



2026:DHC:7768-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 07.09.2026

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CNR No. DLHC010419012026

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LPA 694/2026 & CM APPLs. 60034/2026**DIRECTOR, VALABHBHAI PATEL CHEST INSTITUTE**

.....Appellant

Through: Mr. M.K. Singh, Adv.

versus

C. RAMESH & ORS.

.....Respondents

Through: Mr.Mohinder J.S.Rupal, Adv. for
University of Delhi.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)**

1. Seeking exception to the judgment dated 28.04.2026 passed by the learned Single Judge in *W.P.(C.) No. 10595/2018*, the instant intra-Court appeal has been preferred by Vallabhai Patel Chest Institute (hereinafter referred to as '**VPCI**'), which is an institution maintained by Delhi University in terms of Statute 30 of the Statutes of the Delhi University read with Ordinance XX of the Ordinance promulgated by the University under Section 31 of the Delhi University Act, 1922.

2. The learned Single Judge, by the impugned judgment dated 28.04.2026, has set aside the order dated 02.05.2017 whereby the services of



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the respondent No.1 were terminated. Simultaneously, the resolution dated 28.02.2017/07.03.2017 passed by the Executive Council of the University insofar as it declares the Governing Body as the competent appointing and disciplinary authority for the respondent No.1 since 21.01.1955 and so far as it endorses the decision of the Governing Body of the institution dated 08.01.2013, has been held to be inoperative against the respondent No.1.

2.1 The learned Single Judge, *vide* the impugned judgment, has given an opportunity to the appellant to initiate fresh disciplinary proceedings in accordance with University Non-Teaching Employees (Terms and Conditions of Service) Rules, 1971 (hereinafter referred to as '**Service Rules, 1971**') subject to conferment of a requisite power by the Executive Council read along with the directions contained in the judgment dated 29.01.2014 passed by learned Single Judge in *W.P.(C.) 2110/2013* and the judgment dated 25.02.2015 passed by the Division Bench in *LPA 106/2015*. The appellant has also been directed to take a considered decision as to whether disciplinary proceedings are required to be initiated against the respondent No.1 and communicate the same to him within a period of four weeks.

2.2 The impugned judgment also provides that in case the appellant decides to initiate disciplinary proceedings, the same shall be conducted in accordance with the applicable rules and shall be concluded as expeditiously as possible, preferably within a period of six months from the date of initiation of such disciplinary proceedings.



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FACTS

3. Certain relevant facts that are necessary to be noticed for appropriately deciding the issue involved in this appeal are as follows:

a) The respondent No.1, on his selection, joined the services under the appellant against the post of Assistant Registrar (Group-A) on 09.06.2001.

b) Governing Body of the appellant – institute took a decision on 21.01.2011 to initiate disciplinary proceedings for major penalty against the respondent No.1, pursuant whereof a charge sheet was issued on 28.03.2011. The respondent, on initiation of the disciplinary proceedings and issuance of the chargesheet, objected to the competence of the Governing Body and the Director of the appellant – institute to initiate the disciplinary proceedings; however, on conclusion of the inquiry, a show cause notice was issued to the respondent No.1 on 08.01.2013 proposing the penalty of dismissal from service.

c) *Vide* order of punishment dated 18.02.2013, the respondent No.1 was dismissed from service based on the decision of the Governing Body of the appellant – institute, which was taken in its meeting held on 27.09.2012, whereby it was decided that the penalty of dismissal from service be imposed upon the respondent No.1.

d) The order of dismissal dated 18.02.2013 was challenged by the respondent No.1 by instituting the proceedings of *W.P.(C.) 2110/2013*, which was allowed by the learned Single Judge *vide* judgment dated 29.01.2014. The learned Single Judge set aside the order of dismissal on the



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ground that in terms of the provisions of Rule 69 of the Service Rules, 1971, it is the Executive Council of the University which is competent to institute disciplinary proceedings against any employee and not the Governing Body of the appellant institute; and thus, in absence of any such delegation of power in this regard by the Executive Council to the Governing Body of the institute, the order of dismissal dated 18.02.2013 was set aside. The learned Single Judge in the order dated 29.01.2014 referred to the provisions of Clause 2(1)(f) of Ordinance XX of the University and returned a finding that the said provision does not vest any authority or power with the Governing Body of the appellant – institute to initiate any disciplinary proceedings and since, in the instant case, the disciplinary proceedings against the respondent No.1 were instituted by the Governing Body of the appellant – institute and not by the Executive Council of the University, as such the very initiation of the disciplinary proceedings were *non-est* which vitiated the proceedings drawn on the said basis, as also the order of punishment of dismissal from service dated 18.02.2013.

e) A petition preferred by the appellant – institute seeking review of the order dated 29.01.2014 passed by the learned Single Judge was dismissed *vide* order dated 20.01.2015, whereafter the appellant – institute filed *LPA 106/2015* before Division Bench of this Court. The said Letters Patent Appeal was disposed of *vide* order dated 25.02.2015 without interfering with the orders passed by the learned Single Judge, dated 29.01.2014 and 20.01.2015. The Division Bench, by the said order dated 25.02.2015, however, observed that since disciplinary power is vested in the Executive Council of the University, the issue of disciplinary action against the



respondent No.1 could be placed before the Executive Council for its decision. The order dated 25.02.2015, thus, disposed of *LPA 106/2015* observing therein that, in alternative to the curative route which can be taken recourse to in terms of paragraph 8 of the judgment dated 29.01.2014 passed by the learned Single Judge, the matter of disciplinary action could be considered by the Executive Council of the University. Paragraph 8 of the judgment of the learned Single Judge, dated 29.01.2014 is extracted herein below:

“8. In view of the above, the writ petition has to be allowed on this short ground. The order of termination has to be set aside. It is ordered according. The respondents, however, shall be empowered to continue the disciplinary proceedings, if so permissible in law, subject to necessary powers being conferred upon it by either a specific general resolution of the Executive Council. There shall, however, be no orders as to costs.”

f) The operative portion of the order dated 25.02.2015 passed by the Division Bench in *LPA 106/2015* is also extracted herein below:

“13. Be that as it may, learned counsel for the appellant states that the appeal may be disposed of clarifying with respect to paragraph 8 of the decision dated January 29, 2014. The clarification being in consonance with the reasoning of the decision dated January 29, 2014 passed by the learned Single Judge; since the disciplinary power is vested in the Executive Council of the University of Delhi, it may be observed that the issue of disciplinary action against the respondent could be placed before the Executive Council of the University of Delhi for its decision. The reason being, the view taken by the learned Single Judge that the power as per the rule to take disciplinary action is with the Executive Council; which power was capable of being delegated but no delegation was shown.

14. We accordingly dispose of the appeal observing that in alternative to the curative route which could be chartered as per para 8 of the impugned decision, the matter of disciplinary action could be considered by the Executive Council of the University of Delhi.”

g) The matter, thereafter, was taken by the appellant – University to the



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Hon'ble Supreme Court by instituting *Special Leave to Appeal (C) No. 2329/2016* which, too, was dismissed *vide* order dated 29.02.2016.

h) It is relevant to point out that pursuant to the order dated 25.02.2015 passed by the Division Bench in *LPA 106/2015*, the Executive Council of the University *vide* its resolution dated 28.05.2015 resolved that the power to initiate disciplinary action against its employees are delegated to the Governing Body of the appellant – institute in terms of University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013 (hereinafter referred to as '**Service Rules, 2013**'). In the said resolution in which it was also noted by the Executive Council that such powers are already vested with the Governing Bodies of the constituent/affiliated colleges, including the appellant institute, in terms of Service Rules, 2013.

i) It is pertinent to note that the Service Rules, 2013 were notified by the Registrar of the University on 28.09.2013 pursuant to the decision of the Executive Council of the University *vide* resolution passed to the said effect in its meeting held on 17.08.2013. Thus, Service Rules, 2013 were enforced w.e.f. 17.08.2013 and simultaneously the Service Rules, 1971 were repealed w.e.f the said date. The notification dated 26.09.2013 issued by the Registrar of the University is extracted herein below:

"NOTIFICATION

Delhi, the 26th September, 2013

In pursuance of the decision of the Executive Council vide its Resolution No. 14 dated the 17th August, 2013, the University Non-Teaching Employees (Terms & Conditions of Service) Rules 2013 are hereby notified. A copy of the same is enclosed herewith. These rules come into force with effect from 17-08-2013



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The University Non-Teaching Employees (Terms & conditions of Service! Rules 1971 is hereby repeated.

S/D
REGISTRAR”

j) It appears that a contempt petition was instituted by the respondent alleging non-compliance of the order dated 25.02.2015 passed by the Division Bench of this Court in *LPA 106/2015* read with the order dated 29.01.2014 passed by the learned Single Judge in *W.P.(C.) 2110/2013*. *Vide* order dated 05.11.2015, the learned Contempt Judge in *CONT.CAS(C) 65/2015* directed the appellant – institute to reinstate the respondent No.1 in service in two weeks with a further observation that in any event the respondent No.1 was not reinstated, the Acting Director of the appellant institute would personally remain present in the Court. While passing the said order dated 05.11.2015, the learned Contempt Judge had also noticed that the termination order of the respondent No.1 was set aside by the learned Single Judge and even in the LPA as well as in the clarificatory application, the order setting aside the termination of services of the respondent No.1 had not been modified or varied. It is in this background that *vide* order dated 05.11.2015, the learned Contempt Judge directed the appellant – institute to reinstate the respondent No.1 in service.

k) Instead of reinstating the respondent No.1 in service, the appellant – institute preferred *LPA 155/2016* which, too, was dismissed by a Division Bench of this Court *vide* order dated 22.08.2016. The petitioner’s application for review of the order dated 22.08.2016 was also dismissed by the Division Bench by means of the order dated 04.10.2016.



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l) It is only thereafter that *vide* order dated 05.12.2016, the appellant – institute reinstated the respondent No.1 in service; however, he was immediately placed under suspension. On 05.12.2016 itself a communication was made by the Governing Body of the appellant – institute seeking approval of the Executive Council of the University of the disciplinary action taken by the Governing Body against the respondent No.1. The Executive Council considered the matter and passed a resolution on 28.02.2017/07.03.2017 resolving that the Executive Council affirms that the competent appointing and disciplinary authority of the non-teaching employees of the appellant – institute since 21.01.1955 is the Governing Body in terms of the resolution dated 21.01.1955. The Executive Council also resolved that in view of the order passed by this Court in *LPA 106/2015* dated 25.02.2015 it endorses the decision taken by the Governing Body dated 08.01.2013 being the appointing and disciplinary authority to terminate the services of the respondent No.1. The resolution dated 28.02.2017/07.03.2017 passed by the Executive Council of the University is extracted hereunder:

“The Executive Council, for removal of any doubt whatsoever, affirms that the competent appointing and disciplinary authority of the non-teaching employees of the Vallabhbhai Patel Chest Institute (VPCI) since 21.01.1955 is its Governing Body, vide EC Resolution No. 13(266) dated 21.01.1955. Further, in view of the orders passed by the Hon'ble High Court in LPA No. 106/2015 dated 25.02.2015, the Executive Council endorses the decision taken by the Governing Body of VPCI, dated 08.01.2013 being the appointing and disciplinary authority, to terminate the services of Sh. C. Ramesh.”

m) After the said resolution dated 28.02.2017/07.03.2017 was passed by the Executive Council of the University, the impugned order dated



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02.05.2017 was issued terminating the services of the respondent No.1 with immediate effect. The order dated 02.05.2017 further provides that since the disciplinary action, as taken by the Governing Body has been approved by the Executive Council, the proposed payment of 25% of back wages to the respondent would be withdrawn and the period from 18.02.2013 to 04.12.2016 would be treated as deemed suspension for which subsistence allowance at the rate of 75% of the pay and allowances of the last pay drawn for this period would be paid.

n) It is this order dated 02.05.2017 terminating the services of respondent No.1 which became the subject matter of challenge before the learned Single Judge in the underlying *W.P.(C.) 10595/2018*, which has been allowed by the impugned judgment dated 28.04.2026 by the learned Single Judge. The learned Single Judge has, as already observed above, quashed the order of terminating the services of respondent No.1, dated 02.05.2017 and has granted certain consequential reliefs to the respondent No.1.

4. Challenging this judgment dated 28.04.2026 passed by the learned Single Judge, the instant Letters Patent Appeal has been preferred.

LEGAL PROVISIONS

5. Before considering and reflecting upon the competing submissions made by learned counsel representing the respective parties, we may note certain statutory/legal provisions which are relevant for appropriate decision of this appeal.



(a) Provisions of Service Rules, 1971

6. Rule 69 of the Service Rules, 1971 describes the authority to institute disciplinary proceedings against non-teaching employees which reads as under:

“69. Authority to institute proceedings:

1. The Executive Council or any other authority empowered by it by general or special order may:-

(a) institute disciplinary proceedings against any employee;

(b) direct a disciplinary authority to institute disciplinary proceedings against an employee on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 67.

2: A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iii) of rules 67 may institute disciplinary proceedings against any employee for the imposition of any of the penalties specified in clauses (iv) to (vi) of rule 67 notwithstanding that such disciplinary authority is not competent under those rules to impose any of the latter penalties.

(The Vice-Chancellor and in his absence the Pro-Chancellor, may institute disciplinary proceedings against any employee).”

(b) Provisions of Service Rules, 2013

7. Rule 58 of Service Rules, 2013 empowers the Executive Council of the University to delegate any power exercisable by it under the said rules to be exercisable by such officer or authority as may be specified in a general or special order to be passed in this regard. Rule 58 of the Service Rules, 2013 reads as under:

“58. Delegation of Powers:



The Executive Council may by general or special order, direct that any power exercisable by it under these rules except the powers (under rule 57 of these rules) shall, subject to such conditions, if any, as may be specified in the order be exercisable also by such officer or authority as may be specified in the order.”

8. Rule 64 of the Service Rules, 2013 describes the appointing authority and appellate authority of various categories of employees of the University and also those of the constituent/affiliated colleges. Rule 64 of Service Rules, 2013 is extracted herein below:

“64. Appointing Authority, Disciplinary Authority and Appellate Authority

(i) *The Appointing Authority, Disciplinary Authority and Appellate Authority in respect of employees of the University/Colleges, other than teachers are specified in the table below.*

(ii) *The Executive Council may impose on an employee of the University/College any of the penalties specified in Rule 63. (iii) Without prejudice to the provisions of sub-Rule*

(ii), the following are the Disciplinary Authorities who may impose on an employee, the penalties specified under Rule 63:

(a) Employees of the University:

Description of service	Appointing Authority	Disciplinary Authority competent to impose penalties		Appellate Authority
		Authority	Penalties (Major/Minor)	
Group C Staff (including erstwhile Group D staff)	Registrar	Registrar	All	Pro Vice Chancellor
Group B	Pro Vice Chancellor	Registrar Pro Vice Chancellor	Minor All	Pro Vice Chancellor Vice Chancellor
Group A	Executive Council	Vice Chancellor Executive	Minor All	Executive Council Executive



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		Council		Council
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Note : Disciplinary sub-committee constituted by E. C. Resolution No. 229 dated 07/03/1987 will assist the Disciplinary Authority.

(b) Employees of the Constituent/Affiliated Colleges other than Government Maintained Institutions

Description of service	Appointing Authority	Disciplinary Authority competent to impose penalties		Appellate Authority
		Authority	Penalties (Major/Minor)	
Group C Staff (including erstwhile Group D staff)	Governing Body	Governing Body	All	Governing Body
Group B	Governing Body	Governing Body	All	Governing Body
Group A	Governing Body	Governing Body	All	Governing Body

Note: In case of an officer drawn from the Central Pool is posted to work with the College, the disciplinary authority in his/her case would as provided under Table (a) above.”

(c) Ordinance

9. For the purposes of providing for certain matters relating to the affairs of the University and its affiliated and constituent colleges, the Executive Council of the University has been vested with power to make Ordinances under Section 30/31 of the Delhi University Act, 1922. In exercise of the said powers, Ordinance XX has been framed governing colleges and institutions maintained by the University. Clause 2 of Ordinance XX applicable to the appellant – institute provides that subject to the control and supervision to be exercised by the Executive Council, the Governing Body of the appellant – institute will manage the affairs of the institute and shall



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have certain powers and functions which are described therein. Clause 2(f) of Ordinance XX applicable to the appellant – institute vests the authority with the Governing Body of the appellant – institute to appoint, suspend or terminate the services of administrative and other non-academic staff of the institute in respect of whom such powers may have been delegated by the Executive Council. Sub-Clause (h) of Clause 2 of Ordinance XX applicable to the appellant – institute also vests in the Governing Body such powers and functions as may be assigned to it by the Executive Council of the University. Clause 2(f) and (h) of Ordinance XX as applicable to the appellant – institute are extracted herein below:

“Ordinance XX

2. Subject to the general control and supervision of the Executive Council, the Governing Body will manage the affairs of the Institute and shall have the following powers and fuctions:

- | | | |
|---------|-----|-----|
| (a) *** | *** | *** |
| (b) *** | *** | *** |
| (c) *** | *** | *** |
| (d) *** | *** | *** |
| (e) *** | *** | *** |

(f) - to appoint, suspend or terminate the services of the administrative and other non-academic staff of the Institute in respect of whom such powers may have been delegated by the Executive Council and to determine the emoluments and conditions of service:

Provided, however, that the qualifications for appointment, emoluments, and conditions of service of such persons shall be in accordance with those laid down by the Executive Council for similar posts in the University.

- | | | |
|---------|-----|-----|
| (g) *** | *** | *** |
|---------|-----|-----|

(h) to exercise such other powers and functions, as may be assigned to them by the Executive Council.”



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ANALYSIS & CONCLUSION

10. Learned counsel for the appellant has laid emphasis on two grounds. He has, firstly, drawn our attention to the resolution of the Executive Council of the University, dated 21.01.1955 and has stated that the said resolution confers the power to initiate disciplinary action against the administrative, clerical and other staff of the appellant – institute, on the Governing Body and therefore, since in the present matter the disciplinary action against the respondent no.1 was initiated by the Governing Body, there is no discrepancy in the action of the appellant – institute; however, learned Single Judge has ignored the aforesaid aspect of the matter.

11. The aforesaid submission made by the learned counsel for the appellant is highly misconceived. For appreciating as to what the resolution dated 21.01.1955 was, we may state, as is apparent from a perusal of the document enclosed with this appeal which is available on pages 194 to 197, that by the said resolution Ordinance for administration of appellant – institute was framed. The Ordinance framed *vide* the said resolution dated 21.01.1955 provides that there shall be a Governing Body constituted for the management and administration of the appellant – institute, which shall comprise of certain members given therein. Clause 2 of the said Ordinance, as was framed *vide* resolution dated 21.01.1955, provides that the Governing Body will manage the affairs of the institute, subject to general control and supervision of the Executive Council and shall have certain powers and functions prescribed therein. The resolution dated 21.01.1955 passed by the



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Executive Council of the University by which the Ordinance for administration of appellant – institute was framed, is extracted hereunder:

E.C – 13

21.1.55

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266. Ref: E.C. No. 241 dated 17-12-54

The Council considered and accepted the report of the Committee appointed by the Council, to consider the question of the administration of the V.P. Chest Institute. (Appendix XII)

It was resolved that the following Ordinance be made: -

Ordinance for the Administration of the Vallabhbhai Patel Chest Institute

1. There shall be a governing Body constituted for the management and administration of the V.P. Chest Institute.

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E.C – 13

21.1.5

The Governing Body shall be constituted as follows: -

- 1. Chairman – Vice Chancellor or a person nominated by him.*
- 2. Treasurer of the University (ex-officio)*
- 3. Director of the Institute (ex-officio) – Member Secretary.*
- 4. One member of the Executive Council nominated by the Executive Council.*
- 5. Dean, Faculty of Medical Science.*
- 6. One member nominated by the Ministry of Health, Government of India.*
- 7. One member nominated by the Ministry of Finance, Government of India.*
- 8. One Assistant Director of the Institute, by rotation, according to seniority for a period of two years.*

2. Subject to the general control and supervision of the Executive Council, the Governing Body will manage the affairs of the Institute and shall have the following powers and functions: -

(a) to organise the teaching and research in the Institute and determine the staff and other requirements for the same. The Governing Body may



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constitute an Advisory Committee to advise it on matters of special interest which the Institute wishes to investigate. The Advisory Committee may include persons who are not connected with the University.

(b) subject to the control of the Academic Council, to prescribe the rules for admission of the students, residents and (sic) resident, and the fees to be paid by them,

(c) to frame the Budget of the Institute and submit the same for approval to the Executive Council, and incur expenditure within the limits fixed in the budget approved by the Executive Council,

(d) to appoint administrative, clerical and other staff of the Institute including those to whom academic and teaching (sic) are assigned, provided that the appointment of (sic) with teaching functions will be subject to their recognition by the University.

(f) to exercise such other powers and functions as may be assigned to them by Executive Council.

266. A. Ref: E.C. No. 234

Consideration of the Constitution of the Governing Body (sic) Shri Guru Tegh Bahadur Khalsa College, and the observations (sic).

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E.C – 13

21.1.5

The Governing Body shall be constituted as follows: --

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- 1. Chairman – Vice Chancellor or a person nominated by him.*
- 2. Treasurer of the University (ex-officio)*
- 3. Director of the Institute (ex-officio) – Member Secretary.*
- 4. One member of the Executive Council nominated by the Executive Council.*
- 5. Dean, Faculty of Medical Science.*
- 6. One member nominated by the Ministry of Health, Government of India.*
- 7. One member nominated by the Ministry of Finance, Government of India.*
- 8. One Assistant Director of the Institute, by rotation, according to seniority for a period of two years.*



2. Subject to the general control and supervision of the Executive Council, the Governing Body will manage the affairs of the Institute and shall have the following powers and functions: -

(a) to organise the teaching and research in the Institute and determine the staff and other requirements for the same. The Governing Body may constitute an Advisory Committee to advise it on matters of special interest which the Institute wishes to investigate. The Advisory Committee may include persons who are not connected with the University.

(b) subject to the control of the Academic Council, to prescribe the rules for admission of the students, residents and non-residents, and the fees to be paid by them,

(c) to frame the Budget of the Institute and submit the same for approval to the Executive Council, and incur expenditure within the limits fixed in the budget approved by the Executive Council,

(d) to appoint administrative, clerical and other staff of the Institute including those to whom academic and teaching functions are assigned, provided that the appointment of persons with teaching functions will be subject to their recognition by the University.

(f) to exercise such other powers and functions as may be assigned to them by Executive Council.

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E.C – 13

21.1.55

College on the previous comments of the Council was deferred, pending the College supplying legible copies for members.

267. The Council sanctioned an additional post of Assistant for the Confidential Branch of the Registrar's office owing to increase in the work of Examinations.

T.P.S. IYER
Registrar
Secretary

G.S. MAHAJANI
Vice-Chancellor
Chairman."

12. We may clarify that the said resolution dated 21.01.1955 was passed



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by the Executive Council framing the aforesaid Ordinance on Ref.: E.C. No. 241 dated 17.12.1954 and though in the document which has been enclosed by the appellant along with the appeal at pages 194 to 197, the date 21-1-5 appears, however, the same seems to be typographical error for the reason that at the last page of this document at page 197 of the appeal, the date mentioned is 21.01.1955.

13. Clause 2 of the afore-quoted Ordinance framed by the Executive Council of the University *vide* its resolution dated 21.01.1955, vests certain powers and functions with the Governing Body, sub-clause 'd' whereof provides that the Governing Body shall be vested with the power to appoint administrative, clerical and other staff of the appellant – institute, including those to whom academic and teaching functions are assigned, provided that the appointment of persons with teaching functions will be subject to their recognition by the University. Sub-clause 'f' provides that the Governing Body shall exercise such other powers and functions as may be assigned to them by the Executive Council.

14. Thus, the reliance placed by the learned counsel for the appellant on the resolution dated 21.01.1955 is absolutely misplaced for the reason that so far as appointment in the appellant – institute on various administrative, clerical and other staff is concerned, the said power is available with the Governing Body; however, it does not vest any power or authority to take disciplinary action against the employees of the appellant – institute. There is no document or material available on record whereby the Executive Council has assigned the powers to take disciplinary action in the Governing



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Body of the appellant – institute. In the absence of any specific power to initiate disciplinary action and also in absence of any assignment of any such power by the Executive Council in the Governing Body as per the resolution dated 21.01.1955, the submission made on behalf of the appellant – institute that it is the Governing Body which possesses the power to initiate disciplinary action, is untenable.

15. The aforesaid aspect of the matter has been elaborately considered by the learned Single Judge in the impugned judgment, where referring to the 1955 resolution, the learned Single Judge has returned a finding that the said resolution does not in express terms designate the Governing Body as the disciplinary authority, nor does it empower the Governing Body to institute disciplinary proceedings for imposition of major penalty upon the employees who are governed by the subsequent statutory regime, namely Service Rules, 1971 wherein the authority competent to initiate such proceedings has been prescribed.

16. In addition to what has already been observed by the learned Single Judge, we may refer to the provisions of Rule 69 of the Service Rules, 1971, which has already been quoted above in a preceding paragraph of this judgment. Rule 69 specifically vests authority to institute disciplinary proceedings in the Executive Council or any other authority empowered by the Executive Council by general or special order. As has already been observed above, there is no document or material available, whereby Executive Council has empowered any authority other than itself to institute disciplinary proceedings against the employees of the appellant – institute.



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The appointment of the respondent no.1 in the appellant – institute was made on 09.06.2001 on the post of Assistant Registrar (Group-A) and at that time, the rules regulating the appointment and other conditions of service which were in vogue were the Service Rules, 1971 and therefore, all service-related matters which are specifically provided for in the Service Rules, 1971 are to be dealt with strictly in accordance with the provisions contained in the said rules and not otherwise.

17. Since Rule 69 of Service Rules, 1971 vests the authority to institute disciplinary proceedings against the employees of the appellant – institute in the Executive Council, in absence of any assignment of such power to any other body including the Governing Body, we are in complete agreement with the learned Single Judge who has rightly arrived at the conclusion that it is the Executive Council, who was empowered to institute disciplinary proceedings and not the Governing Body.

18. We may also refer to the decision taken by the Executive Council vide its resolution dated 28.02.2017/07.03.2017, wherein it has been stated that the competent appointing and disciplinary authority of non-teaching employees of the appellant – institute is its Governing Body since 21.01.1955 vide resolution of the Executive Council No. 13 (266) dated 21.01.1955. We have already discussed in detail as to what exactly was the resolution No. 13 (266) dated 21.01.1955 of the Executive Council of the University. By the said resolution, the Ordinance for administration of Vallabhbhai Patel Chest Institute was framed, the relevant provision whereof does not vest any authority in the Governing Body of the appellant



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– institute to initiate disciplinary proceedings against its employees. Thus, the resolution dated 28.02.2017/07.03.2017 of the Executive Council appears to be based on complete misreading of the resolution dated 21.01.1955 and therefore, the said resolution so far as it endorses the decision taken by the Governing Body of the appellant – institute dated 08.01.2013 dismissing the respondent no.1 from service, is also completely illegal and against the legal provisions discussed above.

19. Since the order dated 02.05.2017 terminating the services of the respondent no.1 is based on the resolution of the Executive Council dated 28.02.2017/07.03.2017 which we have found to be untenable, the order dated 02.05.2017 also cannot be permitted to be sustained. Thus, in this respect as well, the findings recorded by the learned Single Judge in the impugned judgment, in our opinion, do not suffer from any illegality or irregularity so as to call for any interference by us in this appeal.

20. Learned counsel for the appellant, secondly, has also laid emphasis on the order dated 25.02.2015 passed by the Division Bench of this Court in *LPA 106/2015*, whereby the appeal was disposed of with the observation that the appellant – institute can take recourse to alternative to the curative route which could be chartered as per paragraph 8 of the decision of learned Single Judge dated 29.01.2014. We have already extracted the operative portion of the order dated 25.02.2015 passed by the Division Bench, as also paragraph 8 of the order dated 29.01.2014 passed by the learned Single Judge, in one of the preceding paragraphs of this judgment.

21. The resolution dated 28.02.2017/07.03.2017 passed by the Executive



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Council based on which the order terminating the services of respondent no.1 was passed, refers to the resolution dated 21.01.1955, however instead of assigning the power of initiation of disciplinary proceedings against the employees of the appellant – institute, the said resolution only states that the power to institute disciplinary proceedings have all along been vested with the Governing Body of the appellant – institute right from the year 1955 by the Executive Council since the passing the resolution dated 21.01.1955. The resolution dated 21.01.1955, as already discussed above, in no manner empowers the Governing Body by which the Ordinance for administration of appellant – institute was framed. The said Ordinance framed by the said resolution dated 21.01.1955 nowhere empowers the Governing Body of the appellant – institute to initiate the disciplinary proceedings against its employees and therefore, such submission based on the order of the Division Bench dated 25.02.2015 does not, in any manner, help the cause being pleaded on behalf of the appellant – institute.

22. We may also refer to the subsequent Service Rules framed in the year 2013 which were notified *vide* notification dated 26.09.2013 and had come into force w.e.f. 17.08.2013. The Service Rules, 2013 do not have any application to the facts of the present case for the reason that disciplinary proceedings against the respondent no.1 were instituted prior to promulgation of the said rules, i.e. on 21.01.2011. Otherwise, even Rule 64 of the Service Rules, 2013, which prescribes the appointing authority, disciplinary authority and appellate authority, clearly stipulates that the disciplinary authority in respect of Group-A officers of the appellant – institute will be the Vice-Chancellor/Executive Council and accordingly,



submission made on behalf of the appellant – institute based on the provisions of Service Rules, 2013 is misplaced. Such submission is not acceptable also for the reason that Rule 58 of Service Rules, 2013 empowers the Executive Council of the University to delegate its powers by a general or special order; however, no such general or special order is available on record of this appeal, whereby the Executive Council has delegated its power to institute disciplinary proceedings to the Governing Body of the appellant – institute.

23. The learned Single Judge has considered all the aforesaid aspects of the matter and has rightly quashed the order dated 02.05.2017 whereby the services of the respondent no.1 were terminated, and further the Executive Council resolution dated 28.02.2017/07.03.2017 has been rightly held to be inapplicable in so far as it endorsed the decision of the Governing Body dated 08.01.2013.

24. For all the aforesaid reasons, we do not find any good ground to interfere with the impugned judgment dated 28.04.2026 passed by the learned Single Judge in *W.P.(C) 10595/2018*.

25. Resultantly, the appeal is hereby dismissed.

26. Having regard to the facts and circumstances of the case, especially the fact that the respondent no.1 seems to have been unnecessarily dragged into multiple litigations for about 12 years though the order of dismissal was set aside way back on 29.01.2014, it would be appropriate to impose a cost of Rs.50,000/-, which shall be paid by the appellant – institute to the



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respondent no.1 within a period of six weeks, failing which the cost shall be recoverable as arrears of land revenue.

27. Application(s), if any, stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

SEPTEMBER 07, 2026
N.Khanna/“shailndra”