

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: May 01, 2018

Judgment delivered on: July 03, 2018

+ CONT.CAS(C) 110/2018

JAWAHARLAL NEHRU UNIVERSITY

..... Petitioner

Through: Ms. Monika Arora, Standing Counsel
with Mr. Vibhu Tripathi, Mr. Kushal
Kumar and Mr. Harsh Ahuja, Advs.

versus

GEETA KUMARI, PRESIDENT JNUSU & ORS.

..... Respondents

Through: Mr. Akhil Sibal, Sr. Adv. with
Mr. Gopal Sankaranarayan,
Mr. Govind Manoharan and Mr. Abhik
Chimani, Advs.

CORAM:

HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. The present petition under Article 215 of the Constitution of India read with Sections 2(B) and Section 12 of the Contempt of Courts Act, 1971 has been filed by the petitioner Jawaharlal Nehru University inter alia seeking action against the respondents for disobedience of order dated August 9, 2017 with a further direction to them not to assemble, protest, dharna, march, blockade, use of public address system within 100 meters of the

Administrative Block and not to stop ingress and egress of the officials to the Administrative Block. The relevant paras 5 to 9 of order dated August 9, 2017 read as under:

- “5. Considering the present situation, it is directed that no protest of any sort shall be undertaken by the students within 100 meters radius of the Administrative Block. The University authorities shall earmark an area where the students can congregate freely to protest.*
- 6. Ms Monika Arora, learned counsel appearing for the petitioner has drawn the attention of this Court to a map of the university campus (Annexure P-5) which indicates that on the left hand top of the site, there is an open area, which this Court is informed is known as Sabarmati Lawns. The said area would be open for the students to congregate without any unwarranted interference from the authorities. As long as the protest or congregation is peaceful, there will be no occasion for the authorities to invite the police authorities on the campus.*
- 7. In order to ensure that the above directions are carried out, the petitioner is permitted to put CCTV cameras in the front of the Administrative Block, which shall have the clear view of the parking in front as well as Administrative Block. CCTVs may also be put on the main gates of the campus. However, at this stage, the petitioner would avoid putting CCTV cameras in other areas which may be considered by the students as an intrusion on their privacy and free movement as that may vitiate the environment of the University.*
- 8. Needless to state that in the event, the aforesaid orders are not complied with, the petitioner would be at liberty to request the police authorities for assistance to maintain law and order in the campus. The police authorities shall act only on the evidence of obstruction to ingress/ egress to the Administrative Building, being provided by the Authorities, which may be in the form of*

CCTV footage.

9. *No further orders are required to be passed in these proceedings at this stage. The petition and the pending applications are, accordingly, disposed of with liberty to the parties to apply in the event any further orders are required.”*

2. The facts / sequence of events as alleged by the petitioner University in support of this petition are with regard to protests made / undertaken by the respondents on different dates. The relevant averments alleging the violation / disobedience of order dated August 9, 2017 are on the basis of the following events:

A. Protest on 04/01/2018

- I. The respondents on January 04, 2018 put out a pamphlet calling for a mass presence at the Administrative block to protest against the compulsory attendance rule.
- II. The aforementioned call for gathering by the respondents was made despite the notice dated January 02, 2018 and January 03, 2018 issued by the Petitioner to the respondents which stated that JNUSU shall not assemble en mass at the Administrative Block in terms of order of this Court dated August 09, 2017.
- III. The Chief Proctor went to speak to the students and to dissuade them from violating this Court’s order against

holding any kind of protest from within 100 meters of Administrative Building. However, the respondents persisted with defying the said Court Order on January 04, 2018. Security Report was submitted on the protest that had taken place on January 04, 2018 by the Chief Security Officer.

B. Protest on 10/02/2018

Thereafter, on February 10, 2018, a large number of students formed a human chain, again a part of protest movement, and marched through the prohibited area and went all the way to Vice Chancellor's Residence. After loud sloganeering at the Vice Chancellor's Residence, these students came to the Administrative Block, vandalized the public property, broke large number of plant posts, and some of the leaders made offensive speeches before dispersing.

C. Protest on 11/02/2018

That on February 11, 2018, in response to call by the respondents, large number of students again assembled at Administrative Block after 9:00 PM and resorted to loud sloganeering, and offensive speeches by using battery

operated Public Address System (PAS) marked this protest in the prohibited area of the campus.

D. **Protest on 12/02/2018**

That on the February 12, 2018, defying the notice given to them by the Registrar, the respondents organized a cultural resistance even at the Administrative Block and again used the loud Public Address System and made speeches.

E. **Protest on 13/02/2018**

That on February 13, 2018, in repeat defiance of the warning notice issued by the Registrar, the respondents led a large gathering of the students at the Administrative Block. Through speeches the leaders vowed to continue the protest against the Admission rules at the prohibited area, describing it as “Freedom Square” and apparently seeking to reclaim the space for continuing protests and other activities. For destroying public property at Administrative Block, an FIR was also registered.

F. **Protest on 15/02/2018**

A pamphlet has been issued by the respondents on February 14, 2018, calling protest gathering “Haziri at Freedom Square” on February 15, 2018. This call for

protest was issued despite the fact that disciplinary action was already taken by the University against the respondents and punishment order dated February 13, 2018, and fine was imposed on the respondents. That on February 15, 2018 hundreds of the students again gathered at the Administrative Block and held Rector-I and Rector-III of the Petitioner University as hostages. The students despite repeated requests and attempts of Rector-I and Rector-III to get out of the Administrative Block forcefully restrained them in the Administrative Block. Even the large number of the students and the mob's demeanor the security staff of the University was incapable of dispersing the students and free Rector-I and Rector-III of the confines of the Administrative Block. That the protest held on February 15, 2018 was held on a large scale where the respondents had blocked the ingress and egress of the University Officials and had restrained Rector-I and Rector-III under wrongful confinement in the Administrative Block against their will, for which, a police complaint was given on February 15, 2018.

It is stated even after Prof. Chintamani Mahapatra, Rector-

I fell ill, the protestors did not allow the doctor to go inside the Administrative Block and doctor has to ultimately force his way inside. Also, the ambulance was forcibly stopped from leaving JNU.

The respondents have by their action of blocking and protesting at the Administrative Block have once again brought the University to a standstill. The officials are unable to carry out their duties amidst the blocking of the Administrative Block which on occasion turned violent and aggressive in nature.

3. Respondents have filed their joint affidavit to the contempt petition. In the affidavit it is their case that the filing of the contempt petition is a gross abuse of process of law inasmuch as the same is vindictive and vexatious petition. It is averred that the respondents believe in Rule of Law which is a part of basic structure of Constitution of India as well as in the right of peaceful protest as being a fundamental right, guaranteed to all citizens of the nation. Keeping in mind the larger democratic foundations on which this Country was built, the University has envisioned as an inclusive University where dissent in dialogue and peaceful demonstration were recognized as part of the expression of free speech. The Supreme Court has recognized the right to peaceful protest as a fundamental right under Part-III of the Constitution of

India. It is stated that the protests organized by the JNU student community and JNUSU in the past has never been violent. They have never been irresponsible 'protests for protest's. The protests have always been informed by painstaking and thoughtful reflection and sensitivity to people's rights, gender and social justice. The counter-affidavit refers to the Institution where protests have been held in the past. It also refers to a petition being W.P.(C) 1896/2017 in which the order dated August 9, 2017 was passed. It also refers to an order dated March 9, 2017 vide which notice was issued to the President of the JNUSU in order to resolve the issue between the University and the students by way of dialogue, mediation etc and a direction was issued restraining the students from protesting within 100 meters of the Administrative Block. It also refers to order dated March 17, 2017 passed in the said writ petition.

4. It is the case of the respondents that in the order dated August 9, 2017 this court recognized the right to protest of the students. In this regard a reference is made to paras 5, 8 and 9 of the said order which have already been reproduced above. Reference is also made to an amendment sought to be made to Rule M7 of the AC/EC Regulations on August 21, 2017. The counter-affidavit also refers to the irregularities in introduction of mandatory attendance system.

5. On the averments made in the petition with regard to protest held by the

respondents on January 4, 2018, it is their case in Para U of the affidavit that they had approached the office of the Vice-Chancellor to submit a memorandum on behalf of the students. The memorandum was signed by more than 2500 members of the student community. The respondents herein were met by the Chief Proctor, to whom they have conveyed issues concerning the attendance as well as informed him that it is imperative to meet the Vice-Chancellor to inform all the grievances of the students in relation to the said issue. The Chief Proctor assured them that he would inform him of the same as well as hand over the memorandum of the student community. It is their case that the minutes between 8.08 and 8.15 of Video-I dated January 4, 2018 exhibits that the discussion was not in violation of the court orders. It is their case that the Video also records from minutes 6.25 to 7.20 respondents informing the Chief Proctor in detail about the issue of factual misrepresentation seen in the minutes of the 144th Academic Council meeting. It is their case that only few students were present to give the memorandum and the Chief Proctor assured that the issue would be sympathetically considered and that a time for appointment with the Vice-Chancellor would be granted to them. Pursuant thereto the office bearers met the Vice-Chancellor on the morning of January 7, 2018 between 9 AM to 9.30 AM. There was no productive dialogue at the meeting on January 7, 2018. It is their case that from Video-I it is clear that they were not carrying out any

protest / procession on the said date and in fact having discussion with the Chief Proctor.

6. With regard to January 10, 2018, it is their case that the students formed a peaceful human chain and in a non-violent expression of solidarity marched across the campus including the Administrative Block, wherein members of the student community spoke on different grievances. The same was done in view of harsh and coercive measures adopted by the University Administration to implement the irregularities for the attendance regime. It is their case that the Administrative Block did not have any staff / officers on February 10, 2018 being Saturday, which is normally a holiday. In any case all the events of February 10, 2018 organized by the JNUSU including the human chain were beyond office hours of 9AM to 5PM. As a result there was no interference with the working of the Administration in JNU.

7. With regard to protest on February 11, 2018, it is their case that the students in a peaceful expression of solidarity with the larger interest of JNU community gathered together in the Administrative Block. That February 11, 2018 was a Sunday and therefore is normally observed as a holiday for the staff and officers of the University Administration. According to the respondents events of February 11, 2018 took place post office hours and late into the night after 21:00 hrs.

8. With regard to allegation of protest on February 12, 2018, it is their

case that a circular of the same date was issued by the Registrar, JNU stating that 145th Academic Council meeting which was initially to be held on February 23, 2018 is postponed indefinitely. According to the respondents, repercussion of the decision was that the imposition of compulsory attendance through the arbitrary orders dated December 22, 2017 and January 10, 2018 would continue to deny the Students Union, University teachers union, independent members-teachers and even dissenting government nominated members of the Academic Council, a statutory body their right to put forward their reservations and representations. In other words, the effect of the circular was that it surpassed all institutional mandated legal requirements of the University. They also state that on February 12, 2018, to demonstrate a feeling of fraternity, consensus and collective spirit, the students expressed through cultural events, viz, songs and poetry, their shared concern on the undemocratic acts of the governing administration in JNU. According to them the cultural act of dissent was in response to the complete disregard by the Vice-Chancellor and the University Administration of the repeated requests made by the JNUSU and the teacher association to hold 145th Academic Council meeting and also to meet the members of the elected student body of JNU. They stated that the student community felt concerned and aggrieved. It is their case that the students were present beyond the office hours of the administration. Therefore there was no effect on the working of

the administration. The videos submitted by the petitioner University in relation to the events of February 12, 2018 clearly show that the events were held at night and post office hours. It is also stated, the video filed by the petitioner University is grossly inappropriate inasmuch as it is clear the invasion of the privacy of the individuals gathered outside the block. It is also stated that none of the students can be seen protesting or even participating in any cultural event, but they were merely waiting around the Administrative block. It is stated by the respondents that immediately thereafter on February 13, 2018, the Chief Proctor issued Office Order No. 28/CP/2018 stating that all four respondents / office bearers had been found to be guilty of leading a protest / demonstration of 50 persons near the staircase leading to the Administrative Block on January 4, 2018 and thereby violating the order passed by this Court on August 9, 2017. In other words, the petitioner has fined the respondents for the discussion held with the Chief Proctor on January 4, 2018.

9. On the allegation with regard to the protest of February 13, 2018 it is averred that the students remained aggrieved in view of the coercive acts on the part of the petitioner to harass the respondents in the form of imposition of exorbitant fines. This caused great distress to the respondent office bearers and larger student community. As did the coercive act of making fellowships or scholarships contingent on the students following prescribed guidelines

issued on attendance. In view of the same, the student community gathered peacefully on February 13, 2018 around 5 PM near the Administrative Building to conduct street plays and lectures. According to them, these events were also conducted post office hours of the administration and as a result, no hindrance was caused to the functioning of the administration. In this regard they rely on photographs annexed as Annexure R-26 and R-27 respectively.

10. With regard to the alleged protest on February 15, 2018, it is their case that the respondent office bearers approached the administration office to seek appointment with the Vice-Chancellor. It is stated that neither ingress or egress of the Administration building was blocked. They denied the fact that Rector-I or Rector-III were held hostages at any point of time. Rector-I was requested by the students to be granted an audience with the Vice-Chancellor to voice their concerns. This request was made on two occasions. On both occasions, Rector-I was allowed to freely proceed towards and away from the administration building. They have stated that interaction between the students and the Rector-I happened well beyond the ingress and egress of the Administration building. Later that evening upon coming to know that Prof. Chintamani Mahapatra, Rector-I fell ill, respondent no.1 personally informed the North Block office via telephone of the same and requested that an ambulance be immediately sent to the Administrative Block. That the ambulance and the Doctor's entry and exit were not obstructed by the

students. There was no hindrance to the administrative work or to the entry / exist of the ambulance. According to the respondents from Video No. 3 dated February 15, 2018, taken between 12 Noon to 1 PM it can be seen that the students are peacefully standing and chanting together in unity. It is their case that the Video No.3 shows that stair case was clear and can be used to reach the ingress and egress of the building. The same were guarded by the security personnel employed by the University. From Video No.4 shot around 1.30PM, it can be seen Rector-I coming out of the administrative block with security personnel and some colleagues. In fact, respondent no.1 had called upon the respondent no.4 Mr. Subhranshu Singh to come forward to speak and he between 0.15 and 0.25 had stated *“please arrange a meeting”* and when further questioned by Rector-I whether this is a forced demand, Mr. Subhranshu Singh had only replied that *“it is a request”*. It is also alleged that the person accompanying Rector-I had tried to provoke the students, however the respondent office bearers made sure that there is peace and civility maintained in the discussion and asked the students to calm down. Thereafter, Rector-I turned around and unobstructed goes back to the administration building. On Video No.5 shot around 2.30 PM on February 15, 2018, it is clear that there is no obstruction to the ingress and egress of the administrative building. They state that the student counsellor is seen speaking on the student’s demands and that members of the administration

and others are making their entry and exit from the building through the path next to where the counsellor is speaking. Similarly, on Video No. 6 shot at 3 PM, it is seen that the stairs leading to the ingress and egress is free from any obstruction. The ingress and egress points are secured through security personnel employed by JNU. On Video No. 7, dated February 15, 2018 which was shot around 4 PM, it is their case that the same shows Rector-I surrounded by security was requested by the students including respondent office bearers to arrange a meeting. Respondent no.3 is heard clearly between minute 0.08 and 0.11 asking to make space for Rector-I to continue walking. That again between 0.38 and 0.54, it is seen that respondent Office bearers 4 and 2 with a white band are escorting Rector-I while asking fellow students to not obstruct his path. That Rector-I entered the administration building facing no restriction at the point of ingress and egress and the students throughout were requesting Rector to ask the Vice-Chancellor to meet the students and discuss the arbitrary imposition of mandatory attendance. Respondents relied upon Video Nos. 3 to 7 dated February 15, 2018 so also some photographs marked as Annexure-R29. In their joint affidavit, respondents have also averred that the order dated August 9, 2017, cannot be constructed as an order in perpetuity. According to them, the same prescribes a self-contained mechanism to deal with any violation of the same inasmuch as in Paragraph 8 of the order wherein it is stated that the petitioner is at liberty to approach the

police authorities in case of violation of the said order. The order further obligates the police authorities to act only on the evidence of obstruction to ingress and egress to the administrative building. The respondents averred that the petitioner has already availed the said liberty and approached the police officials on February 12, 2018. No action has been taken by the police authorities presumably in view of the lack of evidence of any obstruction to ingress / egress of the administrative block. It is also stated that the order dated August 9, 2017 of this court was passed in the circumstances as existing on the date of that order and cannot be construed as a direction in perpetuity and the same is clear from the direction of 100 meters being passed by the court "*Considering the present situation*". Rejoinder to the joint affidavit has been filed by the University wherein the petitioner has also placed on record some photographs in respect to their stand that the directions have been violated.

11. During the course of hearing before the Court, an additional affidavit came to be filed by the University wherein the petitioner has attached a video footage along with transcript which was available in the social media to contend that the contemnor no.1 had detained Rector –I in the administrative block. In this regard, they rely on the video footage of approximately 9.30 PM, which according to the petitioner shows that Prof. Hari Ram Mishra went to meet Rector-I and Rector-III detained by the respondents in the

administrative block. Contemnor no.1 did not let him free and eventually asked Prof. Hari Ram Mishra to come “*tomorrow morning during office hours*”. According to the petitioner the entire video footage makes it evident that the contemnors had detained Rector-I, Rector-III and Prof. Mishra was not allowed to enter the administrative block. It is also stated that Video No.2 filed along with the petition shows Rector-I had to be carried out by the ambulance at approximately 1.30 AM in the morning amidst the commotion and clear attempts being made by the students to stop Rector-I from leaving the building. They also referred to certain subsequent events that have taken place outside 100 meters of the administrative block. It is stated that on March 12, 2018, the respondents along with other students while protesting against the mandatory attendance rule barged into the office of the Dean of Students, Prof. Umesh Kadam. After deliberating with the students for some time regarding the mandatory attendance issue at approximately 3.15 PM, the Dean of students was forcibly stopped by the respondents and one of the students grabbed Prof. Kadam from his collar and pushed him on several occasions during the scuffle. The students were also engaged in fist fight with security officials. The video footage of the scuffle with the security guards and Dean of students is Video No.3. It is also stated that after February 15, 2018, respondents were seen carrying out protests across the University Campus and not in the Sabarmati Lawns which was earmarked by this Court.

According to the petitioner, respondents virtually stopped the classes in School Languages, Schools of Arts and Aesthetics, School of Life Sciences, School of International Studies and School of Social Sciences. The respondents have on certain occasions put lock on the doors of the School buildings as well as obstructed the teachers and the Professors from taking their classes. They referred to obstruction of classes done on different dates. It is also stated that respondent no.1 and Subhranshu Singh demonstrated for several hours at the residence of Rector-I stated to be within the University Campus on March 17, 2018. Loud sloganeering and use of unacceptable language by the protesters psychologically affected the members of the family. It is their case that the action of the respondents have brought the entire functioning of the University to a standstill. A short affidavit to the additional affidavit of the petitioner has been filed by the respondents wherein, they have stated that additional affidavit filed by the petitioner ought not to be taken on record as the same has been filed without seeking leave of the court and the same needs to be ignored. In the short affidavit it is stated that the petitioner has tried to improve upon its case in the contempt petition by filing an affidavit at a belated stage. It is stated that the contents of the affidavit are irrelevant to the present proceedings. Even otherwise, the same are reiteration of the allegations made in the contempt petition, to which reply has already been filed. It is also stated that the students have not blocked the

ingress and egress of any person. It is further stated that the affidavit refers to certain events that took place outside the 100 meters of the Administrative Block. According to the respondents, any happening outside 100 meters of the Administrative Block would be beyond the scope of the contempt petition.

Submissions on behalf of the petitioner.

12. Ms. Monika Arora, learned counsel appearing for the petitioner submitted that the respondents have violated the order dated August 9, 2017 wherein a clear direction was given that no protest of any sort shall be undertaken by the students within 100 meter radius of the Administrative Block. She submitted that the facts as narrated in the contempt petition clearly demonstrates that protests took place within 100 meters of the Administrative Block inasmuch as (1) pamphlets issued by Contemnor to hold protest (2) more and more protestors started gathering with passing day from February 10, 2018 onwards within 100 meters radius of the Administrative Block (3) emboldened by the restraint shown by the petitioner University, the respondents confined Pro Vice-Chancellor / Rector-I in the Administrative Block on February 15, 2018 from 11 AM in the morning till after midnight. Eventually Rector-I had to be taken out of the Administrative Block by the Doctors in the ambulance (4) respondents have themselves admitted in the reply that they have held protests within 100 meters of the Administrative Block (5) the respondents had cut the wires of the CCTV camera at the

Administrative Block. She would rely upon the following judgments in support of her contentions:

- 1. *Vijaya Kumar v. State of Kerala*, ILR2004(2)Kerala 88;**
- 2. *Leo Lukose v. Cochin University of Science and Technology* 2016 (1)KHC 147;**
- 3. *Ramjas College Versus Delhi University & College Karamchari Union & Ors.* CS(OS) No.1929/2011**

13. Three learned Counsels had made the submissions on behalf of the respondents. Mr. Akhil Sibal, learned Sr. Counsel submitted at the outset, that the order dated August 9, 2017 is not an order in perpetuity. According to him, the said order makes it clear that the order was passed in the background of the circumstances obtaining as on that date and was limited to the protest and scenario prevailing at that time. He has drawn my attention to some of the observations made by the court in the said order in support of his contention. In substance, it is his contention that the scope of operation of the order was limited to the extent of remedying the situation then existing and not beyond the same. He would also state that the order dated August 9, 2017 has to be interpreted in a manner consistent with preserving, the fundamental right to protest. He stated, a balance has been maintained in Para 4 of the order where the right to protest of students is expressly recognized. He lay stress on the fact that the significance of protests / demonstrations at the Administrative Block of the University, is because it is the seat of the

authority. Demonstrations and protests are protected under Article 19(1)(a) of the Constitution as it is the highest form of free speech. The essence of free exercise of such right is communication of dissent to the persons to whom it is intended to be conveyed. Therefore, for a meaningful exercise of fundamental right to protest, the voice of the protest must not only be heard, it is also to be seen. He submitted, that interpretation of the order dated August 9, 2017 by the petitioner University is that the direction in the first line of Para 5 is one in perpetuity to be operative against all students for all generations to come, namely that there can never be a peaceful protest within 100 meter radius of the Administrative Block. Surely such an interpretation offends the fundamental right to protest under Part III of the Constitution and ought not to be sustained and could not have been intended in the said order and hence the court while exercising the jurisdiction under Article 215 of the Constitution of India must read in favour of the interpretation of the order which is in line with constitutional principles under Part-III. If the order is interpreted to be one to operate in perpetuity, such an interpretation would be directly in the teeth of fundamental rights enshrined under Part-III of the Constitution. It is also his submission that the order dated August 9, 2017 is ambiguous and therefore contempt would not lie. This according to him, is because in Para 5, it was directed that no protest of any sort shall be carried out within 100 meters radius of the Administrative Block of JNU. Although

paragraph 8 of the order starts with “8. *Needless to state that in the event the aforesaid orders are not complied with.....*” it does not provide for the police authorities to act in respect of all peaceful protests within 100 meters of the Administrative Block but rather that the “*police authorities shall act only on the evidence of obstruction to ingress / egress to the Administrative Building...*”. So according to him in the light of Para 8 of the order an ambiguity arises as to whether a peaceful protest within 100 meters of the Administrative Block which does not in any manner obstruct the ingress / egress to the Administrative Block is also interdicted by the said order. According to him, in the light of the ambiguity, one possible interpretation of the order is that it only interdicts such protests even within 100 meters if the ingress / egress is obstructed, and not otherwise. He also states as it is a well settled law that when an order allowed two possible interpretations, contempt shall not lie. In that line, it is stated that if the University is of the view that any further directions required to deal with current purported cause of action, remedy is to seek directions in a substantive proceedings. He would rely upon the following judgments in support of his contentions:

- 1. (2016) 15 SCC 525 Anita Thakur v. Government of J&K**
- 2. 1962 Supp. (3) SCR 369 Kameshwar Prasad v. State of Bihar**
- 3. 2008 (14) SCC 392 Sushila Raje Holkar v. Anil Kak**
- 4. (2009) 92 SCC 784 Tamilnad Mercantile Bank v. S.C. Shekhar**

& Ors.

14. Mr. Gopal Sankarnarayan, learned counsel would submit that on a demurrer the contempt petition is not maintainable in law and civil contempt for alleged violation of the direction contained in Para 5 of the order cannot lie as according to him (1) order dated August 9, 2017 is not in perpetuity, no contempt lies (2) when alternative remedy is available in law (3) the order is self-contained (4) Ought not to initiate proceedings on mere technical contempt. In support of his aforesaid contention, he would submit that the order dated August 9, 2017 has to be read as a whole in the context of factual matrix in which the order came to be passed in W.P.(C) 1996/2017. According to him, the same was filed in view of protest that took place in February, 2017 against certain UGC notifications. The prayers in the writ petition were primarily sought against the police authorities seeking removal of the protesting students from the Administrative Block. Prayer (e) therein was sought for a restriction that no protests ought to be organized within a radius of 200 meters from the Administrative Block. The prayer was supported by the submissions that the existing rule M-7 that prescribed 20 meters had become ineffective. He submitted that if the order is treated as an order in perpetuity, then the consequences would be disastrous and this court would become an Administrative Authority monitoring all future transgression by way of exercise of contempt power. Further it is his

submission that on August 21, 2017, Rule M-7 was amended adopting 100 meters direction contained in Para 5 of the order dated August 9, 2017. Hence a direction in Para 5 of the order dated August 9, 2017 was subsumed by the amendment to Rule M7 which has a detailed procedure and punishment mechanism laid down. This has in fact fully complied with and each of the respondents have been fined under the mandated Rule M-7. However, once M-7 has been amended and subsequently the petitioner has meted out the sanctions therein to the respondents, it would not be open to them to invoke in perpetuity an order made on specific conditions taking into consideration the conditions existing at a particular time. He also submitted that the order dated August 9, 2017 sets out a direction to balance the need for functioning of the University and the right of the students to the protests by issuing directions in Para 5 and Para 7. However, in Para 8 therein the order itself provides for a mechanism to deal with non-compliance of the said directions. He as Mr. Sibal submitted, also stated, order dated August 9, 2017 is a self-executing order inasmuch as the remedy for non-compliance of the order is provided at Para 8 itself and the petitioner University ought to have approached the police authorities who would then act on evidence on obstruction. According to him, police authorities were not convinced of the truth of the allegations and as such they did not act. In other words, no evidence of obstruction was provided to the police authorities as the same did

not exist and as a result no action was taken by the police authorities and no contempt shall lie against the respondents. The authority which was required to take action as such has not taken action despite repeated complaints of the University. Hence, there is no blocking of ingress and egress by the respondents. He also stated that court shall not initiate contempt proceedings on a mere technical contempt. On the factual submissions, Mr. Narayanan had submitted that the same are inaccurate and have been specifically denied by the respondents in their joint affidavit. He reiterates the same as his submissions in this regard. He would rely upon the following judgments in support of his contentions:

- 1. 2000 (4) SCC 400 R.N. Dey & Ors. V. Bhagyabati Pramanik & Ors.**
- 2. 1969 2 SCR 649 Re: P.C. Sen**
- 3. 2001 (3) SCC 739 Mritunjoy Das and Anr. V. Sayed Hasibur Rehman**
- 4. 2014 (14) SCC 446 T.C. Gupta v. Bimal Kumar Datta & Ors.**

15. Mr. Govind Manoharan, Advocate who also argued for the respondents made similar submissions as were made by Mr. Sibal and Mr. Narayanan inasmuch as when two interpretations of the order are possible, no contempt shall lie. He has also during his submissions opposed the filing of the additional affidavit by the petitioner. According to him, such an additional

affidavit cannot be taken on record as the same was filed without the leave of the court. According to him, Paragraphs 7 to 12 of the additional affidavit filed by the petitioner are with regard to events / matters outside 100 meters and therefore even by the petitioner's interpretation of the order dated August 9, 2017 it is outside the scope of the present contempt petition. According to him, it is a settled law, the contempt petition must be complete and composite insofar as the evidence it relies upon and clear and unambiguous inasmuch the allegations raised therein are concerned. He stated, in the absence of Rules framed by this court in relation to Regulations of contempt proceedings, respondents have placed reliance on Rule 8 of the Rules regulating proceedings for contempt of the Supreme Court, which according to him, inter alia reads as "*no further affidavit or document shall be filed except with the leave of the court*". In the last it is his submission that respondents have not produced the footage of the CCTV, which is the best evidence, and as such, an adverse inference must be drawn, and the contempt proceedings needs to be dismissed. He relied upon the following judgments in support of his contention:

1. ***2017 SCC Online Del. 9037 Vinod Surha and Anr. v. State (Govt. of NCT of Delhi) and Anr.;***
2. ***(2010) 3 SCC 705 Sahdeo @ Sahdeo Singh v. State of Uttar Pradesh and others;***
3. ***(2015) 7 SCC 178 Tomaso Bruno and Another v. State of Uttar***

Pradesh.

16. Having heard the learned counsel for the parties, the issue which arises in the contempt petition is whether the respondents herein have violated the order of this Court dated August 09, 2017 in W.P.(C) No.1896/2017. The relevant paragraphs of the order have already been reproduced above. The allegations of breach of order dated August 09, 2017 are in view of protests / congregation held on January 04, 2018, February 10, 2018, February 12, 2018, February 13, 2018 and February 15, 2018 at the Administrative building / block. That apart, it is the case of the petitioner in additional affidavit that after February 15, 2018, the respondents had carried out protests across the University campus and not in the Sabarmati lawns as was earmarked by this Court in its order dated August 09, 2017. It is averred that the respondents have stopped the classes in the School of Language, School of Arts and Aesthetics, School of Life Sciences, School of International Studies etc. It is also averred, on certain occasions, they have put locks on the doors of the school buildings as well as obstructed the Teachers and Professors from taking their classes on different dates between March 15, 2018 to March 27, 2018. It is also averred that on March 17, 2018 two respondents namely Geeta Kumari and Subhranshu Singh demonstrated for several hours by making loud sloganeering and use of unacceptable language

at the residence of Rector-I situated within the University Campus.

17. The respondents in their affidavit have, in substance taken the following stand:-

(i) *The respondents believe in rule of law, which is part of basic structure of the Constitution;*

(ii) *They have a right to peaceful protest, which is a fundamental right guaranteed to all citizens in view of larger democratic foundations on which this court was built. The University has envisioned as an exclusive University where dissent in dialogue and peaceful demonstration were recognized as part of the expression of free speech.*

(iii) *The protests organized by the JNU student community and JNUSU in the past has never been violent. The same is a thoughtful reflection and sensitivity to people's right, gender and social justice.*

(iv) *In the order dated August 09, 2017, this Court recognized the right to protest of the students.*

(v) *On January 04, 2018, they had approached the Office of the Vice Chancellor to submit a memorandum signed by 2500 Members of the student community.*

(vi) *They had approached the Chief Proctor with regard to the*

issue concerning the attendance.

(vii) The minutes of the video exhibits discussion, which is not in violation of Court's order.

(viii) The minutes in the video between 6.25 to 7.20 is about the issue of factual representation seen in the minutes of the 144th Academic Council.

(ix) On January 10, 2018, they formed a human chain in non violent expression of solidarity and marched across the Campus including the Administrative Block. The same was in view of measures adopted by the University to implement irregularities in the attendance regime.

(x) The Administrative Block did not have staff or officers on February 10, 2018 being a Saturday and all the events were organized beyond office hours of 9 am to 5 pm.

(xi) On February 11, 2018 being a Sunday for the staff and officers, the student community gathered together at the Administrative Block and the events took place post office hours and late into the night after 21:00 hrs.

(xii) On February 12, 2018, they demonstrated against the undemocratic acts of the governing administration in JNU. The cultural act of dissent was in response to complete disregard by

the Vice-Chancellor and the University Administration of the repeated requests made by the JNUSU and the teacher association to hold 145th Academic Council meeting and also to meet the members of the elected student body by JNU. The events were held at night and post office hours. It is stated that the videos filed by the petitioner University is grossly inappropriate.

(xiii) On February 13, 2018, an office order was issued against the respondents herein finding them guilty of protest and demonstration near the staircase leading to the Administrative Block on January 04, 2018. The students being aggrieved of the coercive acts, gathered peacefully at around 5 pm near the administrative building to conduct street plays and lectures. Events were conducted post office hours of the administration and no hindrance was caused to the functioning of the administration.

(xiv) On the protest of February 15, 2018, the respondents approached the administration office to seek appointment with the Vice-Chancellor. Neither ingress or egress of the Administration building was blocked.

(xv) They denied the fact that Rector-I or Rector-III were held hostages at any point of time.

(xvi) On the happenings of March 15, 2018 between 12 noon to 1

pm, the students were peacefully standing and chanting together in unity. It is stated that there was no blockage of ingress or egress of the staff including Rector I, who is seen coming out of administrative block with security personnel and some colleagues.

(xvii) The order dated August 09, 2017 prescribe a self contained mechanism to deal with any violation inasmuch as the mechanism is contained in Paragraph 8 of the order where the petitioner is at liberty to approach the police authorities in case of violation of the said order.

(xviii) The petitioner University has already availed the liberty and approached the police officials on February 12, 2018. No action has been taken by the police presumably in view of the lack of evidence of any obstruction to ingress or egress to the administrative block.

(xix) The order dated August 09, 2017 was passed by this Court in the circumstances as existing on the date of the order and cannot be construed as a direction in perpetuity.

(xx) The affidavit filed by the petitioner ought not to be taken on record as the same was filed without seeking leave of the Court and the same needs to be ignored. The petitioner tried to improve their case; the contents of the same are irrelevant to the present

proceedings. Even otherwise, the same is a reiteration of the allegations raised in the contempt petition. The affidavit, which refers to certain events took place outside 100 meters of the administrative block would be beyond the scope of contempt petition.

18. Having noted the stand of the parties in their pleadings / affidavits, insofar as the plea of the learned counsel for the respondents that the additional affidavit filed by the petitioners should not be taken on record and considered, is concerned, suffice to state, vide the additional affidavit, the petitioner has brought on record certain events that have taken place on February 15, 2018 and thereafter. The issue / allegation of contempt is a very serious issue where the authority of the Court / Rule of Law is sought to be undermined. The duty of the person alleging violation of order passed by the Court, is to bring it to the notice of the Court, the alleged violation. If the allegations (in the additional affidavit) reveals further disobedience/violation of order dated August 9, 2017, the same becomes relevant and cannot be overlooked / ignored on technicalities. In any case, a response has been filed by the respondents and the relevance of the allegations in the additional affidavit shall be considered in the following paras vide which, I proceed to deal with the submissions of the counsel for the parties on the contempt petition.

19. Insofar as the plea of the respondents that the order dated August 09, 2017 is not an order in perpetuity as the same was passed in the background of the circumstances prevailing then limited to the protest scenario is concerned, no doubt this Court in the writ petition in which the said order was passed was concerned with protest scenario, similar is the position now as can be seen from the allegations in the contempt petition. The directions of the Court are not period / time specific. They are primarily to regulate the protests by the students, that too in future as is clear from the wordings “*no protest of any sort shall be undertaken by the students within 100 meters radius of the Administrative Block. The University authorities shall earmark an area where the students can congregate freely to protest*”.

20. If the submission of the learned counsel for the respondents is to be accepted then the directions of this Court dated August 09, 2017 shall lose its relevance / effect and every protest within 100 meters of the Administrative Building shall be deemed to be a fresh cause of action forcing the University to approach the Court every time in a fresh petition. That cannot be the intent of the order, which was passed in a petition filed by the University wherein the Students Union was a party of which the respondents are the office bearers. The allegations in the contempt petition are primarily directed against them of having violated the order. The order shall stand against the Students / Union, till such time it is set aside or varied, which is not the case

herein. Further, the directions are in conformity with the law on the issue as laid down by this Court and the Supreme Court wherein the Courts by recognizing the right of employees (students in this case) to peacefully ventilate their grievances cannot disrupt the functioning of the business or damage the property by resorting to demonstration and gheraos etc. (Ref: ***Ramjas College v. Delhi University and College Karamchari Union and Ors. CS(OS)1929/2011***).

21. In the case of ***Vidyasagar Institute of Mental Health and Neurosciences v. Vidyasagar Hospital Employees 124 (2005) DLT 640*** a Coordinate Bench of this Court, by referring to various judgments of this Court and the Supreme Court, had by culling out the broad principles, held as under:

14. From these following principles can be culled out:-

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3. Peaceful demonstration is a fundamental right of the Unions/employees.

4. It is the legitimate right of the workers to make legitimate demands and when not met, even go on peaceful but legal strike, a right so recognized under labor laws. Trade union has a right to pursue its trade union activities by peaceful methods. However, in exercise of such a right unions/employees cannot disrupt the functioning of the employer or obstruct willing workers from performing their duties. Further they cannot indulge in the acts of violence, physical assault, intimidation, threats etc.

5. There is no right of the unions/employees to hold demonstrations at the residence of the employer. This is specifically prohibited by the provisions Page 1251 of the Industrial Disputes Act and amounts to unfair labor practice on the part of the unions (See Schedule V Entry 6). Thus holding of any kind of demonstration even physical demonstration is per se prohibited at the residence of the employer.

6. Thus while it may be the right of the union to hold peaceful demonstration, such demonstrations cannot be allowed to become violent or intimidating in nature. The safety of those visitors who are visiting the employers premises as well, as those willing workers, including their smooth ingress and egress is also to be ensured. This balance is to strike between the two competing and conflicting interests. The Courts have devised the methods to ensure it by fixing the distance from the employers premises within which such demonstration etc would not be permissible meaning thereby Unions can resort to these demonstrations only beyond a particular distance. In this way they are able to hold peaceful demonstration and at the same time it is ensured that such peaceful demonstration does not relegate the aforesaid rights of the employer. This is a message which runs through all the aforesaid judgments

15. The defendants or their employers have no business or cause to cause inconvenience, harassment or to extend threats to plaintiff his employees and cause obstruction to these or others who may visit the plaintiff. Such conduct on the part of the employees of the defendants for the redressal of their grievance to put pressure indirectly and disrupt the functioning of the plaintiff is not permissible nor can be permitted in the present facts and circumstances.

16. Considering the facts, the defendants cannot be allowed to disrupt the activities, functioning, ingress and egress of visitors and the patients and create nuisance by raising slogans near the hospital where patients need peace and solitude. The right of the defendants to have a peaceful demonstration can be vouched safely, if they are allowed to hold peaceful demonstration without making such nuisance which will disrupt the solitude and peace of the

patients and the willing workers, if they are allowed to do it at a distance of 200 meters from the boundary of the premises of the plaintiff.

17. In totality of circumstances, I, therefore, hold that the threat of strike given by the defendant is illegal and I restrain the defendant and its members from holding demonstration, dharnas, slogan shouting and in any way blocking the ingress and egress of the plaintiff, its office bearers, patients, visitors and other persons visiting the hospital in any manner, however, they may be entitled to stage peaceful demonstration and dharnas at a distance of 200 meters from the outer radius of the hospital known as VIMHANS, 1, Institutional Area, Nehru Nagar, New Delhi. Cost of the suit is also awarded to the plaintiff and against the defendants.”

22. The aforesaid principles have been reiterated by this Court in ***All India Central Government Health Scheme Employees’ Association (Delhi Branch) v. Union of India and Ors. W.P.(C) 5471/2008*** decided on May 4, 2009. I may state here, that the list of cases on the aforesaid position of law which still holds the field, is unending. So it follows the law recognizes the right of an employer, the University in this case, to have an obstruction free ingress and egress of the staff, students, their parents, visitors etc. In view of the settled position of law, the respondents / students are required to follow the law. It is also not the case of the respondents that the order is not binding on them. Accordingly, I reject the plea as advanced.

23. The plea of the learned counsel for the respondents that the order dated August 9, 2017 has to be interpreted in a manner consistent with preserving the fundamental right to protest and balance has been maintained in Para 4 of

the order where right to protest of students is expressly recognized by referring to Article 19(1)(a) of the Constitution of India is concerned, the same is without any merit, firstly such a submission is not maintainable in contempt proceedings. The same should have been advanced at the time of hearing of the writ petition. Even if advanced during the hearing of the writ petition, the same would have been rejected in view of the settled position of law, that a fundamental right as guaranteed under Article 19 (1) does not enable any citizen to exercise the same, which may encroach upon a similar right guaranteed to another citizen. In this regard, I would like refer to the judgment of the Supreme Court in the case of ***Union of India v. Niranjan Singh 1969 (1) SCC 502***, wherein it inter-alia held that the exercise of freedom under Article 19(1)(a), (b) and (c) will come to an end as soon as the right of someone else to hold his property intervenes. The Court held that the contents of the freedoms guaranteed under Clauses (a), (b) and (c) of Article 19 do not include the right to exercise them in the properties belonging to others. This judgment of the Supreme Court was referred to by the Kerala High Court in ***Kerala Students Union v. Sojan Francis 2004 (2) KLT 378***, wherein the High Court dealing almost with similar facts / issue in Paras 8, 18, 24, 25, 27 & 28 has importantly held as under:

“8. Right to education is a fundamental right guaranteed under the Constitution of India. Right to uninterrupted education is also

fundamental right guaranteed to every citizen of India lest it may affect the right to live guaranteed under Article 21 of the Constitution of India. Article 41 of the Constitution provides that the State shall within the limits of its economic capacity and development make effective provision for securing the right to work and education. Even though this right is not fundamental right, State by legislative or administrative action provides facilities for education which stand conformed to equality and rationality underlined under Article 14 of the Constitution. State as a body will not be able to provide education to all within the economic constraints but the object and purpose could be achieved by various private recognised educational institutions in the State. Under Article 19(1)(g) the right of citizens to practice any profession or to carry on any occupation, trade or business subject to limits as may be imposed by the State in the interest of public welfare and other grounds enumerated in Clause (6) has been safeguarded.

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18. The question is whether the organizations like SFI, ABVP, etc. could widen their organisational activities within the campus, so as to disrupt the general discipline in the campus. The Management and the Principals of the various educational institutions are not against the students advocating any political philosophy or ideology or discuss the same in the various forums earmarked for them by the University laws like College Unions, Students Council as part of their co-curricular activities, but not through the students organizations like SFI, ABVP, etc. within the campus with whom the Management has no legal relationship. Sojan Francis has however no grievance against the judgment and has not filed any review petition, but the students organizations like SFI, ABVP, etc. have come up with a grievance that those restrictions would affect their organizational activities within the campus.

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24. The apex court in Railway Board representing the Union of India v. Niranjan Singh (1969) 1 SCC 502) held that the exercise of freedom under Article 19(1)(a), (b) and (c) will come to an end

as soon as the right of someone else to hold his property intervenes. The validity of that limitation is inherent in the exercise of tests prescribed by Sub-articles (2) and (3) of Article 19. The court held that the contents of the freedoms guaranteed under Clauses (a), (b) and (c) of Article 19 do not include the right to exercise them in the properties belonging to others. The Apex Court in *L.I.C of India v. Prof Manubhai D Shah* (1992) 3 SCC 637) held that every right has a corresponding duty or obligation and so has the fundamental right of speech and expression. The freedom conferred by Article 19(1)(a) is therefore not absolute, it carries with it certain responsibilities towards fellow citizens and society at large. A citizen who exercise this right must remain conscious that the fellow citizen too has a similar right and the right must be so exercised as not to come in direct conflict with the right of another citizen. Students organizations like SFI, ABVP, etc. have therefore no legal right to interfere with the fundamental rights guaranteed to managements of various educational institutions in the State under Article 19(1)(g) of the Constitution.(emphasis supplied)

25. Discipline is the bedrock on which an educational system is founded. In common parlance, discipline may be a state of order maintained by training and control a particular system of regulation or conduct, instructions and exercise, designed to train to proper conduct or action. Jurisprudentially examined it brings forth something more. "Obedientia est legis essentia" obedience is the guiding force to sustain the law, rule, regulation or custom. Principal is charged with a duty, to maintain the discipline. University Laws including Mahatma Gandhi University Statutes have given considerable powers to the Principals of educational institutions to enforce discipline in the college. Educational Institutions can lay down code of conduct and guidelines to be enforced by the Principal of the educational institution. The apex court in *M.H. Devendrappa v. Karnataka State Small Industries Development Corporation*, (1998) 3 SCC 732, while considering the scope of Rule 22 of the Service Rules held that a proper balancing of interests of an individual as a citizen and the right of the State to frame code of conduct for its employees in the interest of proper functioning of the State is required. Rules which are directly linked to and are essential for proper discharge of duties of a public office would be protected under Article 19(1)(g) of the

Constitution in public interest. Reference may also be made to the decision in P. Balakoliah v. Union of India (AIR 1958 S.C.232) and Kameshwar Prasad v. State of Bihar (AIR 1962 S.C. 1166).

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27. Principal, teaching faculty and the Managements while imparting education is discharging a public duty and are regulated by rules and regulations of affiliating Universities. Code of conduct laid down by various educational institutions includes banning of strike, dharna, gherao etc. in the college campus violation of which would entail disciplinary action against the students. State Government and the Universities in the counter affidavit have stated that because of the strike, dharna, demonstration, agitation, gherao etc. within the campus by students organizations like SFI, ABVP, KSU etc. and the students in general several academic days have been lost and necessary measures are to be taken to curb those activities. Collective bargaining, strike, go slow, dharna, agitation, gherao, absenteeism etc. were alien to academic domain. Unfortunately now a days those tendencies are on the rise and unless curbed it will engulf the entire system. The relationship between teachers and students is solemn and sacred and the relationship is not that of master and servant or employer and employee. Strike, dharnas, gherao, go slow and absenteeism are weapons used by the labour force for establishing their demands under the labour laws and they are not academic tools to be used against the teaching faculty or against the management to vindicate the rights of the students. Such modes of bargaining power is foreign to the relationship between teachers and students and the students and the managements. University Statutes do not contemplate such modes of redressal though the word "strike" finds it statutory expression under Section 2(q) of I.D. Act. University Statutes enables constitution of Boards to redress the grievances of the students. Strikes, gherao, dharna, bandh, etc. within the campus are illegal and do not have the support by any law and could be prevented failing which disciplinary action could be taken against the students.(emphasis supplied)

28. The Apex Court in Ex.Capt. Harish Uppal v. Union of India, 2003 (1) KLT 192 (SC) = (2003) 2 SCC 45, examined the rights of

lawyers to strike work and held that lawyers have no right to go on strike or give a call for boycott, not even on a token strike and held them personally liable. Similar view was taken by the apex court while dealing with bandh in Communist Party of India (M) v. Bharat Kumar, 1997 (2) KLT 1007 (SC) = (1998) 1 SCC 201 (supra). So also in Rangarajan v. Government of Tamil Nadu, 2003 (3) KLT 86 (SC), where the Apex Court after following the earlier decisions held that there is no fundamental right to go on strike by the government employees. Situation of the students is worse since they are engaged in academic pursuit in an educational institution governed by rules and regulations. We have therefore no hesitation to hold that students are bound by the code of conduct laid down by the educational institutions in which they are studying and the code of conduct banning strikes, bandhs, hartals, gheraros etc. in the college campus is binding on them and could be enforced. Grievances of the students can be redressed by the grievance forum to be established under the University Laws and through other legal processes known to law.

24. From the above it is clear, the respondents / Union / students have fundamental right of peaceful protest / congregation but with certain responsibilities towards fellow students / staff / visitors etc, so as to, not impinge upon their right of free access to the Administrative Block. The order dated August 09, 2017 does not take away the fundamental right of the students / respondents, to protest. The right is maintained beyond a distance of 100 meters that too at Sabarmati lawns only, in a peaceful manner.

25. In so far as the plea of the learned Counsel for the respondents that the order dated August 9, 2017 prescribes a self contained mechanism inasmuch as in terms of Para 8 of the order, the petitioner is at liberty to approach the police authorities in violation of the said order and the Authorities having

approached the police on February 12, 2018 and no action has been taken by the police presumably in view of the lack of evidence of any obstruction is concerned, the order dated August 09, 2017, encompasses the following directions:-

- (1) No protest shall be undertaken by the students within 100 mtrs radius of the Administrative Block;
- (2) The congregation shall be at Sabarmati Lawns and shall be peaceful.
- (3) In the eventuality, the aforesaid orders are not complied with, the petitioner would be at liberty to request the police for assistance to maintain law and order, who shall act only on evidence of obstruction to ingress / egress to the Administrative Building.

26. So it follows any protest/congregation by the Union/students within a limit of 100 meters of the administrative building, even without obstruction to ingress and egress shall be a violation of order of the Court. Having said so, the allegations in the contempt petition are that the respondents apart from congregating/protesting within 100 meters of the administrative building, they were also obstructing the ingress and egress to the Administrative building. There is no denial to the fact that the students had congregated at the administrative building. In fact, in their affidavit, the respondents have stated (with regard to February 10, 2018) *“marched across the Campus including the Administrative Block”*. *“The Administrative Block did not have staff or*

officers on February 10, 2018 being a Saturday and all the events were organized beyond office hours of 9 am to 5 pm.” “On February 11, 2018 being a Sunday for the staff and officers, the student community gathered together at the Administrative Block and the events took place post office hours and late into the night after 21:00 hrs.” “The events were held at night and post office hours.” “The students being aggrieved of the coercive acts, gathered peacefully at around 5 pm near the administrative building to conduct street plays and lectures. Events were conducted post office hours of the administration and no hindrance was caused to the functioning of the administration.” “On the happenings of March 15, 2018 between 12 noon to 1 pm, the students were peacefully standing and chanting together in unity.”

The statements are admissions of the respondents that they have held protests / congregated at the Administrative building. The fact that the respondents / students had protested / congregated within 100 mtrs of the Administrative Block and not at Sabarmati Lawns shall itself constitute a violation of order dated August 09, 2017.

27. The defence of the respondents that the protests / congregation have not resulted in any obstruction to ingress and egress is irrelevant. Further, in para 8, the discretion bestowed on the University, in the eventuality of obstruction to ingress / egress to call the police, does not obliterate the directions in paras 5 and 6 that any form of protest / congregation has to be beyond 100 mtrs at

Sabarmati Lawns only. I may state here, forming a human chain is a form of protest and is in violation of directions in paras 5 and 6 of the order dated August 09, 2017. Similar shall be the position if the respondents / students disrupt the classes and also restrain the Officers / Staff from performing their duties.

28. Insofar as the plea of the respondents that as penalties of ₹10,000/- each were imposed on the four respondents, the same shall not entail action under the Contempt of Courts Act is concerned, the same is also without any merit. The imposition of penalty of ₹10,000/- on the students was for their conduct on January 04, 2018, which was violative of the Rules, which is surely an independent action not connected with an action against the respondents for violating the order of the Court. Further, the basis for initiating contempt petition is not with regard to the conduct of the respondents of January 04, 2018 only but also on other days. Even on that ground, the contempt petition by the University shall be maintainable.

29. The submission of learned counsel for the respondents that when two interpretations of an order are possible, the contempt petition would not lie is concerned, the same is also without any merit. The directions are clear and explicit without ambiguity and required to be followed.

30. Insofar as the judgments referred to by the learned counsel for the

respondents are concerned, the same are on the following proposition:-

<i>Judgments</i>	<i>Proposition</i>
(i) Anita Thakur (supra); (ii) Kameshwar Prasad (supra)	<i>Holding of peaceful demonstration in order to air their grievances and to see that their voice is heard in the relevant quarters is the right of the people, which can be traced to the fundamental freedom that is guaranteed under Articles 19(1)(a), 19(1)(b) and 19(1)(c) i.e freedom of speech, right to assemble and right to take out peaceful march.</i>
Sushila Raje Holkar (supra)	<i>That a contemnor must be punished only when a clear case of contumacious conduct has been made out;</i>
Tamilnad Mercantile Bank (supra)	<i>Where two views are possible, a contempt would not lie</i>
Vinod Surha (supra)	<i>Contempt proceedings cannot be used as a vehicle for roving enquiry to ascertain whether there has or has not been compliance with the directions issued by the Court. It is therefore, absolutely necessary that every petition seeking initiation of contempt proceedings not only alleges in clear and unambiguous terms contumacious, disobedience with directions issued by the Court but also contains adequate and sufficient material to support the said allegation;</i>
Sahdeo Alias Sahdeo Singh (supra)	<i>Non compliance of Courts order by mistake, inadvertence or by misunderstanding of meaning and purport of order unless it is intentional, no charge of contempt can be brought home in such cases</i>

<i>Tomaso Bruno and anr. (supra)</i>	<i>Failure to produce best evidence i.e CCTV footage, creates serious doubt about the petitioner's case and on that ground the contempt petition needs to be dismissed</i>
<i>R.N.Dey (supra)</i>	<i>That the weapon of Contempt is not to be used in abundance or misused. Normally it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for</i>
<i>In Re: P.C. Sen</i>	<i>That Court not to initiate proceedings on a mere technical Contempt</i>
<i>Mritunjoy Das and Anr (supra) and T.C. Gupta (supra)</i>	<i>The standard of proof for civil Contempt is beyond reasonable doubt.</i>

31. The aforesaid judgments have no applicability in the facts as pleaded; in view of my conclusion above. This being a contempt petition, the scope is to see and determine whether there is violation of the order passed by this Court and nothing more.

32. My above discussion shows, the respondents have in fact, reargued the writ petition by contending that they have a right to protest that too at the administrative block, de hors the direction already given. In other words, the attempt has been to justify their conduct. During the arguments, the respondents have not expressed any regret / remorse for violating the orders. It is not a case of non-compliance of order by mistake, inadvertence or by

misunderstanding of meaning and purport of the order. This I say so, the respondents herein are pursuing post graduate studies. They are educated persons, surely knowing the purport / intent of the order passed by this Court on August 09, 2017, which is clear and explicit. The interpretation sought to be given to the order by the learned counsel for the respondents is only an attempt to wriggle out of their contemptuous acts. So it must be held, on the basis of the photographs and the admissions made by the respondents, that they did congregate / held protests in the administrative block, which was in willful violation of the order dated August 09, 2017. The Supreme Court in the case reported as **(2006) 11 SCC 114 Rama Narang v. Ramesh Narang and another**, has held that in order to maintain sanctity of the orders of the court, it has become imperative that those who are guilty of deliberately disregarding the orders of the Court in a clandestine manner should be appropriately punished. It was further held that the Majesty of the Court and the Rule of Law can never be maintained unless this Court ensures meticulous compliance of its orders. Similarly, a Division Bench of this Court in **Mohan Nair Vs. Rajiv Gupta 220 (2015) DLT 332** held that to say that the orders of the Courts are unimplementable and unenforceable has the tendency of making the law and the Court, a laughing stock and it is the duty of every Court to prevent its machinery from being made a sham, thereby running down the Rule of Law and rendering itself an object of ridicule.

33. The Supreme Court in *Sukhdev Singh v. Hon'ble C.J.S. Teja Singh & Ors. AIR (1954) SCR 454* while recognizing that the power of the High Court to institute proceedings for contempt and punish the contemnor when found necessary is a special jurisdiction which is inherent in all Courts of Record, the Bench opined that “the maximum punishment is now limited to six month’s simple imprisonment or a fine of ₹ 2,000/- or both” because of the provision of Contempt of Courts Act.

34. Accordingly, taking into consideration that the respondents are students who are pursuing higher studies, and are on the threshold of their careers, the interest of justice would be served if a fine of ₹ 2,000/- is imposed on each of the respondents. It is ordered accordingly. The fine shall be deposited before the Registrar General of this Court within two weeks from today. Contempt petition is disposed of.

JULY 03, 2018/jg/ak

V. KAMESWAR RAO, J