Before S.S. Nijjar & J.S. Narang, JJ

GULAB SINGH,—*Petitioner*

versus

THE MAHARSHI DAYANAND UNIVERSITY & OTHERS,—*Respondents*

C.W.P. No. 13721 of 2003

27th September, 2004

Constitution of India, 1950—Art.226—Maharshi Dayanand University Act—S.9 (14)—Non-observance of the rules of natural justice—Statutory appeal by taking factual as well as legal grounds against order of dismissal from service filed—Appellate authority rejecting the appeal without affording an opportunity of hearing and without considering the grounds taken in the appeal—Whether it was not necessary for the appellate authority to afford an opportunity of hearing to the petitioner as he could not have added anything new at the appellate stage—Held, no—In the absence of a specific provision in the University Act granting an opportunity of hearing to the aggrieved person, the appellate authority would have to adopt a reasonable procedure which would ensure that the appellant is given a reasonable opportunity to present his case—Justice must not only be done but must mainfestly be seen to be done—It was incumbent on the appellate authority to give not only an opportunity of hearing to the petitioner but also pass a reasoned order dealing with the contentions raised by him in the appeal—Petition allowed, order of appellate authority quashed while remanding the matter back to it for deciding the same by passing a fresh well reasoned order after affording an opportunity of hearing to the petitioner.

Held, that a perusal of Section 9(14) of the Maharshi Dayanand University Act shows that no specific procedure has been prescribed for exercise of the appellate jurisdiction by the Chancellor of the University. In such circumstances, undoubtedly, the Chancellor would have to adopt a reasonable procedure, which would ensure that the appellant is given a reasonable opportunity to present his case. The procedure shall also have to ensure that it complies with the allowed principle that justice must not only be done, but must manifestly be seen to be done.

(Para 9)

Held, that it was incumbent on the appellate authority to give an opportunity of personal hearing to the petitioner. The order passed by the Chancellor of the respondent—University does not fulfil the requirement of a speaking order. The order does not specify any reason which weighed with the Chancellor to dismiss the detailed appeal filed by the petitioner. The order does not even make a reference to the grounds of appeal. The order merely recites the sequence of proceedings till the passing of the order of dismissal. Since the order passed by the appellate authority is liable to be quashed on the ground that there has been a breach of rules of natural justice, it is not necessary to consider the merits of the grievances made by the petitioner.

(Paras 17 & 20)

Anand Chhibbar, Advocate, for the petitioner.

Balram Gupta, Sr. Advocate with Shreesh Gupta, Advocate, for the respondents.

JUDGMENT

S.S. NIJJAR, J. (ORAL)

(1) With the consent of counsel for the parties, the matter is taken up for final disposal at the motion stage.

(2) In this writ petition under Articles 226/227 of the Constitution of India, the petitioner prays for the issuance of a writ in the nature of Certiorari quashing the resolution dated 13th September, 2001 (Annexure P-9) dismissing the petitioner from service and the order dated 16th July, 2003 (Annexure P-12) passed by the appellate authority dismissing the appeal of the petitioner.

(3) The petitioner was working as a Superintendent with the respondents-Unversity. He is a confirmed employee. On 3rd April, 2000, a preliminary enquiry was conducted against the petitioner and some other staff subordinate to the petitioner. On consideration of the preliminary enquiry report, a charge-sheet (Annexure P-4) was issued against the petitioner on 22nd August, 2000. It was alleged that the petitioner had failed to exercise adequate supervision of the Section

in which he was Superintendent In-charge, resulting into a large scale bungling in the record. The result-sheets were tampered with on a large scale, pages from the result-sheets were removed, fabricated and fake result-sheets were got prepared and pasted in place of riginal result-sheets. Original marks were erased and tampered with a criminal intent and with a purpose to destroy its originality. It was also alleged that the petitioner acted in connivance with the subordinate staff for tampering with the record. The petitioner submitted the reply (Annexure P4A) to the charge-sheet. Thereafter a regular enquiry was conducted. The charges were found to be proved against the petitioner. The enquiry report (Annexure P-5) was submitted on 24th June, 2001. It was considered by the Executive Council of the respondents-University. On 6th August, 2001, resolution (Annexure P-6) was passed to issue a show-cause notice to the petitioner for imposing major penalty of dismissal. The show-cause notice (Anneuxre P-7) was duly issued on 10th August, 2001. The petitioner submitted the reply (Annexure P-8) to the show cause notice on 10th August, 2001. After considering the reply to the show-cause notice, the Executive Council of the respondents-University in its meeting held on 13th September, 2001 resolved to dismiss the petitioner from service by passing resolution (Annexure P-9). The aforesaid decision was communicated to the petitioner by letter dated 24th September, 2001 (Annexure P-10). Aggrieved against the aforesaid order, the petitioner submitted a statutory appeal (Annexure P-11) before the Chancellor of the respondents-University. In this appeal, the petitioner had pleaded a number of factual as well as legal grounds impugning the order of dismissal. It was stated that the impugned order (Anneuxre P-10) had not been passed by the competent authority i.e. the appointing authority or a superior authority. Numerous factual errors committed by the disciplinary authority were highlighted. The appeal filed by the petitioner was rejected by order dated 16th July, 2003 (Annexure P-12) passed by the Chancellor of the respondents-University, without affording an opportunity of hearing to the petitioner. The petitioner challenges the entire proceedigns on the ground that there has been breach of rules of natural justice at every stage. It may be further noticed that the petitioner was placed under suspension by order dated 6th April, 2000 (Annexure P-3). The petitioner has also challenged the order of suspension.

(4) Written statements have been filed by the respondents. It is submitted that the charges have been fully proved against the petitioner. After considering the entire matter, the Executive Council has passed the following order :—

> "Considered the reply dated 24th August, 2001 of Shri Gulab Singh, Superintendent (under suspension) (Annexure III pages 31-35) already circulated) to the show cause notice served upon him for his dismissal from the University service,—*vide* memo No. EN.11/2001/11529, dated 24th June, 2001 (Annexure V Pages 37-72, already circulated).
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> The Council considered and perused the whole record including the charge-sheet served upon Shri Gulab Singh, Superintendent (under suspension), his written reply to the charge-sheet, proceedings conducted by Shri S.S. Singh Dahiya, the District & Sessions Judge (Retd.), the Inquiry Officer, oral as well as documentary evidence of both the parties available on record.
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> The Council was convinced that the Inquiry Officer has conducted the enquiry fairly and judiciously in accordance with the procedure, rules of natural justice and Service and Conduct Rules for Non-teaching Employees of the University. Shri Gulab Singh has been given fair and full opportunity to defend himself.
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> As per enquiry report, the charges against Shri Gulab Singh have been proved cogently, convincingly and irrefutably.
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> Shri Gulab Singh, Superintendent (under suspension) was also given personal hearing by the Council. He could not explain anything new, except what has been submitted by him in his written reply and during the inquiry.
>
> Keeping in view the gravity of the charges, the Council, therefore, unanimously RESOLVES that the penalty of dismissal from service with immediate effect be awarded to Shri Gulab Singh, Superintendent (under suspension).
>
> FURTHER RESOLVED that the report of inquiry be read as part of this order."

(5) The aforesaid decision, according to the respondents-University has been taken after complying with rules of natural justice. Thereafter, the appeal filed by the petitioner has been dismissed by the Chancellor by passing a speaking order.

(6) Mr. Anand, learned counsel appearing for the petitioner has vehemently, argued that the entire proceedings are vitiated as the petitioner has not been given due opportunity of hearing in accordance with rules of natural justice. Learned counsel has further submitted that the charges levelled against the petitioner are without any basis and the findings of the enquiry are based on no evidence. According to the learned counsel, the whole departmental proceedings were a sham. Even at the appellate stage, the opportunity of hearing was not given to the petitioner and thus, the entire proceedings are vitiated and liable to be quashed. In support of his submission, learned counsel has relied on a judgment of the Supreme Court in the case of **Canara Bank and Ors.** *versus* **Shri Debasis Das and others, (1)** and a Full Bench judgment of this Court rendered in **Ram Niwas Bansal** *versus* **State Bank of Patiala, (2).**

(7) Mr. Balram Gupta, learned Sr. Advocate appearing for the respondents has submitted that the authorities have passed well reasoned speaking orders at every stage. Therefore, no legal right of the petitioner has been violated. Learned Sr. Counsel has further submitted that at the appellate stage, it was not necessary for the petitioner to be granted an opportunity of personal hearing. He was given adequate opportunity of hearing by the disciplinary authority. The petitioner could not have added anything new at the appellate stage. Therefore, it would have been an exercise in futility for the appellate authority to grant an opportunity of personal hearing to the petitioner. The Chancellor acts under Section 9 (14) of the Maharshi Dayanand University Act (hereinafter referred to as "the Act"), as the appellate authority against the orders passed by the Executive Council or the Vice-Chancellor, in respect of any disciplinary action taken against any employee. The aforesaid Section does not specifically provide for the grant of an opportunity of hearing to the aggrieved

(1) J.T. 2003 (3) S.C. 183
(2) 1998 (4) S.L.R. 711 (F.B.)

employee. For this added reason also, it was not necessary to grant any opportunity of hearing to the petitioner. In support of the submissions, learned Sr. Counsel relies on the judgments rendered in **F.N. Roy** *versus* **Collector or Customs, Calcutta and others, (3), Union of India** *versus* **Jyoti Prakash Mitter (4), State Bank of Patiala** *versus* **Mahendra Kumar Singhal (5)** and **Union of India and Anr.** *versus* **M/s Jesus Sales Corporation (6).**

(8) Section 9 (14) of the Act is as follows :—

> "9 (14) : Any employee of the University who is aggrieved by the decision of the Executive Council or the Vice-Chancellor in respect of any disciplinary action taken against him, may address a memorial to the Chancellor in such manner as may be prescribed by statutes and the decision of the Chancellor shall be final."

(9) A perusal of the aforesaid Section shows that no specific procedure has been prescribed for exercise of the appellate jurisdiction by the Chancellor of the University. In such circumstances, undoubtedly, the Chancellor would have to adopt a reasonable procedure, which would ensure that the appellant is given a reasonable opportunity to present his case. The procedure shall also have to ensure that it complies with the hallowed principle that justice must not only be done, but must manifestly be seen to be done. The distinction between justice being done and being seen to be done has been eloquently set out in many cases. The significance of this maxim was summed up by Lord Widgery C.J. in the case of **R.V. Home Secretary, Ex. P. Hosenball, (7),** as "the principles of natural justice are those fundamental rules, the breach of which will prevent justice from being seen to be done". In the case of **State of Orissa** *versus* **Dr. (Miss) Binapani Dei, (8),** it has been clearly held by the Supreme Court that "even an administrative order which involves civil consequences.....must be made consistently with the rules of natural justice". The question as to what would constitute civil consequences

(3) AIR 1957 S.C. 648
(4) AIR 1971 S.C. 1093
(5) 1995 (5) S.L.R. 4
(6) J.T. 1996 (3) S.C. 597
(7) (1977) 1 W.L.R. 766, 772
(8) AIR 1967 S.C. 1269

was answered by the Supreme Court in the case of **Mohinder Singh Gill** *versus* **The Chief Election Commissioner, New Delhi (9),** Krishna Iyer, J., speaking for the Constitution Bench observed as follows :—

> "But what is a civil consequence, let us ask ourselves, by passing verbal booby-traps ? "Civil Consequence" undoubtedly covers infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation, everything that affects a citizen in his Civil life inflicts a civil consequence."

(10) In the case of **Schmidt** *versus* **Secretary of State for Home Affaris (10),** Lord Denning M.R. observed as under :—

> "The speeches in Ridge *versus* Baldwin, (1964) AC 40, show that an adminstrative body may, in a proper case, be bound to give a person who is affected by their decision an opportunity of making representations. It all depends on whether he has some right or interest or, I would add, some legitimate expectation, of which it would not be fair to deprive him."

(11) We are unable to accept the submission of Mr. Gupta that it was not necessary for the appellate authority to hear the petitioner as he could have said nothing new. This very question has been considred by the Supreme Court in the case of **S.L. Kapoor** *versus* **Jagmohan and others (11).** In the aforesaid case, Chinnappa Reddy, J., speaking for the Supreme Court observed as under :—

> "17. Linked with this question is the question whether the failure to observe natural justice does at all matter if the observance of natural justice would have made no difference, the admitted or indisputable facts speaking for themselves. Where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ to compel the observance of natural justice, not because it

(9) AIR 1978 S.C. 851
(10) (1969) 2 Chd. 149
(11) AIR 1981 S.C. 136

approves the non-observance of natural justice but because Courts do not issue futile writs. But it will be a pernicious principle to apply in other situations where conclusions are controversial, however, slightly and penalties are discretionary."

(12) In **Ridge** *versus* **Baldwin, (12),** the same argument had been raised before the House of Lords that even if the appellant had been heard by the watch committee, nothing that he could have said could have made any difference. The argument was rejected. Similar argument was raised in the case of **John** *versus* **Rees. (13)** Megarry, J. observed as follows :—

"It may be that there are some who would decry the importance which the courts attach to the observance of the rules of natural justice. When something is obvious, they may say, why force everybody to go through the tiresome waste of time involved in framing charges and giving an opportunity to be heard ? The result is obvious from the start. Those who take this view do not think, do themselves justice. As everybody who has anything to do with the law well knows the path of the law is strewn with examples of open and shut cases which, shomehow, were not of unanswerable charges which, in the event, were completely answered; of inexplicable conduct which was fully explained; of fixed and unalterable determinations that, by discussion, suffered a change. Nor are those with any knowledge of human nature who pause to think for a moment likely to under estimate the feelings of resentment of those who find that a decision against them has been made without their being aforded any opportunity to influence the course of events."

(13) A similar question was considered by the Supreme Court in the case of **Canara Bank and ors.** (Supra), Arijit Pasayat, J. considered the entire gamut of case law and observed as follows :—

"21. How then have the principles of natural justice been interpreted in the Courts and within what limits are they to be confined ? Over the years by the process of judicial

(12) (1964) A.C. 40
(13) (1970) 1 Ch. 345

interpretation two rules have been evolved as representing the principles of natural justice in judicial process, including therein quasi judicial and administrative process. They constitute the basic elements of a fair hearing, having their roots in the innate sense of man for fair-play and justice which is not the preserve of any particular race or country but is shared in common by all men. The first rule is *nemo judex* in *causa sua* or nemo debet *esse judex* in propria causa sua as stated in (1605) 12 C. Rep. 114 that is, no man shall be a judge in his own cause. Coke used the form aliquis non debet *esse judex* in *propria causa quia* not potest *esse judex* at pars (Co. Litt, 1418), that is, no man ought to be a judge in his own case, because he cannot act as judge and at the same time be a party. The form nemo potest *esse simul* actor *et judex,* that is no one can be at once suitor and judge is also at times used. The second rule is *audi alteram partem,* that is, hear the other side. At times and particularly in continental countries, the form audietur at *altera pars* is used, meaning very much the same thing. A corollary has been deduced from the above two rules and particularly the audi *alteram* partem rule, namely qui aliquid statuerit parte *inaudita alteram actquam licet dixerit,* haud acquum facerit that is, he who shall decide anything without the other side having been heard, although he may have said what is right, will not have been what is right (See Bosewell's case or in other words, as it is now expressed, justice should not only be done but should manifestly be seen to be done. Whenever an order is struck down as invalid being in violation of principles of natural justice, there is no final decision of the case and fresh proceedings are left upon. All that is done is to vacate the order assailed by virtue of its inherent defect, but the proceedings are not terminated.

22. What is known as useless formality theory has received consideration of this Court in M.C. Mehta *versus* Union of India. It was observed as under :—

"Before we go into the final aspect of this contention, we would like to state that case relating to breach of natural justice do also occur where all facts are not

admitted or are not all beyond dispute. In the context of those cases there is considerable case-law and literature as to whether relief can be refused even if the court thinks that the case of the applicant is not one of 'real substance' or that there is no substantial possibility of his success or that the result will not be different, even if natural justice is followed (See Malloch *versus* Aberdeen Corpn. (1971) 2 All ER 1278, HL) (per Lord Reid and Lord Wiberforce), Glynn *versus* Keele University, (1971) 2 All ER 89; Cinnamond *versus* British Airports Authority (1980) 2 All ER 368, CA) and other cases where such a view has been held. The latest addition to this view is R.V. 'Ealing Magistrates' Court, ex.p. Fannaran (1996 (8) Admn. LR 351, 358) (See De Smith, Suppl. P.89 (1998) where Straughton, L.J. held that there must be demonstrable beyond doubt that the result would have been different. Lord Woolt in Lloyd *versus* MC Mohan (1987 (1) All ER 1118, CA) has also not disfavoured refusal of discretion in certain cases of breach of natural justice. The New Zealand Court in MC Carthy *versus* Grant (1959 NZLR 1014) however goes halfway when it says that (as in the case of bias), it is sufficient for the applicant to show that there is 'real livelihood-not certainty-of prejudice.' On the other hand, Garner Adminstrative Law (8th Edn. 1996, pp. 271-72) says that slight proof that the result would have been different is sufficient. On the other side of the argument, we have apart from Ridge *versus* Baldwin [1964 AC 40: (1963) 2 All ER 66, HL], Megarry, J. in John *versus* Rees [1969 (2) All ER 274] stating that there are always open and shut cases and no absolute rule of proof of prejudice can be laid down. Merits are not for the court but for the authority to consider. Ackner, J. has said that the useless formality theory is a dangerous one and, however, inconvenient, natural justice must be followed. His Lordship observed that inconvenience and justice are often not on

speaking terms. More recently, Lord Bingham has deprecated the useless formality theory in R.V. Chief Constable of the Thames Valley Police Forces, Ex.p. Cotton (1990 IRLR 344) by giving six reasons *(see* also his article Should Public Law Remedies be Discretionary ?" 1991 PL. p. 64). A detailed and emphatic criticism of the useless formality theory has been made much earlier in Natural Justice, Substance or Shadow by Prof. D.H. Clark of Canada (see 1975 PL. pp.27-63) contending that Malloch *(supra)* and Glynn *(supra)* were wrongly decided. Foulkes (Adminstrative Law, 8th Edn. 1996, P. 323), Craig (Administrative Law, 3rd Edn. P. 596) and others say that the court cannot prejudge what is to be decided by the decision-making authority. De Smith (5th Edn. 1994, paras 10.031 to 10.036) says courts have not yet committed themselves to any one view though discretion is always with the court. Wade (Administrative Law, 5th Edn. 1994, pp. 526—530) says that while futile writs may not be issued, a distinciton has to be made according to the nature of the decision. Thus, in relation to cases other than those relating to admitted or indisputable facts, there is a considerable divergence of opinion whether the applicant can be compelled to prove that the outcome will be in his favour or he has to prove a case of substance or if he can prove a 'real likelihood' of success or if he is entitled to relief even if there is some remote chance of success. We may, however, point out that even in cases where the facts are not all admitted or beyond dispute, there is a considerable unanimity that the courts can, in exericse of their discretion, refuse certiorari, prohibition, mandamus or injunction even though natural justice is not followed. We may also state that there is yet another line of cases as in State Bank of Patiala *versus* S.K. Sharma [JT 1996 (3) SC 722], Rajendra Singh *versus* State of M.P., [JT 1996 (7) SC 216] that even in relation to statutory

provisions requiring notice, a distinction is to be made between cases where the provision is intended for individual benefit and where a provision is intended to protect public interest. In the former case, it can be waived while in the case of the latter, it cannot be waived.

We do not propose to express any opinion on the correctness or otherwise of the 'useless formality theory' and leave the matter for decision in an appropriate case, inasmuch as the case before us, 'admitted and indisputable' facts show that grant of a writ will be in vain as pointed by Chinnappa Reddy, J."

(14) In view of the aforesaid observations, we are unable to accept the submission of Mr. Balram Gupta that it was not necessary for giving an opportunity of hearing to the petitioner by the appellate authority. This very question was also considered by a Full Bench of this Court in the case of **Ram Niwas Bansal** *(supra)*. The question which was posed by the Full Bench of this Court was as follows :—

"Whether, in absence of a specific provision in Regulation 70 of the State Bank of Patiala (Officers) Service Regulations, 1979, granting right of personal hearing to a delinquent officer before the Appellate Authority in departmental proceedings, the Court would read into such rule and provide right of such hearing on the application of maxim *audi alteram partem*, is the precise question that falls for consideration of the Full Bench in this writ petition."

(15) Answering the aforesaid question, it has been held by the Full Bench as follows :—

"36. For the reasons aforestated we are of the considered view that the law laid down by the Hon'ble Supreme Court of India in the case of Ram Chander *(supra)* still holds the field. Further, we are of the view that on the language of Regulation 70, as above noticed, the delinquent officer would have a right to ask for the hearing at the appellate stage. Such right accrues to the applicant from the principles of natural justice. Non-adherence to the maxim

of *Audi Alteram Partem* where it is demanded by the delinquent officer would per se be prejudicial to the case of the delinquent officer and would affect the order of the appellate authority, exercising such wide powers and discretion adversely."

(16) Apart from this, the law has been settled by the Supreme Court in the case of **Ram Chander** *versus* **Union of India and others (14).** The relevant observations of the Supreme Court are as under :—

"25. ..... It is not necessary for our purposes to go into the vexed question whether a post-decisional hearing is a substitute of the denial of a right of hearing at the initial stage or the observance of the rules of natural justice since the majority in Tulsiram Patel's case unequivocally lays down that the only stage at which a Government servant gets a reasonable opportunity of showing cause against the action proposed to be taken in regard to him i.e. an opportunity to exonerate himself from the charge by showing that the evidence adduced at the inquiry is not worthy of credence or consideration or that the charges proved against him are not of such a character as to merit the extreme penalty of dismissal or removal or reduction in rank and that any of the lesser punishments ought to have been sufficient in his case, is at the stage of hearing of a departmental appeal. Such being the legal position, it is of utmost importance after the Forty-Second Amendment as interpreted by the majority in Tulsiram Patel's case that the Appellate Authority must not only give a hearing to the Government Servant concerned but also pass a reasoned order dealing with the contentions raised by him in the appeal. We wish to emphasize that reasoned decisions by Tribunals, such as the Railway Board in the present case, will promote public confidence in the administrative process. An objective consideration is possible only if the delinquent servant is heard and given a chance to satisfy the Authority regarding the final orders

(14) 1986 (2) S.L.R. 608

that may be passed on his appeal. Consideration of fair play and justice also require that such a personal hearing should be given."

(17) The aforesaid observations leave no manner of doubt that it was incumbent on the appellate authority to give an opportunity of personal hearing to the petitioner.

(18) The judgments cited by Mr. Gupta may now be considered. In the case of F.N. Roy (supra), the Supreme Court had observed that there is no rule of natural justice that at every stage a person is entitled to personal hearing. The aforesaid observations have been reiterated by the Supreme Court in the case of State Bank of Patiala (supra). Again in the case of **Jyoti Prakash Mitter** (supra), the Supreme Court was dealing with the powers of the President of India in reference to Article 273 of the Constitution of India. In the case of M/s Jesus Sales Corporation (supra), the Supreme Court has observed that under different situations and conditions, the requirement of compliance of the principle of natural justice varies. The Court cannot insist that under all circumstances and under different provisions, personal hearing had to be afforded to the person concerned. These observations were made in the context of taxation and revenue matters. The petitioner therein had been aggrieved by the order passed by the Appellate Authority under sub-seciton (1) of Section 4-M of the Imports and Exports (Control) Act, 1947. We are of the considered opinion that the aforesaid observations of the Supreme Court are not in any manner contrary to the law laid down by the Supreme Court in the judgments noticed earlier.

(19) The order (Annexure P-12) dated 16th July, 2003 (Annexure P-12) passed by the Chancellor of the respondents-University in the present case is as follows :—

HARYAN RAJ BHAWAN

OFFICE ORDER

I have rejected the memorial/appeal dated 15th October, 2001 of Shri Gulab Singh, Appellant,—*vide* my order dated 12th May, 2003 and conveyed the same to the Registrar, Maharshi Dayanand University, Rohtak,—*vide* letter HRB-UA-32(29)-2004/4266, dated 29th May, 2003. The detailed order is given below.

2. In brief, the facts of the case are that Shri Gulab Singh while working as Superintendent of the Certificate Section of the Maharashi Dayanand University, was found lacking in managerial acumenship, supervision and control as Superintendent in-charge of the section, as a large scale bungling had been going in the record section. The result sheets were tampered with on a large scale, pages from the result sheets were removed, fabricated and fake result sheets were got prepared and pasted in place of original sheets. Original marks were erased and tampered with criminal intent and purpose to destroy its originality. Fake record was so prepared as to resemble and appear to be like the original.

3. The then Vice-Chancellor of Maharshi Dayanand University had constituted an Inquiry Committe comprising the following to inquire into the matter of tampering of result sheets and issuance of fake/bogus detailed Marks Cards/Degrees :—

1.	Dr. R.N. Mishra, Professor, Department of Hindi.	Convenor
2.	Dr. Ravinder Vinayak, Professor, Deparment of Commerce.	Member
3.	Shri K.C. Dadhwal, Deputy Registrar.	Member

This Inquiry Committee met on 7th March, 2000, 8th March, 2000, 9th March, 2000, 10th March, 2000, 22nd March, 2000 and 23rd March, 2000 and duly examined the various employees working in the relevant branches of the University concerned with the matter. Shri Gulab Singh also examined by the Inquiry Committee. The Inquiry Committee came to the conclusion that large scale bungling was going on the University where records of the result sheets were tampered with the apparent connivance of the internal staff for benefiting certain candidates.

4. As far as Shri Gulab Singh was concerned, the Inquiry Committee came to the conclusion that there was a lack of

timely reporting on his part particularly when Shri Kali Ram, the dealing Clerk of the Branch had informed him that wrong verification of results had been done by their branch, Shri Gulab Singh should have acted promptly and Principal of the School/College to whom the wrong verification had been conveyed by the Certificate Section should bave been immediately informed about the correct postion. This step was later on taken by the Certificate Section only after this lapse was pointed out by the members of the Inquiry Committee.

5. After considering this report, seven University employees including Shri Gulab Singh were suspended and charge-sheeted with the approval of the then Vice-Chancellor. Shri Gulab Singh was charge-sheeted for lacking in managerial acumen, supervision and leadership as a Superintendent when the large scale bungling took place. The result sheets were tampered with on a large scale, original pages from the result sheets were removed and fabricated and fake result sheets were prepared and pasted in place of original sheets, original marks obtained by the candidates were erased and tampering was done. Fake record was prepared in such manner that it appears to be original and Shri Gulab Singh in his capacity as Superintendent failed to discharge his duties as the Incharge. Shri Gulab Singh did not exercise proper supervision and was negligent. The cases of forgery were not reported by him to any superior officer and he himself was in connivance and directly involved in the bungling and tampering of record and was thus guilty of acts of omission and commission. Secondly, he failed to maintain dignity and sanctity of the office he held, as duplicate DMC/degrees were issued on the basis of fake and fabricated record which was verified by him as correct and genuine. He was himself involved in the bungling and he could not control indiscipline and misconduct which was unbecoming of a person holding the office of Superintendent in Maharshi Dayanand Unversity. Thus he acted dishonestly and misconducted himself by infringing the disciple for illegal and monetary benefits.

6. After considering the replies submitted to the charge-sheets by the seven University employees including Shri Gulab Singh, regular enquiry was ordered to be conducted by Shri S.S. Singh Dahiya, retired District and Sessions Judge. The inquiry officer submitted his detailed inquiry report and after duly considering his findings, five employees including Shri Gulab Singh was issued show cause notices for dismissal from the service of University and they were finally dismissed from the service of University after considering their replies to the show cause notice.

7. I have perused the Preliminary Enquiry Report and Regular Enquiry Report conducted by Shri S.S. Singh Dahiya, District and Sessions Judge (Retd.) and its findings. I have also gone through the Executive Council's Resolution No. 3 passed in its meeting held on 13th September, 2001,—*vide* which the decision to dismiss Shri Gulab Singh, Superintendent from service was taken. I have also perused order No. EN-11/2k1/13733, dated 24th September, 2001,—vide which Shri Gulab Singh was dismissed from service of the University and the appeal dated 15th October, 2001 under sub-section 14 of Section 9 of the Maharshi Dayanand Unviersity Act, 1975, made by Shri Gulab Singh against his dismissal.

8. Keeping in view the gravity of the charges and in view of the fact that the charges against Shri Gulab Singh have been proved cogently, convincingly and irrefutably, I have no reason to disagree with the decision of the Executive Council of Maharshi Dayanand University, Rohtak taken,—*vide* Resolution No. 3 passed in its meeting held on 13th September, 2001. Hence, I reject the memorial/ appeal dated 15th October, 2001 of Shri Gulab Singh, Superintendent, preferred by him against his dismissal from the service of the University.

(Sd.) . . .,

Chancellor.
4-7-03".

(20) It was necessary to reproduce the entire order passed by the Chancellor of the respondents-University to demonstrate that it does not fulfil the requirements of a speaking order. The order does not specify any reason which weighed with the Chancellor to dismiss the detailed appeal filed by the petitioner. The order does not even make a reference to the grounds of appeal. The order merely recites the sequence of pcoceedings till the passing of the order of dismissal. In Ram Chander's case *(supra)*, it has been categorically held by the Supreme Court that the appellate authority must not only give a hearing to the government servant concerned, but also pass a reasoned order dealing with the contentions raised by him in the appeal. These observations in Ram Chander's case *(supra)* were made by the Supreme Court whilst interpreting the law laid down by the Supreme Court in the case of **Union of India** *versus* **Tulsiram Patel (15).** Under Article 141 of the Constitution of India, the law laid down by the Supreme Court is binding. We are, therefore, unable to accept the submission of Mr. Balram Gupta that it was not necessary for the Chancellor/appellate authority to give an opportunity of hearing to the petitioner at the appellate stage. Since the order passed by the appellate authority is liable to be quashed on the ground that there has been a breach of rules of natural justice, it is not necessary for this Court to consider the merits of the grievances made by the petitioner. The same can be considered in further proceedings in case even after hearing the petitioner, the appeal is dismissed by the appellate authority.

(21) In view of the above, the writ petition is allowed to the extent that the order dated 16th July, 2003 (Anneuxre P-12) passed by the Chancellor of the respondents-University is hereby quashed. The matter is remanded back to the appellate authority to be decided in accordance with law, after affording an opportunity of hearing to the petitioner and by passing well reasoned, speaking order. Let the appeal be decided within two months of the receipt of a certified copy of this judgment.

R.N.R.

(15) 1985 (2) S.L.R. 576