



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

Reserved on : 21.11.2023

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Pronounced on : 30.01.2024

+ **W.P.(CRL) 2945/2023**

AMIT KUMAR & ORS.

..... Petitioners

Through: Mehmood Pracha, Mr. Jatin Bhatt and
Mr. Harshit S. Gahlot, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Himanshu Pathak, Mr. Sahaj
Garg and Samman Kr. Singh,
Advocates for R-1/UOI.
Mr. Ripu Daman Bhardwaj, SPP for
CBI.
Ms. Rupali Bandhopadhyaya, ASC with
Mr. Abhijeet Kumar, Adv.
Insp. Shambhu Nath and SI
Dharmendra, P.S. Kishangarh

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. The present petition under Article 226 and 227 of the Constitution of India has been filed by the petitioners with the following prayers:-

"a) to issue an appropriate writ, order or direction including a writ in the nature of mandamus, thereby directing the police authorities or Respondent No. 6 to register appropriate FIRs in the cases involving the deaths of the sons of Petitioner No. 2 and Petitioner No. 3; and



b) to issue an appropriate writ, order or direction including a writ in the nature of mandamus, thereby directing the investigation of the cases to be done by Respondent No. 6; and
c) to issue an appropriate writ, order or direction including a writ in the nature of mandamus, thereby directing the Respondent No. 6 to conduct a thorough, impartial investigation into the caste based atrocities being committed in the premises of Respondent No. 5; and
d) monitor the investigation of the case; and
e) direct an independent inquiry into case based atrocities being committed in the premises of Respondent No. 5; and
f) to issue an appropriate writ, order or direction including a writ in the nature of mandamus, thereby commanding the Respondents to ensure strict compliance and implementation of provisions of SC/ST(POA) Act, 1989 and rules and regulations under the SC/ST(POA) Rules 1995.
g) pass any other or further orders, as this Hon'ble Court may deem fit and proper in the circumstances of the present case."

2. In brief the facts of the case are that Complaints dated 26.07.2023 and 09.09.2023 were filed by the petitioners who are the parents of two deceased students of B.Tech (Mathematics and Computing) at Indian Institute of Technology, Delhi, wherein, it was alleged that one student, namely, Ayush Ashna was found dead on 08.07.2023 at his Hostel Room No. WH-02, Seventh Floor, Udaygiri Hostel, IIT, New Delhi and another student, namely, Anil Kumar was found dead on 01.09.2023 in his Hostel Room No. EA-18, Ground Floor, Vidhyachal Hostel, IIT, New Delhi. It is alleged in the complaints that they were murdered with the conspiracy of IIT Faculty members to hide the real facts and both the students have been falsely shown to have committed suicide. It is further alleged in the complaints that both the students belonged to Scheduled Castes and they had informed their parents several times regarding caste



discrimination by the faculty/staff of IIT, Delhi and therefore, the petitioners alleged that the faculty members are trying to save the real accused persons and the police officials are also not investigating the matter in a proper manner. In view of the above said complaints, an enquiry was conducted in both the cases.

3. As per the Status Report filed by the Ld. ASC, postmortem of the deceased Ayush Ashna was conducted vide PM No. 1500/23, wherein the cause of death was held to be “*asphyxia as a result of hanging due to ligature*”. During the course of enquiry, statements of father, brother, other relatives and friends of the deceased were recorded in which it was found that the deceased had failed in some of the subjects in the prior semester exams due to which he was under depression. They further denied any foul play or any suspicion regarding the death of deceased. Father of the deceased, namely, Ramesh Kumar had later given a written complaint in the police station, in which he alleged that his son Ayush Ashna was facing caste based discrimination by his hostel mates and other faculty members during the beginning of his academic year 2019-2020 and he also suspected in the complaint that his son could not have taken such steps and someone might have killed his son with the connivance of faculty members. Therefore, to clarify the facts, the grade reports of Ayush Ashna were collected from IIT and it was found that during the 2nd semester of year 2022-23, he had failed in some of the subjects and got lower grades i.e., Grade F which stands for Very Poor in 5 out of 7 subjects. During further enquiry, several other students of IIT, Delhi who belonged to Scheduled Castes and Scheduled Tribes were also examined, wherein none of them



reported any caste-based discrimination against any of them.

4. In the case of Anil Kumar, postmortem of the deceased was conducted vide PM No. 2048/23 wherein the cause of death was held to be *“asphyxia consequent to ante-mortem compression of neck by ligature”*. During the course of enquiry, statements of the brother, mother, other relatives and friends of the deceased were recorded who stated that due to scoring less marks in exams, deceased was under stress. They further denied any foul play or any suspicion regarding the death of deceased. Brother of the deceased, namely, Amit Kumar had later given a written complaint in the police station, in which he alleged that Anil Kumar was facing caste-based discrimination by his teachers and other faculty members. He also suspected in the complaint that his brother could not have taken such steps and someone might have killed him with the connivance of faculty members and the faculty members are also trying to save the real accused persons. He further alleged in his complaint that there was some kind of bleeding from the ears of the dead body and blood stains were scattered all over the room and thus, the same does not appear to be an incident of suicide.

5. Accordingly, further enquiry was conducted in the case wherein it was found that Anil Kumar had taken admission in IIT Delhi in 2019 vide Entry No. 2019 MT10674 in B.Tech (Mathematics and Computing) and he was allotted Room No. SD-11, Vidhyachal Hostel at the time of admission. During the semester period of 2020-21 and 2022-23, he got low grades in some of the subjects. Deceased Anil Kumar extended his stay at the hostel for the preparation of remaining subjects and completing the course and the same was granted by the relevant department immediately. Subsequently, he



was allotted Room No. EA-18, Vidhyachal Hostel. The deceased could not clear some subjects and was residing in hostel on further six months extension. As per the rules, his hostel was to be vacated in June but as he could not qualify some subjects, he was given extension for six months to clear the exams.

6. On further verification of facts, it was revealed that the deceased passed all the subjects in I year but he later failed in two subjects out of seven subjects in 3rd semester. Thereafter, in 4th semester he took only one subject and failed in the same, in the following year (2021-22) he failed to pass any subject, in 7th semester he failed in one subject out of six subjects and finally in 8th semester he failed in two subjects out of six subjects and therefore, he was given an extension to clear all the subjects. Furthermore, Hostel allotment letters were also analyzed and it was found that there was no column revealing the category of the students as to whether she/he belongs to SC/ST/General category in any of the form and only entry number was mentioned in all the forms and thus, no evidence of caste-based discrimination against the deceased was found.

7. I have heard the Ld. Counsel for the petitioners, Ld. ASC for the State, perused the Status Report filed by the Ld. ASC and also, perused the records of this case.

8. Learned counsel for the petitioners submitted that the deceased students, Ayush Ashna and Anil Kumar were bright students with good academic career who had cracked the prestigious JEE-Advanced and got admission in Indian Institute of Technology, Delhi, but they faced caste based discrimination at the hands of some of the faculty members of IIT,



Delhi. He further submitted that the police officials are not registering FIRs in the matters due to their indifferent and callous attitude, despite the serious allegations made by the family members of the deceased students of murder due to caste related atrocities and discrimination committed upon the deceased in the premises of IIT, Delhi. He further submitted that the police officials are acting in connivance with the administration of IIT Delhi, and have deliberately followed delaying tactics so that all the evidences are systematically destroyed. He further submitted that the provisions under Section 4(2)(b) of the SC/ST(POA) Act, 1989 also provides for registration a First Information Report under the Act and other relevant provisions and thus, the police officials have wilfully neglected their duties required to be performed by them under the Act.

9. Ld. counsel for the petitioners, in support of his contentions, has placed reliance on the following judgments:

- ***Lalita Kumari vs. State of UP [AIR 2012 SC 1515]***
- ***National Campaign on Dalit Human Rights and Ors vs. Union of India and Ors. [AIR 2017 SC 132]***

10. On the other hand, Ld. ASC for the State submitted that no doubt the deceased students were bright and young, however, there is nothing to show that they faced caste based discrimination in the IIT Campus, in fact, as per the detailed enquiry conducted by the officials it is revealed that deceased Ayush Ashna was failing in some of the subjects and had got lower grades i.e., Grade F (Very Poor) in 5 out of 7 subjects, and deceased Anil Kumar was also failing in two subjects out of seven subjects in 3rd semester, in 4th semester he took only one subject and failed in the same, in the following



year he failed to pass any subject, in 7th semester he failed in one subject out of six subjects and in 8th semester he failed in two subjects out of six subjects. She further submitted that both the deceased were failing in multiple subjects and it is most likely that they committed suicide by hanging on account of the fact that they were not able to withstand the pressure to perform better. She further submitted that the apprehensions of the parents of the deceased were duly considered and in this regard a thorough enquiry was conducted wherein statements of family and friends of the deceased were recorded and several other students of IIT, Delhi who belonged to Scheduled Castes and Scheduled Tribes were also examined, wherein not even a single thing cropped up which suggested that the deceased were murdered in the campus and as a matter of fact, none of them had ever reported of any caste-based discrimination by faculty members or anybody else. She further submitted that no complaint was ever given by either of the deceased to the police or to the SC/ST Cell of IIT Delhi regarding any caste-based discrimination and moreover, except the Dean of Academics, no one knows the category of students and they all are treated equally in the campus by all the staff members. Lastly, she submitted that a detailed enquiry was conducted, all relevant materials have been collected and subject to rigorous scrutiny, in the absence of any specific allegation or even an iota of evidence to suggest that the present case is not the one where two students under pressure committed suicide by hanging, there are no grounds for either registration of FIR or directing CBI to investigate the matter in the present case and the same deserves to be dismissed.

11. As far as the judgments relied upon by counsel for the petitioners that registration of FIR is mandatory under Section 154 of the Cr.P.C if the



information discloses commission of a cognizable offence, there is no dispute with regard to the proposition of law laid down in the said judgments, however, with due regard the same are not applicable to the facts of the present case as in the case at hand, a thorough and detailed enquiry has been conducted by the officials wherein it was borne out that both the deceased were failing in multiple subjects and as per the statements of their family and friends, both of them were under pressure to perform better. Moreover, nothing has come up during the enquiry to suggest that the deceased students faced any kind of caste based discrimination by the faculty members or staff in IIT, Delhi. Though this Court is very much aware of the plight of the grieving parents of two young students who took extreme steps and the agony undergone by them, however, this Court cannot issue a mandamus on the basis of mere sentiment or sympathy.

12. In *State of West Bengal & Ors. Vs. Committee for Protection of Democratic Rights, West Bengal & Ors. [(2010) 3 SCC 571]*, the Hon'ble Supreme Court of India has observed and held as follows:-

“Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where



it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”

13. In ***Mithilesh Kumar Singh vs. State of Rajasthan & Ors. [(2015) 9 SCC 795]***, the Hon’ble Supreme Court of India has observed and held as follows:-

“Even so the availability of power and its exercise are two distinct matters. This Court does not direct transfer of investigation just for the asking nor is transfer directed only to satisfy the ego or vindicate the prestige of a party interested in such investigation. The decision whether transfer should or should not be ordered rests on the Court’s satisfaction whether the facts and circumstances of a given case demand such an order. No hard and fast rule has been or can possibly be prescribed for universal application to all cases. Each case will obviously depend upon its own facts. What is important is that the Court while exercising its jurisdiction to direct transfer remains sensitive to the principle that transfers are not ordered just because a party seeks to lead the investigator to a given conclusion. It is only when there is a reasonable apprehension about justice becoming a victim because of shabby or partisan investigation that the Court may step in and exercise its extra ordinary powers. The sensibility of the victims of the crime or their next of kin is not wholly irrelevant in such situations. After all transfer of investigation to an outside agency does not imply that the transferee agency will necessarily much less falsely implicate anyone in the commission of the crime. That is particularly so when transfer is ordered to an outside agency perceived to be independent of influences, pressures and pulls that are common place when State police investigates matters of some significance. The confidence of the party seeking transfer in the outside agency in such cases itself rests on the independence of that agency from such or



similar other considerations. It follows that unless the Court sees any design behind the prayer for transfer, the same must be seen as an attempt only to ensure that the truth is discovered. The hallmark of a transfer is the perceived independence of the transferee more than any other consideration. Discovery of truth is the ultimate purpose of any investigation and who can do it better than an agency that is independent.”

14. Perusal of the Status Report filed by the Ld. ASC for the State shows that a thorough and detailed enquiry was conducted into both the cases and it was found that no complaint was ever given by any of the deceased students to the police, SC/ST Cell of IIT Delhi or to any of their friends in Campus regarding any caste-based discrimination being faced by them. Moreover, statements of family and friends of the deceased were recorded and several other students of IIT, Delhi who belonged to Scheduled Castes and Scheduled Tribes were also examined and none of them reported any caste-based discrimination taking place in the IIT Campus, Delhi. The allegations levelled by the petitioners therefore, could not be corroborated and nothing came on record to substantiate the same.

15. Undoubtedly, the academic career of two brilliant and young students came to an end under devastating circumstances and one cannot even fathom the challenges and emotions which the parents of the deceased must be facing every day. This Court can understand the sentiments of the parents of the deceased and deeply discourages the growing trend of pressurising young minds to perform the best in every aspect of life leading them to take unfortunate steps. It is high time that the faculty as well as other staff members of Indian Institute of Technology make conscious efforts and take endeavours to counsel, encourage, motivate and invigorate the students. It is



of utmost priority to make the young minds understand that though scoring good marks and performing your best is important but it is not the most important thing in life and one can certainly give his/her best without succumbing to the pressures or stress of performing better. The most significant way of instilling this into young minds who face challenges everyday in the professional and competitive environment of colleges is by teaching them in the very same campus where they spend years of their students lives, the values of prioritizing their health, be it physical or mental, which will also give them the confidence to face every challenge in life.

16. Taking into consideration the totality of facts and circumstances of this case, this Court is of the view that a mandamus cannot be issued in a routine manner merely on the basis of sympathy or sentiments, accordingly, the present petition along with pending applications, if any is dismissed being devoid of any merits.

RAJNISH BHATNAGAR, J

JANUARY 30, 2024

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