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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 16.02.2026

Judgment pronounced on: 13.03.2026

+ **CONT.CAS(C) 1315/2025 & CM APPL. 54119/2025**

OBINNA THEODORE ONYENETOPetitioner

Through: Petitioner in person (Appearance
not given)

versus

FOREIGNERS REGIONAL REGISTRATION OFFICE & ANR

.....Respondents

Through: Mr. Shashank Insp. & Mr
Raghunath S.I from FRRO, Delhi

**W.P.(C) 14835/2024, CM APPL. 62333/2024 & CM APPL
41564/2025**

OBINNA THEODORE ONYENETOPetitioner

Through: Petitioner in person (Appearance
not given)

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Pratima N. Lakra, CGSC Mr.
Shashank Insp. & Mr Raghunath S.I from
FRRO, Delhi

Ms. Apoorva Maheshwari Adv. for R4



CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

J U D G M E N T

W.P.(C) 14835/2024

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:-

“a) Pass an order to respondent no. 1 to take account of all the irreparable damages that has been caused to the petitioner from 2016 till date.

b) Pass an order to respondent no. 2 & 3 to restore the prior study rights and paid 5-year Indian student visa permit of the petitioner so that he can re-commence his intended 5 year Joint BSc/MSc. IT Degree Programs in any Indian university.

c) Pass an order to respondent no. 4, to provide a suitable financial compensation in favour of the petitioner with an interest of 18% per annum as declared in the showeth summary of expenditures of the petitioner from August 2016 till date.

d) Pass any other order as this Hon’ble Court may deem fit and proper to further compensate other significant losses incurred by the petitioner from all the stated facts and mentioned circumstances of the present case in the interest of justice.”



FACTUAL MATRIX AS PER THE PETITIONER

2. The petitioner i.e., Obinna Theodore Onyeneto, is a Nigerian national.
3. The petitioner was granted admission in 4-year B.Tech. CSE Degree Program in Apeejay Styra University, under the Dr. Satyapal Founder Scholarship. In view of this admission, the petitioner secured a student visa from the Indian High Commission Abuja (Nigeria) in the name of Apeejay Styra University and arrived in India in January 2015.
4. However, later on demise of the petitioner's father, who was also his abroad education sponsor, he could not continue with his degree in Apeejay Styra University and subsequently, the Apeejay Styra University issued a change of university no objection certificate to the petitioner to continue with his education in any other university.
5. Subsequently, the petitioner was offered a provisional admission in a 3-year BSc-IT degree program by respondent No. 4 i.e., GD Goenka University, subject to submitting the applicable fees along with relevant documents, which was complied with by the petitioner. However, instead of admission letter or acceptance letter respondent No. 4 University gave him a "TO-WHOM-IT-MAY-CONCERN" Student Identification Letter for the FRRO registration for his student visa.
6. Since, the FRRO authorities declined the application for the petitioner's student visa registration under respondent No. 4 University and the MHA nullified his provisional admission, respondent No. 4 University informed the petitioner that his student visa registration was unsuccessful as his documents did not comply with the provision of rules and regulations and told him to get a fresh



student visa to get a full admission. Respondent No. 4 University provided the petitioner with a VISA-RECOMMENDATION letter to seek a fresh student visa from Indian High Commission Abuja (Nigeria).

7. Consequently, in May 2017, the petitioner left for Nigeria to obtain fresh student visa and after securing the same in the name of respondent No. 4 University, he came back to India in January 2018 and went to respondent No. 4 University to pursue his degree and also finalized his student visa registration.
8. As per the petitioner, the respondent No. 4 University first did not provide necessary resources for his 1st and then later for 2nd semester enrolment, course registration and course assessments in either 2018 or 2019 or 2020 academic sessions, despite making payment towards 1st, 2nd, 3rd and 4th semester fees.
9. Later, respondent No. 4 University asked the petitioner to leave the university premises and upon his refusal he was assaulted. Consequently, the petitioner sought assistance from CP/DCP of Gurgaon Police Authorities and also filed a complaint.
10. Despite several requests, the respondent No. 4 University refused to provide the petitioner renewed student Bonafide certificate required for his student visa extension under the 2nd supplementary year provisions. The petitioner *vide* email sent appeals to University Grants Commission (“UGC”) and other Indian Government departments seeking aid. Eventually, respondent No. 4 University answered to UGC’s request and sent records which were forged against the petitioner. Consequently, the petitioner filed a complaint with CP



Delhi, UGC and other Indian Government department.

11. Thereafter, the petitioner applied for his student visa extension three times under the 2nd supplementary year as per UGC/FRRO regulations *vide* Application Nos. 290722NQETWS, 3112220T2UJK and 2602236R2T65, but FRRO declined all of them due to absence of student Bonafide certificate and told him to re-apply with latest student Bonafide certificate from the concerned university.
12. Since, respondent No. 4 University has collected 80% of the fees and still has not permitted the petitioner to continue with the education, the petitioner has filed the present petition seeking the reliefs as reproduced above.

SUBMISSIONS ON BEHALF OF THE PETITIONER

13. The arguments were heard and the petitioner was also called to appear in person and also has been heard.
14. Learned counsel for the petitioner, submits that the respondent No. 4 University caused irreparable damages to the petitioner's education and significant financial losses by not letting him complete his education after getting about 80% fees from him.
15. It is submitted that that respondent No. 4 University after misleading the petitioner with its provisional admission and under false assurance of full admission took fees from him and later refused to grant him full admission on the ground that he did not have student visa registration and his documents were not in compliance with the provisions of the rules and regulations.
16. It is submitted that respondent No. 4 University told the petitioner to get a fresh student visa in the name respondent No. 4 University and



gave him a VISA-RECOMMENDATION letter, without returning his fees or without providing any student visa support. The petitioner spend huge amount of funds for his travel and for attaining fresh student visa application, only because he was misled by respondent No. 4 University's Officials.

17. It is submitted that only because the petitioner did not pay the extra admission fee with fine, he was not granted the necessary resources for 1st semester enrolment, course registration and course assessments in either 2018, 2019 or 2020 academic sessions despite paying 1st, 2nd, 3rd and 4th semesters tuition fees and filing several appeals. Further, the petitioner was not provided any resources required to complete 1st semester and yet respondent No. 4 University's Registrar nullified his degree along with his 4 semesters fee and also compelled him to pay Rs. 5000/- per single course for appearing in the examinations.
18. Further, it took respondent No. 4 University 4 years to waive off the demanded fees and provide the petitioner necessary academic resources to complete 1st semester enrolment, course registration and course assessments. Even after conducting 1st semester enrolment, course registrations, course assessments respondent No. 4 University released his answer sheet after 3 months. Subsequently, respondent No. 4 University again failed to provide petitioner necessary academic resources to complete 2nd semester and assaulted him when he refused to leave the university premises.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 3

19. Learned counsel for the respondent No. 3, submits that under Section 3 of the Foreigners Act, 1946, the Central Government has power to



issue directions to prevent entry, monitor or restrict movements of any foreign national and in pursuance of the said power, the Ministry of Home Affairs issued a visa manual (“*Visa Manual*”) to provide guidance to the Bureau of Immigration and FRRO. As per Clauses Nos. 15.2 and 15.3 of the Visa Manual, on submission of Bonafide certificate from concerned University a student visa can be extended up to 5 years periodically and thereafter, for two years (six months at a time) in rare and exceptional cases. The said Clause Nos. 15.2 and 15.3 of the Visa Manual are extracted below:-

“15.2 Validity

A Student visa [S-1 or S-2] will be valid for entry and stay in India within the period of its validity unless specified otherwise and subject to the other conditions that may be specified. Validity of a Student visa will be as indicated below:

(i) Indian Missions/ Posts may grant Student visa to nationals of all countries for a maximum period up to five years or for the duration of the academic course of study, whichever is less (excluding nationals of Pakistan and Bangladesh). The validity of Student Visa shall not exceed 5 years.

(ii) A maximum of four entries per academic year may be allowed to foreign students. In emergency situations, additional entries may be granted by FRROs/ FROs concerned with prior permission obtained from the University/Educational institution.



15.3 Conditions for Student visa

The grant of student visa [S-1 or S-2] shall be subject to the following guidelines:

- (i) A foreign student will be permitted to change his/ her course for a maximum of three times during the currency of a Student Visa. In case of any further change in the course, the foreign national will have to obtain a fresh Student Visa from the Indian Mission/ Post abroad.*
- (ii) There will be no restriction with reference to the number of courses a student wants to avail of in one institution or multiple institutions, provided the institutions are recognized.*
- (iii) In case a foreign student wants to change a course midway and join another course, the period of validity of visa will be counted from the initial date of issue of visa.*
- (iv) Every University and Educational Institution shall furnish to the FRRO/ FRO concerned information in respect of foreign students enrolled in the University or the Educational Institution in Form 'A' (Appendix- VII) within the period mentioned therein. These provisions will not apply to persons registered as OCI cardholders under the Citizenship Act, 1955.*
- (v) There may be a course requirement to complete industrial training/ summer project /internship etc. which may be a part of the prescribed curriculum. No special*



permission is required for completion of such industrial training / internship etc.

Note:

(1) Change of institution shall be allowed if student has reasonable ground of insufficient infrastructure, paucity of facility, unavailability of the course of their choice or either of them.

(2) In rare and exceptional cases, extension of Student Visa beyond 5 years may be granted by FRRO concerned on 6-monthly basis for a maximum period of 2 years on merits of each case subject to usual checks.”

20. It is submitted that, in the present case, the petitioner’s student visa was granted on 06.12.2017 and thereafter, the five years expired on 06.12.2022. He was given periodic visa extensions and his last visa extension was till 31.07.2022. Thereafter, he failed to provide the mandated Bonafide Certificate and hence, was not given visa extension and his case does not fall under rare and exceptional circumstance. Hence, it is submitted that the petitioner has overstayed as an illegal migrant in India since 31.07.2022 i.e., upon expiry of his visa.
21. Lastly, reliance is placed on ***UOI v. Savitha Kumar, LPA 219/2019***, to contend that power of the Government of India to expel a foreigner is absolute and unfettered and there is no need of prior intimation, as it is a sovereign function of the Government of India. It is submitted that the petitioner cannot claim visa as a matter of right.



SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 4

22. Ms. Maheshwari, learned counsel for the respondent No. 4 University, primarily challenges the maintainability of the present writ petition and submits that respondent No. 4 University is a non-aided private institution and not a ‘State’ or “any instrumentality thereof” under Article 12 of the Constitution of India and therefore, not amenable to the writ jurisdiction of this Court. Further, the petitioner has sought monetary reliefs against respondent No. 4 University and there is no ground for invoking jurisdiction under Article 226 of the Constitution of India, as there is no breach of any fundamental right. The allegations of the petitioner are disputed questions of facts and cannot be adjudicated under a writ petition but only by a civil court. Reliance is placed on *Harpati & Ors. v. State of NCT of Delhi & Ors., 2023 SCC OnLine Del 4607* and *Union of India v. Puna Hinda, (2021) 10 SCC 690*.
23. It is submitted that the petitioner was granted provisional admission subject to fulfilling terms and conditions mentioned in the offer letter dated 06.08.2016 issued by respondent No. 4 University, which stated that his admission will be confirmed on him obtaining education visa in respondent No. 4 University’s name and if the petitioner’s documents are found to be wanting, respondent No.4 University could cancel the petitioner’s admission and forfeit his fees except the security deposit. Since the petitioner’s provisional admission granted on 06.08.2016 could not be confirmed successfully, the fees deposited was forfeited. Hence, now the petitioner cannot claim refund of the fees and having signed an indemnity bond and undertaking dated



15.09.2016, petitioner was very well aware of the rules and regulations of respondent No. 4 University.

- 24.** It is submitted that the petitioner failed to pay his entire fees and is in arrears of Rs. 93,000/- till date. The petitioner took admission in the academic year 2017-18 B.Sc. (IT) program in School of Engineering and Sciences, respondent No. 4 University after getting a new visa and was to complete his program in 2020. Since the earlier provisional admission was nullified in 2017 for want of a valid student visa, the petitioner was required to pay the requisite admission fees as well as tuition fee for 2017-2020. However, the petitioner failed to deposit fees and what the petitioner seeks is that the fees paid in 2016 at the time of provisional admission be adjusted towards the fresh admission for the academic sessions 2017-2020. Once the provisional admission was nullified, the fees deposited at that time cannot be adjusted towards the fresh admission.
- 25.** It is submitted that as per the records at the Office of Controller of Examination, respondent No. 4 University, the petitioner has not earned the bare minimum credits during his three years program (2017-2020). Further, as per University's rules and regulations, a student is required to have a minimum of 75% of attendance to appear in examinations. The petitioner's attendance is below the minimum requirement of 75% and he was consequently debarred from appearing in the examinations.
- 26.** It is further submitted that despite petitioner's low attendance, the respondent No. 4 University granted him several opportunities to complete his degree. The petitioner was to complete his B.Sc. (IT)



course within the UGC-stipulated period of $n+2$ years, where 'n' being the number of years originally given to complete the degree i.e., 3 years. Hence, petitioner had time till July 2022 to finish his course, however, he failed to appear even in the supplementary examinations as well.

27. Further, it was in terms of the Student Handbook, that respondent No. 4 University sought payment of Rs. 5000/- per course to re-appear in examinations but respondent No. 4 University waived off the examination fee to re-appear and despite the same petitioner failed to avail the opportunity. The petitioner has only earned 20 credits out of 138 credits and hence, failed to fulfil the eligibility criteria for obtaining the degree.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 2

28. A short counter affidavit has been filed on behalf of the respondent No. 2 i.e., UGC wherein it is contended that the present matter is related to university admissions and UGC has no part in it.
29. Further, pertaining to respondent No. 4 University it stated that respondent No. 4 University has not been included in the list of universities, established as per Section 2(f) of the University Grants Commission Act, 1956, as maintained by UGC and the G.D. Goenka University, G.D. Goenka Education City, Gurgaon Sohna Road, Gurgaon, Haryana was established/notified by an act of State Legislature of Haryana as a State Private University.

ANALYSIS AND FINDINGS

30. I have heard learned counsels for the parties and perused the documents on record and including the judgments relied upon.



On the Issue of Maintainability

31. The reliefs sought and allegations made by the petitioner are primarily against the respondent No. 4 University, which is admittedly a non-aided private institution. The law is no longer *res integra* that a private body/institution is also amenable to writ jurisdiction under Article 226 of the Constitution of India even if it is not a “State” under Article 12 of the Constitution of India. The words “any person or authority” in Article 226 of the Constitution of India also has within its ambit “any person or authority” performing public duties and providing education falls within the domain of public duty.
32. In *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani*, (1989) 2 SCC 691, the Hon’ble Supreme Court laid down 2 exceptions when writ of mandamus could lie against a person/ authority which is neither a State nor an instrumentality of the State namely, (i) if the rights are not purely private in nature, and (ii) if the institution is not performing functions of a public duty. The relevant paragraphs from the said judgement reads as under:-

“15. If the rights are purely of a private character no mandamus can issue. If the management of the college is purely a private body with no public duty mandamus will not lie. These are two exceptions to mandamus. But once these are absent and when the party has no other equally convenient remedy, mandamus cannot be denied.

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17. There, however, the prerogative writ of mandamus is confined only to public authorities to compel performance of public duty. The “public authority” for them means everybody which is created by statute — and whose powers and duties are defined by statute. So government departments, local authorities, police authorities, and statutory undertakings and corporations, are all “public authorities”. But there is no such limitation for our High Courts to issue the writ “in the nature of mandamus”. Article 226 confers wide powers on the High Courts to issue writs in the nature of prerogative writs. This is a striking departure from the English law. Under Article 226, writs can be issued to “any person or authority”. It can be issued “for the enforcement of any of the fundamental rights and for any other purpose”.

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20. The term “authority” used in Article 226, in the context, must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words “any person or authority” used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The



form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed, if a positive obligation exists mandamus cannot be denied.

(Emphasis added)

33. Over time the Hon'ble Supreme Court has built upon the jurisdiction of High Courts under Article 226 of the Constitution of India. In ***St. Mary's Education Society v. Rajendra Prasad Bhargava, (2023) 4 SCC 498***, the Hon'ble Supreme Court summed up the dispute over private institution being amenable to writ jurisdiction as under:-

“75. We may sum up our final conclusions as under:-

75.1. An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.

75.2. Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a



direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of “State” within the expansive definition under Article 12 or it was found that the action complained of has public law element.

75.3..... An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a “public function” or “public duty” be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.”



(Emphasis added)

34. From the conspectus of the legal position, it emerges that though a private institution like respondent No. 4 University would be amenable to writ jurisdiction under Article 226 of the Constitution of India but the same would be limited to only those functions/ actions with public duty factor. Actions of private institution/ body with characteristics of private law/ rights will not be amenable to writ jurisdiction of the High Court under Article 226 of the Constitution of India.
35. In the present case, admittedly the petitioner was a student at respondent No. 4 University. However, the petitioner despite several re-examinations failed to complete his 3-year BSc-IT degree program in required time period of maximum 5 years. Eventually, respondent No. 4 University's Registrar nullified petitioner's degree program and forfeited his semester fees, which denied him his visa extension recommendation letter to apply for the extension of his student visa.
36. Now, the reliefs sought by the petitioner in the present writ petition against the respondent No. 4 University are monetary in nature in terms of compensation for the expenditures made by him from August 2016 till date. To my mind, the same does not arise from a public duty or a public function.
37. Even if it is to be said that by providing higher education not only to Indian students but to foreign students as well, respondent No. 4 University is performing public duty, yet the allegations made and reliefs sought by the petitioner against respondent No. 4 University in the present petition to my mind are in nature of individual wrongs and



have no nexus with discharge of public duty.

38. Hence, in my considered view, the present petition is not maintainable against respondent No. 4 University. However, since the present petition has been pending since the year 2024 and the petitioner is in deportation camp currently, I have also decided the matter on merits.

On Merits

39. The petitioner by invoking writ jurisdiction of this Court is primarily seeking such directions so as to enable him to stay in the country and let him continue with his BSc/MSc. IT Degree Programme, among other financial reliefs.
40. The primary allegations raised by the petitioner against the respondent No. 4 University is that it did not provide a renewed student Bonafide certificate to him required for his student visa extension and also that respondent No. 4 University did not let him appear/re-appear in examinations and complete his degree program.
41. In furtherance of such allegation the petitioner has raised the following contentions against the respondent No. 4 University: (a) he was denied full admission or acceptance letter for his paid degree program for the 2017-2018 academic session, (b) respondent No. 4 University kept demanding another admission fees along with fine and tuition fees, (c) he was not provided with required resources for his degree program for the 1st and 2nd Semester, (d) respondent No. 4 University did not release his result sheet timely, and (e) he was assaulted by respondent No. 4 University's officials.
42. It is matter of record that the petitioner has failed to earn required credits to complete his degree program. The Student Handbook of



respondent No. 4 University provides that on average a student is to earn 22- 30 credit units per semester and a minimum of 18 credits during a regular semester to be declared to have passed the programme. The relevant portion from the Student Handbook of respondent No. 4 University is extracted below:-

MINIMUM & MAXIMUM CREDIT LIMITS FOR COURSE REGISTRATION

The average academic load for students enrolled at GDGU will be 22-30 credit units per semester. However, a student can register for a maximum of 30 credits or a minimum of 18 credits during a regular semester, excluding the summer semester. Under no circumstances a student will be permitted to cross these limits. However, a student carrying out the last registration of his/her Programme will be permitted to register less than 18 credits in order to meet the minimum credit requirements for the completion of Programme. The number of credits a student can register during a Summer Term shall be between 6 and 9, or up to 3 courses. However, in special cases, the student may be permitted to register for more than 9 credits with the approval of competent authority.

43. However, the petitioner has failed to meet this credit criteria during his three years program (2017-2020), as per the records at the Office of Controller of Examination of respondent No. 4 University. In addition, the petitioner also failed to meet the required minimum attendance of 75% to be able to appear in the examinations, as per the Student Handbook of respondent No. 4 University.
44. Further, the learned counsel for the respondent No. 4 University has drawn my attention several notices from 30.05.2017 till 16.08.2022 issued as reminders to the students to re-appear in the examinations. The petitioner did not re-appear in the examinations and hence, failed



to complete his course. The petitioner was enrolled in B.Sc. (IT) course which has UGC-stipulated period of n+2 years, ('n' indicating number of years originally given to complete the program, i.e., 3 years in present case). Hence, the petitioner had a maximum of 5 years i.e., till July 2022 to finish his course. However, by missing his supplementary examinations, he failed to even do so. No student be a national student or a foreign student could be allowed to endlessly continue in a programme in a University, especially when he/she fails to even attend classes and meet basic credit requirements.

45. As per the respondent No. 4, the petitioner managed to earn only 20 credits out of 138, in the entirety of his program and after several re-examinations. I see no reason to direct respondent No. 4 University to issue petitioner a student Bonafide certificate when the petitioner has done nothing to show himself as a Bonafide student willing to get his degree.

Issue of Visa Extension

46. It cannot be ignored that the petitioner has been living as an illegal migrant in the country since 31.07.2022 i.e., when his student visa expired. As per Clause No. 15.2(i) of the Visa Manual (as reproduced above), a student visa [S-1 or S-2] is valid for a maximum of 5 years or duration of the course and only in "rare and exceptional cases" the validity can be exceeded beyond 5 years on 6-monthly basis for a maximum period of 2-years. Further, Clause No. 15.3 of the Visa Manual (as reproduced above) provides conditions for grant of student visa to foreign nationals in India, wherein as per sub-clause (iii), in case a foreign student changes his/her course midway and joins



another course, the visa's validity period is still counted from the initial date of issue of visa.

47. In the present case, the petitioner's student visa was granted on 06.12.2017 and last visa extension was till 31.07.2022. Thereafter, respondent No. 4 University for the reasons discussed above refused to give him student Bonafide certificates and hence, his applications for visa extensions were declined.
48. I find myself in agreement with submissions made by the respondents. It is settled that ordinarily Union of India cannot be directed to grant or extend visa, as the matter falls within its sovereign domain. Even cancellation of visa and scope of judicial review in such matters is also no more *res integra* and same has been laid down by the Constitution Bench of the Hon'ble Supreme Court in ***Hans Muller of Nurenburg v. State of W.B., (1955) 1 SCC 167***, as under:-

“34. Article 19 of the Constitution confers certain fundamental rights of freedom on the citizens of India, among them, the right “to move freely throughout the territory of India” and “to reside and settle in any part of India,” subject only to laws that impose reasonable restrictions on the exercise of those rights in the interests of the general public or for the protection of the interests of any Scheduled Tribe. No corresponding rights are given to foreigners. All that is guaranteed to them is protection to life and liberty in accordance with the laws of the land. This is conferred by Article 21 which is in the following terms:



35. Entries 9, 10, 17, 18 and 19 in the Union List confer wide powers on the Centre to make laws about, among other things, admission into and expulsion from India, about extradition and aliens and about preventive detention connected with foreign affairs. Therefore, the right to make laws about the extradition or aliens and about their expulsion from the land is expressly conferred; also, it is to be observed that extradition and expulsion are contained in separate entries indicating that though they may overlap in certain aspects, they are different and distinct subjects. And that brings us to the Foreigners Act which deals, among other things, with expulsion, and the Extradition Act which regulates extradition.

36. The Foreigners Act confers the power to expel foreigners from India. It vests the Central Government with absolute and unfettered discretion and, as there is no provision fettering this discretion in the Constitution, an unrestricted right to expel remains.”

(Emphasis added)

- 49.** Firstly, as observed above there is no reason for the respondent No. 4 University to grant the petitioner student Bonafide certificate. Additionally, this Court cannot direct the respondents to grant visa extension to the petitioner.
- 50.** The petitioner has failed to show any “rare and exceptional” circumstances which would warrant extension beyond the prescribed time as per Clause Nos. 15.2 and 15.3 of the Visa manual (as



reproduced above). As observed above, there is no cogent explanation as to why the petitioner has not completed 3-year BSc-IT degree program, even after about 8 years. Taking note of the fact that the 3-year BSc-IT degree program should have been completed in maximum 5 years as per UGC guidelines, and that respondent No. 4 University provided the petitioner with ample opportunities to re-appear in examination and complete his credit requirements, and despite that the petitioner has only been able to earn 20 credits out of 138 credits in the whole degree program (as per respondent No. 4 and the same has not been refused by the petitioner anywhere), I do not see how the petitioner can now claim extension of visa period as a matter of right.

51. Once there the visa period has expired, a foreigner national has no legal right to remain in the country, and the Central Government's power to expel becomes absolute, which is an unfettered right under the provisions of Foreigners Act, 1946 as held in *Hans Muller of Nurenburg (supra)*.

CONCLUSION

52. In view of the observations made above, the present petition is dismissed for the aforesaid reasons.
53. Consequently, pending applications, if any, are also disposed of.

CONT.CAS(C) 1315/2025

54. This is a contempt petition filed under Article 215 of the Constitution of India read with Section 12 of the Contempt of Court Act, 1971 seeking the following reliefs:-



“a.) Issue contempt against respondent no. 3 to intentionally suppressing facts after filing affidavit and action taken by them in arbitrary manner while matter is sub-judice.

b.) Punish the responsible officials of respondent no. 3 for contempt of court.

c.) Any other order as this court may deems fit in interest of justice.”

55. As per the memo of parties there are only 2 respondents and there is no respondent No. 3. The averments are made against respondents herein.

CONTENTIONS RAISED BY THE PETITIONER

56. For the sake of brevity, the facts similar to W.P.(C) 14835/2024, as enumerated above, have not been repeated.
57. The petitioner filed a complaint case being CT Case 580/2025 against the owner of premises where the petitioner was residing on rent basis for making illegal demands and not letting the petitioner vacate the premises peacefully. Subsequently, the owner of the premises, filed a writ before this Court seeking deportation of petitioner on the ground of lack of valid visa.
58. A Coordinate Bench of this Court in W.P. (C) No. 3253/2025 *vide* order dated 17.03.2025 disposed of the petition and directed all the respondents to consider the owner’s representation and take necessary action thereon. It is the case of the petitioner that after going through petitioner’s documents, the concerned authorities found nothing illegal to deport the petitioner.
59. Thereafter, the owner again filed another writ petition before this



Court seeking deportation of the petitioner. Thereafter, the petitioner was arrested and detained on 02.07.2025, without providing any notice or hearing opportunity and the police also took all his valuables and gave the rented premises possession to the owner. Before arresting and putting the petitioner in the deportation camp no preliminary enquiry was conducted.

60. The respondents despite being aware of the fact the petitioner's application for fresh student visa is pending before the Court, misused their powers and disobeyed the sub-judice matter pending before this Court.

ANALYSIS & FINDINGS

61. A Division Bench of this Court in ***W.P.(CRL) 3944/2025, order/judgment dated 09.01.2026***, which was also filed by the petitioner, held that the petitioner has overstayed his time in the country and his detention was "*prima facie* preventive and regulatory in nature". The relevant paragraphs from the said order/judgment are extracted below:-

"9. Undisputedly, the petitioner's visa expired in the year 2022, and extension of visa has not been granted thereafter. Consequently, the petitioner has overstayed in the country without a valid visa. In this Writ Petition we can neither consider the issue to grant of bona fide Student Certificate by the University to the petitioner, nor direct the authorities to extend the visa of the petitioner only to pursue his other pending litigations. Detention in such circumstances is



prima facie preventive and regulatory in nature and is intended to facilitate deportation.

10. We also note that the petitioner has already filed W.P. (C) No. 14835/2024 seeking the grant of a student visa to enable him to commence his studies, and W.P. (Crl.) No. 1727/2023 seeking issuance of a bona fide certificate for extension of his visa. The petitioner has further filed an application, being CM Appl. No. 41564/2025 in W.P. (C) No. 14835/2024, seeking immediate release from the deportation camp, which is presently pending consideration before the learned Single Judge of this Court. Since the learned Single Judge is already seized of the matter on the above issues, no further directions are warranted at this stage.”

- 62.** In view of the said order, and as observed above, once visa period has expired no foreign national has any legal right to remain in the country and the Central Government has absolute discretion under the provisions of the Foreigners Act, 1946 to deport them, also as held in *Hans Muller of Nurenburg (supra)*. Hence, it is clear that the respondents were bonafidely performing their duties and there is no intentional or malafide suppression of facts or violation of any Court’s order.

CONCLUSION

- 63.** In view of the observations made above, the present contempt petition is dismissed.
- 64.** Consequently, pending applications, if any, are also disposed of.



65. The respondents are free to act in accordance with law for deportation.

MARCH 13, 2026 / (HG)

JASMEET SINGH, J