

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.3359 OF 2024

Ramadas KS	.. Petitioner
Vs.	
Tata Institute of Social Sciences, Mumbai & Ors.	.. Respondents

Mr. Mihir Desai, Senior Advocate, with Ms. Lara Jasani and Ms. Rishika Agrawal, Advocates for the Petitioner.

Mr. Rajeev Kumar Pandey with Mr. Ashish Kanojia, Advocates, i/by PRS Legal, for Respondent No.1-TISS.

Ms. Rui Rodrigues, Advocate for Respondent No.2.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 30TH AUGUST, 2024.

PC. :

1. The challenge raised in this writ petition is to the communication dated 18th April 2024 issued by the Officiating Registrar, Tata Institute of Social Sciences - 1st respondent by which the petitioner who has been enrolled as a Ph.D. student has been suspended from the Institute for a period of two years and his entry has been barred across all the campuses of TISS. It is further stated in the said communication that an appeal against the findings of the Committee could be filed within a period of thirty days.

2. Mr. Rajeev Kumar Pandey, the learned counsel for the TISS had raised a preliminary objection to the entertainability of the writ petition on

the ground that an alternate remedy of filing an appeal was available to the petitioner. When the learned counsel for the parties were heard on this aspect, it was urged by Mr. Mihir Desai, learned Senior Advocate for the petitioner that the appeal against findings of the Committee would lie before the Competent Authority which in the present case was the Vice Chancellor. Since the impugned communication indicated that the recommendation made by the Committee was accepted by the Competent Authority, there would be no point in preferring an appeal before the very same Authority that had accepted the report of the Committee.

3. As it was not made clear from the record as to who was the Competent Authority, on 20th August 2024 the TISS was directed to file its affidavit to clarify this aspect. Today, an affidavit has been filed on behalf of TISS through its Officiating Registrar.

4. In paragraphs 9 and 10 of the said affidavit, it has been stated that the Competent Authority does not play any role in the functioning of the Committee and the said Authority therefore has not participated nor adjudicated the issues nor “applied his mind” to the same which had culminated in the impugned Committee Report. It is sought to be explained by the learned counsel for TISS that the statements made in paragraph 9 and 10 of the said affidavit may not be taken in the literal sense.

. By that as it may, the fact remains that the report of the Committee was sent to the Competent Authority – the Vice Chancellor who accepted the recommendation of the Committee after which the impugned communication dated 18th April 2024 came to be issued.

5. It is now clear that the Competent Authority is the Vice Chancellor who had accepted the recommendation of the Committee and he is also the Appellate Authority before whom the decision of the empowered Committee can be challenged in appeal. In these facts, the remedy of appeal in our view would be illusory. This is for the reason that in the impugned communication dated 18th April 2024, it has been stated in clear terms that the recommendation of the Committee was accepted by the Competent Authority. The Competent Authority itself having considered the recommendation made by the Committee and having accepted the same thereafter, it would be futile to again approach the very same authority to hear an appeal in respect of a matter that has been considered and recommended by the very same Authority. The impugned order of suspension has been issued pursuant to the acceptance of the report of the Committee by the Competent Authority. It would thus be an appeal from Ceaser to Ceaser as held in *Ram and Shyam Company Vs. State of Haryana and Ors.*, 1985 INSC 135.

6. In that view of the matter, the petitioner cannot be relegated to

invoke the remedy of appeal. The writ petition would have to be entertained for considering the challenge as raised to the impugned communication dated 18th April 2024.

7. The affidavit filed on behalf of respondent nos.1 and 2 is taken on record. Rejoinder, if any, be filed within a period of two weeks from today.

8. Put up for further consideration on 18th September 2024.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]