

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO. 31 OF 2025

M/s. Alliance University

Appellant (Orig.
.. Defendant)

Versus

M/s. Inzane Labs Private Limited

Respondent
.. (Orig. Plaintiff)

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- Ms. Nida Khan a/w. Mr. Swapnil Ambure and Ms. Harshada Parbhane, Advocates for Appellant.
- Mr. Rashid Khan, a/w. Mr. Janak Upadhyay, Advocates i/by Mr. Rakesh Kumar Singh for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 02, 2026.

P.C.:

1. I have Heard Ms. Khan, learned Advocate for Appellant and Mr. Khan, learned Advocate for Respondent.

2. Plaintiff has filed a Suit for recovery of an amount of Rs.10 lakhs from the Defendant – University which is a private University. Plaintiff claims to have a transaction with the University for certain services provided in its laboratory. According to Ms. Khan, learned Advocate on behalf of Defendant – University, the transactions of Plaintiff were independently with one Mr. Madhukar Angur, who was the Chancellor of Defendant – University during the then time in the year 2016. She would submit that services of the said Chancellor were

terminated as bar back as on 07.04.2016 by the Defendant – University.

3. The present Suit proceeding though titled as Commercial Summary Suit No.21 of 2021 was infact filed in the year 2018. *Ex-parte* order was passed on 20.03.2019 which was not to the knowledge of Defendant – University. Though admittedly Defendant – University had appointed an Advocate to represent and espouse its cause, it appears that post passing of the *ex-parte* order dated 20.03.2019, no steps were taken and then Covid-19 pandemic happened.

4. Defendant – University filed Notice of Motion for setting aside of the *ex-parte* order under Order IX Rule 13 of the Code of Civil Procedure, 1908 and for opposing and prosecuting the Suit proceeding on behalf of the Defendant – University. That Notice of Motion was dismissed by virtue of the impugned order dated 07.08.2024.

5. The order dated 20.03.2019 *prima facie* is a very drastic order. It allows Plaintiff to proceed with the Suit *ex-parte*. However, reading of the impugned order dated 07.08.2024 *prima facie* shows that substantial grounds have been considered and noted by the learned Trial Court as pleaded by Defendant – University, despite which not agreeing with the submissions of Defendant, the Notice of Motion stands dismissed. Dismissal of the Notice of Motion would

prima facie oust the Defendant, rather non Suit the Defendant completely. This is not the case where Defendant – University has not placed any reasons before the Court, rather substantial reasons have been placed before the Court which have been noted by the Court. It is seen that though initially the Suit was filed as a Summary Suit, in view of the Circular dated 05.02.2021 it has been converted into a Commercial Suit. Admittedly writ of summons has been served upon the Defendant – University as far back as on 17.11.2018.

6. Request made by Defendant – University in the Notice of Motion was with regard to the issue of delay. Two *prima facie* issues of facts emanate from the case of the Defendant, firstly Defendant has pleaded the effect of lockdown due to Covid-19 pandemic and secondly Defendant has stated that Advocate was appointed, but no steps were taken by him on behalf of the Defendant – University. In so far as issue of limitation is concerned, the Supreme Court has waived the period between 20.03.2020 to 28.03.2022 for the purpose of limitation due to Covid-19 pandemic by passing appropriate directions in *Suo Moto* Petition Nos.3 of 2020 and 4 of 2020 and in view of the reasons given on merits the Defendant's case could have been considered appropriately instead of non-suiting the Defendant.

7. I have considered the submissions made by Ms. Khan, learned Advocate on behalf of Defendant – University and perused the

record of the case. Equally, I have considered the objections raised by Mr. Khan, learned Advocate on behalf of Plaintiff. Though the issue of termination of the services of the Chancellor of the Defendant – University would be on a completely different footing, it is seen that Defendant – University namely Alliance University is an University which carries the strength of 6500 students and over 350 staff members as on date.

8. The grounds mentioned by the Defendant – University as stated in the Affidavit-in-support of the Notice of Motion *prima facie* persuade this Court to give an opportunity to the Defendant – University to oppose the claim of Plaintiff and hence I am in agreement with the submissions advanced by Ms. Khan on behalf of Defendant.

9. I have also persuaded both the learned Advocates to take appropriate instructions and apprise the Court on the next adjourned date as to whether the parties would be willing to determine their *lis* in Mediator or arbitration by consent.

10. Needless to state that such persuasion and request is made by the Court to them for early determination of their dispute and certainly without prejudice to the rights and contentions.

11. Both Ms. Khan, learned Advocate for Defendant – University and Mr. Khan, learned Advocate for Plaintiff persuade me to give them time to take appropriate instructions from their respective clients and

accordingly apprise the Court. Needless to state that after hearing them, appropriate orders will be passed in the present Appeal From Order.

12. Stand over to **6th April 2026**. To be placed under the caption **‘First on Board’**.

[MILIND N. JADHAV, J.]

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