

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1339 of 2023

In

Civil Writ Jurisdiction Case No.4528 of 2023

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Shubham Kumar S/o Sarveshwar Kumar Resident of Vill.- Mauna, P.O.-
Taraom, P.S.-Nasriganj, District- Rohtas, Pin- 821310.

... .. Appellant/s

Versus

1. National Institute of Technology Patna through its Director.
2. The Director, National Institute of Technology, Patna.
3. The Registrar, National Institute of Technology, Patna.
4. Dean (Academic), National Institute of Technology, Patna.
5. Dean, Student Welfare, National Institute of Technology, Patna.

... .. Respondent/s

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with

Miscellaneous Jurisdiction Case No. 1091 of 2024

In

Letters Patent Appeal No.1339 of 2023

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Shubham Kumar S/o Sarveshwar Kumar, R/o Vill Mauna, P.O. Taraon, P.S.
Nasriganj, District Rohtas, 821310 (Bihar).

... .. Petitioner/s

Versus

1. The National Institute of Technology Patna, through Director.
2. The Director, National Institute of Technology Patna.



- 3. The Registrar, National Institute of Technology Patna.
- 4. Dean Academic, National Institute of Technology, Patna.
- 5. Dean Student Welfare, National Institute of Technology, Patna.

... .. Opposite Party/s

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Appearance :

(In Letters Patent Appeal No. 1339 of 2023)

For the Appellant/s : Ms. Roona, *Amicus Curiae*
Mr. Shubham Kumar (In Person)

For the Respondent/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Sanjay Kumar Giri, Advocate
Mr. Mritunjay Harsh, Advocate

(In Miscellaneous Jurisdiction Case No. 1091 of 2024)

For the Petitioner/s : Ms. Roona, *Amicus Curiae*
Mr. Shubham Kumar(In Person)

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-05-2024

Whether the appellant, a student of the respondent Institute was victimised or whether the Institute’s image has been tarnished by the unsubstantiated allegations raised by the student before the various authorities, is the underlying issue in the appeal which arise from a writ petition challenging an order of expulsion of the student from the Institute for one academic year. The learned Single Judge noticed the submission of the



respondent-Institute that they are agreeable to allow the petitioner to participate in the academic activities from the 5th semester, which would commence in July, 2023; took note of an undertaking filed by the petitioner and set aside the impugned order dated 24.11.2022 with direction to the petitioner to abide by his undertaking and participate in the academic activities from the 5th semester. Liberty was also reserved for the Institute to take appropriate action in the event of breach of undertaking.

2. The petitioner who appeared in person submitted that there was no undertaking that he would register for the 5th semester in the Academic Year 2023-2024. It was his submission that he had joined the course for the academic year 2020-2024, and when his expulsion was set aside, he should have been restored to the 5th semester and permitted to appear for the examination of the remaining semesters since his absence from the institute was only on account of the expulsion order. The appellant who appeared in person was emotionally charged and was also to an extent misdirected in his submissions. We had then appointed an *Amicus Curiae*, Ms. Roona, who had been assisting us ably in the hearings.

3. In this context, we were of the opinion, after hearing the matter today, that we should place on record the



various stages of the hearing in the appeal for which we deem it appropriate that the different orders are extracted hereunder. We extract the orders of 30.11.2023 and 30.01.2024:

Order dated 30.11.2023

The appellant, who was admitted in the academic year 2020-2021 was continuing his 5th Semester in B.Tech course in the respondent institute when the expulsion order was passed pursuant to a misconduct alleged against him. The learned Single Judge on the apology proffered by the appellant confirmed the order of expulsion and directed him to get himself admitted in the next year for the 5th Semester, i.e. in the academic year commencing 2023-24. Admittedly, the appellant did not proffer himself for admission to the 5th Semester in the year 2023-24.

2. The present appeal is filed against the original order after which a modification filed by him before the learned Single Judge was also rejected. The modification filed was to permit the appellant to sit for the 7th Semester which was rejected by an order by the learned Single Judge. In the present appeal, the original order passed by the learned Single Judge is challenged.

3. We see that the merits of the case with respect to justification for the expulsion was not considered by the learned Single Judge. Merely because the student proffered an apology it is not



as if he gave up his contentions. In such circumstance, we would consider the matter in the appeal itself especially since a remand would entail further delay and the student will be kept out of his course. We direct the respondents to file a counter affidavit to the appeal bringing forth their defence.

4. We are also told that the 5th Semester examination is commencing on the 5th of December, 2023 by the appellant.

5. The learned Senior Counsel Sri Y. V. Giri, appearing for the respondents, however, specifically takes us to paragraph nos. 4 and 5 of the appeal in which aspersions were cast against the lawyers and also even against the Judge. It is also pointed out that such aspersions were even made a part of the modification petition.

6. Especially considering the fact that the student is appearing in person, we asked him to withdraw such aspersions cast on the persons appearing in the case and as against the Judge. The student readily agreed to file an affidavit withdrawing such aspersions. An affidavit shall be filed by 11.12.2023.

7. We also appoint Ms. Roona, learned Advocate (AOR-07292) as amicus curiae to help the appellant in arguing the case. The counter affidavit also shall be placed on record by 11th December, 2023.

8. In the circumstance of our direction



expediting the hearing, also considering the fact that the appellant was doing his 5th Semester, if the final examination of the 5th Semester is being conducted from 05.12.2023 as submitted by the appellant, he shall be permitted to appear for the same, subject, however, to the final disposal of the case. We make it clear that the results shall not be published unless the appeal is disposed of and if disposed of, it shall be in accordance with the directions therein. We perfectly comprehend that the appellant would not have paid his registration and examination fees and so on and so forth. However, the respondent-University, being an autonomous body, shall, if necessary, accept the said fees in the physical form and permit the appellant to sit for the 5th end semester examination said to be commencing on 05.12.2023 or any other date.

9. Post on 11.12.2023.

Order dated 30.01.2024

The appellant was aggrieved with his expulsion from the respondents' College. A writ petition was filed which was disposed of by the impugned order/judgment. The impugned order/judgment did not look into the proceedings which led to the expulsion. Before Court, the appellant gave his unconditional apology and undertook and promised not to break any of the rules or order or guidelines of the Institute and



those issued by the Warden in future. The undertaking was recorded and with consent of both parties, the order dated 24.11.2022 was set aside with a direction that the appellant shall abide by his undertaking, as also register and join for the fifth semester to be started from July, 2023, upon which he shall also be allowed to stay in the hostel.

2. The appellant has come up before this Court claiming that though he had apologized, which he had done at the spur of the moment, he still assails the expulsion order, which resulted in his losing an academic year. Even the direction issued by the Institute to join for the fifth semester in July 2023 would have extended his academic period by one year. He had joined for the course of 2020-2024 but the learned Single Judge's order if abided by him, he would qualify only in the year 2025.

3. We appointed an Amicus Curiae Ms. Roona to argue for the appellant who was appearing in person. We also heard learned Senior Counsel Shri Y.V. Giri for the Institute.

4. Having looked at the proceedings taken against the appellant, we find that, it commenced with a complaint from the Dean which is produced as Annexure-R/A in the counter-affidavit of the Institute, dated 07.12.2023. Later, Annexure-R/B dated 13.11.2022 was issued by the Disciplinary Committee, convening meeting on



17.11.2022 and requiring the presence of the appellant. The notice issued is produced as Annexure-R/2 in the rejoinder affidavit filed by the appellant on 05.01.2024. The notice does not show the allegations raised in the complaint. The notice is also dated 15.11.2022 and on 17.11.2022, the expulsion from the academic year 2022-2023 and debarring from hostel accommodation for his entire BTech tenure was passed. A mercy petition filed was considered by the very same Committee and rejected as Annexure-R/C.

5. Learned Senior Counsel Shri Y.V. Giri vehemently argues that the student was a constant trouble maker having sent complaints against all and sundry to the Police and even the Government of India. There is clear admission of the allegation and an undertaking was given as per Annexure-R/3 which was signed by his father also. It is contended that there is no reason to permit the appellant to resile from the undertaking given before the respondents' Institute or the learned Single Judge.

6. The learned Amicus Curiae, pointed out that the student was constantly harassed within the College but had not complained of any such harassment in the first two years. He had also cleared all the examinations at the first instance itself. He also appeared for the mid semester examination of the fifth semester in the third year. As of now the learned Senior Counsel submits he has qualified in the said mid semester exams. On



our orders, he has been permitted to sit for the end semester examination of the fifth semester, the result of which is awaited.

7. We prima facie find the proceedings to be arbitrary and without proper notice. The complaint and the order of expulsion deal with different allegations. None of these were put to the appellant in the notice issued. We are concerned about the Institute's guidelines as to deal with complaints against the students and also the settlement of grievances as raised before the Authorities. In the present proceedings, we see that no proper notice was given and there was no examination of any witnesses or production of any documents thus leading to an arbitrary exercise of power by the Disciplinary Committee. We direct the learned Senior Counsel to get further instructions as to the system, put in place for grievance redressal as also disciplinary action to be taken against students. The same shall be placed on record within a week.

8. In the meanwhile, we are of the opinion that the student should be allowed to register for the sixth semester now going on, of the batch admitted to the academic course 2021-2025. The student will appear before the Institute on tomorrow itself and he would be permitted to attend the classes and register for the sixth semester. The hostel room should also be allotted to the student if he so desires.



9. It is made clear that the appellant on being admitted would maintain discipline in the classes and follow the rules of the Institute.

10. Post on 12.02.2024 for further orders.

4. We have to observe that though the impugned order was set-aside in the writ petition, we, inadvertently noticed it as 'confirmed'; in the above extract, which is only a typographical error. Though the petitioner was permitted to appear in the 5th semester examination, today, the Learned Senior Counsel appearing for the Institute produced before us his marksheet by which he is seen to have failed in all the subjects. There is considerable dispute as to whether the appellant had attended the classes in compliance of our interim order, which he asserts was not possible because of the vindictive attitude displayed by the Institute officials. The learned Senior Counsel appearing for the Institute, however, submits that the petitioner has been making scurrilous allegations against the Institute, its officials, teachers and even its lawyers. In this context, we deem it appropriate to notice a proceeding for contempt, initiated by the petitioner, again appearing in person, against the learned Senior Counsel and Instructing Counsel appearing for the Institute.

5. We specifically extract also the order dated



25.04.2024, since from the e-mail, we noticed some allegations against the Court also. As is seen from the order, we asked the *Amicus Curiae* to enquire from the petitioner, appearing in person, whether we should recuse from hearing the matter. The order dated 25.04.2024 is extracted hereunder:

Before the proceedings commence, Mr. Y.V. Giri, learned Senior Counsel, produced before us a copy of the e-mail sent by the appellant to the Registrar General of the High Court, with a copy to the Amicus Curiae and the learned Counsel appearing for the respondent-National Institute of Technology.

2. We extract the entire e-mail in our order.

“To,

The Hon'ble High Court of Judicature at Patna

The Petitioner in Person in LPA 1339 of 2023.

Shubham Kumar, hereby states that there are impossible situation to attend classes to complete all remaining courses as per the B.Tech Course Curriculum. Despite my best efforts to comply with the Hon'ble High Court's opinion, I regularly attended college from 30.01.2024 to 08.03.2024

It is important to note that there was a mid-semester examination for the new course curriculum of the 6th semester, during which the Respondents neither mentioned my Roll No. 2004069 in the attendance sheet nor in the seating



arrangement.

On 15.03.2024, I was physically assaulted by an invigilator of the examination room, and the Associate Dean Exam A.R. Quaff falsely claimed via email that I did not attend the examination.

Subsequently, I filed a contempt case on 20-03-2024, MJC 1091 of 2024, which pertains to the violation of court orders, namely:

- (i) the declaration of the 5th semester result with an "Incomplete" grade against the court order,*
- (ii) the failure to provide classes as per my course curriculum, B.Tech 2020-2024, and*
- (iii) the denial of permission to appear in the 6th semester mid-examination, coupled with the false claim of my non-appearance.*

*Advocate Y.V. Giri and Sanjay Kumar Giri repeatedly submitted false affidavits. Consequently, on 18.04.2024, I filed Contempt Case MJC 1366 of 2024 against both lawyers in LPA 1339 of 2023 which amounts to contempt of court as per the judgment **M.Y. Shareef and Another Vs. The Hon'ble Judges of the High Court of Nagpur And Others**, relied upon by the **Honorable Supreme Court**.*

I, Shubham Kumar, respectfully requested Hon'ble Chief Justice K. Vinod Chandran and Hon'ble Justice Harish Kumar to ensure that the court's decisions are based solely on the merit of the case. I have full faith in the judiciary for their competency.

However, the manner in which the Hon'ble Court has expressed its mood and inclination towards the respondents suggests that the Hon'ble Court is not proceeding on merit. This represents a serious



lapse of the Hon'ble Patna High Court if decisions are made without recognizing the rejoinder against the false counter affidavits of the respondents.

I request 45 minutes to defend my case in my own words on 25.04.2024 without any interruption from the Respondent Counsel, as it ensures a fair opportunity for me to present my defense before the court. I also request the Hon'ble Court not to grant any privileges to the lobby of Y.V. Giri, as they have misused their influence to pressurize the court with false and frivolous statements.

I am willing to sacrifice my degree but I will not compromise with the National Institute of Technology Patna. I am prepared to fight until my last breath, even if it means facing a do-or-die situation, despite the constant threats to my life from the NIT Patna administration.

Shubham Kumar

Petitioner in Person

L.P.A. 1339 of 2023

M.J.C 1091 of 2024

M.J.C 1366 of 2024”

3. In the context of the statements made therein, in the presence of all the Counsels and in open Court, we directed the Amicus Curiae to ask the appellant, who is present in person, whether he wanted this Division Bench to recuse from hearing the matter and whether he wanted to argue the matter himself.

4. The learned Amicus, after interacting with the appellant, informed us that he does not want us to recuse from the matter. He wanted the Amicus to present his case and then by himself,



justify his action with respect to the contempt cases filed against the learned Senior Counsel and the learned Counsel appearing for the respondent-Institute.

5. We proceeded with the hearing. But, however, the learned Advocate General interjected and he was of the opinion that there should be some counselling for the appellant, especially considering the manner in which he had filed the contempt application and also the e-mail raising allegations against the Court.

6. We do not entertain any manner of grouse against the appellant but still the learned Advocate General felt that he should be talked to.

7. In such circumstances, we, on our own, wanted his parents to be present, so that we could speak to them.

8. However, the appellant submits that he does not want to involve his father, since he has a heart problem.

9. We agreed and then we suggested that the appellant talk to the learned Advocate General; who consented to talk to the appellant.

10. We directed the Amicus to take the appellant to the learned Advocate General, who would counsel him.

11. Post the matter on 01.05.2024.

6. The contempt case was withdrawn on 02.05.2024.



The aforesaid orders are self explanatory and on 15.05.2024, we heard the matter. The learned *Amicus Curiae* Ms. Roona took us through the documents produced by the appellant and the respondent Institute itself to convince us that the order passed was illegal and that the further action of the Institute also clearly indicates their vindictive attitude to the petitioner.

7. It is the contention of the *Amicus* that the petitioner had raised some issues with respect to the functioning of the institute and its hostel which had irked the authorities and which led to the disciplinary proceedings initiated. The reason stated in the complaint and the Minutes of the Meeting of the Disciplinary Committee were not at all related. The appellant was never given a proper show-cause notice. The principles of natural justice were given a complete go-by and the appellant was coerced into making apologies and concessions and out of fear of expulsion, the appellant did proffer an apology. The mere apology stated by the appellant does not at all prove the allegations levelled against him and as a lone student, who was also anxious to complete his academic studies, was coerced into making the apology. It is contented that till the 5th semester, there was absolutely no complaint against the appellant and the facts which led to the complaint was also shown to us with



reference to the documents, which are uncontroverted. Before the learned Single Judge, the appellant again apologized and gave an undertaking to follow the rules, but that does not necessarily indicate a consent that he would join the 5th semester on the next academic year. When the order of expulsion was set aside, naturally, the appellant should have been restored to his batch of 2020-2024.

8. Learned Senior Counsel Shri Y.V. Giri asserts that the appeal is not maintainable since the order impugned is one on consent. Learned Senior Counsel relied on Section 96 (3) of the CPC and ***Bharat Amratlal Kothari and Anr. v. Dosukhan Samadkhan Sindhi and Ors.; (2010) 1 SCC 234*** to argue that no appeal lies from a consent order. The learned Senior Counsel would argue on the subsequent conduct of the appellant and the various allegation petitions, he filed against the Institute before the various authorities. It is vehemently submitted that the appellant was a constant problem maker and had disturbed the amicable atmosphere of the academic institution. The appellant had even filed a case for contempt against the lawyer which clearly indicates his conduct and the attitudinal deficiencies. The learned Single Judge had directed him to register for the 5th semester in July, 2023, which he refused to do. Despite that on



orders of this court, he was permitted to sit for the 5th semester examination in which he failed. The petitioner has not attended the classes for the 5th, 6th and 7th semester and there is no way the Institute can admit him to the examinations. The learned Senior Counsel seeks dismissal of the appeal on the ground of the same being not maintainable since the impugned order is on consent and also on the ground of the delinquency displayed by the appellant even after after he was permitted to join in the 5th semester. The learned Senior Counsel would also urge that many of the documents produced in the appeal are not relevant.

9. We specifically pointed out to the learned Senior Counsel that we are not concerned with the multitude of documents, but would only request him to respond to all the documents referred to by the *Amicus* while arguing the matter; which we will refer to in our judgment.

10. The first contention raised by the respondent is as to the impugned order in the appeal being one on consent. Having gone through the order, we do not find any consent given in writing to concede to the penal orders passed by the respondent-institution. We see from the writ petition the undertaking as signed by the petitioner. It only states that

(i) that the petitioner again give his unconditional apology to the respondent-



institution;

(ii) the petitioner undertakes and promises not to break any rule/order/guidelines of the Institute or warden in future.

11. The apology obviously does not translate to an admission of guilt especially considering the student's situation, who was pitted against the respondent-institution in which he was undergoing a course of study. The undertaking and promise, to not break any rule/order or guidelines of the Institution in future; either of the Institute or the Warden, cannot again translate into an admission of guilt. The student wanted a quietus to the issue and based on the undertaking, the learned Single Judge set aside the impugned order dated 24.11.2022. The challenge of the appellant is against the further direction to participate in the academic activities from the 5th semester to be started from July, 2023 because the student asserts that on the impugned order being set aside he should be restored to the original position of a candidate, who has been admitted to the 2020-2024 academic course of B.Tech in Electronics. He had also completed his mid-sem exams of the 5th semester, which he had passed.

12. The student also does not resile from his undertaking given before the Court. Whether he complied with



the undertaking is another matter, but it has to be noticed that respondent-Institute has not taken any action against him and there is no allegation of any misdemeanor or indiscipline. All that the respondent-Institute allege is the continuous complaints made before various authorities, which every right thinking citizen would have the prerogative to make; the further action being subject to what the authorities to which the complaint has been made would deem it proper, on whatever investigation or inquiry carried out. The undertaking, hence, does not make the impugned order one on consent especially when the challenge is only to that direction, which obliges the student to register afresh in July 2023 for the 5th semester. We bow to the proposition expounded in ***Bharat Amratlal Kothari*** (supra) that though the CPC does not apply to writ proceeding the general principles coming out of the CPC apply squarely. But, as we found, there is no consent, which is challenged hereunder.

13. We have to refer to a few admitted facts. The appellant was admitted in 2020-2024 B.Tech Electronic Course in the respondent-Institute. His academic studies were carried out successfully in the years 2020-21 and 2021-22, the first to the fourth semester. The problems arose in the 5th semester that too after the mid-sem exams were over, in which the petitioner



had participated. The trouble commenced, according to the petitioner with Annexure-R/1 produced along with his supplementary counter affidavit dated 22.12.2023 in the L.P.A, when he had, on 01.05.2022 raised a complaint against the Warden with respect to the overcharging of a packaged commodity, specifically curd, which was served in the canteen of the Institute, as is seen from page 212 of the rejoinder to the counter affidavit dated 05.01.2022. Since there was no response from higher authorities, the appellant pursued the matter with repeated complaints. Eventually as evidenced from page 48 of the very same affidavit, the CVC had registered a complaint dated 20.02.2023 made by the appellant regarding corruption by the Hostel Chairman of N.I.T., Patna by selling curd at over-priced rate and also the Administration conducting private ceremonies like anniversaries, marriage etc. The complaint is said to be still pending. Again, in page 33 of the very same affidavit, the petitioner had raised a complaint dated 23.08.2022 which also was not responded to. The same was followed up with another complaint at page 34 dated 06.09.2022 and at page 35 dated 22.10.2022.

14. We only refer to these complaints to show that the submission of the Institute that the petitioner had raised



complaint before various authorities, is an admitted fact. However, the mere raising of complaints cannot result in a student being victimized. It is also crystal clear that the Institute does not offer any explanation to the various complaints raised by the appellant-student, as produced in an affidavit placed before this Court. We would not speak on the merits of the complaints which are pending before the various authorities. However, it has to be assertively stated that while the appellant admits to have raised such complaints, it is also to be presumed that there is some credence to the allegation that the punitive action by the Institute against the student was ill-motivated; at least it probablizes the contention raised by the student, of victimization.

15. Now, we have to look at the action initiated against the appellant-student which we narrate hereunder based on the counter affidavit dated 07.12.2023 filed by the respondent-Institute. Perforce, we have to extract certain documents. The complaint is said to have been generated by the Warden of the Brahmaputra Hostel by Annexure-R/A dated 15.11.2022 produced in the afore-mentioned affidavit of the respondent. Annexure-R/A is extracted hereunder:-



To
Dean (Student Welfare) (10)
NIT Patna

Annex-R/A (14) 136
~~Annex-R/A~~ Date 15/11/2022

Subject -> To call urgent meeting of Institute disciplinary committee due to the unstable behaviour of Mr. Shubham Kumar (Roll No 2004069)

Dear Sir,

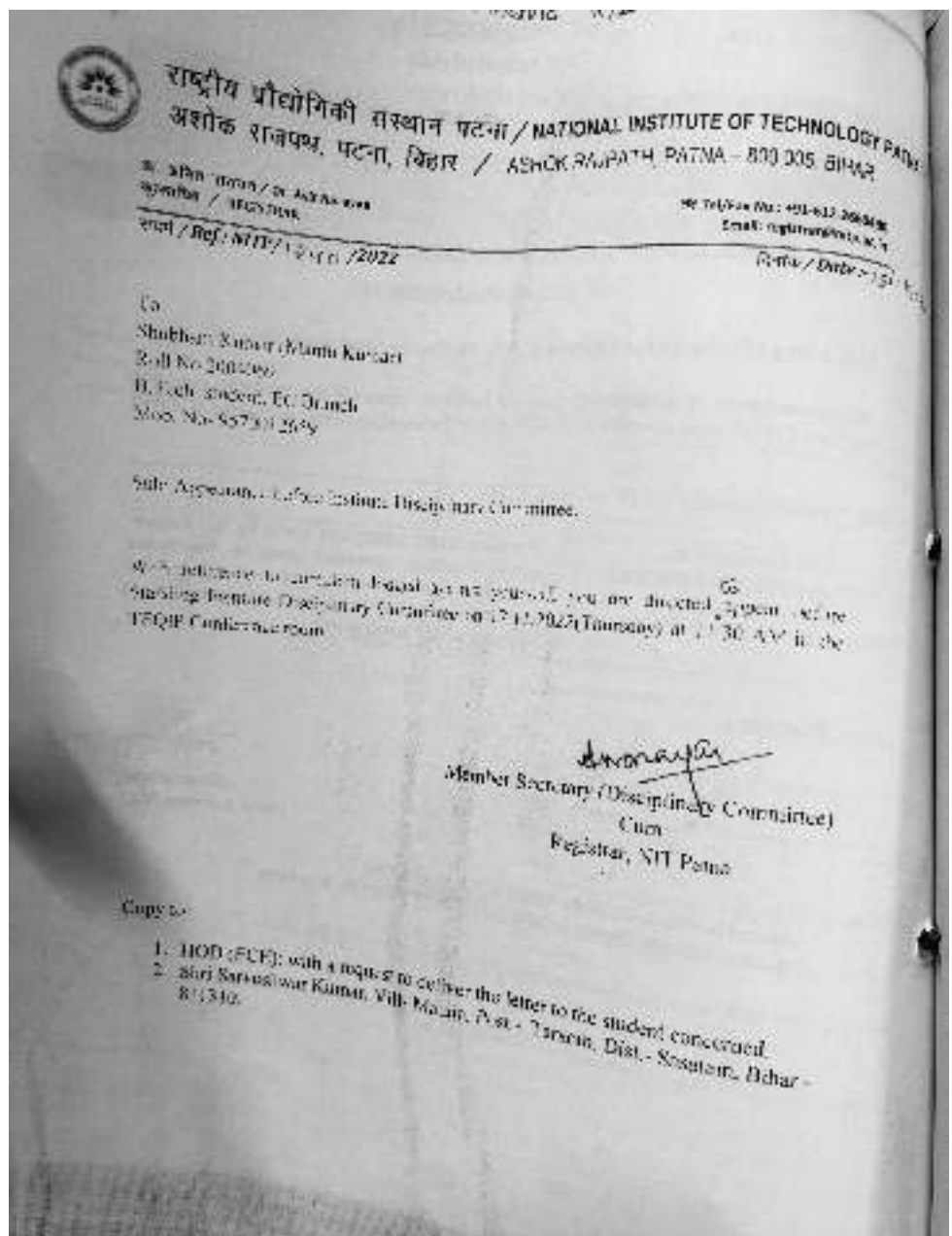
I, Dr. Yogesh Kumar, warden, ~~Brahmputra~~ Brahmaputra Hostel, would like to call urgent meeting of Institute disciplinary committee due to the following reasons/ unstable behaviour of Mr. Shubham Kumar (Roll No 2004069)

- ① Continuous threats to the Hostel students by him.
- ② Objection contents found in the mobile in the presence of police officers (copy enclosed)
- ③ Defamatory / prurient content shared by him on many social media accounts.
- ④ Refusal to the instructions given by warden and disrespectful behaviour toward Hostel warden.
- ⑤ To overlook into the multiple fake complains filed by him to various govt. agencies and police administration without any proofs/witness in his support.

Thanking You
with regards,
Dr. Yogesh Kumar
Warden, Brahmaputra Hostel.



16. Pursuant to the said complaint, a show-cause notice was issued on the very same date which is produced as sf Annexure-R/2 in the rejoinder dated 05.01.2024 filed by the appellant which is extracted hereunder:-



17. It is very clear from the show-cause notice that no specific allegation was levelled against the appellant. Minutes of the Meeting in which the appellant participated, as summoned is produced as Annexure-R/B in the counter affidavit dated 07.12.2023 of the respondent, which is extracted hereunder:-

Annexure-R/B 15 137
Annexure R/B

Minutes of the meeting

A meeting of the Institute Disciplinary Committee was convened on 17-11-2022 (Thursday) at 11:30 AM in the DEGP Conference Room. Following members were present in the meeting

Sl. No.	NAME	DEPARTMENT	DESIGNATION
1	Prof. Pratish Chandra	Dean (Student Welfare)	Chairman
2	Prof. A.R. Quaff	Professor, C.U.	Member
3	Prof. Samrat Mukherjee	Chairman, HMI	Member
4	Dr. Mala De	Associate Professor, U.I.U.	Member
5	Dr. Yogesh Kumar	Warden, Baidampatra Hostel	Member
6	Dr. Bisham Kumar	Warden, Baidampatra Hostel	Member
7	Mr. Anurag Pandey, Roll No.-1906029, CSE	Student representative (Boys)	Member
8	Ms. Srutapani Viprachand, Roll No.-1906111, MCA	Student representative (Girls)	Member
9	Dr. Asit Narayan	Registrar, NIT Patna	Member Secretary

With reference to the complaint forwarded by the hostel warden of Baidampatra hostel, the student Shubham Kumar (Roll No.-2004067) was called to appear before the disciplinary committee of the Institute. The primary complaint against Shubham Kumar was lodging a false complaint against one of his batchmates in the Pithura Police station. Later he had given a written apology and requested to be investigating officer to withdraw the FIR, which was filed under IPC 489. He was questioned regarding his motive behind the complaint. Shubham could not provide any satisfactory answer and it was clear to the committee that the student lodged a false complaint for his personal enmity. On further thorough investigation by the committee, following facts were also found:

1. Shubham was involved in distributing false medical certificates to his batchmates.
2. Shubham was also involved in issuing false bonafide certificates to his batchmates by misusing the signature of his Head of the Department.
3. Shubham was also involved in threatening his batchmates continuously regarding invoking IPC 489.
4. Shubham was found to behave very rudely with the warden and teachers. He had used impudent written language against his warden.

Considering all the submissions of the student and carefully examining the facts, the committee unanimously recommends debarring the student from all academic activities in the Academic Year 2022-23 and also debarring him from Hostel accommodation for his entire H.Tech tenure.

Srutapani Viprachand
17/11/22
Srutapani Viprachand

Anurag Pandey
17/11/22
Anurag Pandey

Mala De
17/11/22
Dr. Mala De

Dr. A.R. Quaff
17/11/22
Dr. A.R. Quaff

Dr. Yogesh Kumar
17/11/22
Dr. Yogesh Kumar

Dr. Bisham Kumar
17/11/22
Dr. Bisham Kumar

Prof. Samrat Mukherjee
17/11/22
Prof. Samrat Mukherjee

Dr. Asit Narayan
17/11/22
Dr. Asit Narayan
Member Secretary

Prof. Pratish Chandra
17-11-2022
Prof. Pratish Chandra
Chairman, Disciplinary Committee

Page 1 of 1



18. This led to Annexure-5 expulsion from the Institute as produced in Annexure-5 along with the writ petition, which is extracted hereunder:-

ANNEXURE -5 (17)

राष्ट्रीय प्रौद्योगिकी संस्थान पटना / NATIONAL INSTITUTE OF TECHNOLOGY PATNA
अशोक राजपथ, पटना, बिहार / ASHOK RAJPATH, PATNA - 800 005, BHAR

पत्रा संख्या / Dr. Ash. NITP/12/2022
पुनर्पत्र / 12/2022

पत्रा संख्या / 12/2022
पुनर्पत्र / 12/2022

पत्रा संख्या / 12/2022
पुनर्पत्र / 12/2022

Notice

In pursuance to the approval given by the competent authority to the recommendation made by the Institute Disciplinary Committee on the act of various indisciplinary activities, Shubham Kumar, Roll No. 21NCE, B. Tech. ECE Department is hereby expelled for one academic year 2022-23 from all academic activities and from Hostel accommodation for his entire B.Tech tenure with immediate effect. He is directed to vacate the hostel immediately and inform the same to the DMC office.

By order of Director

(Signature)
Registrar

Copies:

1. Concerned student
2. Dean (Acad.), Dean (SW), Associate Dean (Exam)
3. Chairman (DMC) & Warden (Brahmapur) : with a request to put the notice on all Hostel Notice Board
4. HOD, ECE Dept.
5. Guardian of the concerned student
6. Secretary to Director
7. P.A. to Registrar
8. Court File

(Signature)
Registrar

शिक्षा मंत्रालय, भारत सरकार के अधीन एक राष्ट्रीय महत्व का संस्थान
An Institute of National importance under Ministry of Education, Govt. of India



19. Hence, on a complaint initiated on 15.12.2023 on the same day, a show-cause notice was issued without any details of the allegations levelled. The meeting of the disciplinary committee was held on 17.11.2022 resulting in the expulsion of the student on 24.11.2022. We also have to notice that the complainant had participated in the meeting of the Disciplinary Committee which is evident from the minutes extracted. It is also pertinent that the matters discussed by the Disciplinary Committee was not at all related to the complaint raised. We specifically queried the learned Senior Counsel appearing for the Institute as to any substantiation regarding the allegations in the complaint or that alleged in the meeting, having been placed before us either in the writ petition or in the appeal. The learned Senior Counsel concedes that nothing has been placed before us regarding the allegations levelled. The learned Senior Counsel but pointed out the attitudinal issues of the appellant which is evident from the various complaints raised before the various authorities.

20. The perfunctory manner in which the disciplinary inquiry has been initiated and concluded clearly establish the vindictive attitude of the Institute; which we already held was probablized by the manner in which the



complaint originated from the Warden after the student had complained about the over-pricing of a food item served in the canteen of the Institute. We cannot but observe that the entire action of the Institute against the student-appellant stands vitiated.

21. The learned Senior Counsel relied on *Hira Nath Mishra & Others v. Principal, Rajendra Medical College, Ranchi & Another* reported in (1973) 1 SCC 805 to contend that principles of natural justice are not inflexible and may differ in different circumstances. We cannot but notice that in the cited case, the complaint related to an extremely serious matter, not involving not merely internal discipline but the safety of girl students, who had complained about the male students having conducted nude marches inside the girls hostel premises late at night. A confidential complaint was received from the girl students which was acted upon by the College. The Hon'ble Supreme Court found that this was not a case in which the Police could be called in because if an investigation was commenced, naturally the girl students would withdraw out of sheer fright and shame. There was also no possibility of a full-fledged before a regular Tribunal since the girl students would not have ventured to make a statement in the presence of the



miscreants. It was in this circumstance that the just and reasonable inquiry devised by the authority, ensuring that individual girls are not subjected to harassment, was upheld; finding that principles of natural justice are not inflexible. We have to specifically notice that the learned Judges found that the applicability of the principles would differ in different circumstances.

22. We do not find any such extenuating circumstances in the present case warranting non-disclosure of the name of the complainants or at least substantiation of the claim of false certificates said to have been distributed by the appellant-student. In fact, the complaint of the Warden speaks of objectionable material found in the mobile in the presence of a Police Officer. It is also submitted by the appellant that his mobile was seized and was handed over to him only when he was expelled from the College. The mobile phone was not examined by the disciplinary committee and as we noticed earlier, nor were any of the complaints of the Warden examined. At the risk of repetition, it has to be noticed that the show-cause on 15.11.2022 was issued on the basis of the complaint raised by the Warden, in which none of the allegations made by the Warden was put to the student. In the meeting in which the



student participated, none of the allegations levelled by the Warden was discussed. We do not know how and from which source, the allegations put to the appellant in the meeting and discussed emanated from. We find the impugned order of expulsion to be grossly vitiated.

23. We noticed that the learned Single Judge had set aside the impugned order, but on the apology tendered and the undertaking given before the learned Single Judge. The apology and the undertaking tendered we have already found is inconsequential and the finding regarding the sham of an inquiry and the illegality of the order of expulsion commends us to find the entire proceedings against the appellant/writ petitioner, the student of the respondent-Institute to be completely vitiated. We set aside the expulsion order on the reasons stated above; finding the expulsion order to be vindictive, arbitrary and illegal resulting in clear victimization of the student.

24. Having set aside the expulsion order at Annexure-5, we are of the opinion that the student should be restored to the position, i.e. as a student who has completed his course in the academic years 2020-2024. We, hence, refer specifically to the curricula for Bachelor of Technology and Bachelor of Architecture produced by the respondent in its 4th supplementary affidavit dated 07.05.2024. We have to notice that



though the appellant has to be restored to the position of a student, who has completed the 2020-2024 B.Tech course, he has not appeared in the 5th - 8th semesters. He had completed the 5th semester mid-sem exams, which he has cleared as submitted by the learned Senior Counsel and recorded in one of the interim orders extracted above. The petitioner has to sit in the theory papers of 5th, 6th, 7th and 8th semesters. The curricula course structure as produced by the respondent in the 5th, 6th, 7th and 8th semesters are extracted hereunder:-

Sem	Categ ory	Course	Code	L	T	P	Credit +	Comm Credit
7	TH	RF and Microwave Engineering	EC7501	2	0	0	3	
7	TH	Embedded System Design	EC7502	3	0	0	3	
7	TH	Professional Elective-5:	EC75xx	3	0	0	3	
7	TH	Open Elective-4:	OE90xx	3	0	0	3	
7	--	Seminar and Technical Report Writing	EC7503	0	0	6	2	
7	PT	RF and Microwave Engineering Lab	ECL7501	0	0	3	1	
7	--	Short Term Industrial Research Experience	EC7504	0	0	3	1	
7		Project-I	EC7505	0	0	15	5	
8	TH	Wireless Communication	EC8506	3	0	0	3	
8	TH	Professional Elective-6:	EC85xx	3	0	0	3	
8	PT	Wireless Communication Lab	ECL7506	0	0	3	1	
		Total credit in 7th semester					28	155
8	--	Seminar and Technical Report Writing	EC8502	0	0	6	2	
8	--	Comprehensive Viva	EC8503	0	0	6	2	
8	--	Project-II	EC8504	0	0	30	10	
		Total credit in 8th semester					14	169



Sem	Category	Course	Code	L	T	P	Credit	Cumm Credit
5	TH	VLSI Design	EC5501	3	1	0	4	
5	TH	Advanced Communication Engineering	EC5502	3	0	0	3	
5	TH	Microprocessor & Microcontroller	EC5503	3	0	0	3	
5	TH	Professional Elective-2:	EC55xx	3	0	0	3	
5	TH	Green Technology (Environmental Science)	CH5501	3	0	0	3	
5	TH	Open Elective-2:	OE0xxx	3	0	0	3	
5	PT	VLSI Design Lab	ECL5501	0	0	3	1	
5	PT	Advanced Communication Lab	ECL5502	0	0	3	1	
5	PT	Microprocessor & Microcontroller Lab	ECL5503	0	0	3	1	
		Total credit in 5th semester					22	106
6	TH	Digital Signal Processing	EC6501	3	1	0	4	
6	TH	Antenna And Wave Propagation	EC6502	3	0	0	3	
6	TH	Professional Elective-3:	EC65xx	3	0	0	3	
6	TH	Professional Elective-4:	EC65xx	3	0	0	3	
6	TH	MOOC Course		3	0	0	3	
6	TH	Open Elective-3:	OE0xxx	3	0	0	3	
6	PT	Digital Signal Processing Lab	ECL6501	0	0	3	1	
6	PT	Antenna and Wave Propagation Lab	ECL6502	0	0	3	1	
		Total credit in 6th semester					21	127



25. There is some anomaly with respect to the 8th semester since the two theory papers of Wireless Communication and Professional Elective is shown against the 8th semester, but they are added as total credit in the 7th semester. Hence, we have to find that there are theory and practicals to be done in 5th, 6th & 7th semesters and in the 8th semester there is only (i) seminar and technical report writing; (ii) comprehensive viva and (iii) project too. Definitely, there would be students in the course of 2020-2024 who would not have cleared 5th, 6th and 7th semesters for which supplementary examinations would be held by the Institute. Even if there are no students for the theory papers and practicals, the exams have to be held for all the third semesters by the Institute, even if it is for the appellant-student alone. The academic year of 2023-24 has just concluded, the petitioner would be entitled to participate in the examination.

26. Considering the allegations and counter



allegations of portal facilitation, we would direct the appellant to make a formal application for registration in the examinations through the *Amicus Curiae* to the learned Counsel representing the Institute, who shall hand over the same to the Institute and the Institute shall facilitate his registration; without taking any fees for the same. The student shall be allowed to sit for the examination and he shall be allowed to carry out his obligations in the 8th semester. The student shall be evaluated and the graduate degree conferred, if he qualifies in the examination and practicals.

27. Though, we have directed the petitioner to be considered as having completed his course of 2020-2024, we cannot but notice that there would still be delay in his being qualified since he has to carry out his obligations as per the 8th semester, which would be normally for a period of 6 months. Considering the delay occasioned of 6 months and also the vindictive attitude displayed by the Institute, we direct the Institute to pay a cost of Rs.1,00,000/- to the appellant forthwith.



28. We appreciate the effort taken by the *Amicus Curiae* to help the student appellant and also assist us; which we record was remarkably done. We direct the Bihar State Legal Services Authority to pay an amount of Rs.25,000/- as legal fees to the *Amicus Curiae* from the cost fund.

29. We conclude with the hope that academic Institutions would display more transparency in it's functioning and take a holistic, sympathetic and graceful approach towards it's students. The officials of the faculty & administration in any academic institution; be it teachers or administrative staff are discharging a *parens patriae* role when dealing with the students, which they have to keep in mind always, in every transaction with the students. Even a misguided student should be counseled and brought back to the mainstream. Protest and complaints raised against the authorities should not be treated lightly nor dismissed as attitudinal issues which, if so dismissed would only generate doubts about the functioning of the administration.



30. With the above observations, we allow the appeal with the directions herein above. We are convinced that there is no reason to proceed on contempt and we close the contempt case.

(K. Vinod Chandran, CJ)

Harish Kumar, J. I agree

(Harish Kumar, J)

Anushka/
Sharun-

AFR/NAFR	
CAV DATE	15.05.2024
Uploading Date	17 .05.2024
Transmission Date	

