

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13311 of 2024

Akash Kumar S/o Surendra Singh, Resident of Village-Sripur Khas, Ward No.-11, P.S.-Ghorasahan, District-East Champaran.

... .. Petitioner/s

Versus

- 1. The Union of India through the Secretary, Department of Education, Shastri Bhawan, New Delhi.
- 2. The Secretary, Department of Education, Shastri Bhawan, New Delhi.
- 3. Mahatma Gandhi Central University, East Champaran, Bihar through Vice Chancellor.
- 4. The Proctor, Mahatma Gandhi Central University, East Champaran, Bihar.

... .. Respondent/s

Appearance :
For the Petitioner/s : Mr. Prashant Kashyap, Adv.
Mr. Kaushtubh Prakash, Adv.
Mr. Alok Ranjan, Adv.
Mr. Anal Kumar Singh, Adv.
For the Respondent/s : Mr. Bindhyachal Rai, Sr. Panel Counsel
For the University : Mr. Vishal Saurabh, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 21-09-2026

Mr. Prashant Kashyap, learned Advocate for the petitioner, and Mr. Vishal Saurabh, learned Advocate appears for the Mahatma Gandhi Central University, East Champaran, Bihar. The Union of India is represented through the learned Senior Panel Counsel.

2. The petitioner, a P.G. student of 1st semester, Department of Media Studies, has approached this Court on being aggrieved by the office order communicated vide letter no. F. No. 2-1/MGCU (GA) 2024 dated 25.07.2024 passed by

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the OSD (Administration), on the recommendation of the Chief Proctor, whereby the petitioner has been put under suspension.

3. By filing an interlocutory application, bearing I.A. No. 1 of 2024, challenge has also been made to the order dated 14.08.2024 passed under the signature of OSD (Administration), whereby and whereunder the petitioner has been expelled from the University with immediate effect on account of serious indiscipline and recalcitrant disposition, and he is prohibited from entering into any of the University's campuses or premises, including all academic and administrative blocks, and also debarred from taking admission into any programme of study in the University.

4. Learned Advocate for the petitioner, while assailing the impugned order, has narrated the brief facts of the case *inter alia* that the cause of action for filing the present petition in the matter against the petitioner arose on June 2024, when the respondent University initiated the procedure for promotion of non-teaching employee, namely, Dinesh Hooda. In the entire process of giving promotion to the aforementioned employee of the UDC, several irregularities and illegalities were adopted by the respondent University by giving him undue privilege.

5. Notwithstanding the complaints filed against said Dinesh Hooda by the petitioner and others before the respondent

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authorities, no action has been taken, and thus the petitioner, being a whistle-blower, brought the entire facts on the social media platforms, alleging several administrative irregularities.

6. This incident gave rise to issuance of show-cause notice to the petitioner, primarily on 12th of July 2024 by the Chief Proctor, with an imputation that the alleged misconduct and indiscipline behaviour of the petitioner is of unbecoming of a student and attracted penal provision under Cybercrime.

7. The petitioner immediately submitted his explanation on 18.07.2024 and further prayed to the respondent University to take action against the said UDC clerk, Dinesh Hooda. This led to issuance of the second show-cause notice, duly issued by the Chief Proctor to the petitioner on 19.07.2024. The said show-cause was also responded to by the petitioner on 25.07.2024 in detail.

8. Notwithstanding the whole set of facts, and even the date on which the petitioner submitted the explanation to the second show-cause, the petitioner has been placed under suspension by the impugned office order dated 25.07.2024.

9. Aggrieved, the petitioner preferred the present writ petition by invoking the extraordinary jurisdiction of this Court, seeking quashing of the suspension order *inter alia* on several grounds that the impugned suspension order does not specify

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the period of suspension, which is mandatorily required as per sub-rule (4) of Rule 28 of the Second Schedule of Central Universities Act, 2009, as also clause 12(2) of Model Ordinance 49 for Central University read with Rule 2(b) of Ordinance No. 17 (Maintenance of the Students, Discipline and Procedure of Appointments, Functions, Duties, and Responsibilities of Proctor of University).

10. Mr. Kashyap, learned Advocate for the petitioner, further argued that as soon as the petitioner filed the present writ petition on 07.08.2024, the respondent University immediately within a week on 14.08.2024 passed the expulsion order duly signed by the OSD (Administration).

11. The impugned order of expulsion also does not specify the period of expulsion, which is also mandatory as under the above-mentioned statutory provisions. In the submission of learned Advocate for the petitioner, the order of expulsion is wholly unsustainable in view of the fact that before passing the same, the petitioner has not been offered any show-cause notice specifying how his conduct has attracted the punishment of expulsion. Despite the clear mandate of Clause 12(2) of Model Ordinance 49 for Central University, which provides that the Proctor shall have the power to suspend or gate a student up to a maximum period of two weeks, the petitioner

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has been inflicted with the expulsion of an indefinite period, and in fact, it is a civil death of the academic career of a student, and in no circumstances sustainable in law.

12. Similarly, the provision with respect to Ordinance No. 17, of which Rule 22(B) in a categorical and explicit term provides that a Proctor shall have the power to suspend or rusticate a student up to a maximum period of two weeks and/or can impose a fine as prescribed from time to time. The petitioner has never been served with the enquiry report, which enquiry is said to have been conducted by the Internal or Disciplinary Committee. Failure to serve the inquiry report before inflicting the order of expulsion is also bad in law.

13. Placing reliance upon a learned Division Bench decision of the High Court of Allahabad reported in *MANU/UP/0209/2024*, learned Advocate further contended that the Court has reinforced that in a case where prejudice is caused to a person, the principle of natural justice is sine qua non.

14. Per contra, learned Advocate for the University, referring to the counter affidavit, submitted with all his vehemence that the conduct of the petitioner is not only reprehensible, but in fact, he created a bad environment in the institution, paralyzing its functioning, obstructing ingress and egress of staff and students at large.

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15. The petitioner on several occasions led unlawful *dharnas* within the University premises, thereby disrupting the peaceful environment. Before putting the petitioner under suspension, notices were duly issued, which was also replied. However, on being found the explanation of the petitioner unsatisfactory, the petitioner has been inflicted with the punishment of expulsion, which in the humble submission of learned Advocate for the University is proportionate to the charges.

16. Learned Advocate for the University further argued that the respondent University has followed all the procedures, and before inflicting such punishment, a Discipline Committee was duly constituted in accordance with the provisions contained under Clause 8 of Ordinance No. 17 of the University, which particularly deals with the maintenance of students' discipline, and consequent upon the report submitted by Proctorial Board, as also on the recommendation of the Discipline Committee, it has been resolved to expel the petitioner from the University with immediate effect on account of serious indiscipline and recalcitrant disposition.

17. The Union of India has also supported the contention raised by the learned Advocate for the University.

18. After having heard the learned Advocate for the

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respective parties and taking note of the Central Universities Act, 2009, especially Ordinance 17 thereof, which deals with (Maintenance of the Students, Discipline and Procedure of Appointments, Functions, Duties, and Responsibilities of Proctor of University) as also Clause 4 of the Ordinance No. 17, which specifically stipulates that the students found guilty of breach of discipline shall be liable to such punishment as fine, campus ban, expulsion, and rustication.

19. Clause 6 thereof mandates that no such punishment shall be imposed on an erring student unless he is given a fair chance to defend himself. However, this shall not preclude the Vice-Chancellor from suspending an erring student during pendency of disciplinary proceeding.

20. The power of the proctor has also been prescribed under Clause 22 of Ordinance No. 17. Clause (b) thereof further prescribes that the proctor shall have the power to suspend or rusticate a student up to a maximum period of two weeks and/or impose a fine as prescribed from time to time. Similar is the position with respect to Clause 12(2) of the Model Ordinance 49 for Central Universities, which says that the proctor shall have the power to suspend or rusticate a student up to a maximum period of two weeks.

21. So far as the suspension of the petitioner is

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concerned, *prima facie*, this Court is of the opinion that the same is in contemplation of the disciplinary proceeding, which resulted into expulsion; hence, the legality of the order of suspension is not warranted to be adjudicated presently. However, this Court is very much obvious of the fact that the matter in relation to the petitioner was referred to the Discipline Committee, but at no point of time, the petitioner has been served with the report of the Discipline Committee as to what was surfaced and collected during the course of the enquiry.

22. Even before inflicting the extreme punishment of expulsion for an indefinite period, which *prima facie* appears to be not even authorized under the Act and the Ordinance, the petitioner has not been served with the specific show-cause notice along with the enquiry report, as to why not the petitioner be expelled from the University. More so, the impugned order also does not whisper that before inflicting the punishment of expulsion, the petitioner has been given any specific show-cause that his conduct attracts the expulsion.

23. The action of the respondent-authorities, in the considered opinion of this Court, does not withstand the test of fairness, besides clearly violating the principle of natural justice. In any of these circumstances, the expulsion for an indefinite period, contrary to the Act or the Ordinance, is not warranted.

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24. This Court also deems it apt and proper to refer here a decision of the Hon’ble Court in the case of *X Vs. Maharashtra National Law University & Ors., 2024 SCC OnLine Bom 3258* wherein the learned Division Bench, holding the indefinite period of expulsion harsh and unsustainable held as follows:-

“30. We thus proceed on the premise that the punishment of expulsion of ‘X’ as imposed by the Vice-Chancellor was justified in the light of the material available and especially the report of the ICC dated 20/05/2023. The punishment of expulsion therefore does not call for any interference. Having said that, in our view, an order of expulsion for an indefinite and unspecified period would be harsh resulting in ‘academic death’ of ‘X’. It would result in taking away the education and training undergone since his admission to the course in 2019-2020. In effect, he would never be able to complete the BA. LLB (Honours) course at the MNLU in future. The consequence of such expulsion would operate perpetually having a drastic effect on a student's academic life. All this would also result in deprivation and denial of education. In our view, the consequences flowing from an order of expulsion for an indefinite and unspecified period are drastic and harsh.

We may take a cue from the decision in Kulja Industries Limited v. Chief Gen. Manager W.T. Proj. BSNL, 2013 INSC 673 that blacklisting of an entity for an indefinite period would be harsh and could result in economic death. Similarly, in O.P. Gupta v. Union of India, 1987 INSC 238 suspension of an employee for a long period of over eleven years was found to be harsh.

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Thus a penalty resulting in deprivation of certain privileges for an indefinite period has normally been found to be harsh and therefore disproportionate. Courts have interfered in cases raising challenge to orders imposing penalty for an indefinite period. On a penalty being found to be harsh, the aspect of proportionality would arise for consideration.

31. Thus, while maintaining the punishment of expulsion, the duration for which it ought to operate in the present case requires consideration. Having found that the expulsion of ‘X’ for an undefined period would be harsh, in ordinary course the matter ought to be remitted to the disciplinary authority to specify the period of expulsion. But as stated above, we do not intend to remand the proceedings and prolong the present litigation. By virtue of the earlier order dated 30/08/2023, the Vice-Chancellor permitted ‘X’ to appear for the ninth and tenth semester examinations. His results however have not been declared being dependent upon the outcome of the present proceedings. In normal course, ‘X’ would have completed his BA. LLB (Honours) course at the end of academic session 2023-2024. That has not happened as his results for the last two semesters have not been declared. ...”

25. In view of the aforesaid facts, circumstances, and the position obtaining in law, this Court finds merit in the writ petition. Accordingly, the impugned order dated 14.08.2024 passed by the OSD (Administration), a copy of which is placed on record as Annexure-7, is hereby set-aside.

26. The petitioner is directed to be inducted in the

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institution and allowed to complete his course and to appear in the examination.

27. It is also expected that the petitioner shall also maintain discipline in the institution.

28. With the aforesaid observations and directions, the writ petition stands allowed.

(Harish Kumar, J)

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