



2024:DHC:697



\$~268

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

+ **W.P.(C) 1283/2023 & CM APPL. 4886/2023**

BHIM RAJ & ANR.

..... Petitioners

Through: Mr. Abhik Chimni, Mr. Saharsh Saxena, Mr. Anant Khajuria and Ms. Riya Pahuja, Advs.

versus

SOUTH ASIAN UNIVERSITY

..... Respondent

Through: Mr. Sandeep Kumar Mahapatra, CGSC with Ms. Mrinmayee Sahu Mahapatra and Mr. Tribhuvan, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

%

30.01.2024

1. The facts of this case, and the issue involved, are largely identical to those which were under consideration before this Court in its judgment in *Apoorva Y.K. v. South Asian University*¹.

2. The petitioners were admitted as Ph.D students in the South Asian University ("SAU", hereinafter).

3. On 4 November 2022, identical orders were issued to the petitioners under signature of the Proctor of the SAU, alleging that the petitioners had been persistently involved in acts of indiscipline, inconsistent with the rules, regulations and bye-laws governing the

¹ Judgment dated 18 January 2024 in W.P.(C) 3667/2023



2024:DHC:697



SAU and that, despite having been constantly advised to adhere to the code of conduct governing students, they had failed to do so. Petitioner 1 was, therefore, rusticated from the SAU with immediate effect till the end of the 2022-23 academic year whereas Petitioner 2 was expelled from the SAU with immediate effect.

4. Though Mr. Chimni, learned Counsel for the petitioners, has sought to contend that there was no prior communication between the SAU and either of the petitioners, before these orders were issued, I am not entering into this arena, as it is not necessary for adjudicating the present *lis*.

5. On 22 November 2022, both the petitioners wrote to the Acting President of the SAU, praying that the decision to expel/rusticate them be reconsidered.

6. Thereafter, on 23 November 2022, the SAU issued separate orders to the petitioners.

7. The order issued to Petitioner 1 reduced the penalty of rustication, imposed on Petitioner 1, to suspension till 11 November 2022, accompanied by a censure with a strict warning that any further act of indiscipline would be viewed strictly.

8. The order issued to Petitioner 2 modified the decision of expulsion imposed on him to rustication till 22 November 2022, accompanied by a ensure and warning as were issued to Petitioner 1.



2024:DHC:697



9. It is important to note that both these orders were issued on 23 November 2022.

10. Two days later, on 25 November 2022, identical orders came to be issued by the SAU to each of the petitioners expelling them from the portals of the SAU and declaring them out of bounds of the SAU with immediate effect.

11. The orders are identical. The order issued to Petitioner 1 read thus:

“SOUTH ASIAN UNIVERSITY
Akbar Bhawan Campus, Chanakyapuri, New Delhi-110021, India
Tel. 91-11-2412 2512-14 Fax: 91-11-24122511
website:www.southasianuniversity.org

No. SAU/Proctor/2022/1380

25th November 2022

ORDER

Whereas, by the Order, dated 4.11.2022, you were rusticated from the University till the end of the current academic year for being persistently involved in acts of indiscipline inconsistently with the relevant provisions of the SAU Rules, Regulations and Bye-Laws.

Whereas, by your communication of regret, dated 22.11.2022, you had requested the University to take a sympathetic view of the said Order, dated 4.11.2022.

Whereas, by its Order, dated 23.11.2022, the University reduced your rustication to suspension till 11.11.2022 with a strict warning that any recurrence of such an act will be viewed strictly.

Whereas, on 23.11.2022, you first forcibly barged into office of the Acting Registrar with a group of students when the said Acting Registrar was meeting with other officials of the University in his said office and made it totally dysfunctional/ paralyzed to force him to do what he was not bound to do (such as to completely

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30



2024:DHC:697



revoke your rustication and resign as Acting Registrar) or omit from doing (such as discussion with other officials of the University) under the said Rules, Regulations and Bye-Laws of the University and later made him captive for several hours to again force him to do what he was not bound to do, as aforesaid, or omit from doing, as aforesaid, under the said Rules, Regulations and Bye-Laws of the University, thereby did not allow him to leave his office for home until the availability of assistance from the Host country.

Whereas the Headquarters Agreement between the Host country and the University remains in force and without change.

You are therefore expelled from, and out of bounds of, the University with immediate effect.

You are directed to vacate the hostel within twenty-four hours of the receipt of this order. You may represent against this order within fifteen days of the issuance of the order.

This issues with the approval of the Competent Authority.

To:

Mr. Bhimraj M (Enrolment No-SAU/LS(P)/2020/01) PhD Student,
FLS

12. It is not in dispute that, prior to issuance of the aforesaid orders, no show cause notice or any other communication was issued to either of the petitioners apropos the acts of indiscipline alleged to have been committed by them on 23 November 2022.

13. The petitioners submitted representations against the aforesaid orders of expulsion dated 25 November 2022, on 9 December 2022 and 3 January 2023 respectively.

14. After the aforesaid decisions were taken, a High Powered Committee (HPC) was constituted, which is stated to have granted an

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30

Page 4 of 16



2024:DHC:697



opportunity of hearing to the petitioners.

15. Mr. Mahapatra has drawn my attention to paras 3.1 to 3.14 of the recommendations of the High Powered Committee which read thus:

“3.1 In the case of Mr. Umesh Joshi, the Committee recalled the Proctorial Order SAU/Proctor/2022/1379 dated 25 November 2022 wherein the following charges were leveled against him:

“You first forcibly barged into office of the Acting Registrar with a group of students when the said Acting Registrar was meeting with other officials of the University in his said office and made it totally dysfunctional/ paralyzed to force him to do what he was not bound to do (such as to completely revoke your expulsion and resign as Acting Registrar) or omit from doing (such as discussion with other officials of the University) under the said Rules, Regulations and Bye-Laws of the University and later made him captive for several hours to again force him to do what he was not bound to do, as aforesaid, or omit from doing, as aforesaid, under the said Rules, Regulations and Bye-Laws of the University, thereby did not allow him to leave his office for home until the availability of assistance from the Host country.

3.2 The Committee took note of Mr. Umesh Joshi's representation (Annexure XXV-2) describing the charges levelled against him as “factually incorrect, without any empirical evidence whatsoever, and devoid of any substance”. He refuted the charge by stating that he “did not forcibly barge into the Office of the Acting Registrar nor hold the acting registrar captive for hours together”.

3.3 The Committee asked Mr. Joshi the following during the hearing on 13.1.23:

Do you admit that you entered office of the Acting Registrar on 23 November 2022 when he was meeting officials of the University? He replied yes. Did you have permission of the Acting Registrar to enter his office on 23 November 2022 when he was meeting officials of the University? He replied No. Why did you allege to the Acting President, Acting Vice-President, Acting Registrar and the Proctor, and under intimation to Mr. Bhimraj and Mr. Keshav Sawarn on 23 November 2022: “Three of you are arrogant and adamant. We are going to file an FIR against three of you Mr. Umesh Joshi admitted that he used language

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30



2024:DHC:697



unworthy of a senior PhD scholar but added that this was due to anxiety. On being asked whether he is connected with the Aijaz Ahmad Marxist Study Circle, Mr. Joshi replied in negative. The Committee also asked Mr. Joshi that given his proclaimed closeness to Mr. Ammar was he not aware that, as indicated in his medical report, he was consuming illegal substances. Mr. Joshi responded by saying that he was not aware that Ammar used to consume the illegal substances and questioned the authenticity of the toxicity report of the hospital. When asked to say anything he would like to say in his defense he said that the matter should be resolved soon.

3.4 The Committee asked Mr. Joshi during the hearing on 3.2.23: he was asked whether he tweeted the following (Annexure-XXVI: 1-3):

a. “The SAU administration is a bunch of shameless scum”. He said, “One student is in ICU and no one cares to respond or take responsibility for his condition”. His response was “Maybe I did, maybe I did not”

b. “The Acting President, the Acting Vice-President, the Anti-Dean of Students: and the Puppet Proctor absconding from SAU after harassing/restricting a student from reciting poems during protests to increase scholarship. The students are in SAU”; Department of Institutional Violence and Mental Harassment” (along with the pictures of some of the senior functionaries of SAU administration); His response was “I don’t remember”

“How does Acting Registrar@mabulaish sleep at night after students fall one after another at the SAARC governed institution of higher education” His response was “I am not sure about this.”

3.5 Those who were present in the official meeting that was in progress in the office of the Acting Registrar on November 23, 2022, confirm that Mr. Umesh Joshi barged into the above-said office with a group of students, disrupted the meeting, and paralyzed the functioning of the office of the Acting Registrar. Among these witnesses are the Associate Dean of Students, the Acting Director (Admissions Examinations), the Dean of the Faculty of Biotechnology, the Chairperson of the Department of International Relations, the Assistant Director (Housekeeping and Student Services), and a Senior Associate Professor. The accusation that Mr. Umesh Joshi held the Acting Registrar captive for hours and did not allow him to leave for home is found to be true. The committee further notes that the circumstances that were created by the group of students led by him necessitated the university contacting the Delhi police to rescue the Acting Registrar.

3.6 The evidence is conclusive that, on 23 November 2022, Mr. Umesh

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30



2024:DHC:697



Joshi threatened the Acting Registrar, Acting President and Dean Students in the presence of senior faculty and some senior members of the non-teaching staff by saying that students from the SAU campus to the hospital where one of the students, Mr. Ammar was undergoing medical treatment. He entered Acting Registrar's office without permission. He said the Acting registrar that Acting Registrar to "kurshi chhod ke jaye" or "apologize" (Annexures: A&V23NovUJ1, A&V UJ).

3.7 The Committee found Mr. Joshi's responses to charges leveled against him convoluted and elusive, with his 'description of the situation' largely centred on the hospitalization of Mr. Ammar Ahmed. The Committee also took note of the relevant SAU Bye Laws which unambiguously state that "violation of status, dignity and honour of individual or groups of students" and "causing disruption in any manner in the academic functioning of the university system."

3.8 In the case of Mr. Bhimraj M, SAU/Proctor/2022/1380 dated 25 November 2022 had leveled the following charges:

"you first forcibly barged into office of the Acting Registrar with a group of students when the said Acting Registrar was meeting with other officials of the University in his said office and made it totally dysfunctional/ paralyzed to force him to do what he was not bound to do (such as to completely revoke your rustication and resign as Acting Registrar) or omit from doing (such as discussion with other officials of the University) under the said Rules, Regulations and Bye-Laws of the University and later made him captive for several hours to again force him to do what he was not bound to do, as aforesaid, or omit from doing, as aforesaid, under the said Rules, Regulations and Bye-Laws of the University, thereby did not allow him to leave his office for home until the availability of assistance from the Host country".

3.9 Mr. Bhimraj M in his written representation (Annexure XXV-1) refutes the described charges levelled against him as "factually incorrect, without any empirical evidence whatsoever, and devoid of any substance". He also denied that he forcibly barged into the Office of the Acting Registrar and held the acting registrar "captive for hours together."

3.10 The Committee found the written response of Mr. Bhimraj to charges leveled against him vague and elusive, while once again noting the relevant SAU Bye Laws which unambiguously state that "violation of status, dignity and honour of individual or groups of student" and "causing disruption in any manner in the academic functioning of the university system."

3.11 The Committee asked Mr. Bhimraj the following during the hearing

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30



2024:DHC:697



on 13.1.23: Whether he would like to admit that he entered office of the Acting Registrar on 23 November 2022 when he was meeting officials of the University? The Committee took note of his response: "It is not in the proctorial notice. I did not barge in the Registrar's office but 'entered' the office and already students were there." The response to the following question asked by the Committee (whether he took the permission before entering the office) appeared equally illusive: "Already the students were discussing Ammar's issue and it was an emergency situation, one of our friends was in the hospital due to cardiac arrest." On being asked whether he knew that his friend Ammar was consuming illegal substances, his response was that he was not aware of this. He also denied the charge that he made the Acting Registrar captive on 23 November 2023 and did not allow him to leave for home until as late as 8.45 pm and without the availability of assistance from the host country.

The Committee further asked Mr. Bhimraj: "why did you say to Professor Senthil: I will give you a tight slap on your face." (Annexure: A&V-Witness Hearing) He replied: "I never said". On being asked whether he was in any manner connected with the Aijaz Ahmad Marxist Study Circle he replied in negative. The Chair of the Committee invited him to say anything he might like to say in his defense.

3.12 The Committee asked Mr. Bhimraj M the following during the hearing on 32.23: The Committee asked Mr. Bhimraj whether he tweeted the following: Did you tweet? Resign@mabulaish, you are ruining the @southasianuniversity. You are not the Top 2% of scientists in the world. You are the top 2% shameless in the world (XXVII)." Mr. Bhimraj responded by asking: Is this in proctorial order? I don't remember, I might have tweeted." The Committee also asked Mr. Bhimraj the following: "You were heard using the word "bastard" (Annexure: A&V Complainant Hearing) while shouting at the university officials present in the Acting Registrar's office while he was meeting with university officials on November 23, 2022?" He outrightly denied having said so; "I never used this word."

3.13 Those who were present in the official meeting that was in progress in the office of the Acting Registrar on November 23, 2022, confirm that Mr. Bhimraj M barged into the above-said office with a group of students, disrupted the meeting, and paralyzed the functioning of the office of the Acting Registrar. Among these witnesses are the Associate Dean of Students, the Acting Director (Admissions and Examinations), the Dean of the Faculty of Biotechnology, the Chairperson of the Department of International Relations, the Assistant Director (Housekeeping and Student Services), and a Senior Associate Professor. The accusation that Mr. Bhimraj M held the Acting Registrar captive for hours and did not allow him to leave for home is found to be true. The committee further notes that the circumstances that were created by the group of students led by him

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30



2024:DHC:697



necessitated the university contacting the Delhi police to rescue the Acting Registrar.

3.14 The evidence is conclusive that, on 23 November 2023, Mr. Bhimraj shouted at the Acting Vice-President in the presence of senior faculty and some senior members of the non-teaching staff: "I will give a tight slap on your face." (Annexure: A&Y Witnesses Hearing), further shouted at a senior faculty member Dr. Ravindra Pratap and said that he should be "ashamed" of his qualifications as "you are assisting the administration." (Annexure: A&V-Witnesses Hearing) and shouted "bastard" (Annexure: A&V-Complainant Hearing) while shouting at the university officials present in the Acting Registrar's office while he was meeting with university officials on November 23, 2022." He entered Acting Registrar's office without permission."

16. Mr. Chimni, learned Counsel for the petitioner, has pointed out, apropos the procedure that the HPC chose to follow, the following assertions on oath, contained in para 35 of the counter affidavit filed by the SAU:

"35. It is stated that the process of hearing before the said HPC commenced by way of communication dated 06.01.2023, by which the Petitioners were called upon to be present before the said Committee on 13.01.2023, present their case and defend them. It is pertinent to mention that on 13.01.2023, the Petitioners appeared before the HPC when they were heard in detail and were afforded a reasonable opportunity to present their case and defend them. The entire hearing was video-recorded. On 27.01.2023, the HPC heard the complainants (the Acting Registrar, Director (Admissions and Examinations) and Associate Dean of Students) and video recorded the hearing. It is stated that on 29.01.2023, the HPC recorded the depositions/heard the witnesses (two Senior Associate Professors, the said Chairperson, Department of International Relations, the said Assistant Director (Housekeeping and Student Services), one Assistant Professor, one Faculty Assistant and three students). It is submitted that the proceedings before HPC have been concluded with the submission of its recommendations. HPC not only recommended that the punishment of expulsion given to the Petitioners "may remain stand as it is" but also recommended expulsion in respect of two students, rustication in respect of two students and fine in respect of one student. HPC further recommended that all the said students, including the Petitioners, may be debarred from joining any programme of the University in future. The competent authority has accepted the recommendations

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30

Page 9 of 16



2024:DHC:697



of the HPC and the Petitioners have been informed accordingly.”

17. Consequent to the aforesaid recommendations of the HPC, the following identical office orders dated 15 February 2023 came to be issued under the signature of the Proctor of the SAU, rejecting the representations made by the petitioners against their orders of expulsion:

“No. SAU/Proctor/2023/1376

15th February 2023

OFFICE ORDER

WHEARAS you had submitted your representation on 09 December 2022 and against the disciplinary action taken against you on 25 November 2022.

WHEREAS your said representation was considered by an impartial High-Powered Committee constituted by the competent authority with the Proctor as its Chairperson and Deans of the Faculties of Economics, Life Sciences and Biotechnology, Mathematics and Computer Science and Social Sciences as its Members.

WHEARAS the said Committee twice heard your and afforded you two reasonable opportunities to present your case and defend you on 13 January and 03 February 2023.

WHEREAS the said Committee has recommended that your said disciplinary action may be maintained.

WHEREAS the said Committee has further recommended that you may be debarred from joining any programme of the South Asian university in future.

WHEREAS the Intergovernment Agreement for the Establishment of South Asian University, 2007, Rules, Regulations and Bye Laws remain in force, including Rules 10.3.1 and 29.3 and Regulation 5.1.7.

WHEREAS the Headquarters agreement between the Government of the Republic of India and the South Asian University, 2008,

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP (C) 1283/2023
Signing Date: 31.01.2024
20:46:30



2024:DHC:697



remains in force, including its Article III.3 and VIII.

WHEREAS the competent authority has accepted the said recommendations.

NOW, THEREFORE, your said representation stands disposed of in terms as aforesaid.

This issues with approval of the competent authority.

Sd/- 15/02/2023
Proctor

18. Having heard Mr. Chimni, learned Counsel for the petitioners, and Mr. Mahapatra, learned Counsel for the respondent-SAU, it is clear that the procedure followed by the SAU in the present case is even more at deviation with the principles of natural justice and the Rules, Regulations, Bye-laws and other procedures which were required to be followed by SAU, than in *Apoorva Y.K.*

19. While, in *Apoorva Y.K.*, the SAU at least condescended to issue a show cause notice to the petitioners, apropos the alleged act of indiscipline which was committed on 23 November 2022, no such show cause notice was issued to the present petitioners. Moreover, para 35 of the counter affidavit in the present case, which is identical to para 28 of the counter affidavit which was filed in *Apoorva Y.K.*, also indicates that the respondent acted in flagrant violation of the most elementary principles of natural justice and fair play, by first hearing the petitioners behind the back of the complainants and the witnesses whose statements were relied upon against the petitioners and, thereafter, recording the statement of the witnesses behind the back of the petitioners.



20. The following passages from *Apoorva Y.K.* apply *mutatis mutandis* to the present case, with the added caveat that, in the present case, the petitioners were not even issued a show cause notice before the decision to expel them from the University was taken on 25 November 2022:

61. Para 28 of the counter affidavit is by itself fatal to the case of the University, insofar as the merits are concerned. It is admitted – perhaps unwittingly – in the said para, that the HPC heard the petitioner on 13 January 2023 in the absence of the complainants as well as the witnesses who deposed in favour of the complaints, thereafter, heard the complainants behind the back of the petitioner on 27 January 2023 and, thereafter, on 29 January 2023, proceeded to record the statements of the witnesses who deposed in favour of the complainant. Such a procedure is completely unknown to law. This is especially so, as para 28 goes on to acknowledge that “the HPC found that the evidence was conclusive” against the petitioner. The evidence against the petitioner, which was thus found to be conclusive against her, was neither put to her, nor was she given an opportunity to test the evidence in any manner, as the only audience accorded to the petitioner by the HPC was on 13 January 2023, in the absence of the complainants as well as the witnesses who deposed in favour of the complaints. In other words, the HPC proceeded on the basis of evidence which the petitioner was never given a reasonable opportunity to controvert or challenge. *De hors* the rules and regulations, this procedure by itself does complete violence to the most elementary principles of natural justice and fair play and vitiates the resulting decision in its entirety.

62. That apart, the procedure followed by the HPC is also in the teeth of the applicable provisions of the PCRR already extracted in para 35 *supra*. The HPCC was, as per the PCRR, required (i) to follow the rules of evidence admissible in administrative enquires and (ii) to admit all evidence, including documentary evidence and evidence by witnesses, probative of the case before it.

63. It goes without saying that inherent in this stipulation was the requirement of making the said evidence, on which the HPC intended to rely, available to the petitioner, and offering, to the petitioner, of an opportunity to test the evidence by, if necessary,



2024:DHC:697



cross-examining the witnesses who testified against her, or by producing her own evidence by way of rebuttal. All these opportunities were denied to the petitioner, as the petitioner was merely confronted with allegations against her, as contained in the show cause notice dated 26 November 2022, and nothing more. The petitioner had, in her response to the show cause notice, specifically requested that the material against her be made available to her so that she could get an opportunity to traverse it. This was never done.

64. Para 38 of the counter affidavit clearly acknowledges that the allegations in the show cause notice were based on complaints received against the petitioner. In the light of the procedure contained in the PCRR, it was mandatory for the University to provide the said material to the petitioner. Without doing so, the entire exercise stood vitiated *ab initio*.

65. What is worse, the HPC proceeded not only on the basis of the said complainants but also on the basis of submission of witnesses who deposed against the petitioner and allegedly supported the allegations in the complaints. These statements, too, were recorded behind the back of the petitioner, on a day when she was not called for hearing, and she was not given an opportunity to test the correctness or rebut the statements, much less to cross-examine the deponents thereof.

66. The entire exercise was, therefore, chimerical in character, with the clear intention, already formulated, to send the petitioner out. The petitioner was merely informed of the allegations made against her and, thereafter, effectively expelled her from University without any further by your leave.

67. The manner in which the entire exercise was conducted cannot even be elevated to the status of lip service to the principles of natural justice. It was, clearly, a sham, with a *prima facie* pre-determined intent to expel the petitioners from the University environs.”

21. The principal of *audi alterum partem* is one of the most sanctified principles of natural justice. A party has to be given an opportunity of hearing before a decision against the party is taken. There are very rare exceptions where a post-decisional hearing would suffice as, for example, in the proviso to Article 311(2) of the



2024:DHC:697



Constitution of India. The rules, regulations and bye-laws applicable to the SAU do not envisage grant of a post-decisional hearing, after an order to expel the student from the portal of the SAU is taken in advance. Even otherwise, it is fundamental to the principles of natural justice that, before the decision to punish the student was taken, the student ought to have been given an opportunity to represent against the proposed decision. Taking a decision to expel a student first and, thereafter, inviting the student to represent against the decision and hearing the student is no less than presenting the student with a *fait accompli*. The decision has already been taken, and there the petitioners can legitimately complain that the hearing was merely a chimerical exercise, the outcome of which was pre-determined.

22. The decision in ***Apoorva Y.K.***, therefore, applies on all fours to the present case.

23. At the very outset of these proceedings, Mr. Mahapatra, learned Counsel for the respondent had drawn my attention to a recent decision of a coordinate Bench in ***Dr. Snehashish Bhattacharya v. South Asian University***² to contend that the Coordinate Bench had, in that case, expressed a view which was at variance with my view in ***Apoorva Y.K.*** to the extent of amenability of the SAU to the writ jurisdiction vested in this Court by Article 226 of the Constitution of India.

24. He, therefore, submitted that it would be appropriate that,



2024:DHC:697



instead of proceeding with the matter, the matter may be referred to a Division Bench as there is a difference of view between two benches of this Court.

25. I am unable to agree. The decision in *Dr. Snehashish Bhattacharya* is clearly distinguishable.

26. *Dr. Snehashish Bhattacharya* involved a service dispute, unlike the present case in which the right which is being sought to be enforced is the right to education which emanates from the public function that the SAU performs.

27. I have specifically held, in *Apoorva Y.K.*, that an act of an educational institution expelling a student from its portals results in divesting the student of his/her right to receive education from the organisation concerned, and that any writ petition challenging the said act would effectively be seeking enforcement of the public function of imparting of education, provided by the institution.

28. As such, the right that is being sought to be enforced is directly relatable to the public function performed by the respondent. It is well settled that a writ petition lies even against a private party which performs a public function, provided the writ petition seeks enforcement of said public function. The decisions on the point stand comprehensively noticed in *Apoorva Y.K.*

29. As *Dr. Snehashish Bhattacharya* did not involve any petition



2024:DHC:697



by students seeking to enforce their right to education, I do not feel that any occasion arises, to refer the issue to a Division Bench.

30. In view of the aforesaid, following the decision in *Apoorva Y.K.*, the impugned orders dated 23 November 2022 and 25 November 2022, whereby the petitioners have been expelled from the portals of the SAU, are quashed and set aside with consequential reliefs to the petitioners.

31. The writ petition stands allowed accordingly, with no orders as to costs.

C. HARI SHANKAR, J.

JANUARY 30, 2024

dsn

Click here to check corrigendum, if any