a settled proposition of law that a punishment not prescribed under the rules, as a result of disciplinary proceeding cannot be imposed. This principle has been established through various judgments, including **Vijay Singh Vs. State of U.P., Dr. Vinay Mohan Van Vs. Smt. Kanchan Srivastava, Pratap Narain Saxena Vs. State of U.P., and Satya Dev Sharma Vs. State of U.P.**

(ii) The Inquiry Officer denied receiving the petitioner's reply to the charge sheet on multiple occasions. Furthermore, despite no witnesses being proposed in the charge sheet, the Inquiry Officer recorded statements from two witnesses, namely, Sneha Lata and Anita, without providing the petitioner an opportunity for cross-examination.

(iii) The Inquiry Officer recorded statements from witnesses, who were not proposed in the charge sheet, and the Disciplinary Authority relied on these statements while passing the impugned order. This amounts to reliance on extraneous material, which is impermissible in law.

(iv) The impugned order acknowledges the petitioner's reply/representation, yet an ex-parte order was passed, effectively disregarding the petitioner's submission.

(v) Rule 5(1) of the 1999 Rules, which is cited as the sole basis for the punishment was not in existence at the time of petitioner's appointment. Respondent No. 2 knowingly framed charges based on this non-existent rule. The charges framed in the charge sheet are in violation of Rule 7(iii) of the 1999 Rules.

(vi) During open vigilance inquiry, the disciplinary proceedings ought to have been dropped by the disciplinary authority as per the government orders, surprisingly, instead of dropping proceedings, the disciplinary authority treated the vigilance inquiry itself as a charge, i.e. charge no.9.

(vii) Regarding the pension received by the petitioner's father, the respondents issued a show-cause notice dated 05.08.2025, to which the petitioner replied on 26.08.2025, via registered post. However, these subsequent developments hold no weight in determining the writ petition, as they occurred after the impugned punishment order dated 04.07.2025. Moreover, since the decision on these subsequent matters is still pending, no inference or opinion can be drawn.

(viii) The succession certificate is genuine, authentic, and undisputed, and neither the complainant nor the Inquiry Officer has challenged it before any competent forum. They had the opportunity to contest it under the Succession Act. The certificate can only be revoked under Section 383 of the Indian Succession Act, 1925. Similarly, the Legal Heir Certificate issued by the Tehsildar can only be challenged before the competent authority. Therefore, neither the Inquiry Officer nor the Disciplinary Authority has the power to declare these certificates forged in disciplinary proceedings under the U.P. Government Servant (Discipline and Appeal) Rules, 1999.

(ix) The succession certificate has not been challenged before the competent authority, it cannot be presumed to be forged. Thus, its

genuineness and authenticity are well established. Furthermore, the inquiry report reveals procedural irregularities. The petitioner appeared before the Inquiry Officer on 17.06.2025, requesting time, but the Officer submitted the report the same day without granting any time. Additionally, the report acknowledges the petitioner's submission of a reply to Respondent No. 2 on 30.06.2025, yet the impugned order fails to consider this reply, indicating that the inquiry was conducted *ex-parte* and in violation of due procedure.

(x) Judicial review under Article 226 of Constitution of India is limited, therefore, the High Court cannot act as an appellate authority in disciplinary proceedings, as held by the Hon'ble Supreme Court in the case of **Union of India vs. P. Gunasekaran**⁴. It cannot re-appreciate evidence or substitute its own opinion. The Court's scope of interference is restricted to ensuring procedural fairness, adherence to principles of natural justice, and rationality in decision-making.

(xi) There is no basis for the complainant's claim to compassionate appointment after 27 years. Moreover, the documents submitted by the petitioner clearly establish his relationship as the son of Late Sumitra Devi and no credible evidence has been produced to the contrary.

(xii) In support of his contentions, he has relied upon the following judgments:-

(a) In the case of **Bharat Coking Coal Ltd. v. Shyam Kishore Singh**⁵, the Hon'ble Supreme Court held that when relevant documents and affidavits were examined and the authority is satisfied, challenge on grounds of concealment at a later stage must be substantiated with clear evidence of fraud or misrepresentation.

(b) In the case of **SBI vs. Raj Kumar**⁶, the Apex Court has opined that compassionate appointment is not a vested right, but once it is granted

4 (2015) 2 SCC 610

5 (2020) 3 SCC 411

6 (2010) 11 SCC 661

after proper scrutiny and no material suppression is proven, such appointment cannot be invalidated.

(c) In the case of **State of Punjab vs. Jagdip Singh**⁷, the Apex Court has held that a void appointment is one made without the authority of law, however, an appointment following some procedural irregularity is not void ab initio unless there is violation of essential conditions.

(d) This Hon'ble Court in **Writ-A No.2058 of 2024**⁸ has held as under:-

"12. Hon'ble the Supreme Court in similar circumstances where the individual had obtained compassionate appointment de hors the rules and his appointment was set aside after a period of 15 years, it was held that the same was not justified in terminating such an appointment. The relevant paragraphs of the judgment of the Supreme Court in the case of Md. Zamil Ahmed Vs. The State of Bihar & Ors., Civil Appeal No. 4815 of 2016) is quoted herein below:-

"14) Keeping in view the peculiar undisputed facts of the case and having regard to the totality of the circumstances, we are of the considered view that the State was not justified in terminating the appellant's services. In other words, the ground on which the appellant's services were terminated by the State after a period of 15 years of appellants appointment does not appear to be well founded. This we say for the following reasons:

15) Firstly, the appellant and wife of the deceased at the time of seeking compassionate appointment did not conceal any fact and nor filed any false or incorrect document/declaration. On the other hand, both of them disclosed their true family relations and conditions prevailing in the deceased family on affidavit.

16) Secondly, the appellant, who is the brother of the deceased, undertook to maintain the family of the deceased in the event of his securing the compassionate appointment and he accordingly also gave such undertaking to the State."

13. It is in the aforesaid circumstances, this Court is also of the considered view that there was no justification on the part of the State to have woken up after a lapse of 12 years and found infirmity in the appointment of the petitioner and quashed the same. Further there are no allegations that the petitioner had concealed any material fact or some fact was found out by the State after a substantial length of time necessitating termination of his services. Once a finding has been recorded that the petitioner was not responsible for suppression of any material fact in securing his appointment then the onus lay upon the State to have examined the

⁷ 1964 AIR 521

⁸ (Vishwaroop vs. State of U.P. Thru. Addl. Chief Secy. Agriculture Deptt. Lko. And 3 Others), decided on 15.10.2024

entire facts prior to giving him appointment on compassionate grounds. For the lapse if any of the State the services of the petitioner cannot be terminated after a lapse of 12 years."

(xiii) In the case of **Writ-A No. 12839 of 2023**⁹, the Co-ordinate Bench of this Court held that all the relevant documents were submitted and duly scrutinized by the competent authority before the appointment was offered. As such, the appointment cannot be termed as illegal or void. It is a settled principle of law that an appointment made after due verification and without any fraudulent intent cannot be cancelled merely on technical grounds or assumptions. In the absence of any material irregularity or violation of the prescribed procedure, the petitioner's appointment stands on firm legal footing and is not liable to be annulled retrospectively.

(xiv) In light of the facts and circumstances, it is just and expedient to quash the impugned order dated 04.07.2025, passed by Respondent No. 2. Failure to do so would result in irreparable loss and injury to the petitioner.

5. On the other hand, learned counsel for the respondent nos.2&3, submits that:-

(I) The petitioner's father, Natheram, was appointed as Lekhpal on 01.03.1976, and later retired as Revenue Inspector on 31.10.2015, in District Mirzapur. Natheram had two marriages: first with Smt. Yashoda Devi (born 21.05.1960) and second with Late Sumitra Devi. From his first marriage with Smt. Yashoda Devi, Natheram had four sons and one daughter, namely:-

- a. Krishnakant (born February 20, 1979)
- b. Laxmikant (born July 5, 1978)
- c. Ram Krishna (born August 5, 1986)
- d. Jay Krishna (born August 5, 1989)
- e. Vijay Laxmi (born July 1, 1991)

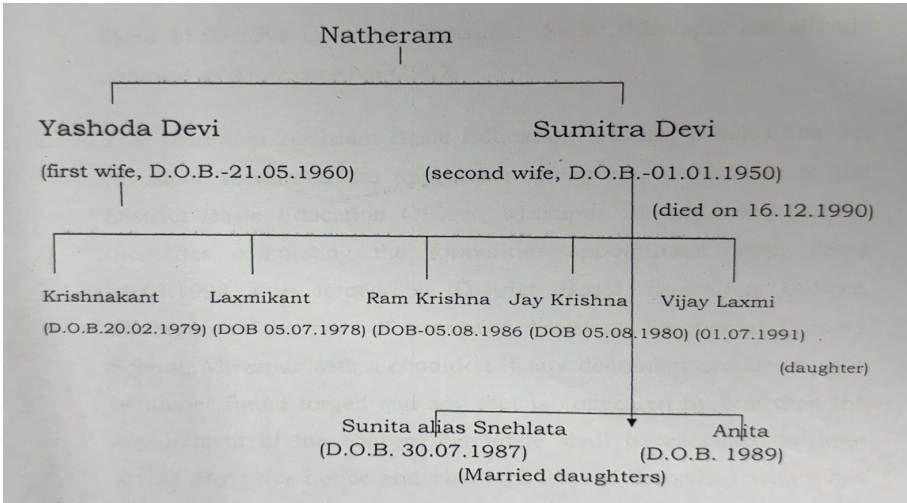
From his second marriage with Late Sumitra Devi, Natheram had two daughters:-

- i. Sunita alias Snehlata (born July 31, 1987)

9 Shiv Kumar Vs. State of U.P. and others, Neutral Citation No.2025:AHC: 130987

ii. Anita (born in the year 1989)

(II) Yashoda Devi and Sumitra Devi both are real sister. The petitioner's father's pedigree (sajara) is submitted for the Court's reference:-



(III) Sumitra Devi was appointed as an Assistant Teacher on 18.07.1972, at Primary School Balli Parwa, Block Kon, Mirzapur, and was later promoted to Head Mistress on 16.10.1981. Tragically, she was murdered on 16.12.1990, resulting in Case Crime No. 798 of 1990 under Section 302 IPC, registered at Police Station Kotwali Katra, District Mirzapur.

(IV) At the time of death of Late Sumitra Devi, the petitioner was a minor. Upon attaining majority in 1998, he obtained a legal heir certificate dated 11.03.1998, from the Tehsildar Sadar, Mirzapur, declaring him the son of Late Sumitra Devi. Notably, the petitioner's father, Natheram, submitted an affidavit dated 06.03.1998, addressed to the District Basic Education Officer, Mirzapur, affirming the petitioner as the son of Late Sumitra Devi, despite the petitioner being the son of Yashoda Devi.

(V) The petitioner subsequently submitted an application to the District Basic Education Officer, Mirzapur, seeking compassionate appointment based on Late Sumitra Devi's service. The application was accompanied by the legal heir certificate dated 11.03.1998, and his father's affidavit dated 06.03.1998, which have been annexed as Annexure No. CA-2 to the counter affidavit in support of the writ petition.

(VI) The Assistant Basic Education Officer, Block Chhanbe, Mirzapur, forwarded the petitioner's application along with supporting documents to the District Basic Education Officer, Mirzapur, for necessary action. Upon completion of formalities, the District Basic Education Officer issued an appointment letter dated 31.03.1998, appointing the petitioner as an untrained Assistant Teacher at Primary School, Mirzapur. The appointment was conditional, with a stipulation that if any documents were found forged or facts concealed, the appointment would be canceled without notice, and any salary paid would be recoverable. The report of the Assistant Basic Education Officer and the appointment letter have been annexed as Annexure No. CA-3 to the counter affidavit in support of the writ petition.

(VII) At the time of Late Sumitra Devi's death, her two daughters, Snehlata (alias Sunita), aged 3 years, and Anita, aged 1 years, were left behind. On 16.03.2020, Snehlata filed a complaint before the Chairman of the National Human Rights Commission, New Delhi, alleging that her father had wrongfully obtained compassionate appointment for his son, Krishnakant (from another wife), by falsely claiming him to be dependent on Late Sumitra Devi, despite Snehlata and her sister being the actual dependents. She requested an inquiry into the matter, sought justice and claim entitlement to compassionate appointment herself. A copy of Snehlata's application dated 16.03.2020, has been annexed as Annexure No. CA-8 to the counter affidavit in support of the writ petition.

(VIII) Pursuant to Snehlata's complaint, Case No. 8513/24/2020 (M-4) was registered with the National Human Rights Commission (NHRC), New Delhi. The NHRC, subsequently, passed an order dated 03.11.2021, which is quoted as under:-

"The Commission has perused the record and observes that in view of the report, the allegations have been found to be substantiated and necessary action will be taken against the guilty person/officials. But the report is silent as to what action the Administration has taken to compensate the present complainant in view of the loss she suffered due to the illegal appointment of Shri

Krishnakant by the Administration and her claim for appointment in Government service on compassionate grounds. The Commission therefore directs the Special Secretary, Department of Basic Education, Govt. of Uttar Pradesh, Lucknow to submit further report about action taken against the guilty public servants and the action taken compensate the complainant for the loss she suffered due to the illegal appointment of Shri Krishnakant by the Administration and her claim for appointment in Government service on compassionate grounds in the instant matter within four weeks, positively."

(IX) The NHRC also directed the Special Secretary, Basic Education, U.P., Lucknow, to submit a further report regarding action taken against the petitioner and to compensate Snehlata (alias Sunita) for the losses incurred due to the petitioner's illegal appointment. Pursuant to this direction, the Special Secretary instructed the Secretary, Basic Education Board, via orders dated 08.03.2022, and 18.08.2022, to take appropriate action in compliance with the NHRC's order dated 03.11.2021.

(X) In the meantime, Snehlata also lodged a complaint with the Superintendent of Police, Mirzapur, regarding the petitioner's allegedly forged appointment. Pursuant to this complaint, the police authority conducted an inquiry and submitted a report on 30.09.2020, concluding that the petitioner's appointment was indeed forged, as he is the son of Yashoda Devi but obtained appointment claiming to be the son of Late Sumitra Devi. A copy of the inquiry report has been annexed as Annexure No. CA-1 to the counter affidavit in support of the writ petition.

(XI) In response to the charge sheet dated 18.10.2021, the petitioner submitted his reply on 02.11.2021, to the District Basic Education Officer, Mirzapur. In his reply, he reiterated the facts of his case, as mentioned in his application, his father's affidavit, and the legal heir certificate issued by the Tehsildar, which were submitted to support his appointment under the dying-in-harness rules. Notably, he acknowledged that Snehlata (also known as Sunita) and Anita are the daughters of Late Sumitra Devi.

(XII) Thereafter on the basis of enquiry report as well as reply of the petitioner, he was found guilty of the charges. Consequently, vide order dated 20.12.2021, the District Basic Education Officer, Mirzapur, canceled the petitioner's service. Additionally, regarding the petitioner's appointment, a First Information Report (FIR) dated 29.04.2022, was lodged as Case Crime No. 96 of 2022 under Section 420 of the IPC at Police Station Lalganj, District Mirzapur. After investigation, a charge sheet was submitted to the concerned court.

(XIII) Challenging the cancellation order dated 20.12.2021, the petitioner filed **Writ Petition No. 1254 of 2022**¹⁰, wherein the Co-ordinate Bench of this Court vide order dated 15.02.2022, stayed the effect and operation of the impugned order until further directions. Ultimately, the writ petition was allowed vide order dated 06.03.2024 with the direction that the order would not preclude a proper inquiry against the petitioner, provided it proceeded beyond the stage of the reply already submitted.

(XIV) The respondent filed Special Appeal (D) Nos. 233 and 234 of 2025 (U.P. Basic Education Board vs. Krishna Kant) challenging the order dated 06.03.2024, passed in the aforesaid writ petition. Vide a common order dated 24.04.2025, both appeals were disposed of with the observation that the employer was entitled to conduct a fresh inquiry. The Court further directed that the issue of salary payment post-2021 would be determined based on the outcome of the fresh inquiry to be conducted within three months.

(XV) Pursuant to the order dated 24.04.2025, passed by this Court, a fresh inquiry was initiated against the petitioner, with the Block Education Officer, Rajgarh, Mirzapur, appointed as the Inquiry Officer. Two charge sheets, one dated 18.10.2021, and a supplementary charge sheet dated 20.05.2025, were served upon the petitioner. He was directed to submit his written reply along with relevant evidence within 15 days and informed of his option to present witnesses in his defense. However,

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despite repeated opportunities, the petitioner sought adjournments and failed to provide a specific reply to the charge sheet, apparently attempting to delay the disciplinary proceedings. Given the circumstances, the Inquiry Officer submitted an inquiry report dated 17.06.2025, upholding the charges against the petitioner. A copy of the inquiry report has been annexed as Annexure No. CA-23 to the counter affidavit in support of the writ petition.

(XVI) Subsequently, the disciplinary authority, being unsatisfied with the petitioner's reply, cancelled his appointment vide order dated 04.07.2025. Aggrieved by the said order dated 04.07.2025, passed by the District Basic Education Officer, Mirzapur, the petitioner filed the present **Civil Misc. Writ Petition No. 10029 of 2025¹¹**.

(XVII) During the hearing of the writ petition, this Court directed the respondents to file a counter affidavit with documents showing that the petitioner is the son of Smt. Yashoda Devi. Pursuant to this direction, the District Basic Education Officer, Mirzapur, requested the District Magistrate, Mirzapur (vide letter dated 30.07.2025), and the Additional District Treasury and Pension, Vindhyachal Division, Mirzapur (vide letter dated 31.07.2025), to provide relevant documents, including the service book, pension sanction order, and nomination of Natheram, the retired Revenue Inspector. The Additional Director, Treasury and Pension, provided the pension form, particulars of the applicant, nomination for family pension, and Pension Payment Order (PPO), which clearly indicate that the petitioner is the son of Yashoda Devi. Copies of the relevant letters and Form-1 have been annexed as Annexure No. CA-4 of the counter affidavit in support of the writ petition.

(XVIII) Upon discovering from the aforementioned documents that the petitioner is not the legal heir of the deceased employee, Late Sumitra Devi, the respondents/appellants searched for documents related to her. They found that Natheram, the petitioner's father, had applied for family

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pension, GPF, and other post-death benefits in respect of Sumitra Devi by concealing material facts. Specifically, he falsely claimed to be unemployed and unmarried, whereas he was actually serving as a Revenue Inspector in District Mirzapur and had a wife named Yashoda Devi. Based on these false claims, family pension was sanctioned to him through Pension Payment Order (PPO) No. 343/1990/12-13 dated 17.12.1990. Natheram has been continuously drawing the pension by submitting living certificates.

(XIX) The petitioner also submitted a domicile certificate and caste certificate dated 06.12.2022, issued by the Sub Divisional Magistrate and Tehsildar, Sadar, Mirzapur, claiming Late Sumitra Devi as his mother. However, based on the nomination and pension papers indicating the petitioner is the son of Yashoda Devi, and following a spot inspection and inquiry, the Tehsildar's report dated 12.08.2025, led to the cancellation of the domicile certificate by the Sub Divisional Magistrate vide order dated 12.08.2025. Further, based on the same report, the Sub Divisional Magistrate referred the matter to the District Caste Scrutiny Committee for cancellation of his caste certificate.

(XX) Notably, the petitioner also filed **Civil Contempt Application (Civil) No. 3288 of 2024¹²**, seeking compliance with the order dated 06.03.2024, passed by this Hon'ble Court in Writ Petition No. 1254 of 2022 and Writ Petition No. 2463 of 2022 (Krishna Kant vs. State of U.P. and others). Pursuant to the notice issued by the Contempt Court, the opposite party submitted a reply.

(XXI) Subsequently, the Contempt Court passed orders dated 02.05.2025, and 22.05.2025, directing the opposite party to file an affidavit regarding three inquiries. Challenging the orders dated 02.05.2025, and 22.05.2025, passed by the Contempt Court, the opposite party filed **Special Appeal No. 541 of 2025¹³**. However, the Court dismissed the special appeal vide order dated 30.05.2025.

¹² (Krishna Kant vs. Shri Anil Kumar Verma, District Basic Education Officer, Mirzapur)

¹³ (Anil Kumar Verma vs. Krishna Kant)

(XXII) Subsequently, the Hon'ble Contempt Court, vide order dated 05.08.2025, framed charges against the opposite party/District Basic Education Officer, Mirzapur. The Court directed him to show cause within three weeks as to why he should not be tried and punished under Section 12 of the Contempt of Courts Act, 1971, for deliberately and willfully violating the order dated 06.03.2024, passed by this Court in Writ Petition No. 1254 of 2022 and another related petition, i.e. Writ Petition No.2463 of 2024. The matter was listed for further proceedings on 26.08.2025, on which date the opposite party was directed to appear before the Court.

(XXIII) Pursuant to these developments, the respondent/deponent issued show cause notices dated 05.08.2025, and 14.08.2025, to the petitioner's father, Natheram. The notices sought to withhold his current pension and initiate recovery of pension and other retiral benefits disbursed to him since 1990, following the death of Late Sumitra Devi, based on forged documents submitted to the authorities. Simultaneously, letters dated 05.08.2025, and 14.08.2025, were sent to the Chief Treasury Officer, Mirzapur, requesting necessary action against Natheram.

(XXIV) Notably, the District Basic Education Officer, Mirzapur, sent a recovery certificate dated 19.08.2025, to the Collector, Mirzapur, for recovering the salary disbursed to the petitioner from 1998 onwards.

(XXV) It is well-established that the right to salary or pension after retirement stems from a valid and legal appointment. Consequently, pensionary benefits and monetary entitlements can only be granted if the appointment was legitimate. Such benefits cannot be extended in cases where the appointment was obtained through fraudulent means, supported by false affidavits and documents, as in the present case.

(XXVI) A person who enters service by producing a false affidavit and succession certificate and obtains appointment on the said post does not deserve any sympathy or indulgence from this Court. A person who seeks equity must come with clean hands. He who comes to the Court with false claims cannot plead equity, nor would the Court be justified in

exercising its equitable jurisdiction in his favor. A person who seeks equity must act in a fair and equitable manner. Equity jurisdiction cannot be exercised in the case of a person who got the appointment on the basis of a false affidavit and succession certificate by playing a fraud. No sympathy and equitable consideration can come to his rescue.

(XXVII) In the present case, the charges against the petitioner were substantiated, revealing that he had committed forgery and submitted fabricated documents. The petitioner failed to present any evidence to contradict the findings of the inquiry report or the impugned order.

(XXVIII) Given that the petitioner's appointment as a teacher was secured through forged affidavits and certificates, he is not entitled to sympathy and must be dealt with strictly. Consequently, the petitioner has no valid grounds to challenge the impugned order cancelling his appointment, which is void from its inception.

(XXIX) At this stage, it would be apt to reiterate a settled principle that "Fraud vitiates everything and make it void ab-initio" and that it is appropriate to quote from the judgment passed by Hon'ble Apex Court that "A witness may lie, but the documents do not" a golden rule.

(XXX) Notably, the complainant, Snehlata @ Sunita, the real daughter of Late Sumitra Devi, has also filed **Writ Petition (Writ-A) No. 17926 of 2022**¹⁴, seeking her appointment and release of her mother's death benefits and payable other dues to her and her sister Anita.

(XXXI) In support of his submissions, he has relied upon the following judgments:-(i) **R. Vishwanatha Pillai vs. State of Kerala and others**¹⁵ (Para Nos.15 & 18); (ii) **Amrit Yadav vs. State of Jharkhand and others**¹⁶ (Para Nos.34, 35); (iii) **Union of India and others vs. Prohlad Guha**¹⁷ (Para Nos.7, 8, 12, 14); (iv) **Rajasthan Rajya Vidyut Prasaran Nigam Limited and another vs. Anil Kanwariya**¹⁸ (Para No.14); (v)

14 (Snehlata vs. State of U.P. and others)

15 2004 (1) Supreme 436

16 2025 LawSuit (SC) 181

17 2024 Supreme (SC) 616

18 2021 Supreme (SC) 500

District Basic Education Officer and another vs. Smt. Punita Singh and 3 others¹⁹; (vi) Malti Devi vs. State of U.P. and others²⁰ (Para Nos.21, 24, 25); (vii) **Kamlesh Kumar Nirankari vs. State of U.P. and others**²¹.

(XXXII) The impugned order has been passed after giving an opportunity of hearing to the petitioner and following the due procedure of law, as such there is no illegality in the impugned order. However, the petitioner has filed this writ petition and supplementary affidavit by misrepresenting facts and annexing false documents obtained through fraudulent means. This is evident from the pension form submitted by the petitioner's father after his retirement, where he stated that the petitioner was the son of Yashoda Devi. Given the petitioner's conduct, including annexing false documents and playing fraud with the Court, it is justifiable to dismiss the petition and direct recovery of salary, pension, and retiral benefits wrongfully received by him and his father, respectively.

6. Heard learned counsel for the parties and perused the record.

7. Brief facts of the case, which have come to the knowledge of the Court, are that the petitioner's father, namely, Sri Natheram, had performed two marriages; one with Sumitra Devi and another with Yashoda Devi. Sumitra Devi, who was working as an Assistant Teacher in the Basic Education Department, died in harness in the year 1990. As the petitioner was a minor at that time, therefore, upon attaining majority, an affidavit dated 06.03.1998 as well as a legal heir certificate were submitted before the respondent no. 2, requesting consideration for appointment of the petitioner on compassionate grounds. In the affidavit dated 06.03.1998, the following has been stated:-

"समक्ष

श्रीमान बेसिक शिक्षा अधिकारी महोदय मिर्जापुर।

19 Special Appeal (D) No.506 of 2024, decided on 15.10.2024

20 2021 0 Supreme(ALL) 782

21 Writ-A No.20140 of 2023 decided on 25.08.2025

शपथ पत्र द्वारा- नाथेराम उम्र लगभग 45 वर्ष पुत्र दयाराम निवासी लोकापुर हाल मुकाम कतवारु का पूरा शहर व जिला मिर्जापुर।

हम शपथग्राही निम्नांकित शपथ बयान करता है:-

1. यह कि हम शपथग्राही मृतक सुमित्रा देवी का पति है। सुमित्रा देवी के वारिसान निम्नांकित है:- 1 नाथेराम पुत्र दयाराम (पति) 2. कृष्णकान्त पुत्र नाथेराम उम्र 19 वर्ष (पुत्र) ३. सुनीता उम्र 11 वर्ष (पुत्री) 4. अनिता उम्र 9 वर्ष (पुत्री)।
2. यह कि हम शपथग्राही अपने उपरोक्त पुत्रीगण सुनीता व अनिता अवयस्कगण का वली व संरक्षक है, और हम शपथग्राही की संरक्षकता में रहकर सुनीता व अनिता पल रही है। कृष्णकान्त को नौकरी मिल जाने पर मुझे कोई आपत्ति नहीं है।
3. यह कि शपथग्राही के उपरोक्त अवयस्कगण पुत्रियों को कोई उजुर या एतराज कृष्णकान्त की नौकरी मिलने में नहीं है।
4. यह कि सुमित्रा देवी का लड़का कृष्णकान्त शिक्षित बेरोजगार है। उसको नौकरी मिलने से शपथग्राही व नाबालिगान पुत्रीगण शपथग्राही की भी पूर्ण रूप से परवरिश होगी।

हस्ताक्षर अपठित
नाथेराम
ह० शपथग्राही

मैं शपथपूर्वक बयान करता हूँ कि शपथ पत्र के समस्त लेख जो अनुच्छेद 1, 2, 3 व 4 में अंकित है वह हमारे व्यक्तिगत ज्ञान व विश्वास में सच व सही हैं न इसमें कोई बात झूठ है न छिपाया ही गया है। परमेश्वर मेरी मदद करें।

दिनांक:- 06.03.1998

हस्ताक्षर अपठित
नाथेराम
ह० शपथग्राही

8. In the legal heir certificate as submitted by the petitioner's father the following has been stated:-

श्रीमान जी,

प्रार्थी कृष्णकान्त पुत्र नाथेराम नि० कतवारु का पूरा शहर व जिला मिर्जापुर के प्रार्थना पत्र की जाँच की गयी जांचोपरांत पता चला है कि स्व० श्रीमती सुमित्रा देवी स्त्री नाथेराम नि० मु० कतवारु का पूरा शहर मिर्जापुर के विधिक वारिस निम्नलिखित है।

1. नाथेराम पुत्र दयाराम उम्र 45 वर्ष (पति)
2. कृष्णकान्त पुत्र नाथेराम उम्र 19 वर्ष (लड़का)
3. कु० सुनीता पुत्री नाथेराम उम्र 11 वर्ष (लड़की)
4. कु० अनिता पुत्री नाथेराम उम्र 9 वर्ष (लड़की)

उपरोक्तानुसार क्रम संख्या एक लगायत चार तक के व्यक्ति स्व० श्रीमती सुमित्रा देवी स्त्री नाथेराम नि० मु० कतवारु का पूरा शहर मिर्जापुर के वारिस है। इनके अलावा अन्य कोई दूसरा वारिस नहीं है।

ह० शेषमणि लेखपाल

क्षेत्र बरौधा

दि० 10.03.1998 ई०

महोदय,

स्व० सुमित्रा देवी स्त्री नाथेराम नि० कतवारू का पूरा शहर मिर्जापुर के विधिक वारिस नाथेराम पुत्र दयाराम उम्र 45 वर्ष (पति), व कृष्णकान्त पुत्र नाथेराम उम्र 19 वर्ष (लड़का) व सुनीता व अनीता नाबालिग उम्र क्रमशः 11 वर्ष, 09 वर्ष पुत्रीगण नाथेराम संरक्षक पिता स्वयं नाथेराम है। रिपोर्ट सेवा में प्रेषित है।

हस्ताक्षर अपठित

रा० नि० शहर

11.03.1998

हस्ताक्षर अपठित

तहसीलदार"

9. The said affidavit was submitted before the District Basic Education Officer, requesting consideration of the petitioner's appointment on compassionate grounds, stating that he is the son of Sumitra Devi. Copy of the said affidavit has been annexed as Annexure No.2 to the counter affidavit.

10. A complaint was made by Snehlata, daughter of Natheram and Sumitra Devi, before various forums. Thereafter, the District Basic Education Officer, Mirzapur (respondent no. 2), after giving notice and an opportunity of hearing to the petitioner, passed an order dated 20.12.2021, cancelling the petitioner's appointment on the ground that he had obtained the appointment by falsely claiming to be the son of Smt. Sumitra Devi, whereas he is actually the son of Yashoda Devi, the other wife of Natheram.

11. The aforesaid termination order dated 20.12.2021, cancelling the appointment of the petitioner, was challenged by filing Writ-A No. 12540 of 2022, wherein a Co-ordinate Bench of this Court, by order dated 15.02.2022, stayed the operation and effect of the termination order. While passing the interim order, the Court took into consideration the submission of the learned counsel for the petitioner that the termination order dated 20.12.2021 had been passed without affording an opportunity of hearing to the petitioner. In compliance with the said interim order, the petitioner was reinstated in service by order dated

22.03.2022, until further orders of the Court. Pursuant to the reinstatement order, the petitioner rejoined his duties on 23.03.2022.

12. It further appears that Writ-A No. 2463 of 2024 was also filed by the petitioner, which was heard and decided along with Writ-A No. 1254 of 2022. By a common judgment dated 06.03.2024, the Court finally disposed of both writ petitions, setting aside the termination order and holding the petitioner entitled to regular salary from the date of the impugned order. However, the Court clarified that the said judgment would not prevent the authorities from initiating an appropriate inquiry against the petitioner, particularly in light of his reply dated 02.11.2021 to the show cause notice issued on 16.10.2021.

13. The order dated 06.03.2024 was passed taking into consideration the fact that the due process prescribed for a departmental inquiry was not followed, and the reply submitted by the petitioner was not taken into consideration.

14. Against the aforesaid order, Special Appeal (Defective) Nos. 233 of 2025 and 234 of 2025 were filed. The Special Appeal's Court took note of the fact that the petitioner's father, Natheram, had contracted two marriages. His second wife, Smt. Sumitra Devi, was employed as an Assistant Teacher and died in harness on 16.12.1990. Based on her service, compassionate appointment was offered to the petitioner on 31.03.1998. Since then, he has been working and drawing a regular salary. A complaint was subsequently made by one Snehlata, who claimed to be the daughter of Smt. Sumitra Devi, alleging that the petitioner was not Sumitra Devi's son, but rather the son of Smt. Yashoda Devi (the first wife of Natheram). Based on this complaint, a charge sheet was served on the petitioner on 18.12.2021, to which he submitted a reply dated 02.11.2021, denying the allegations. Nevertheless, his services were terminated on 20.12.2021.

15. The Special Appeal Court noted that no inquiry was conducted after the submission of the reply by the writ petitioner, despite the fact that he had been continuously serving since 1998. The Court observed that a

proper inquiry ought to have been conducted in accordance with law. Accordingly, by its order dated 24.04.2025, the Special Appeal Court directed the employer to conduct a fresh inquiry following due process. The employer was further directed to reinstate the petitioner in service; however, it was left to the discretion of the employer whether or not to take work from the petitioner during the pendency of the inquiry. The Special Appeal Court, by its order dated 24.04.2025, disposed of the Special Appeal with the following directions:-

“6. In the facts of the case, we are, however, of the view that the employer would be clearly entitled to conduct a fresh inquiry, in accordance with law. For such purposes, the respondent would be reinstated in services. It shall, however, be open for the employer to take work from the appellant or not. The appellant would also be paid his current salary. The question of payment of arrears of salary from 2021, however, shall abide by the fresh inquiry to be concluded by the employer, within a period of three months. The respondent-petitioner undertakes to cooperate in the inquiry. ”

16. It appears that the respondents permitted the petitioner to resume his duties; however, his salary was not paid. Consequently, the petitioner approached this Hon’ble Court by filing Writ-A No. 2463 of 2024, which was decided along with Writ-A No. 1254 of 2022 by a common order dated 06.03.2024. Aggrieved by this decision, a Special Appeal was preferred, in which the Hon’ble Appellate Court passed an order dated 24.04.2025. Thereafter, the petitioner filed Contempt Petition (Civil) No. 3288 of 2024, wherein the Contempt Court directed Opposite Party No. 2 to file an affidavit on the following points:

“4. Under such facts and circumstances of the case, opposite party is directed to file affidavit on the following points:-

(1) As to whether petitioner was permitted to join his services with effect from 22.3.2022 or not in compliance of interim order dated 15.2.2022.

(2) In case he is permitted, he continued to be in service till the disposal Writ-A No. 1254 of 2022 & Special Appeal (D) No. 233 of 2025 or not.

(3) In case he has continued in service, whether he has been paid regular salary regularly from 22.3.2022 or not. In case salary is not paid, he shall disclose the reasons for the same.”

17. Against the aforesaid order dated 22.05.2025 passed in the contempt petition, the respondent filed Special Appeal No. 541 of 2025. The

Special Appellate Court, by its order dated 30.05.2025, held that the petitioner is entitled to salary for the period commencing from the date of termination, i.e., 20.12.2021, until the date he rejoined pursuant to the interim order dated 15.02.2022. Since the petitioner duly discharged his duties during the said period, denial of salary was held to be unjustified. Accordingly, the Special Appeal was dismissed by order dated 30.05.2025.

18. Thus, this Court finds that, in sum and substance, the effect of the orders passed by the various Coordinate Benches of this Court was that the employer was directed to conduct a fresh inquiry in accordance with law. The petitioner was to be reinstated in service for the purposes of such inquiry. It was further clarified that the issue regarding the payment of arrears of salary from the date of termination, i.e., 20.12.2021, onwards, was to be kept subject to the outcome of the fresh inquiry to be conducted by the employer. However, it was clearly held that the petitioner is entitled to salary for the period from the date of termination, i.e., 20.12.2021, until the date of reinstatement, as he had discharged his duties during that period.

19. In compliance with the aforesaid order, the petitioner was attached to the Headquarters, and for the purpose of the fresh inquiry as directed by this Court, the In-charge Block Education Officer, Rajgarh, was appointed as the Inquiry Officer. The current salary of the petitioner was also paid. The Block Education Officer submitted the inquiry report dated 20.05.2025, containing 55 pages, before the Basic Education Officer (respondent no. 2) for approval, after which the same was served upon the petitioner on 20.05.2025 itself, with a direction to submit his reply within 15 days or appear before the Inquiry Officer within the said period and give his written submission to prove his innocence.

20. The petitioner was also directed to submit the names and full particulars of the witnesses he intended to produce in support of his case, along with the documents and other evidence on which he sought to rely. The notice further stated that, in the event the petitioner failed to submit

a reply or appear before the Inquiry Officer within the stipulated period, it would be presumed that he had nothing to say in his defense, and the inquiry proceedings would be conducted *ex-parte*.

21. The Inquiry Officer / Block Education Officer, Rajgarh, by letter dated 29.05.2025, informed all concerned, including the petitioner, to be present at his office on the respective dates, i.e. 10.05.2025, 25.05.2025, 11.06.2025, 13.06.2025, and 19.06.2025 for the purpose of hearing. Notices for appearance on the aforesaid dates were also sent to the petitioner via registered post.

22. The petitioner, along with his father Natheram, mother Yashoda, brothers Laxmikant, Ram Krishna, and Jai Krishna, and sisters Laxmi, Snehlata, Anita, as well as Jaiprakash Bind, Smt. Vidya Bind, and Dukhan Bind, all residents of Lakanpur, appeared before the Inquiry Officer in compliance with the notice.

23. The petitioner submitted a written submission dated 04.06.2025, stating therein that the Inquiry Officer could not proceed with the inquiry, as the matter was already under investigation by the Vigilance Department. He further submitted that, pursuant to the lodging of an FIR, a Criminal Misc. Writ Petition No. 10783 of 2022 had been filed, in which a Coordinate Bench of this Hon'ble Court, by order dated 19.03.2025, passed an interim stay order in favour of the petitioner, restraining the authorities from arresting him. Subsequently, the petitioner submitted another representation dated 12.06.2025, informing the Inquiry Officer that he was unable to participate in the inquiry proceedings due to the pendency of Writ-A No. 8374 of 2024, wherein the charge sheet dated 20.05.2025 had been challenged. However, on the same day, i.e., 12.06.2025, in the said writ petition, the Hon'ble Court directed that the matter be listed as fresh in the second week of July 2025 before the appropriate Bench. Thus, it can be said that the petitioner, instead of submitting a proper reply, kept raising one plea or another to evade the inquiry, as he had no documentary evidence to

support the affidavit filed by his father, on the basis of which the petitioner was appointed on compassionate grounds.

24. As no orders were passed by the Hon'ble Court in Writ-A No. 8374 of 2025, the respondent authorities proceeded with the inquiry in accordance with the prescribed procedure. Despite the notice dated 29.05.2025 directing appearance on specified dates, no one appeared before the Inquiry Officer on 05.06.2025, 09.06.2025, and 11.06.2025. On 13.06.2025, the date fixed for hearing, the daughters of Smt. Sumitra Devi, namely, Snehlata and Anita, appeared and responded to the relevant queries.

25. In response to the question regarding how many children the wife of Natheram had, the daughters stated that Yashoda Devi had four sons and one daughter, while Sumitra Devi had two daughters. Further, the daughters of Smt. Sumitra Devi, namely Snehlata and Anita, submitted that the petitioner, Krishna Kant, was the son of Yashoda Devi and was their stepbrother. They stated that Sumitra Devi, wife of Natheram, passed away on 16.12.1990, and at the time of her death, she had only two daughters, namely Snehlata and Anita. They also deposed that Natheram, husband of Sumitra Devi, was employed as a Lekhpal at the time Krishna Kant (the petitioner) was appointed on compassionate grounds. At the time of Smt. Sumitra Devi's death, Snehlata was 11 years old, and Anita was 9 years old.

26. Again, by notice dated 14.06.2025, all concerned persons, namely, Krishna Kant, Natheram (father), Yashoda Devi (mother), Laxmikant, Ramkrishna, Jaikrishna (brothers), Smt. Laxmi (sister), Jaiprakash Bind, Vidyavati Mishra, and Dukhran Bind (villagers) were directed to appear on 17.06.2025 at the office of the Basic Shiksha Adhikari, Mirzapur, at 10:00 AM, as a last opportunity to present their case. The aforesaid notice was also published in the daily newspapers, namely Amar Ujala, Dainik Jagran, and Hindustan. The press note is as follows:-

"(i) दैनिक जागरण

कार्यालय खण्ड शिक्षा अधिकारी राजगढ़, मीरजापुर

- : नोटिस :-

श्री कृष्णकान्त पुत्र श्री नाथेराम
निवासी ग्राम लोकापुर, पो०- पहाड़ा वि०ख०- पहाड़ी
हाल मुकाम कतवारू का पुरा मीरजापुर।

माननीय उच्च न्यायालय में योजित विशेष अपील संख्या 233/2025, 234/2025 में पारित आदेश दिनांक 24.04.2025 के अनुपालन में आपके विरुद्ध प्रचलित जॉच कार्यवाही में यह तथ्य प्रकाश में आया कि श्रीमती सुमित्रा देवी की दिनांक 16.12.1990 को मृत्यु के उपरांत आपके मृतक आश्रित नियुक्ति के समय 'आपके पिता श्री नाथेराम लेखपाल के पद पर कार्यरत थे एवं श्रीमती सुमित्रा देवी के आप सगे पुत्र नहीं हैं आप द्वारा उक्त का तथ्यगोपन कर अनियमित ढंग से नियुक्ति दिनांक 31.03.1998 को प्राप्त की गयी। उक्त के संबंध में आपको पूरक आरोप-पत्र प्रेषित करते हुए अपना पक्ष प्रस्तुत करने हेतु दिनांक 19.05.2025, 05.06.2025, 09.06.2025, 11.06.2025 एवं 13.06.2025 को तिथि निर्धारित की गयी परन्तु आप द्वारा अपना पक्ष प्रस्तुत नहीं किया गया और नहीं जॉच में सहयोग प्रदान किया जा रहा है। उक्त के संबंध में आपको अन्तिम अवसर प्रदान किया जाता है दिनांक 17.06.2025 को प्रातः 10:00 बजे कार्यालय जिला बेसिक शिक्षा अधिकारी मीरजापुर में अपना पक्ष प्रस्तुत करना सुनिश्चित करें अन्यथा कि स्थिति में एकपक्षीय जॉच आख्या प्रेषित कर दी जायेगी जिसका सम्पूर्ण उत्तरादायित्व आपका होगा।

(संजय कुमार)
खण्ड शिक्षा अधिकारी
राजगढ़, मीरजापुर

पत्रांक बी०आर०सी०/ जॉच /241-44/2025-26

दिनांक 14.06.2025

(ii) अमर उजाला

कार्यालय खण्ड शिक्षा अधिकारी राजगढ़, मीरजापुर

पत्रांक बी०आर०सी०/ जॉच /241-44/2025-26, दिनांक- 14.06.2025

नोटिस

श्री कृष्णकान्त पुत्र श्री नाथेराम
निवासी ग्राम लोकापुर, पो. पहाड़ा वि.ख. पहाड़ी
हाल मुकाम कतवारू का पुरा मीरजापुर

माननीय उच्च न्यायालय में योजित विशेष अपील संख्या 233/2025, 234/2025 में पारित आदेश दिनांक 24.04.2025 के अनुपालन में आपके विरुद्ध प्रचलित जॉच कार्यवाही में यह तथ्य प्रकाश में आया कि श्रीमती सुमित्रा देवी की दिनांक 16.12.1990 को मृत्यु के उपरांत आपके मृतक आश्रित नियुक्ति के समय 'आपके पिता श्री नाथेराम लेखपाल के पद पर कार्यरत थे एवं श्रीमती सुमित्रा देवी के आप सगे पुत्र नहीं हैं आप द्वारा उक्त का तथ्यगोपन कर अनियमित ढंग से नियुक्ति दिनांक 31.03.1998 को प्राप्त की गयी। उक्त के संबंध में आपको पूरक आरोप-पत्र प्रेषित करते हुए अपना पक्ष प्रस्तुत करने हेतु दिनांक 19.05.2025, 05.06.2025, 09.06.2025, 11.06.2025 एवं 13.06.2025 को तिथि निर्धारित की गयी परन्तु आप द्वारा अपना पक्ष प्रस्तुत नहीं किया गया और नहीं जॉच में सहयोग प्रदान किया जा रहा है। उक्त के संबंध में आपको अन्तिम अवसर प्रदान किया जाता है दिनांक 17.06.2025 को प्रातः 10:00 बजे कार्यालय जिला बेसिक शिक्षा अधिकारी मीरजापुर में अपना पक्ष प्रस्तुत करना सुनिश्चित करें अन्यथा कि स्थिति में एकपक्षीय जॉच आख्या प्रेषित कर दी जायेगी जिसका सम्पूर्ण उत्तरादायित्व आपका होगा।

(संजय कुमार)
खण्ड शिक्षा अधिकारी

राजगढ़, मीरजापुर"

27. None of the aforesaid persons appeared before the Inquiry Officer on 17.06.2025, nor did they submit any written statements. However, on the same day, the petitioner submitted a representation to the concerned authorities stating that he had come to know from the notice published in the newspaper Hindustan about the last opportunity given to him and others to respond to the charge sheet dated 20.05.2025, and requested an extension of 15 days as a final chance to submit his reply. It appears that the petitioner again failed to appear on 17.06.2025. Consequently, the Inquiry Officer submitted a report stating that the petitioner was deliberately avoiding appearing or placing his submissions before the Inquiry Officer and was not cooperating with the inquiry. On the basis of the records, it was further found that Sri Natheram (petitioner's father) had been employed as a Lekhpal since 01.03.1976 and retired from the post of Revenue Inspector on 31.10.2015. He had performed two marriages; one with Yashoda Devi and the other with Sumitra Devi. Sumitra Devi expired on 16.12.1990. Subsequently, Krishna Kant, the son of Yashoda Devi, was given appointment by falsely representing himself to be the son of Sumitra Devi, based on forged affidavit and a succession certificate submitted by the petitioner's father.

28. It has also been mentioned that the aforesaid report was submitted in accordance with Rule 5(1) of the Dying in Harness Rules, 1974. The aforesaid Rule is as under:-

“5. [Recruitment of a member of the family of the deceased.

(1) In case a Government servant dies in harness after the commencement of these rules and the spouse of the deceased Government servant is not already employed under the Central Government or a State Government or a Corporation owned or controlled by the Central Government or a State Government, one member of his family who is not already employed under the Central Government or a State Government or a Corporation owned or controlled by the Central Government or a State Government shall, on making an application for the purposes, be given a suitable employment in Government service on a post except the post which is within the purview of the Uttar Pradesh Public Service Commission, in relaxation of the normal recruitment rules, if such person-

- (i) fulfils the educational qualifications prescribed for the post,
- (ii) is otherwise qualified for Government service, and
- (iii) makes the application for employment within five years from the date of the death of the Government servant:

Provided that where the State Government is satisfied that the time limit fixed for making the application for employment causes undue hardship in any particular case, it may dispense with or relax the requirement as it may consider necessary for dealing with the case in a just and equitable manner.”

29. The inquiry conducted under Rule 5(1) of the Dying in Harness Rules 1974 is essential to verify the authenticity of the petitioner’s appointment on compassionate grounds, especially in light of serious allegations of forgery and misrepresentation. The petitioner’s persistent non-cooperation and failure to appear despite multiple notices suggest an attempt to evade the inquiry process, thereby undermining the principles of transparency and accountability. Such conduct not only violates service regulations but also erodes public confidence in the integrity of recruitment procedures. It is imperative that the findings of the inquiry be given due weight and, if substantiated, appropriate disciplinary or legal action be taken to uphold justice and deter future irregularities.

30. Therefore, the petitioner was not entitled for appointment on compassionate grounds, as his father, Natheram, was serving as a Lekhpal at the relevant time, which the petitioner’s father has not disclosed while giving affidavit. The appointment was obtained by submitting forged affidavit and certificate, which is in clear violation of the rules. Consequently, charges numbered 3, 4, and 5 were found to be proved in the inquiry report. The inquiry officer’s report was sent to the petitioner along with a letter from the Basic Shiksha Adhikari on 23.06.2025, directing him to submit his reply on or before 30.06.2025.

31. As regards charge no. 3, which states that the petitioner was the son of Sumitra Devi and refers to the affidavit dated 06.03.1998 given by the petitioner’s father, Natheram, along with the succession certificate dated 11.03.1998 requesting compassionate appointment for the petitioner, the inquiry found that Natheram had performed two marriages. The

succession certificate issued by the then Tehsildar listed only the names of children from the first wife, thereby clearly indicating that Natheram had obtained the succession certificate without disclosing the full facts. Consequently, he submitted a false affidavit along with the succession certificate to secure the appointment on compassionate grounds for his son, Krishna Kant.

32. The inquiry also examined whether the petitioner's father was in service at the time the petitioner was appointed on compassionate grounds. It was found that Natheram had been employed as a Lekhpal from 01.03.1976 to 14.02.2013, serving at various locations including Tehsildar office at Sadar Chunar and Maniyar Mirzapur. He also worked as Lekhpal at Tehsil Sadar Chunar, Maniyar, and Tehsil Dudhi in District Sonbhadra. By an order dated 15.02.2013, the District Magistrate promoted Natheram to the post of Revenue Inspector, from which he retired on 31.10.2015 at Tehsil Lalganj, Mirzapur. These facts were also disclosed by the petitioner himself when applying for appointment on compassionate grounds. The aforesaid fact has been verified from the records maintained at the office of the District Magistrate, Mirzapur.

33. Section 5(1) of the Hindu Marriage Act, 1955 specifies the essential conditions for a valid Hindu marriage, including that neither party is already married, both parties are of sound mind and capable of giving consent, they are not within prohibited degrees of relationship, and have attained the minimum legal age for marriage. This provision is fundamental in ensuring the legitimacy of marriages, which is critical while determining rights related to succession, inheritance, or compassionate appointments. Any misrepresentation or concealment of facts related to marriage under this section can affect the validity of claims based on such relationships.

34. However, it was found that the petitioner's father had claimed family pension despite being in violation of the conditions stipulated under **Section 5(1) of the Hindu Marriage Act, 1955.**

35. On 30.06.2025, the petitioner gave a reply to the concerned office but failed to provide any proof to challenge the findings of the inquiry. The inquiry showed that the petitioner did not disclose important facts, such as the survival of Yashoda Devi and that his father was still working as a Lekhpal when the petitioner was appointed on compassionate grounds under the Dying in Harness Rules, 1974. Additionally, the petitioner did not cooperate with the inquiry, which seemed like an attempt to delay the process and avoid giving a proper explanation. This lack of honesty and cooperation weakens the petitioner's case and goes against the fairness required in such investigations.

36. After a detailed and thorough fresh inquiry, wherein the petitioner was granted several opportunities to submit relevant documents and to present oral or written evidence in his defence, the impugned order dated 04.07.2025 was passed. This order declared the petitioner's appointment to be void *ab initio*, meaning it was invalid from the very beginning. The decision was based on the petitioner's failure to disclose material facts, submission of forged documents, and non-cooperation during the inquiry. Consequently, the appointment made on compassionate grounds cannot be sustained, and all benefits arising from such appointment stand nullified.

37. This Court is of the opinion that, from the foregoing, it is clear that the petitioner obtained orders from this Court by concealing relevant facts and committing fraud upon the Court.

38. From the records, it is an undisputed fact that the petitioner's father gave an affidavit dated 06.03.1998 along with a legal heir certificate dated 11.03.1998, issued by the then Tehsildar, for the purpose of seeking compassionate appointment for the petitioner. In the affidavit dated 06.03.1998, the petitioner's father declared himself to be the husband of the deceased Sumitra Devi and mentioned the legal heirs of Sumitra Devi as Natheram (husband), Krishna Kant (son), and Sunita and Anita (daughters). It was further stated that Sunita and Anita were

minors at that time and Natheram, i.e., the petitioner's father, was taking care of them as their guardian (Sanrakshak). It was also mentioned that Sunita and Anita did not have any objection in case Krishna Kant (petitioner) got an appointment on compassionate grounds, and in case the appointment was granted to Krishna Kant, he would take care of his minor sisters and look after them.

39. Likewise, the legal heir certificate dated 11.03.1998 disclosed the names of Natheram (husband), Krishna Kant (son), and Sunita and Anita (daughters) as the legal heirs of the deceased Sumitra Devi.

40. There is nothing on record to show that Sunita and Anita had given their consent for the appointment of the petitioner, nor is there any 'No Objection' affidavit on record. On the contrary, during the inquiry, they specifically denied having given such consent and also stated about the petitioner being son of Yashoda Devi. The legal heir certificate does not disclose about the children of the first wife, hence, both affidavits reflect a concealment of crucial facts. In such circumstances, the petitioner is not entitled to appointment on compassionate grounds, and the cancellation of his appointment is legally justified.

41. The learned counsel for the petitioner, for the first time, has placed the documents like the caste certificate and domicile certificate dated 06.12.2022, as well as the B.Ed. Entrance Examination certificate for the year 2022–23, wherein the name of the petitioner's mother is mentioned as Sumitra Devi. This Court notes that all these documents were issued after the year 1998 and, therefore, cannot be taken into consideration to prove the innocence of the petitioner. It appears that the aforesaid documents have been procured and placed on record for the first time by means of a supplementary affidavit, with the intent to play a fraud upon the Court in order to falsely establish that the petitioner is the son of Sumitra Devi.

42. Certain records placed in the counter affidavit clearly proves the concealment on the part of the petitioner for obtaining appointment on compassionate grounds. The pension papers show that Natheram Bind

had claimed Sumitra Devi as his wife, and the passbook reflects Natheram's occupation as 'Naukari.' These documents are from the year 2006–07 and indicate that the petitioner's father was in job at the relevant time when the petitioner was offered compassionate appointment. This crucial fact of his employment was concealed at the time of giving affidavits and such non-disclosure amounts to material concealment. Therefore, there is no illegality in the order cancelling the petitioner's appointment, which was obtained by suppressing essential facts.

43. The petitioner's father, namely Natheram, after his retirement in the year 2015, mentioned the name of Yashoda Devi as his wife and nominee in his pension papers. In the column pertaining to family members in the said pension documents, the names of Yashoda Devi (wife), Krishna Kant, Laxmikant, Ramkrishna, Jai Krishna (sons), and Km. Vijay Laxmi (daughter) have been shown.

44. This Court notices that the names of Sunita and Anita are missing from the aforesaid pension documents, which again proves the concealment on the part of the petitioner's father while giving the affidavit to secure the petitioner's appointment on compassionate grounds due to the death of Sumitra Devi.

45. The details of his service from 01.03.1976 to 31.10.2015 have also been annexed as part of the record. The application signed by Natheram dated 02.07.2015, placed before the Revenue Authority, which is a 'No Dues' certificate, which also discloses the names of family members as Yashoda Devi (wife), Krishna Kant, Laxmikant, Ramkrishna, Jai Krishna (sons), and Km. Vijay Laxmi (daughter).

46. The inquiry has been conducted under the direction of this Court, and the Sub-Divisional Magistrate (SDM), Sadar, Mirzapur, has submitted a report dated 12.08.2025 to the District Social Welfare Officer, Mirzapur, wherein it has been stated that the domicile and caste certificates procured by the petitioner, showing his mother's name as Sumitra Devi, are forged. Accordingly, a recommendation has been

made to cancel the aforesaid certificates. The SDM relied upon a report from the Tehsildar, Sadar dated 12.08.2025, wherein the petitioner is shown to be the son of Yashoda Devi, not Sumitra Devi, on the basis of which the domicile and caste certificates have been cancelled.

47. Another document was procured by Krishna Kant on 07.12.2022, in which he is stated to be the only son of Sumitra Devi. However, this contradicts other documents, including the service records and the pension papers of the petitioner's father. Furthermore, educational documents such as the Intermediate and Class IX records of Snehlata mention her mother's name as Yashoda Devi, whereas name of Snehlata has not been mentioned as a daughter in the family details provided by the petitioner's father in his pension papers.

48. All the proceedings were initiated based on a complaint made by Sunita @ Snehlata. Although there was no legal requirement to provide the petitioner an opportunity to be heard before the cancellation of his appointment, a detailed inquiry was conducted. During this inquiry, the petitioner was given an opportunity to place the documents. However, he failed to produce any evidence to prove that the affidavit and the legal heir certificate submitted by his father, Natheram, did not involve any concealment of facts.

49. This Court is firmly of the view that the petitioner has willfully concealed material facts and misled the Court by presenting false information, thereby committing fraud upon this Court. The doctrine of clean hands and utmost good faith is a foundational principle in judicial proceedings, mandating that parties must disclose all relevant facts truthfully. The petitioner's deliberate suppression of critical facts and submission of forged documents to obtain favourable orders not only undermines the integrity of the judicial process but also constitutes a grave abuse of the Court's process. Such conduct vitiates the basis on which relief was granted and warrants appropriate remedial action.

50. The present case is a glaring example of blatant fraud committed by the petitioner in its most aggravated form. The petitioner has gone to

reprehensible lengths to mislead this Court at every stage and has unscrupulously attempted to hoodwink officers of various departments. Such conduct strikes at the very root of justice and cannot be countenanced. This Court, therefore, finds it imperative to deal with the matter sternly and in the strictest terms of law.

51. The Courts have time and again observed that nothing obtained by fraud can be sustained as ‘fraud unravels everything’. The Apex Court in the case of **S.P. Chengalvaraya Naidu vs. Jagannath**²² noticed the growing trend of abuse of the process of law by dishonest litigants playing fraud on courts. Fraud was held to be an act of deliberate deception with design of securing something by taking unfair advantage of another: a deception in order to gain by another’s loss. In the aforesaid judgment, it has been held as follows:-

“Fraud avoids all judicial acts, ecclesiastical or temporal” observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree by the first court or by the highest court has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings.”

52. In the aforesaid case, the Apex Court warned as follows:-

“The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right

²² (1994) 1 SCC 1

to approach the court. He can be summarily thrown out at any stage of the litigation.”

53. From the multiple decision of this Court on ‘fraud’, what follows is that fraud and justice cannot dwell together, the legislature never intends to guard fraud, the question of limitation to exercise power does not arise, if fraud is proved, and even finality of litigation cannot be pressed into service to absurd limits when a fraud is unravelled.

54. In the present case, the petitioner has played fraud by not disclosing certain facts in the affidavit as given by his father to claim compassionate appointment that to behind the back of his step sisters, who were entitled for the said job.

55. In the case of **United India Insurance Co. Ltd. vs. Rajendra Singh**²³, the Apex Court reiterated that fraud unravels everything and has observed as follows:-

“3. Fraud and justice never dwell together.(Frans et jus nunquam cohabitant) is a pristine maxim which has never lost its temper over all these centuries. Lord Denning observed in a language without equivocation that no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for, fraud unravels everything.”

56. Similarly, in the case of **A.V. Papayya Sastry vs. Govt. of A.P.**²⁴, the Apex Court held as under:-

“21. It is well settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law.

“Fraud avoids all judicial acts, ecclesiastical or temporal.”

22. It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of law.”

57. Fraud can be committed not only by stating something false but also by remaining silent about the truth. In the present case, the petitioner’s father, by submitting an affidavit as well as a legal heir certificate

23 (2000) 3 SCC 581

24 (2007) 4 SCC 221

without disclosing that he was in government service while claiming compassionate appointment for his son, and by not disclosing that he had contracted two marriages along with the names of the children from both the first and second wives, has committed concealment of fact, which is another manner of committing fraud. Such deliberate suppression of material facts amounts to *suppressio veri*, and when coupled with the misleading declarations, clearly constitutes *suggestio falsi*. This conduct amounts to fraudulent misrepresentation, vitiating the entire process through which the compassionate appointment was obtained. It is well settled that fraud unravels everything, and any benefit obtained through such concealment cannot be sustained in the eyes of law.

58. This Court feels no hesitation to hold that such a manner in which the orders have been procured by the petitioner is tainted with fraud and, therefore, lacks legal sanctity and validity."

59. As regards the submission advanced by learned counsel for the petitioner that the criminal proceedings in respect of the alleged documents stand stayed by the Hon'ble Court and, therefore, till the conclusion of such proceedings, the documents cannot be treated as forged, this Court finds no merit in the said contention.

60. The enquiry conducted pursuant to the orders of this Court has brought on record several documents which clearly reveal that the affidavit filed by the petitioner's father, as well as the succession certificate relied upon, suffer from material non-disclosure of relevant facts. Such concealment amounts to fraud upon the Court.

61. It is well settled that fraud vitiates all solemn acts as has been held by the Apex Court in the case of **S.P. Chengalvaraya Naidu v. Jagannath**²⁵. In the case of **Dalip Singh v. State of Uttar Pradesh**²⁶, the Apex Court also held that a person who approaches the Court must come with clean hands; any suppression or misrepresentation disentitles such person from any equitable or discretionary relief. Mere pendency or

25 (1994) 1 SCC 1

26 (2010) 2 SCC 114

stay of criminal proceedings does not eclipse the jurisdiction of this Court to examine the conduct of the party on the touchstone of bona fides. The aforesaid has been by the Apex Court in the case of **A.V. Papayya Sastry v. Govt. of A.P.**²⁷.

62. In view of the above settled position of law, the plea taken by learned counsel for the petitioner is devoid of substance and deserves to be rejected in limine.

63. It is trite law that criminal proceedings and departmental/disciplinary proceedings operate in distinct spheres and may continue simultaneously, independent of each other. In the cases of **State of Rajasthan v. B.K. Meena**²⁸, and **Deputy Inspector General of Police v. S. Samuthiram**²⁹, the Apex Court have categorically held that the standard of proof in criminal trials being “beyond reasonable doubt” does not preclude the employer or competent authority from conducting disciplinary proceedings on the basis of “preponderance of probabilities.”

64. In the present case, the petitioner’s father had filed an affidavit and had also procured a succession certificate, both of which, upon enquiry conducted under the directions of this Court, were found to be tainted due to deliberate concealment of material facts. The enquiry report submitted by the competent authority clearly records that the said documents are forged and fabricated, having been obtained by suppression and misrepresentation. Such conduct amounts to fraud upon the Court as well as upon the appointing authority.

65. It is well settled that any benefit obtained by playing fraud or by submission of forged documents confers no equity and is liable to be withdrawn forthwith. The aforesaid has been held by the Apex Court in the case of **Union of India v. M. Bhaskaran**³⁰.

27 (2007) 4 SCC 221

28 (1996) 6 SCC 417

29 (2013) 1 SCC 598

30 (1995) Supp (4) SCC 100

66. Accordingly, mere pendency or stay of criminal proceedings cannot be construed as a bar to continuation or culmination of disciplinary or administrative action, particularly where fraud is evident on the face of record.

67. In view of the above, this Court finds that the documents annexed along with the counter affidavit have been filed strictly in compliance with the directions issued by this Court on the earlier occasion. The said documents comprise the service records of the petitioner's father as well as the pension-related papers. These records emanate from official custody and form part of the contemporaneous service dossier maintained by the competent authority.

68. It is, therefore, not open for the petitioner to urge that such material is extraneous or beyond the pleadings, for the reason that these documents were always within the knowledge and possession of the petitioner himself. The argument that the said documents ought to be ignored on the ground of being "new evidence" is wholly misconceived.

69. The Hon'ble Supreme Court in the case of **R. Vishwanatha Pillai v. State of Kerala**³¹, has categorically held that when documents form part of the official or service records, the Court can legitimately look into the same irrespective of the stage at which they are brought on record. Similarly, in the case of **A. Sudhakar v. Postmaster General**³², it has been held that where the material sought to be relied upon was already within the knowledge or custody of the party concerned, an objection to its consideration on technical grounds cannot be sustained.

70. In view of the aforesaid settled legal position, this Court is duty-bound to examine all relevant and contemporaneous records which have a direct bearing on the adjudication of the dispute at hand.

71. As already observed hereinabove, the petitioner failed to cooperate in the course of the enquiry and repeatedly sought adjournments on one pretext or another, evidently with the intention of gaining time to procure

³¹ (2004) 2 SCC 105

³² (2006) 4 SCC 348,

documents. The very documents which he has subsequently annexed to the rejoinder affidavit and supplementary affidavit are now being relied upon by him in an attempt to assert his innocence.

72. Upon consideration of the issue as to whether punishment under the Rules of 1999 can be extended to include cancellation of appointment, even in the absence of an express provision to that effect, this Court is of the considered opinion that such power is very much traceable to the general disciplinary framework of the said Rules.

73. It is a settled proposition of law that fraud vitiates every solemn act. An appointment obtained by suppression of material facts, misrepresentation or non-disclosure does not create any enforceable right in favour of the appointee. The Hon'ble Supreme Court in the cases of **Union of India v. M. Bhaskaran**³³, and **A.P. Public Service Commission v. Koneti Venkateswarulu**³⁴, has categorically held that a person who enters service by playing fraud cannot be allowed to continue even for a day, and that the consequential termination or removal is not punitive but merely a declaration that no valid appointment ever came into existence.

74. Even if the Rules of 1999 do not expressly enumerate "cancellation of appointment" as a separate head of penalty, the power to remove, dismiss or terminate an employee on account of proved misconduct is sufficiently comprehensive to include annulment of the initial appointment itself, wherever the very entry into service is tainted. The doctrine of implied power further mandates that when an authority is conferred with the power to enforce discipline, all incidental and ancillary powers necessary to effectuate such discipline are deemed to be included, unless expressly excluded.

75. Accordingly, it is held that cancellation of appointment can validly be imposed as a measure of punishment under the Rules of 1999, and such action, when based on established misrepresentation or illegality,

33 1995 Supp (4) SCC 100

34 (2005) 7 SCC 177

does not suffer from any infirmity merely on the ground of absence of specific nomenclature in the Rules.

76. The question for determination is whether it is necessary to formally cancel a succession certificate when, upon examination of the official records such as the service book and pension papers, it is found that the said succession certificate was obtained on the basis of misrepresentation or suppression of material facts.

77. At the outset, it is well settled that fraud vitiates all solemn acts. A document or order obtained by playing fraud on the Court is non est in the eyes of law and is void ab initio. In the case of **S.P. Chengalvaraya Naidu v. Jagannath**³⁵, the Hon'ble Supreme Court categorically held that a judgment or decree obtained by fraud is a nullity and can be questioned in any proceedings at any time. Similarly, in the case of **A.V. Papayya Sastry v. Govt. of A.P.**³⁶, it was observed that once it is shown that a party has procured an order by fraud, such order stands automatically annulled and no separate declaration is required.

78. In the present context, if the succession certificate is found, on the basis of service records and pension documents available with the competent authority, to have been procured by concealment of the true legal heirs or by furnishing false information, such certificate cannot confer any enforceable right. It is merely a fraudulent document lacking legal sanctity and cannot be acted upon.

79. The Hon'ble Supreme Court in the case of **United India Insurance Co. Ltd. v. Rajendra Singh**³⁷, held that even without setting aside an order obtained by fraud, the Court or authority is duty-bound to ignore it, for fraud unravels everything. Therefore, once fraud is detected from authentic official records, the succession certificate becomes legally ineffective and does not require a separate cancellation proceeding unless a statute specifically mandates so.

³⁵ (1994) 1 SCC 1

³⁶ (2007) 4 SCC 221

³⁷ (2000) 3 SCC 581

80. Accordingly, it is held that where, from undisputed official records, it is clearly established that the succession certificate was obtained by misrepresentation or suppression of material facts, the authority is not bound to recognize such certificate, and no separate proceedings for cancellation are required. The fraudulent certificate can simply be ignored while adjudicating rights, as fraud renders the document void from its inception.

81. It is a settled principle of law that a person who approaches the writ court under Article 226 of the Constitution of India must do so with clean hands, full candour, and utmost *bona fides*. Where a litigant is found to have suppressed or concealed material facts which are demonstrably evident from the records, such a person forfeits the equitable jurisdiction of this Court. The writ remedy being discretionary in nature, no relief can be claimed as a matter of right by one who seeks to mislead the Court.

82. In such circumstances, the doctrine of *uberrima fides* squarely applies, and the Court is not bound to exercise its power of judicial review in favour of a party who is himself guilty of fraud, concealment or misrepresentation. The Hon'ble Supreme Court in the cases of **K.D. Sharma v. Steel Authority of India Ltd.**³⁸, **Prestige Lights Ltd. v. State Bank of India**³⁹, has consistently held that suppression of material facts disentitles a petitioner from invoking the extraordinary jurisdiction under Article 226 of the Constitution of India.

83. Consequently, a person who conceals vital facts cannot turn around and allege interference with judicial review. The constitutional power of this Court is meant to advance justice, not to perpetuate fraud. Once suppression is established, the only consequence is dismissal of the petition, irrespective of the merits of the case.

84. Taking into consideration the documents brought on record by way of the counter affidavit, it stands established that the petitioner is not the

³⁸ (2008) 12 SCC 481

³⁹ (2007) 8 SCC 449)

biological son of Smt. Sumitra Devi, and that he has taken inconsistent stands at different stages of the proceedings. The material further reveals that the appointment of the petitioner on compassionate grounds was secured on the strength of an affidavit sworn by his father, wherein it was not disclosed that he was already gainfully employed.

85. Moreover, there is nothing on record to demonstrate that the daughters of Smt. Sumitra Devi had furnished any no-objection or consent to the petitioner being considered as a dependant for the purpose of compassionate appointment. Such deliberate concealment of material facts amounts to fraud on the employer. It is well settled that fraud vitiates every solemn act and no person can be permitted to take advantage of his own wrong.

86. In the case of **United India Insurance Co. Ltd. v. Rajendra Singh**⁴⁰, the Hon'ble Supreme Court held that suppression of material facts and obtaining benefits on the basis of fraud renders the entire proceeding a nullity. Similarly, in the case of **A.P. State Financial Corporation v. GAR Re-Rolling Mills**⁴¹, it was observed that fraud vitiates all judicial and administrative acts.

87. Thus, the petitioner cannot be permitted to turn around and contend that his appointment ought not to be cancelled merely on the ground that he has rendered 27 years of service. In the case of **R. Vishwanatha Pillai v. State of Kerala**⁴², the Hon'ble Supreme Court categorically held that an appointment obtained by fraud or misrepresentation cannot be sanctified by long continuance in service; equity has no application in cases of illegality.

88. The reliance placed by learned counsel for the petitioner upon the judgment rendered in **Shiv Kumar (supra)** is equally misconceived. The said decision is clearly distinguishable on facts. In **Shiv Kumar (supra)**, there was no finding of deliberate or intentional concealment on the part of the employee. However, in the present case, material facts were

40 (2000) 3 SCC 581

41 (1994) 2 SCC 647

42 (2004) 2 SCC 105

consciously suppressed by the petitioner and his father with an intent to secure appointment on compassionate grounds. Hence, the ratio of Shiv Kumar cannot be applied to a case founded on fraud and misrepresentation.

89. It is settled position of law that fraud vitiates every solemn act and that a person who approaches the Court with unclean hands is not entitled to any equitable relief. Further, no right accrues from an appointment obtained by suppressing material facts.

90. Accordingly, the judgment in **Shiv Kumar (supra)** offers no assistance to the petitioner and stands clearly inapplicable to the facts at hand.

91. It is astonishing that much emphasis has been laid by the petitioner upon an interim order which, in the eyes of law, is of a purely temporary nature and incapable of conferring any enduring right. It is well settled that interim orders are granted only as a matter of indulgence, subject always to the final outcome of the proceedings, and such directions perish the moment the lis is finally adjudicated.

92. The competent authority, in exercise of its statutory powers, has meanwhile concluded the enquiry and passed a final order. Such an order cannot be rendered nugatory merely on the strength of a fleeting interim protection, which by its very nature stands merged and extinguished once the appeal itself is decided.

93. The Hon'ble Supreme Court in the case of **Kunhayammed & Ors. v. State of Kerala**⁴³ has categorically laid down that interim directions do not survive independently after the final disposal of the matter, and it is only the ultimate decision of the superior Court which governs the field.

94. Accordingly, the insistence of the petitioner on the continuance of the interim order is not only legally untenable but also amounts to an attempt to mislead this Court, as no litigant can claim advantage of an

⁴³ (2000) 6 SCC 359

interim arrangement once the competent authority has passed final orders in accordance with law. The final judgment alone will determine the fate of such orders, and not the interim relief which stood spent with the passage of time.

95. It is a well-settled principle of law that fraud vitiates all solemn acts. A person who has secured public employment by practicing fraud or by deliberate misrepresentation cannot claim any equity in his favour. Such an appointment is void ab initio, having been obtained through illegitimate means, and therefore, the incumbent is not entitled to draw salary or derive any consequential benefits from such appointment.

96. In fact, any salary or emoluments already paid pursuant to such fraudulent appointment are liable to be recovered from the delinquent individual, since no person can be permitted to enrich himself by perpetrating fraud on the State.

97. This position has been consistently upheld by the Hon'ble Supreme Court in the case of **Union of India v. M. Bhaskaran**⁴⁴, wherein it was categorically held that appointments obtained by producing forged or manipulated documents are nullities in the eye of law and any monetary benefits derived therefrom are recoverable. Similarly, in the case of **Meghmala v. G. Narasimha Reddy**⁴⁵, the Court reiterated that fraud unravels everything and no court can lend its aid to a person who bases his claim on fraudulent conduct.

98. It is well settled that principles of natural justice do not mandate an empty or ritualistic repetition of hearing at every subsequent stage of proceedings. The Hon'ble Supreme Court in the case of **Ashok Leyland Ltd. v. State of Tamil Nadu**⁴⁶, has categorically held that once an effective opportunity of hearing has been afforded at the initial stage, the person concerned cannot insist upon a further or second opportunity before the higher or revisional authority, unless fresh adverse material is introduced or the statute expressly provides for it.

⁴⁴ (1995) Supp (4) SCC 100

⁴⁵ (2010) 8 SCC 383

⁴⁶ (2004) 3 SCC 1

99. In the present case, the petitioner was duly put to notice and had submitted his reply before the competent authority. The subsequent order of cancellation has been passed on the same set of material facts, without placing reliance on any additional facts. Therefore, the plea of violation of natural justice is wholly misconceived, as the essential requirement of principle of '*audi alteram partem*' stands sufficiently complied with in terms of the law laid down in **Ashok Leyland (supra)**.

100. Though no opportunity of hearing is required in the case of appointment obtained by fraud, in the present case, a detailed inquiry was conducted pursuant to the order dated 06.03.2024 passed in Writ-A No.1254 of 2022. In the said inquiry, it was found that the appointment obtained by the petitioner was fraudulent. Therefore, fraud nullifies all rights arising from such an appointment, as it renders the act void *ab initio*, and the petitioner, who obtained the appointment on the basis of fraud, cannot claim any benefits on the ground that he has worked for 27 years.

101. It is trite law that fraud vitiates every solemn act and no person can be permitted to reap the fruits of an employment obtained by suppression, misrepresentation or falsification of documents. The Hon'ble Supreme Court in the case of **S.P. Chengalvaraya Naidu v. Jagannath**⁴⁷, has categorically held that a person who approaches the Court with unclean hands and suppresses material facts is not entitled to any relief. Similarly, in the case of **A.P. Public Service Commission v. B. Sarat Chandra**⁴⁸, it was observed that when an appointment is obtained by concealment of fact or misrepresentation, the same is void *ab initio* and liable to be cancelled forthwith. This Court in the case of **Writ-A No.20140 of 2023**⁴⁹ as decided on 25.08.2025 has held that in case the employment has been obtained based on fraudulent documents on concealing material facts, the beneficiary of such fraud cannot seek any inquiry in terms of Uttar Pradesh Government Servant (Discipline and Appeal) Rules 1999.

⁴⁷ (1994) 1 SCC 1

⁴⁸ (1990) 2 SCC 669

⁴⁹ (Kamlesh Kumar Nirankari vs. State of U.P. And 2 Others)

102. It is a settled proposition of law that protection under Article 311 of the Constitution of India is available only to a person who has been validly and legally appointed to a civil post under the Union or a State. The constitutional safeguard presupposes a lawful entry into service. When an incumbent secures appointment by suppression of material facts, misrepresentation or by producing forged or fabricated certificates, such an appointment is void ab initio and confers no right to hold the post.

103. The Hon'ble Supreme Court in the case of **R. Vishwanatha Pillai (supra)** as well as **M. Bhaskaran (supra)**, and other pronouncements has consistently held that fraud vitiates everything and that an appointment obtained by fraudulent means is non est in the eyes of law. In such circumstances, the individual never acquires the status of a government servant, and therefore cannot invoke the protection under Article 311 of Constitution of India. Termination of service in these cases is not a penalty attracting the requirement of a regular departmental inquiry but merely a declaration of the illegality of the very appointment itself. The plea that Article 311 mandates an inquiry before cancellation of such an appointment is wholly misconceived. Accordingly, it is held that where an appointment is obtained on the basis of fake or forged certificates, the employer is competent to cancel the appointment without holding any inquiry under Article 311 of the Constitution of India, as such an incumbent cannot claim any constitutional protection of tenure.

104. In the present case, the petitioner, by abusing the process of law by concealing material fact, has sought to usurp public employment which is meant to be offered only to deserving candidates. This Court cannot extend its discretionary jurisdiction to protect such a tainted appointment. The action of the authorities in cancelling the appointment of the petitioner, being in conformity with the settled principles of law, calls for no interference.

105. Upon perusal of the documents placed on record through the counter affidavit, it emerges clearly that the petitioner is not the biological offspring of Smt. Sumitra Devi. Furthermore, the petitioner has adopted divergent and contradictory positions at various stages of the proceedings, thereby undermining the consistency and credibility of his claims.

106. The records further indicate that the petitioner's appointment under the compassionate grounds scheme was obtained on the basis of an affidavit executed by his father. Significantly, this affidavit failed to disclose the fact that the petitioner was already in gainful employment at the time, thereby amounting to suppression of material facts.

107. Additionally, the record is devoid of any material indicating that the daughters of Smt. Sumitra Devi had either provided their consent or issued a no-objection in favour of the petitioner being treated as a dependent for the purpose of compassionate appointment. Such intentional suppression of vital facts constitutes a clear case of fraud practiced upon the employer. It is a well-established principle of law that fraud unravels all solemn transactions, and no individual can be allowed to benefit from his own misconduct.

108. Accordingly, this Court is of the considered view that the compassionate appointment secured by the petitioner is the outcome of deliberate suppression of material facts and misrepresentation, and therefore, the appointment is *void ab initio*. No right, much less a constitutional protection under Article 311 of the Constitution of India, can be claimed on the foundation of fraud.

109. For all the reasons aforesaid, I do not find any error of law in the impugned order dated 04.07.2025, which has been passed by the respondent no.2. Therefore, the writ petition is, accordingly, **dismissed**.

110. The Court records its appreciation for the diligent efforts and valuable assistance rendered by Ms. Shreya Shukla, Research Associate. The precision and clarity reflected in the legal research and analysis

submitted by her demonstrate commendable attention to detail. The Court acknowledges her contribution in aiding the adjudication of the matter.

(Mrs. Manju Rani Chauhan,J.)

October 17, 2025

Jitendra/-