



2026:AHC:46935-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 140 of 2026

Faizan Ahmad

.....Appellant(s)

Versus

State of U.P. and 6 others

.....Respondent(s)

Counsel for Appellant(s) : Uday Karan Saxena (Sr. Adv.), Anay Kumar Srivastava, Divya Yadav

Counsel for Respondent(s) : Rajiv Singh, S.C., Ashok Khare (Sr. Adv.), J.P. Singh, S.K. Singh Paliwal, Arvind Kumar Upadhyay

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.**

1. This appeal is directed against order dated 27.11.2025 passed by learned Single Judge in Writ-C No. 39830 of 2025, whereby the writ petition filed by the petitioner seeking action against respondents no. 6 and 7 under the provisions of Section 40 of the U.P. State Universities Act, 1973 ('the Act') has been dismissed.

2. The appeal is barred by 45 days.

3. For the reasons indicated in the application supported by affidavit, seeking condonation of delay, the same is allowed. Delay in filing the appeal is condoned.

4. The petition was filed inter alia seeking initiation of action against respondents no. 6 and 7 for the alleged misappropriation of the funds of the University.

5. Submissions were made that in terms of provisions of Section 40 of the Act, the State was bound to initiate proceedings which has not been done and, therefore, a direction in this regard may be issued. Learned Single Judge based on the language of Section 40 of the Act came to the conclusion that the inquiry cannot be got initiated at the instance of the petitioner, which is in the domain of the State Government and

consequently dismissed the petition as misconceived.

6. Counsel for the appellant submitted that based on the complaint, the Commissioner, Azamgarh Division, Azamgarh has sent a report to the Regional Higher Education Officer (Annexure-6 to the writ petition) pointing out the deficiencies, however, no action has been taken.

7. Counsel for the respondent-University pointed out that after the report dated 06.06.2025 was forwarded by the Commissioner on 03.07.2025, another Committee was appointed by the Higher Education Department which gave its report on 04.08.2025 pursuant to which, direction dated 16.01.2026 has been issued for the purpose of disposal of purported deficiencies pointed out in the report dated 06.06.2025 and, therefore, it cannot be said that the State has not taken any action based on the complaint/report of the Commissioner and, therefore, the plea sought to be raised irrespective of the fact that the petitioner has no locus to seek initiation of proceedings under Section 40 of the Act, has no substance.

8. We have examined the submissions made and have perused the material available on record.

9. In so far as seeking initiation of inquiry under Section 40 of the Act is concerned, the learned Single Judge was justified in coming to the conclusion that based on the material it is within the domain of the State whether to initiate proceeding under Section 40 of the Act or not and no mandamus in this regard can be issued.

10. So far as the complaint/report of the Commissioner is concerned, the material produced by the respondents clearly reflects that the State based on the report of the Commissioner has taken action, whereby another Committee was appointed which examined the report dated 06.06.2025 and has given its recommendation on 04.08.2025 based on which communication dated 16.01.2026 has been issued for the disposal of the deficiencies pointed out.

11. In that view of the matter, we do not find any reason to pass any further orders in the matter.

12. The appeal has no substance, the same is, therefore, **dismissed**.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

March 9, 2026
RK/AKShukla