the Sub Divisional Officer and it has been withdrawn only after the application under Order 41 Rule 27 CPC was moved before this court, therefore, the suit for partition was also filed with concealment and against the dead persons. Thus it appears that the plaintiff-appellant is in habit of concealment of facts before the court of law.

29. Learned counsel for the plaintiff-appellant, on a query being made to him, had stated that if the sisters of the plaintiff-appellant have went to Pakistan and their shares have been vested in Custodian, Enemy Property, he would be only the co-sharer and suit can be filed by one of the co-sharers.

30. In view of above, this court is of the view that the additional evidence sought to be produced by the defendant-respondent is required to be taken on record for the just decision of the case and pronouncement of the judgment because it will have to be considered as to whether the suit was filed by material concealment of fact and the decree was obtained by playing fraud on the court which can be considered at any stage, if comes to light and the suit can be dismissed on this ground alone because no relief can be granted in such case and as to whether the suit could have been filed on behalf of the Custodian, Enemy Property without his permission or authority. Therefore the application under Order 41 Rule 27 CPC filed by the defendant-respondent is liable to be allowed and the additional evidence annexed with the same are liable to be taken on record and an additional substantial question of law arises, which is to be formulated.

31. In view of above, the C.M. Application No.06 of 2022 filed under Order 41 Rule 27 C.P.C. is allowed and the documents annexed therewith as Annexure No.A-1 to A-7 are taken on record. The following substantial question of law is formulated besides the two substantial questions of law formulated by this court, by means of order dated 23.05.2005:-

> "(iii) Whether the suit for permanent injunction filed by the plaintiff-appellant suffers from material concealment of facts and liable to be dismissed on this ground?"

32. List on 28th of November, 2024 for further hearing.

(2024) 11 ILRA 284
APPELLATE JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 12.11.2024

BEFORE

THE HON'BLE ATTAU RAHMAN MASOODI, J.
THE HON'BLE SUBHASH VIDYARTHI, J.

Special Appeal Defective No. 601 of 2024

State of U.P. & Ors. ...Appellants
Versus
Shivani Singh ...Respondent

Counsel for the Appellants:
C.S.C.

Counsel for the Respondent:
Sudhir Singh Raghuvanshi

Allahabad High Court Rules-Chapter VIII Rule 5-U.P. Revenue Code,2006-Section 67(a)-U.P. Zamindari Abolition and Land Reforms Act,1950-Section 123(1)-quashing of disciplinary proceedings initiated against the respondent(a Deputy Collector)-respondent was issued a charge-sheet and a supplementary charge-sheet during her tenure as Sub-

Divisional Magistrate-the charges alleged negligence, procedural violations, and illegal orders favoring private individuals at the cost of public property-the respondent was found guilty in the inquiry report dated 03.08.2024-Held-Disciplinary proceedings against public officials exercising judicial or quasi-judicial powers are permissible when there is evidence of misconduct, negligence or malafide intent-The single judge erred in quashing the charge-sheets without examining the evidence or providing the State an opportunity to file a response-The appellants are directed to conclude the disciplinary proceedings against the respondent in furtherance of the chargesheets issued against the respondent and enquiry report dated 03.08.2024 expeditiously.(Para 1 to 36) (E-6)

List of Cases cited:

1. Zunjarro Bhikaji Nagarkar Vs U.O.I. & ors. (1999) 7 SCC 409

2. Abhay Jain Vs HC of Raj. (2022) 13 SCC 1

3. U.O.I. Vs Duli Chand (2006) 5 SCC 680

4. U.O.I. Vs K.K. Dhawan (1993) 2 SCC 56

5. Govt. of T.N. Vs K.N. Ramamurty (1997) 7 SCC 101

6. Ramesh Chander Singh Vs HC of Alld. & anr.(2007) 4 SCC 247

7. Anjali Chaurasiya Vs St. of U.P. (2023) SCC OnLine All 3185

8. Hari Om Rastogi Vs St. of U.P. (2022) SCC Online All 2305

9. Ministry of Defence Vs Prabhash Chandra Mirdha (2012) 11 SCC 565

(Delivered by Hon'ble Attau Rahman Masoodi, J. & Hon'ble Subhash Vidyarthi, J.)

C.M. Application No.1 of 2024 (Application for condonation of delay in filing the Special Appeal)

1. Heard Sri Anand Kumar Singh, the learned Standing Counsel appearing for the appellants - State of U.P. & its Officers and Sri Ratnesh Chandra, the learned counsel for the sole respondent.

2. Vakalatnama filed on behalf of the sole respondent by Sri Ratnesh chandra, Advocate is taken on record.

3. The instant intra-Court Appeal filed by the State is delayed by 53 days as on 07.11.2024.

4. The appeal is accompanied with an application seeking condonation of delay supported by an affidavit. In the affidavit filed in support of the delay condonation application, we find that just and plausible reasons have been disclosed by the applicants-appellants seeking condonation of delay.

5. In absence of any objection and the explanation offered being bona fide, the application for condonation of delay is allowed and the delay in filing the appeal is condoned.

6. The appeal may be assigned a regular number.

Order on memo of Special Appeal

7. By means of the instant intra-Court Appeal filed under Chapter VIII Rule 5 of the Allahabad High Court Rules, the appellants have challenged the validity of a judgment and order dated 08.08.2024 passed by an Hon'ble Single Judge of this

Court in Writ A No.6001 of 2024, whereby a charge-sheet dated 08.09.2022 and a supplementary charge-sheet dated 29.11.2022 issued against the respondent have been quashed and the Inquiry Officer has been mandated not to proceed further in pursuance of the aforesaid charge sheet and the supplementary charge-sheet.

8. Briefly stated, facts of the case are that the respondent was appointed as a Deputy Collector in the year 2015 and by means of an order dated 23.10.2021, she was posted as Sub-Divisional Magistrate/Deputy Collector, Tehsil Tiloi, District Amethi. An Office Memorandum dated 16.07.2022 placed her under suspension in contemplation of departmental disciplinary proceedings. The Commissioner, Ayodhya Division, Ayodhya was appointed as Inquiry Officer as to conduct inquiry against the respondent. Upon a representation dated 05.08.2022 submitted by the respondent, the Inquiry Officer was changed and Commissioner, Prayagraj Division, Prayagraj was appointed the Inquiry Officer.

9. On 08.09.2022, the Inquiry Officer issued a charge-sheet containing as many as eleven charges against the respondent. A supplementary charge-sheet containing two additional charges was issued to her on 29.11.2022.

10. An office memorandum dated 29.05.2023 was issued during pendency of the enquiry whereby her suspension was revoked in furtherance of a representation dated 03.03.2023.

11. Charge Nos.1 to 10 related to the numerous suits for declaration under Section 144 of the U.P. Revenue Code, 2006, some of which had been decided without issuing the mandatory 60 days' notice to the State/Gaon Sabha under Section 80 C.P.C. and Section 106 Panchayati Raj Adhiniyam, through some suits Banjar Lands or Naveen Parti Lands were declared to have vested in certain private individuals on the basis of their illegal possession against the relevant legal provisions and evidence in order to provide undue benefit to them, in some cases public utility lands vesting in the State were recorded in the revenue records as Bhoomidhari Land of certain private individuals, in some cases Forest land was recorded in the name of private individuals in illegal occupation thereof and numerous cases were decided without hearing the version of the State/Gaon Sabha, against the evidence on record and established legal position, in a clandestine manner after coming into direct contact with the litigants outside the Courts and, thus, illegal orders were passed by recording wrong facts in order to provide benefit to the claimants, thereby causing loss of public property.

12. The first charge in the supplementary charge-sheet was that the respondent had misused her position and the judicial process for granting undue benefit to the various persons, without hearing the version of the State Government in as many as 34 cases under Section 67 (a) of U.P. Revenue Code, 2006 / Section 123 (1) U.P. Zamindari Abolition and Land Reforms Act, 1950. The second supplementary charge against the respondent was that she had allotted numerous Abadi sites in favour of various ineligible persons named in the charge.

13. The respondent had filed the writ petition seeking quashing of the aforesaid charge-sheet dated 08.09.2022 and supplementary charge-sheet dated

29.11.2022, on 29.07.2024. On 01.08.2024, the learned Counsel for the State of U.P. was granted time to seek instructions on the point that if any charge-sheet has been issued without jurisdiction and the charges are non est in the eyes of law as to how such charge-sheet may be issued against the petitioner. Thereafter the Writ Petition was listed on 08.08.2024, when it was allowed, without giving an opportunity to the opposite parties to file a counter affidavit and only after giving an opportunity to seek instructions regarding a limited ground, as aforesaid.

14. Relying upon the decisions of the Hon'ble Supreme Court in the cases of **Zunjarrao Bhikaji Nagarkar v. Union of India & Ors.**, (1999) 7 SCC 409 and **Abhay Jain v. High Court of Rajasthan**: (2022) 13 SCC 1, the Writ Court held that a person exercising judicial or quasi-judicial powers may not be subjected to a departmental trial if there is any error in any order passed by the authority. If a judicial or a quasi-judicial authority is subjected to departmental trial for his orders, he/she may be afraid of passing orders. It is recorded in the judgment dated 08.08.2024 that as per instructions provided to the learned Standing Counsel, the orders in question passed by the respondent had been recalled.

15. While assailing the aforesaid order, Shri Anand Kumar Singh, the learned Standing Counsel has submitted that the Writ Court has not appreciated relevant legal position in its correct perspective. **Zunjarrao Bhikaji Nagarkar (Supra)** was decided by a Bench consisting of two Hon'ble Judges of the Hon'ble Supreme Court by placing reliance upon some earlier judgments. The learned Standing Counsel has placed reliance on a subsequent three Judge Bench in the case of **Union of India v. Duli Chand:** (2006) 5 SCC 680, wherein the Hon'ble Supreme Court referred to an earlier three Judge Bench in the case of **Union of India v. K. K. Dhawan**: (1993) 2 SCC 56, wherein it was noted that the view that no disciplinary action could be initiated against an Officer in respect of judicial or quasi-judicial functions, was wrong.

16. The learned Standing Counsel further submitted that the enquiry against the respondent already stands concluded and Enquiry Officer – Commissioner, Prayagraj Division, Prayagraj has prepared his report on 03.08.2024, but as the same had not been received by the State Government till the instructions were sent to the learned Additional Chief Standing Counsel in furtherance of the order dated 01.08.2024 passed by the Writ Court, the same could not be placed before the writ Court.

17. A copy of the enquiry report dated 03.08.2024 has been annexed with the Special Appeal, which shows that the respondent has participated in the enquiry proceedings. The respondent has been found to have decided cases in great haste – in some cases, within 12 days, without following the mandate of the substantive as well as the procedural law, negligently and in bad faith, thereby causing loss to the State. In one case, she delivered her judgment after keeping the same reserved for more than 4 months, whereas normally reserved judgments are to be delivered within 1 month. Charges no. 1 to 9 and supplementary charges no. 1 and 2 have been proved and it has been found that the respondent was guilty.

18. Charge no. 11 has been partially proved and although it has been found that the respondent has decided as many as 17 Regular Suits under Section

144 of the U.P. Revenue Code within 12 to 43 days without following the procedure laid down by law in a manifestly negligent manner, it could not be proved that the respondent had contacted the beneficiaries and had obtained any illegal advantage from them. Charge no. 10 has not been proved. As the charge-sheet and the supplementary charge-sheet have been quashed, no action can be taken against the respondent in spite of the fact that she has been found guilty of numerous charges.

19. It was held in **K. K. Dhawan** (Supra) that: -

> ***"28****. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:*
>
> ***29. Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;***
>
> *(ii)* ***if there is prima facie material to show recklessness or misconduct in the discharge of his duty;***
>
> *(iii) if he has acted in a manner which is unbecoming of a Government servant;*
>
> *(iv)* ***if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;***
>
> *(v) if he had acted in order to unduly favour a party;*
>
> *(vi) if he had been actuated by corrupt motive, however small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great".*
>
> *29. The instances above catalogued are not exhaustive. However, we may add that for a mere technical violation or merely because the order is wrong and the action not falling under the above enumerated instances, disciplinary action is not warranted. Here, we may utter a word of caution.* ***Each case will depend upon the facts and no absolute rule can be postulated.***
>
> (Emphasis added)

20. The decision in **K. K. Dhawan** (Supra) was followed in **Government of Tamil Nadu v. K.N. Ramamurty**: (1997) 7 SCC 101.

21. In **Duli Chand** (Supra), the Hon'ble Supreme Court held that these earlier decisions were considered by the two Judge Bench in **Zunjarrao Bhikaji**

Nagarkar (Supra) but the Court appears to have reverted back to the earlier view of the matter where disciplinary action could be taken against an Officer discharging judicial functions only when there was an element of culpability involved. The three Judge Bench held that **Nagarkar** case (Supra) was contrary to the view expressed in K. K. Dhawan case (Supra). The decision in **K. K. Dhawan** (Supra) being that of a Larger Bench would prevail. The decision in Nagarkar (Supra) case therefore does not correctly represent the law.

22. Therefore, the law laid down by the three Judge Bench in **Union of India v. K. K. Dhawan** (Supra), as affirmed in **Union of India v. Duli Chand (Supra)**, would govern the field.

23. Learned counsel for the respondent has relied upon a subsequent decision of a three Judge Bench of the Hon'ble Supreme Court in the case of **Ramesh Chander Singh v. High Court of Allahabad and Anr.**: (2007) 4 SCC 247, wherein the Supreme Court was considering an Appeal filed by a Judicial Officer against a major punishment order of withholding of two annual increments with cumulative effect, which, after dismissal of a writ petition filed by the Officer, was enhanced to reduction in rank. The only charge against the Officer was that he had granted a bail on insufficient grounds. The Hon'ble Supreme Court held that granting bail to accused pending trial is one of the significant functions to be performed by a Judicial Officer. The bail order passed by the Officer had not been challenged. The reasons assigned in the bail order could not be said to be totally unwarranted or superfluous. In the aforesaid factual background, the Hon'ble supreme Court held that: -

> ***"We fail to understand as to how the High Court arrived at a decision to initiate disciplinary proceedings solely based on the complaint, the contents of which were not believed to be true by the High Court.*** *If the High Court were to initiate disciplinary proceedings based on a judicial order, there should have been strong grounds to suspect officer's bona fides and the order itself should have been actuated by malice, bias or illegality..."*
>
> (Emphasis added)

24. Even in **Ramesh Chander Singh** (Supra), the Hon'ble Supreme Court followed and affirmed the law laid down in **Zunjarrao Bhikaji Nagarkar** (Supra) by stating that: -

> *"17. In Zunjarrao Bhikaji Nagarkar v. Union of India his Court held that wrong exercise of jurisdiction by a quasi-judicial authority or mistake of law or wrong interpretation of law cannot be the basis for initiating disciplinary proceeding. Of course, if the judicial officer conducted in a manner as would reflect on his reputation or integrity or good faith or there is a prima facie material to show recklessness or misconduct in discharge of his duties or he had acted in a manner to unduly favour a party or had passed an order actuated by corrupt motive, the High Court by virtue of its power under Article 235 of the Constitution may exercise its supervisory jurisdiction. Nevertheless, under such circumstances it should be kept in*

mind that the Judges at all levels have to administer justice without fear or favour. Fearlessness and maintenance of judicial independence are very essential for an efficacious judicial system. Making adverse comments against subordinate judicial officers and subjecting them to severe disciplinary proceedings would ultimately harm the judicial system at the grassroot level."

25. The Hon'ble Supreme Court also took into consideration the following peculiar facts of the case in **Ramesh Chander Singh** (Supra): -

"18. Apart from the merits of the case before us, we have also gone into the confidential reports of the appellant officer. His integrity and honesty had never been doubted at any point of time. In some of the confidential reports except stating that the appellant officer was not having smooth relationship with the advocates, no other adverse remarks had been entered. Two senior Judges of the High Court have entered in his confidential register that the appellant is an officer of honesty and integrity. ***The fact that it was a case of daylight murder wherein two persons died, is not adequate to hold that the accused were not entitled to bail at all. Passing order on a bail application is a matter of discretion which is exercised by a judicial officer with utmost responsibility. When a co-accused had been granted bail by the High Court, the appellant cannot be said to have passed an unjustified order granting bail, that too, to an accused who was a student and had been in jail for more than one year****. If at all, the inspecting Judge had found anything wrong with the order, he should have sent for the officer and advised him to be careful in future. The punishment of reverting the appellant to the post of Civil Judge (Senior Division), in the facts and circumstances of this case could only be termed as draconian and unjust. The appellant had been in the cadre of District Judge for eight years at the time this grave punishment of reversion to a lower rank was imposed on him. In our opinion, the punishment was clearly disproportionate to the lapse alleged to have been committed by him. The imposition of the punishment of withholding two increments with cumulative effect also appears to be disproportionate to the alleged lapse."*

(Emphasis added)

26. The observations made in an order passed while scrutinizing the merits of the punishment order after completion of a full-fledged disciplinary enquiry cannot form the basis of quashing a charge sheet without a challenge having been made to the final outcome of the disciplinary proceedings.

27. The learned Counsel for the respondent has also placed reliance on a judgment in the case of **Anjali Chaurasiya v. State of U.P**.: 2023 SCC OnLine All 3185, wherein a disciplinary proceeding under U.P. Government Servant (Discipline and Appeal) Rules, 1999 was initiated

against an Assistant Commissioner, Commercial Tax on the ground that she had violated provisions of the Goods and Service Tax Act as she, by arranging wrong facts, evidences and fabricated documents at her own convenience as well as with the collusion of traders, declared less valuable and less taxable plastic scraps in place of more valuable and more taxable metal/non-metal items and deposited very less amount in the State treasury instead of required tax/penalty, which caused revenue loss to the Government. The appellant was placed under suspension. The suspension order was stayed by the Writ Court but the authorities were granted liberty to proceed with the disciplinary proceedings. In appeal against the order passed by the Writ Court, a coordinate Bench of this Court noted that the order passed by the appellant, which formed the basis for her suspension and initiation of disciplinary proceedings against her, had not been revised or cancelled by the respondents. Rather, a conscious decision was taken not to take any action against the order passed by the appellant. The Division Bench held that when the respondents themselves had allowed the order passed by the appellant to attain finality and they had taken a conscious decision not to challenge the order, the disciplinary proceedings initiated on the basis of a mere suspicion raised on the basis that the assessee has deposited the penalty within a very short span of time after passing of the order, appears to be no good ground for initiation of disciplinary proceedings against the appellant. The Bench held that: -

> *"The disciplinary proceedings against the appellant have been initiated merely because the assessee has deposited the penalty within a very short span of time which raised a suspicion with regard to the penalty order passed by the appellant. In* ***Zunjarrao Bhikaji Nagarkar*** *(Supra), the Hon'ble Supreme Court has categorically held that* ***the disciplinary proceedings against an officer cannot take place on information, which is vague and indefinite and suspicion has no role to play in such matters when the department has taken a conscious decision not to challenge the order passed by the appellant and has allowed the same to attain finality****. Prima facie, it appears at this stage that the disciplinary proceedings cannot be drawn against the appellant to punish her for having passed the aforesaid order."*
>
> (Emphasis added)

28. In **Anjali Chaurasiya** (Supra), the interim order passed by the Writ Court whereby the authorities were granted liberty to proceed with the disciplinary proceedings, was stayed and the Writ Petition was left open to be decided on its merits. In **Anjali Chaurasiya** (Supra), the solitary order passed by the appellant, which formed the basis for her suspension and initiation of disciplinary proceedings against her, had not been revised or cancelled by the respondents. Rather, a conscious decision was taken not to take any action against the order passed by the appellant. In the present case, numerous orders passed by the respondent were challenged and all of those have been set aside. The facts of the present case are in no manner similar to the core fact which had formed the basis of the order passed in **Anjali Chaurasiya** (Supra) and, therefore,

the aforesaid judgment would be of no avail to the respondent in view of the law laid down in **K. K. Dhawan** (Supra) that *"Each case will depend upon the facts and no absolute rule can be postulated".*

29. The learned Counsel for the respondent has lastly relied upon a judgment of a coordinate Bench in **Hari Om Rastogi v. State of U.P.:** 2022 SCC OnLine All 2305. The appellant in that case was a Consolidation Officer, who was issued a charge sheet containing two charges stating that in two cases, he had passed mutation orders in respect of land recorded in the name of Gram Sabha, in favour of certain private individuals, causing loss to Gram Sabha. The appellant claimed he was not provided any documents and no oral evidence was recorded on behalf of the establishment. The appellant too was not examined and an ex parte inquiry report was submitted by the Inquiry Officer. The disciplinary authority issued a show cause notice to the appellant against the proposed major punishment, to which he submitted a detailed reply asserting that both the charges were not proved. Meanwhile, the appellant retired from service on 30.04.2008. On 09.07.2008, he was served with another show cause notice based on the existing inquiry report, requiring him to answer why the penalty of 50% reduction of pension and 50% deduction of gratuity be not awarded. The appellant submitted a reply disputing the truth of the charges as well as the fact that these were proved. The respondents passed a punishment order dated 03.08.2012, imposing 10% of permanent reduction in pension payable and 50% deduction, each from the pension and the gratuity. The Writ Court held that *"The inquiry officer has dealt in the inquiry as to how due procedure was not followed by the petitioner and that required precautions were not adhered to. I found merit in the argument of learned counsel for petitioner that Inquiry Officer has scrutinized the orders like an Appellate Authority and not like an Inquiry Officer. The finding of loss are not supported by any evidence or valuation of land. No witness was examined from Gram Sabha. It was also not noticed by Inquiry Officer that one order was passed only in compliance of an earlier order. The record was not verified in absence of original record which remained untraceable. The Inquiry Officer has proceeded with inquiry like an Appellate Authority and failed to decide whether any grave misconduct was committed or any pecuniary loss was caused to Gaon Sabha."* However, the Writ Court merely held that the punishment was very harsh and shockingly disproportionate and it was set aside and the matter was remanded. In Appeal, the coordinate Bench held that: -

> *"17…Once the learned Single Judge has held, and in our opinion rightly so, that it was not the business of the Inquiry Officer or the Disciplinary Authority to scrutinize the appellant's order passed in a judicial capacity, like an Appellate Authority, the findings on the charges by the Inquiry Officer and its acceptance by the Disciplinary Authority, are bad in law.*
>
> * * *
>
> *21. There is no cavil here that the respondents did not examine witnesses or led oral evidence to prove the charges against the appellant. The charges were held proved, on the basis of the Inquiry Officer going through*

the records, that may constitute material, but not evidence in the absence of proof by oral evidence. The learned Single Judge has also held that no witness was examined from the Gaon Sabha. Thus, the inquiry that has led to the impugned order of punishment is beset by a fundamental procedural flaw, that goes to the root of the matter, on account of non-production of evidence, particularly oral evidence before the Inquiry Officer by the establishment.

* * *

24. In the present case, the charge against the appellant is about passing orders directing mutation on the basis of earlier orders, where original record had remained untraceable. He has passed an order of mutation i.e. subject of the first charge, acting on a copy of the order passed 10-12 years ago, where the records are said to have been destroyed by fire. The order, subject matter of the other charge, was also passed in haste, without taking precautions. But, none of the orders, as the learned Single Judge has held on perusal of records, were evidently passed to extend any undue benefit to anyone nor the appellant's integrity was proved doubtful.

25. In our opinion, the learned Single Judge has fallen into an error in upholding the charges in the first limb of the order and then recording findings in reference to the quantum of punishment, that go to vitiate the findings of the Inquiry Officer and the impugned order made by the Disciplinary Authority. The kind of flaws that the learned Single Judge has discerned in the process of the inquiry and the approach of the Inquiry Officer, including the orders of the Disciplinary Authority, the findings of the Inquiry Officer and the impugned order adjudging the appellant guilty, had to be quashed."

The aforesaid order was passed in view of the peculiar facts and circumstances of the case where there was no allegation of violation of any statutory provision and not even of negligence in performance of duty and these observations were made while examining the validity of the final order of punishment. It will not apply to the present case where the charge-sheets have been challenged without conclusion of the disciplinary proceedings and the respondent has been found to be guilty of violation of settled principles of law and also of negligence and lack of good faith.

30. The law regarding scope of interference with a charge-sheet issued during departmental disciplinary proceedings was explained by the Hon'ble Supreme Court in **Ministry of Defence v. Prabhash Chandra Mirdha**: (2012) 11 SCC 565 in the following words: -

"12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings.

Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings."

31. When we examine the facts of the present case in light of the law laid down in the above referred cases, it appears that the respondent was charged and has been found guilty of deciding not one or two, but numerous cases in violation of the provisions of procedural as well as substantive law. All those orders have been recalled by the subsequent Presiding Officer of the Court concerned. The respondent has been found guilty of acting in a manner which establishes lack of good faith or devotion to duty. He has been found to have acted negligently and he has violated the prescribed conditions which are essential for the exercise of the statutory powers.

32. Although it is recorded in the order dated 01.08.2024 passed by the Writ Court that *"on being confronted on the point that if any charge-sheet has been issued without jurisdiction and the charges are non est in the eyes of law as to how such charge-sheet may be issued against the petitioner, the learned Counsel had sought time to seek specific instructions on that point",* in the impugned judgment dated 08.08.2024 no finding has been recorded that the charge-sheet has been issued by an authority not competent to initiate the disciplinary proceedings and no such contention has been raised by the learned Counsel for the respondent even during submissions advanced in opposition of the Appeal.

33. There is no allegation of delay in initiation of the disciplinary proceedings, rather the Writ Petition challenging the charge sheets was filed with a delay of two years.

34. In these circumstances, the disciplinary proceedings against the respondent cannot be quashed as per the law laid down by the Hon'ble Supreme Court in the above mentioned cases.

35. In view of the foregoing discussion, we find ourselves unable to concur with the view taken by the Writ Court. Accordingly, the Special Appeal is **allowed**. The judgment and order dated 08.08.2024 passed in Writ A No.6001 of 2024 is set aside and the Writ Petition is **dismissed**.

36. The appellants are directed to conclude the disciplinary proceedings against the respondent in furtherance of the charge-sheet dated 08.09.2022 and the supplementary charge-sheet dated 29.11.2022 issued against the respondent and the enquiry report dated 03.08.2024 expeditiously, in accordance with the law. The parties shall bear their own costs of litigation.