

CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.6052 OF 2001@@
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(Arising out of S.L.P.(C)No. 4251/2001)

U.P. Coop. Sugar Mills Federation Ltd. & Anr. Appellant (s)

versus

Suresh Chandra Johri Respondent (s)

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Leave granted.
Heard learned counsel for the parties.

Appellant No.1 is an apex Cooperative Society constituted under the U.P. Cooperative Societies' Act, 1965. Kisan Sehkari Chini Mills Ltd. is a sugar factory in cooperative sector and the respondent herein was the General Manager of the said Mill. It appears that during the course of employment certain misconduct and financial irregularities committed by the respondent came into light. With the result, the appellants herein directed for holding of departmental enquiry against the respondent. In the said departmental enquiry respondent was found guilty of committing misconduct and the financial irregularities with the result he was dismissed from service. The respondent thereafter preferred a writ petition under Art. 226 of the Constitution before the High Court of Allahabad challenging the order of dismissal. The writ petition came up for hearing before a Division Bench of the Allahabad High Court at Lucknow Bench. The Division Bench by the impugned order has set aside the order of dismissal with liberty to the appellants to start de novo departmental enquiry from the stage the defect in the enquiry was found.

It is against the said judgment the appellants are in appeal before us. A perusal of the impugned judgment shows that the High Court has held that the enquiry suffers from the vice of arbitrariness and violation of principles of natural justice. It has not been pointed out in the judgment under appeal what was the violation of principles of natural justice or arbitrariness. At second place the High Court has held that no full fledged inquiry was conducted. Again no serious defect in the enquiry has been pointed out. In fact the observations of the High Court are in the realm of speculation and conjectures and no positive finding has been recorded in respect of any of the defects or breach of principles of natural justice in the departmental enquiry. Regarding statement of the respondent before the enquiry officer we refrain ourselves to express any opinion on merits. Seeing the matter in entirety we find that the High Court while allowing the writ petition has not dealt with the matter as it was required to be done. In that view of the matter the judgment under challenge deserves to be set aside. We accordingly set aside the impugned judgment and send the case back to the High Court for decision on merits.

The appeal is allowed. There shall be no order as to costs.

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(V.N. Khare)

New Delhi,
August 31, 2001.

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(B.N. Agrawal)