

\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

LPA 181/2017 & CM Appl.No. 10523/2017

NANDITA NARAIN

..... Appellant

Through: Mr. Sunil J. Mathews, Mr. Sabah
Iqbal Siddiqui, Ms. Apoorva Vijn &
Mr. Tusharjeet Singh, Advocates

versus

UNIVERSITY OF DELHI AND ORS

..... Respondents

Through: Mr. Mohinder J.S.Rupal & Mr. Prang
Newmai, Advocates for Respondent
No.1
Mr. Romy Chacko & Mr. Vishant
Singh, Advocates for Respondents
No.4,5, & 6
Mr. Vivek Kumar Tandon with
Ms. Mamta Tandon, Advocate for
Respondent No.7
Mr. Rajesh Gogna, CGSC for
Respondent No.10

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

%

11.03.2019

1. This appeal is directed against an order dated 14th February, 2017 passed by the learned Single Judge dismissing the Appellant's Writ Petition (C) No. 10006/2015 which had challenged the notice dated 13th October, 2015 issued by the University of Delhi "for constituting a Fact Finding Committee to examine certain issues which had come up with the said petition." The said notice referred to receipt of complaints from various colleges and

institutions against the conduct of the Petitioner.

2. The learned Single Judge was of the view that at the stage of preliminary fact finding, the Petitioner did not have a *locus standi* to challenge such fact finding. In the first round, the learned Single Judge by an order dated 9th January, 2015 had dismissed the Appellant's Writ Petition (C) No. 2342/2014 on the above reason. In the impugned order also, the learned Single Judge followed the earlier order dated 9th January, 2015 and was still of the view that the challenge to the impugned notice was pre-mature.

3. During the pendency of the present appeal this Court was informed by the learned counsel for the University that the Fact Finding Committee had in fact completed its inquiry. This Court then required the Respondents to produce the report of that Fact Finding Committee. On 22nd November, 2017 the following order was passed by the Court:

“As a last opportunity, Mr. Mohinder J.S. Rupal, learned counsel appearing on behalf of respondent Nos. 1 to 3, is granted two weeks' time to obtain instructions from Delhi University qua the Fact Finding Enquiry conducted by the latter qua the appellant. It is further directed that in the event the Fact Finding Committee has submitted a report, the same be produced before this Court on the next date of hearing. Renotify on 08.03.2018.”

4. On 8th March, 2018 the following order was passed:-

“Mr. Mohinder J.S. Rupal, learned counsel appearing on behalf of respondent Nos.1 to 3(for short 'the said respondents') prays for more time to produce, for the perusal of this Court, the report of the fact finding enquiry committee.

It is observed that number of opportunities have been granted to the

said respondents in this behalf and that the present appeal was adjourned on 22.11.2017, whilst granting one last opportunity to the said respondents to produce the said enquiry report before this Court today.

Mr. Mohinder J.S. Rupal, learned counsel, on instructions, states that no action consequent upon the report of the fact finding enquiry committee has been initiated on behalf of the said respondents so far.

Whilst granting the said respondents one more opportunity to produce the enquiry report for the perusal of this court on the next date of hearing, it is directed that no further steps be taken against the appellant in the meantime.

Renotify on 24.05.2018.”

5. Thus, it would be seen that from 22nd November, 2017 onwards, the Court has been asking to University to produce the Fact Finding Report. Even on 24th May, 2018 another request was made by the counsel appearing for the University for an adjournment in order to enable them to produce the inquiry report for the perusal of this Court.

6. When the matter was called out today, Mr. Rupal to begin with stated that the said report was not traceable. However, when this portion of the order was dictated, Mr. Rupal again sought a pass over for him to take instructions. At his request, for the second time, the matter was passed over and called out after lunch to enable M. Rupal to take instructions.

7. After the matter was called out after lunch, Mr. Rupal informed the Court that he had received no instructions. The net result is that till date even the Delhi University is unable to inform the Court what has happened to the so called report of ‘Fact Finding Committee’.

8. The Petitioner has been having the prospect of an inquiry against her hanging like a sword since 2014. It is nearly five years now and there appears to be no justification whatsoever for the University not to conclude the so called 'Fact Finding Committee' and inform the Petitioner of the outcome thereof.

9. The reason why the learned Single Judge declined relief to the Appellant was that it was pre-mature for her to question the show cause notice dated 13th October, 2015 which constituted the Fact Finding Committee. Today, more than three years thereafter, with there being no prospect of a report by such Fact Finding Committee, the said notice dated 13th October, 2015 appears to have lost all its significance.

10. Consequently, the Court quashes the notice dated 13th October, 2015. The impugned judgment of the learned Single judge is accordingly set aside.

11. The appeal is allowed but in the circumstances with no order as to costs. The application is also disposed of.

S. MURALIDHAR, J.

I. S. MEHTA, J.

MARCH 11, 2019

mw