



same set of charges the inquiry could not have been re-opened and hence according to Ms. Surolia, entire procedure and the resultant action suffers from vice of arbitrariness inasmuch as the procedure adopted being flawed one, the impugned decision of the disciplinary authority is rendered unsustainable.

5. Ms. Bushra Maryam, learned counsel for the respondents, on the contrary submits that as per the written provisions contained in the U.P. State District Court Service Rules, 2013 vide its Rule 7(2), the disciplinary authority is well within its right to order re-inquiry into the same charges upon expressing its disagreement with the inquiry report and of course, recording reasons.

6. According to Ms Maryam, the District Judge has recorded a cogent and convincing reasons for his dissatisfaction with the report to order for re-inquiry. Besides this, Ms. Maryam also submits that the petitioner has an alternative efficacious remedy to file departmental appeal before the Administrative Judge under the relevant rules and hence this Court may not interfere with the orders at this stage.

7. Having heard learned counsel for the respective parties and having perused the records, I find merit in the submissions advanced by learned counsel for the respondent that disciplinary authority is well vested with its power to order for re-inquiry, upon recording its own satisfaction regarding disagreement with the findings returned by the inquiry officer. Rule 23(7)(i) & (ii) of the Rules, 2013 is reproduced hereunder:

*"23.(7)(i) The disciplinary authority may, for reasons to be recorded*

*in writing, remit the case for re-enquiry to the same or any other enquiry officer under intimation to the charged employee. The enquiry officer shall thereupon proceed to hold the enquiry from such stage as directed by the disciplinary authority according to the provisions of Rule 23(5).*

*(ii) The disciplinary authority shall, if it disagrees with the findings of enquiry officer on any charge, record it's finding thereon for reasons to be recorded."*

8. Testing the order dated 7th August, 2024 passed by the District Judge, Kaushambi directing for re-inquiry upon the same charges invoking the above provisions, I find that the District Judge, Kaushambi has discussed the oral evidence which were recorded before the inquiry officer and has recorded findings to the effect that the evidence do speak otherwise than what the findings have come to be returned. In my considered view, this itself is sufficient reason to order for re-inquiry.

9. Insofar as the other submission advanced by Ms. Surolia is concerned that inquiry cannot be ordered into the same charges, I find that the rules are absolutely clear to the effect that re-inquiry can be ordered into the same charges as the disagreement is to be recorded by the disciplinary authority upon the findings of the inquiry officer on charges inquired into.

10. Insofar as the submission advanced by learned counsel for the petitioner that the inquiry report is needed to be set aside first before ordering for re-inquiry by the disciplinary authority into the same charges, I find this argument raised to be rejected only for the reason that rules do not provide for setting aside the inquiry report. It only provides for showing

