

IN THE HON'BLE HIGH COURT OF ANDHRA PRADESH

ORIGINAL CIVIL JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2020

[UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA]

(IN THE MATTER OF PUBLIC INTEREST LITIGATION)

BETWEEN

PETITIONER 1

ANURAG TIWARY

PETITIONER 2

KESHAV BAHETI

AND

STATE OF ANDHRA PRADESH

DEPARTMENT OF MHRD

VELAGAPUDI

**1. PARTICULARS OF THE CAUSE; ORDER AGAINST WHICH
THE PETITION IS MADE**

SUBJECT MATTER IN BRIEF

A PUBLIC INTEREST LITIGATION BY WAY OF WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, INTER-ALIA SEEKING URGENT ISSUANCE OF APPROPRIATE WRIT, ORDER AND/OR DIRECTIONS TO THE RESPONDENT TO CONSIDER THE SITUATION OF STUDENTS OF NATIONAL LAW UNIVERSITY VISAKHAPATNAM AND OTHER UNIVERSITIES IN THE STATE OF ANDHRAPRADESH WHO COME FROM UNDERPRIVILEGED BACKGROUNDS, MINORITY COMMUNITIES, TROUBLED HOUSEHOLDS, ECONOMICALLY WEAKER SECTIONS, REMOTE VILLAGE AREAS AND SUCH STUDENTS WHO ARE/MIGHT BE SUFFERING FROM MENTAL HEALTH ISSUE. THIS PETITION IS TO CONSIDER THE ECONOMIC/SOCIAL/MENTAL IMPACT OF COVID-19 ON STUDENTS OF THE STATE.

TO,

HON'BLE THE CHIEF JUSTICE OF HIGH COURT OF ANDHRA PRADESH AND HIS LORDSHIP'S COMPANION JUSTICES OF THE ANDHRA PRADESH HIGH COURT

THE HUMBLE PETITION OF THE
PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH:-

- 1.1.** That the instant Public Interest Litigation (PIL) by way of Writ Petition has been preferred before this Hon'ble Court under Article 226 of the Constitution of India, inter-alia, seeking urgent kind indulgence of this Hon'ble Court and issuing appropriate directions considering the situation of students of Damodaram Sanjivayya National Law University and other universities in the state of Andhra Pradesh who come from Underprivileged Backgrounds, Minority communities, Troubled Households, Economically weaker sections, remote village areas and such students who suffer from mental health issues during the period of lockdown.
- 1.2.** It is humbly submitted that students of such Universities in the state are being forced to pay the fees even for the period during lockdown in the name of availing the benefits of services that have not even been availed by the students such as Library fees, Hostel Fees, Mess Charges, Electricity charges and Internet fees once the lockdown was announced.
- 1.3.** Such Universities have turned into profit-making corporations wherein they charge a mandatory increment in the Tuition fee of their students every year. Such increment in the Academic year 2020-2021 during such times when COVID-19 has crippled the economy and increased job losses and unemployment, will severely prejudice the interest of the

aforementioned students and will make them worse off than their privileged counterparts.

- 1.4. The Universities have a complimentary role in ensuring the mental health of the students during this period of Lockdown. It is unfortunate that the lockdown has increased mental health issues amongst the youngsters and students. It has made them afraid of the future that lies ahead and has put them in a state of anxiety and depression.
- 1.5. In such overwhelmingly trying and extraordinary circumstances, it is the responsibility of these Universities that students are not put into any kind of burden. But, the academic minds in such universities have started conducting Internal Evaluations and putting such students into a state of discomfort where they now have to go through added pressure and meet deadlines. Final year students of every course for instance will be forced to appear for their examinations at a time when they could have been already working in the market. Such a situation has already left them in a state of utter disregard for the future that lies ahead and they must not be burdened by the administration in any manner. Such students have a reasonable legitimate expectation against the state which ordinarily flows from the duty of the state, as that of being a “welfare state” which is an established rule and the foundational principle on which it has to exercise its functions.

- 1.6. Students are being forcefully put into a state where they will have no other choice than revealing about situations in their private life (either economically, geographically and socially in terms of lack of Infrastructure to meet the deadlines of the University, or Emotionally and Mentally in terms of lack of capability to meet the expectations from them academically) which they otherwise wouldn't have wanted to reveal. They don't have a choice.
- 1.7. It is the duty and the obligation of the University Administration to be empathetic towards the situations of every single student studying with them and see if the decisions taken by the University can meet up to the ground realities of our country today (when people are losing their jobs and we are looking at an unprecedented economic slowdown). These are extraordinary times that we are talking about and the Universities shouldn't be allowed to put the lives and career of such students at grave risk.

2. FACTS IN BRIEF CONSTITUTING THE CAUSE:-

That the facts constituting the cause of action leading to the filing of the petition are as follows:

- 2.1. The Petitioners are law abiding and peace loving citizens of India and students studying in National Law University, Visakhapatnam. Petitioner

1 is studying in his 3rd year and Petitioner 2 is studying in his 4th year of the course.

2.2. It is respectfully submitted that the entire world is right now witnessing an unprecedented health and Economic Emergency due to deadly Novel Coronavirus or COVID-19.

2.3. COVID-19 is an unprecedented crisis and one that has taken the world down on its feet. To buy some time for the health infrastructure and save people's lives, the National Lockdown was announced by the Central Government.

2.4. The lockdown has led to the closure of all the Organizations and Institutions across the country. Educational Institutions, including schools, universities and colleges were also closed down across the country. The UGC has issued guidelines¹ to the University administrations to reopen the University campuses only during the month of August. Which would effectively mean that universities will remain closed for a period nothing less than 4-5 months.

(ANNEXURE – 1)

2.5. National law University Visakhapatnam had also announced suspension of their classes on 17th of March 2020 **(ANNEXURE -2)** which was a week before the National Lockdown. These decisions were

¹ https://www.ugc.ac.in/pdfnews/4276446_UCG-Guidelines-on-Examinations-and-Academic-Calendar.pdf

taken as a preventive measure owing to the increasing crisis of the pandemic. Students were asked to vacate their hostel rooms before the 20th of March, which they did. Everybody had left for their homes.

- 2.6.** While the Lockdown is in force, there is an Economic slowdown. People are losing their jobs² and unemployment³ is at an all-time high. We know, as several world-renowned economists have predicted and data's show, that we could have just entered the start of the worst ever economic crisis.⁴
- 2.7.** During the extended period of Lockdown untill present day, students aren't staying in the university and are therefore not utilising any of the university's benefits such as Library, Hostel, Mess, Electricity, Water, Internet and Wi-Fi, Academic Activity, etc, which they would have otherwise availed if they would have been in their university campuses since they have already been charged for this period.
- 2.8.** But the university continues to charge students for using various university amenities like mentioned above. In such times, Universities continue to reap benefit out of a crisis so extraordinary and unprecedented.

² <https://www.outlookindia.com/magazine/story/business-news-100-million-and-more-indian-jobs-are-at-risk-after-covid-19-lockdown-is-your-job-safe/303094> ; <https://www.thehindubusinessline.com/economy/52-of-firms-expect-job-losses-due-to-covid-finds-cii-poll/article31262335.ece> ;

<https://www.nationalheraldindia.com/flick-past/15-lakh-it-professionals-might-lose-jobs-due-to-covid-19>

³ <https://www.thehindu.com/business/indias-unemployment-rate-rises-to-2711-amid-covid-19-crisis-cmie/article31511006.ece>

⁴ <https://www.statista.com/statistics/1107798/india-estimated-economic-impact-of-coronavirus-by-sector/> ; <https://bfsi.eletsonline.com/covid-19-and-its-impact-on-indian-economy/> ; <http://www.ficci.in/publication.asp?spid=23195>

- 2.9.** Many students in these University come from underprivileged backgrounds, economically weaker section community, minorities community, etc. (ANNEXURE - 3) Charging students during such extraordinary challenging times for facilities that are not being used by them is only going to add burden on such families that cannot afford it due to the lockdown when there is no income and job losses are increasing.
- 2.10.** It is now submitted, that National Law University, Visakhapatnam also has a clause in it's fee structure (ANNEXURE - 4) which enables the University to charge a mandatory increment in the tuition fees of students every year. Such mandatory increment in the Tuition fees in the Academic year 2020-2021 will severely affect the underprivileged students or such students who are studying in these universities after having availed Educational loans from various banks.
- 2.11.** Given the situation of the economy, the families of all such students will be equally affected and such clauses in the fee structure will enable the university to create an unreasonable classification amongst the student community(those who can pay vis-a-vis those who cannot) all of a sudden who otherwise were equal until now.
- 2.12.** Furthermore, a deadline for the payment of dues by the National Law University, Visakhapatnam was issued during such economic crisis

which has left the students in huge mental agony and trauma.

(ANNEXURE - 5)

2.13. The repercussions of the lockdown are many. These repercussions are not just limited to job loss and economic crisis. It has also resulted in affecting the mental health of all groups of people. Everyone is in a state of fear. People could soon be affected with mental health issues like anxiety and depression at an all-time high as reports suggest. Students are going to be affected largely by this.⁵

2.14. But, even during such times, National Law University, Visakhapatnam is conducting online classes (**ANNEXURE 5**) and Internal Evaluation of students. Such Internal Evaluation includes submission of Research Projects, presentations, viva-voce and etc.

2.15. The completion of such deadlines requires a certain amount of basic infrastructure which should be available with every student. These basic facilities are Laptops, Computers, High-speed Internet connectivity, mental and physical spaces in their houses to work and e-resources

⁵ <https://www.bestcolleges.com/blog/coronavirus-and-student-mental-health-crisis/> ; <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/managing-stress-anxiety.html> ; <https://www.hindustantimes.com/analysis/covid-19-india-is-staring-at-a-mental-health-crisis/story-hmBOzUYsbo3SmtlWilmBzL.html> ; <https://www.webmd.com/lung/news/20200508/mental-health-emerging-crisis-of-covid-pandemic> ; https://statenews.com/article/2020/04/uncertainty-and-loss-the-impact-of-covid-19-on-student-mental-health?ct=content_open&cv=cbox_featured ; <https://www.thecrimson.com/article/2020/4/8/harvard-coronavirus-college-mental-health/> ; <https://economictimes.indiatimes.com/industry/healthcare/biotech/healthcare/how-covid-19-has-affected-indias-mental-healthcare-support-system/articleshow/75098206.cms?from=mdr> ; https://www.business-standard.com/article/health/age-of-anxiety-mental-health-is-the-next-looming-crisis-in-covid-19-times-120041001208_1.html ; <https://www.latestlaws.com/articles/state-s-response-to-mental-health-crisis-due-to-covid-19-by-kaustubh-srivastava/>

among many others. The Universities and the administrations have presumed that such facilities are available with the students and that they can cope up with the deadlines even in these trying circumstances. The facts, although are contrary to this presumption.⁶

2.16. Reports have suggested that Online Learning contributes to socioeconomic and racial achievement gaps while failing to be more affordable than traditional courses.⁷ It ends up widening the achievement gaps between students who were otherwise equal.

2.17. A unesco report published in a news article quoted, “ Half of the total number of learners — some 826 million (82.6 crore) students — kept out of the classroom by the Covid-19 pandemic, do not have access to a household computer and 43 per cent (706 million or 70.6 crore) have no internet at home, at a time when digitally-based distance learning is used to ensure educational continuity in the vast majority of countries.⁸

2.18. By way of the present petition, the Petitioner craves the indulgence of this Hon’ble Court to direct the Respondents to consider the case of such students as mention hereinabove.

⁶ <https://indianexpress.com/article/education/coronavirus-what-kind-of-challenges-teachers-are-facing-in-online-module-nitdgp-ac-in-iitkgp-ac-in-6342278/> ; <https://www.insidehighered.com/digital-learning/article/2019/01/16/online-learning-fails-deliver-finds-report-aimed-discouraging> ; <https://economictimes.indiatimes.com/small-biz/startups/newsbuzz/covid-19-fallout-online-classes-elude-many-due-to-lack-to-laptops-tablets/articleshow/75042060.cms?from=mdr> ; <https://www.financialexpress.com/jobs/the-greatest-challenge-for-online-education-in-india-is-poor-internet-connectivity-in-rural-areas/26035/>

⁷ <http://mason.gmu.edu/~sprotops/OnlineEd.pdf>

⁸ <https://theprint.in/india/education/why-online-classes-may-not-be-such-a-good-idea-after-all-especially-for-kids/406979/>

3. NATURE OF EXTENT OF INJURY CAUSES/APPREHENDED AND THE GROUNDS

- A. That urgent kind intervention of this Hon'ble Court is very much warranted in these extraordinary and unprecedented times towards students of National Law University and other such universities in the state of Andhra Pradesh who come from Economically weaker section of the community, underprivileged and minority background, mental health affected students who are/will be forced to sit for Internal Evaluation through the online mode in the coming days. These students are also being forced to pay for the amenities they haven't even used in the past few months. For the Academic year 2020-2021, these universities will also be charging these students a mandatory increment in the Tuition fees which is done every year. This violates the students Fundamental Right under Article 14 of the Constitution of India.
- B. It is humbly submitted before this Hon'ble court that the Fee structure of such Universities should be revised with time and should adapt to changing circumstances. They must not be rigid rather must be reasonably flexible to further the cause of Education.
- C. No mandatory fee increment in the fee structure can be regular and forever inspite of the changing face of the world economy when governments across borders are forced to open their treasuries for the benefit of the citizenry.

- D. In *Unni Krishnan, J.P. And Ors. Vs State of Andhra Pradesh and ors.* (1993 AIR 2178) the Hon'ble Supreme Court has laid down the law that educational institutions are not business enterprises and therefore cannot be run with the primary object of making profit. It is settled law that the State is the custodian of the welfare and wellbeing of its citizens.
- E. That conducting internal evaluation or online classes or any kind of assessment in the coming days, suffers from the presumption that every student has the required basic infrastructure necessary to appear for such evaluation, classes or assessments. Those students who do not have the basic infrastructure such as High-speed internet connectivity, laptops, computers, mentally stable emotional spaces and physical spaces in their homes or who come from far flung areas will be unreasonably classified against those students who have the aforesaid privileges. This will violate their right to equality.
- F. That the universities are not being empathetic towards those students who suffer from mental health issues and choose not to disclose or talk about it. Not taking into account the diversity of the student community and the challenges they might face, before taking a decision is a violation of Article 21 of the affected students.
- G. That the issue of vulnerability of certain category of students and their families to the crippling economy, as mentioned in preceeding paras has not been considered by the universities yet.

- H. Legitimate Expectation of the students from the state and the administration is violated. *"What is legitimate expectation? Obviously, it is not a legal right. It is an expectation of a benefit, relief or remedy that may ordinarily flow from a promise or established practice. The term 'established practice' refers to a regular, consistent predictable and certain conduct, process or activity of the decision-making authority. The expectation should be legitimate, that is, reasonable, logical and valid. Any expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be a legitimate expectation. Not being a right, it is not enforceable as such"* [2006 (8) SCJ 721]
- I. The Supreme Court in *M/S Sethi Auto Service Station vs Delhi Development Authority & Ors* has stated, "The protection of legitimate expectations, as pointed out in De Smith's Judicial Review (Sixth Edition) (para 12-001), is at the root of the constitutional principle of the rule of law, which requires regularity, predictability, and certainty in government's dealings with the public". (AIR 2009 SC 904)
- J. That, Students in the University come from far flung areas, village communities, troubled families, one room houses in urban centers where the entire family might be staying together and those who suffer from mental health issues. And therefore, to force such students to talk about these aspects of their life in order to protest against the state's decision will amount to violation of their Right to Privacy which is a fundamental Right

under Article 21 of the Constitution of India and was laid down as a law in *K.S. Puttuswamy v. Union of India* and was stated as a part of the Natural Law Principle. (2017 10 SCC 1)

- K. That economic factor shouldn't be a reason why few students can prepare for classes online, Internal evaluation or any kind of assessment while many others can't. This would mean there is internalization of discrimination by the same academic institutions which are supposed to provide education to such students without discriminating among them.
- L. That the lockdown has had mental health effect on many students. In such a situation to compulsorily attend online classes and then appear for their internal evaluation and subsequently end-semester examinations would in effect lead to more and more pressure on such students of the University.
- M. Thus, in the larger public interest, the humble Petitioner is seeking kind indulgence of this Hon'ble Court.
- N. That the instant Writ Petition deserves to be allowed in the interest of justice.
- O. That the instant Writ Petition has been preferred seeking kind indulgence of this Hon'ble Court to redress the aforesaid grave injury being caused to the students at large due to aforesaid inaction on the part of the Respondents to consider the cases of the students as mentioned above.

4. ANY REPRESENTATION MADE:

That due to the peculiar facts and circumstances of the instant case wherein this problem is not just with one state institution, but instead is for the student

community as a whole in these extraordinary times and considering the urgent requirement of indulgence sought, the Petitioner has not approached any Government Authority for reliefs sought in the present petition.

The petitioner believes that in such trying circumstances, looking at the challenging times that lies ahead, the administration and the state government as a whole should take steps prior to student representation which is a legitimate expectation by the students from the promise of a welfare state. Student representation is such difficult times when they are disintegrated, scattered and belong to different universities will take time and further aggravate the situation which is already worse.

5. **RELIEF PRAYED FOR**

In view of the above, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to –

- A. Issue appropriate Writ, Order or Direction to the Respondents to make it Non-mandatory for students to attend the online classes rather than making it compulsory.
- B. Pass appropriate orders to cancel the Examinations and any kind of Internal Evaluation of students for the ongoing semester and that Alternative mechanisms be devised by the Administration (in coherence with sister universities) for assessing students which does not prejudice their economic/social/mental well-being and interest.

- C. Issue appropriate Writ, Order or Direction to the Respondent to not charge increment (if any) in the Academic fees for the Academic year 2020-2021.
- D. Issue appropriate Writ, Order or Direction to the Respondent to not charge any fees in the current academic year for the number of months/days students in such universities haven't availed the amenities from the University during the enforced lockdown.
- E. Pass appropriate orders thereby directing all the respondents to immediately take up cases of students facing mental Health challenges during the current Lockdown and compulsorily recruit Mental Health counsellors to students at the University level itself.
- F. Pass any other order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE PETITIONER AS IS DUTY BOUND SHALL EVER PRAY.

DRAWN AND FILED BY:
PETITIONERS-IN-PERSON



