



2026:AHC:128218

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 19347 of 2026

Nikhil Kumar

.....Petitioner(s)

Versus

The Vice Chancellor, Atal Bihari Vajpayee
Medical University And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Krishna Deep Singh, Mahendra Pal Singh
Counsel for Respondent(s)	: Ashwani Tripathi, Ramanuj Tripathi, Rohit Pandey

Court No. - 49

HON'BLE KUNAL RAVI SINGH, J.

1. Heard learned counsel for the petitioner; Sri Ashwani Tripathi, learned counsel appearing on behalf of respondent nos. 3 and 4; Sri Rohit Pandey, learned counsel appearing on behalf of respondent nos. 1 and 2 as well as Sri Kartikeya Saran, learned counsel as amicus curiae.
2. The present petition has been filed challenging the impugned order dated 16.12.2025 passed by the private respondent nos. 3 and 4, whereby the petitioner was suspended for a period of six months on the basis of the decision taken by the disciplinary committee of respondent nos. 3 and 4. Learned counsel for the petitioner has further made a prayer to grant permission to the petitioner to appear in the regular examination of Bachelor of Physiotherapy Batch2021-22 (VIII Semester).
3. Learned counsel for the petitioner has submitted that the petitioner was suspended by means of order dated 16.12.2025 with immediate effect and the said decision has been taken by the disciplinary committee with no further provision of appeal to be entertained. He submitted that there was some dispute between a female student and the petitioner and a complaint was made against the petitioner stating therein that the petitioner has threatened the female student with physical assault. On the complaint being made by the female student, the College has taken notice of the same and issued a show cause notice to the petitioner as well as father of the petitioner. The father of the petitioner had attended a meeting with the College Authority and assured that the petitioner would not indulge in any

such behaviour and would not have any disciplinary issue in future. He further submits that the notice of suspension did not give any forum for remedy of appeal and as such he has been left with no remedy against the order of suspension. At this stage, he submits that six months' suspension period stands over on 15.06.2026 and, therefore, the petitioner should be permitted to appears in the main examination.

4. Per contra, learned counsel appearing on behalf of the private College has submitted that the order has been passed by the private College and, therefore, writ petition is not maintainable on this ground alone. He submits that the College does not fall under the purview of State under Article 12 of the Constitution of India, therefore, no writ petition is maintainable against any order passed by the College. He further submitted that since the mandatory attendance is not there, therefore, the petitioner cannot be permitted to sit in the main examination.

5. At this stage, the Court looked into the merits with regard to the preliminary objection raised by the learned counsel for the respondent College and asked Sri Kartikeya Saran to assist the Court with regard to the preliminary objection so raised. Sri Saran has apprised to the Court with the judgment passed by the Full Bench of this Court in **Writ-A No. 63708 of 2014; Roychan Abraham vs. State of U.P. and others**, wherein the Court has framed specific issues, which are reproduced herein below:-

“(1) Whether private institutions imparting education perform public duty, a State function, making them amenable to judicial review under Article 226 of the Constitution of India;”

6. Sri Kartikeya Saran has further drawn attention of the Court to the answer given to the said question in paras 40 to 50 of the said judgment and has then drawn attention of the Court to paragraph 64, which is reproduced herein below:-

"64. **Question(i):** Private Institutions imparting education to students from the age of six years onwards, including higher education, perform public duty primarily a State function, therefore are amenable to judicial review of the High Court under Article 226 of the Constitution of India."

7. On the basis of the said issue, he submits that private institutions

imparting education to students from the age of six years onwards, including higher education, perform public duty primarily a State function, therefore, are amenable to judicial review of the High Court under Article 226 of the Constitution of India. He submits that on the basis of the Full Bench judgment rendered by this Court, which has also considered the dictums of Supreme Court and the contention raised is liable to be rejected.

8. Heard rival submissions and perused the record. Perusal of the record shows that as to the question of preliminary objection, the law is no longer res integra in light of the ratio as laid down in **Roychan** (supra). This Court finds that private institutions are within the purview of rendering public function and the order passed by the private institutions are amenable to judicial review under Article 226 of the Constitution of India.

9. Coming to the second question with regard to the merits of the matter, it is clear from the record of the case that the suspension order dated 16.12.2025 has now come to its end, as the same time period imposed upon the petitioner is now over. A perusal of the order also shows that the disciplinary committee has decided the suspension of the petitioner, however, it is not clear from the order as to whether any show cause notice was actually issued by the disciplinary committee to the petitioner and what was the reason indicated by the disciplinary committee to take such a drastic step to adversely affect the career of the petitioner. There is no further venues of appeal thereby rendering the petitioner remedy-less. Prima facie this Court is of the opinion that the petitioner was imposed with a punishment which has now come to its logical end and, therefore, the petitioner cannot be penalised further by restraining him from appearing in the final examination on the basis of shortage of attendance. The Court has reached this conclusion on the basis that the punishment imposed by the College did not have any provision of appeal as stated in the order. It does not appear from any communication or the impugned order that the College has provided a forum for filing appeal. As such, taking into consideration the overall scenario, it is the considered view of this Court that the petitioner has already been punished with regard to the alleged offence that was committed by him. He was suspended for a period of six months, thereafter the period of suspension also come to an

end during pendency of the writ petition. The private respondent nos. 3 and 4, despite there being an order by the Court dated 18.05.2026, have not filed any Rules or Regulations framed by the College, which provides for such disciplinary action and neither they have brought any Rules and Regulations on record to show that there was any further remedy of appeal, which the petitioner failed to avail.

9. In light of the above facts and circumstances, this Court is of the considered view that the present petition is to be allowed partly with a direction that the petitioner shall be permitted to appear in the main examination to be conducted from 22.06.2026 without imposing the condition of mandatory attendance. As to the issue of setting aside the impugned order, the same is an academic exercise, as the punishment has already been undergone by the petitioner and the same has come to an end.

10. With the aforesaid direction, the writ petition stands **partly allowed**.

11. The Court notes its appreciation to the valuable assistance provided by Sri Kartikeya Saran, learned amicus curiae.

(Kunal Ravi Singh,J.)

June 18, 2026

Pkb/