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

Decided on: 05.08.2025

+ **W.P.(C) 15525/2023**

SARFRAZ AHMAD

.....Petitioner

Through: Mr. Alamgir, Advocate with
petitioner.

versus

THE VICE CHANCELLOR, JMI AND ORS.Respondents

Through: Mr. Prithvi Sabharwal, SC for JMI
with Ms. Shmeta Singh, Mr.
Sarjeet Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. By way of this writ petition under Article 226 of the Constitution, the petitioner assails an order dated 20.03.2023, by which the respondent – Jamia Millia Islamia [“the University”], terminated his services as Assistant Professor, Department of Persian.
2. The petitioner was appointed to the aforesaid post on 12.12.2012. It is the petitioner’s case that, he was subjected to victimisation by certain Professors in the Department, which ultimately led him to discontinue taking classes for a period of time. According to the petitioner, the matter was thereafter resolved by the Registrar of the University, pursuant to



which he resumed taking classes in the year 2021.

3. The position of the University, however, is that the petitioner remained unauthorisedly absent from classes for approximately two years, as a result of which several complaints were received against him. Consequently, an Inquiry Committee was constituted on 05.04.2021 pursuant to the recommendation of the Executive Council dated 31.12.2020. The Committee was tasked with looking into complaints lodged by the petitioner, as well as a complaint made by the Head of Department against him. The Committee held two meetings and interacted with both the petitioner and the Head of Department. It subsequently recommended that the petitioner's presence in the Department vitiated the academic atmosphere.

4. The inquiry report was placed before the Executive Council in the meeting held on 10.08.2022, which resolved as follows:

"The House deliberated about the complaint lodged by Prof Abdul Halim and perused the contents thereof.

The Majlis (EC) also deliberated the report of the Inquiry Committee. In terms of Clause 5 of the report, it was proposed that the presence of such a teacher in a department is enough to vitiate the academic atmosphere of the department and felt that strict action be initiated against Dr. Sarfraz Ahmad, invoking service rules regarding dereliction of duty; deliberately on-engagement of classes continuously; his refusal to perform other academic responsibilities like setting of question papers, attending departmental meetings, performing invigilation duties etc; defiance of administrative authorities; non-compliance of office orders; and misbehavior and obstructing others in their work.

After due deliberations, the House recommended removal of Dr. Sarfraz Ahmad, Assistant Professor, Department of Persian from the services of JMI as Assistant Professor in accordance with the Statute



37 of JMI Statutes.¹

5. The petitioner was thereafter served with a show cause notice dated 08.09.2022, giving him an opportunity to explain why the proposed action should not be taken against him.

6. The petitioner responded to the aforesaid show cause notice on 22.09.2022, whereafter the matter was placed before the Executive Council, which passed a resolution on 22.02.2023 in the following terms:

“The House considered the reply, dated 22.09.2022 submitted by Dr. Sarfraz Ahmad, Assistant Professor, Department of Persian in compliance of Statute 37 (4) of Statutes of JMI. It has been unanimously resolved to remove Dr. Sarfraz Ahmad from his service, as Assistant Professor, Department of Persian from the date of order of removal.”

7. The impugned order dated 20.03.2023 was issued pursuant to this resolution, by which the petitioner was removed from the services of the University with effect from 23.02.2023, and was to be paid three months’ salary *in lieu* of notice.

8. Having heard Mr. Alamgir, learned counsel for the petitioner, and Mr. Prithish Sabharwal, learned Standing Counsel for the University, I am of the view that the facts of the present case disclose inadequate compliance with the principles of natural justice. The provision regarding removal of teachers is contained in Statute 37 of the Jamia Millia Islamia Act, 1988 [“1988 Act”], which reads as follows:

“37. REMOVAL OF TEACHERS:

(1) Where there is an allegation of misconduct against a teacher, or a member of the academic staff, the Shaikh-ul-Jamia (Vice-Chancellor)

¹ Emphasis supplied.



may, if he thinks fit, by order in writing, place the teacher under suspension and shall forthwith report to the Majlis-i-Muntazimah (Executive Council) the circumstances in which the order was made:

Provided that the Majlis-i-Muntazimah (Executive Council) may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of his contract or service or of his appointment, the Majlis-i-Muntazimah (Executive Council) shall be entitled to remove a teacher or a member of the academic staff on the ground of misconduct.

(3) Save as aforesaid, the Majlis-i-Muntazimah (Executive Council) shall not be entitled to remove a teacher or a member of the academic staff except for good cause and after giving three months' notice in writing or on payment of three months' salary in lieu thereof.

(4) No teacher or a member of the academic staff shall be removed under clause (2) or under clause (3) until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher or a member of the academic staff shall require a two-thirds majority of the members of the Majlis-i-Muntazimah (Executive Council) present and voting.

Provided that the teacher or the member of the academic staff may prefer a review against the penalty of removal from service, which may be considered by the Executive Council.

(6) The removal of a teacher or a member of the academic staff shall take effect from the date on which the order of removal is made.

Provided that where a teacher or a member of the academic staff is under suspension at the time of his removal, the removal shall take effect from the date on which he was placed under suspension.

(7) Notwithstanding anything contained in the Statutes, a teacher or a member of the academic staff may resign by giving three months' notice in writing to the Majlis-i-Muntazimah (Executive Council) or on payment to the University of three months' salary in lieu thereof.²

² Emphasis supplied.



9. The admitted position is that the inquiry report, on the basis of which the Executive Council passed its resolutions dated 10.08.2022 and 22.02.2023, was never served upon the petitioner. Paragraph 3 of the writ petition specifically avers that a copy of the inquiry report was not provided to him. Although the respondents were granted multiple opportunities to file their counter affidavit in the present writ petition, they have failed to do so, and their right to file was closed by order of the learned Registrar dated 11.07.2025. Nonetheless, at my request, Mr. Sabharwal has produced the University's record and confirms that the inquiry report was, in fact, never served upon the petitioner.

10. Both resolutions of the Executive Council of the University dated 10.08.2022 and 22.02.2023, are predicated solely on the Inquiry Committee's report. Non-service of the report is, therefore, of great significance, as it deprived the petitioner of the opportunity to respond to the principal allegations against him.

11. Further, Statute 37 (4) of 1988 Act requires that a reasonable opportunity to show cause be given to the concerned faculty member before a decision is taken by the Executive Council. In the present case, the Executive Council's resolution dated 10.08.2022, passed prior to service of any show-cause notice, had already "*recommended removal*" of the petitioner. The subsequent issuance of a show-cause notice on 08.09.2022 and receipt of the petitioner's reply, in purported compliance of Statute 37(4) of 1988 Act was, therefore, of limited significance, as the decision-making body, which is the Executive Council, had already made a "*recommendation*", prior to issuance thereof. Coupled with the failure



to provide the inquiry report, this is a clear case of “*too little, too late*”.

12. Mr. Sabharwal points out that the proviso to Statute 37(5) of the 1988 Act provides for a review before the Executive Council, against the penalty of removal from the services of the University. However, the record reveals that the petitioner made a representation against the impugned order on 17.10.2023, but the representation was not placed before the Executive Council for consideration of review. In view of the above violations of natural justice, the impugned order dated 20.03.2023 must, therefore, be set aside, rather than relegating the petitioner to the remedy of review at this stage.

13. In light of the above, the writ petition is disposed of with the following directions:

- (a) The impugned order dated 20.03.2023 and the resolution of the Executive Council dated 22.02.2023, referred to in paragraph 8 thereof, are set aside.
- (b) The resolution of the Executive Council dated 10.08.2022 will be treated as a proposal for removal of the petitioner from the services of the University.
- (c) A copy of the inquiry report, along with all documents considered by the Executive Council, shall be handed over to the petitioner through Mr. Alamgir, during the course of the day.
- (d) The petitioner may file a detailed response within two weeks of service of the inquiry report, showing cause why his services should not be terminated. The response will be treated as the opportunity to show cause under Statute 37 (4) of the 1988 Act.



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- (e) The matter shall be considered at the first meeting of the Executive Council thereafter, and a fresh decision may be taken in accordance with the Statute.
- (f) The petitioner's right to seek review under Statute 37(5) of the 1988 Act shall remain open, in the event of an adverse decision.
- (g) Although the impugned order of termination has been set aside, it is open to the University to take such action against the petitioner, as are open to it, in accordance with the Act and the Statutes of the University.

PRATEEK JALAN, J

AUGUST 5, 2025
'Bhupi/sd' /