

**Court No. - 37****Case :-** WRIT - C No. - 13741 of 2023**Petitioner :-** Raunak Mishra**Respondent :-** Banaras Hindu University And 2 Others**Counsel for Petitioner :-** Prakhar Saran Srivastava, Atul Kumar Tiwari**Counsel for Respondent :-** Hem Pratap Singh, Hem Pratap Singh, Rijwan Ali Akhtar, Vimlendu Tripathi**Hon'ble Ajay Bhanot, J.**

1. The judgement is being structured in the following conceptual framework to facilitate the discussion:

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**I. Introduction & Facts:**

2. The issue which arises for consideration in this and the companion writ petitions is the approach to be adopted by universities while dealing with misconduct by students.

3. The petitioner is a student of B.A. (Hons.), Faculty of Arts in the respondent-Banaras Hindu University<sup>1</sup>. The petitioner has assailed the order dated 08.10.2022 passed by the Registrar, Banaras Hindu University suspending him for six months from all the privileges of the University and further directing that “he will not be eligible to appear in his semester examinations in which he is studying”.

4. The recitals in the impugned order dated 08.10.2022 disclose that the petitioner along with a large number of students had indulged in marpeet with one student namely Shri Mahendra Patel at Cyber Library.

5. The petitioner has also impugned the order dated 14.11.2022 passed by the Deputy Registrar (Academic), Banaras Hindu University rejecting his representation for revocation of the suspension order.

## **II. Arguments of the learned counsels for parties**

6. Shri Prakhar Saran Srivastava, learned counsel for the petitioner has made these submissions:

i. The petitioner is a bright academic scholar with a promising future ahead of him.

ii. The petitioner is entitled to an opportunity to reform himself and redeem his reputation in the eyes of his teachers and student community at large (without prejudice to the merits of his case). The university while imposing punishment has adopted an entirely penal approach against the petitioner instead of giving him an opportunity to the petitioner to

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<sup>1</sup> hereinafter referred to as the BHU

reform. The University neglected the mandate of **Anant Narayan Mishra Vs. Union of India**<sup>2</sup>, **Mohammad Ghayas Vs. State of U.P. and others**<sup>3</sup>, and **Piyush Yadav Vs. Union of India and others**<sup>4</sup>.

iii. Non compliance of judgments of this Court rendered in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** by the BHU as well as other stakeholders like the UGC not only jeopardizes the future of the coming generations but also strikes at the rule of law.

iv. The impugned orders have been passed in violation of principles of natural justice. There is non application of mind by the university to relevant facts in the record.

v. The punishment is disproportionate to the misconduct alleged against the petitioner.

7. Following submissions has been made by Shri Manish Goyal, learned Senior Counsel assisted by Shri Vimlendu Tripathi, learned counsels for the BHU:

I. The University is bound by the judgments rendered by this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** and is committed to implement the said judgments in letter and spirit. Further time was sought by the university for complying with the directions of this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)**.

Note: Time was granted by this Court and the university submitted various affidavits in regard to compliance of

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2 2020 (3) ADJ 466

3 2019 SCC OnLine All 4774

4 2020 (5) ADJ 566

directions in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)**.

II. During the pendency of the writ petition, the University passed an order on 14.05.2023 permitting the petitioner to appear in the supplementary examinations of 5<sup>th</sup> semester for the sessions 2022-23.

III. The impugned orders are in accordance with law and were passed to maintain discipline in the campus.

IV. The punishment is not disproportionate.

**8.** Submissions of Shri Rijwan Ali Akhtar, learned counsel for the University Grants Commission<sup>5</sup>:

I. UGC has initiated the process of compliance of directions of this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** by first framing tentative guidelines for reform programme in all universities of the country for dealing with students' misconduct.

II. The UGC has on 12.04.2023 notified the guidelines of a reform programme which are binding on all Universities in the country in compliance of the said judgements.

Note: The compliance affidavits bringing the said guidelines in the record notified by the UGC shall be discussed in the body of the judgement.

**9.** Submissions made by Shri Manoj Kumar Singh, learned counsel for the Union of India:

I. The Government of India shall comply with the directions issued by this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)**, **Piyush Yadav (supra)**.

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<sup>5</sup> hereinafter referred to as the UGC

II. The Government of India had conducted a meeting with the BHU and the UGC during the pendency of this writ petition to facilitate the implementation of the UGC guidelines and compliance of the judgements of this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** for a reform based programme to deal with student misconduct and to incorporate the same in the first statutes of the university.

### **III. Legal Backdrop to the controversy**

10. The controversy is not new. Infact it is a sequel to the judgements handed down by this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)**.

11. This writ petition is being decided in light of the University Grants Commission Guidelines dated 12.04.2023 issued in adherence to the directions in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)**, the undertaking given by the BHU to comply with the said judgements, and the facts of the case.

### **IV. (a) Anant Narayan (supra), Mohammad Ghayas (supra) and Piyush Yadav (supra) – Directions:**

12. **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** related to students of Banaras Hindu University<sup>6</sup>, Aligarh Muslim University<sup>7</sup> and Indian Institute of Technology (Banaras Hindu University)<sup>8</sup> respectively. BHU and AMU are storied institutions which

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6 hereinafter referred to as BHU

7 hereinafter referred to as AMU

8 hereinafter referred to as the IIT BHU

were established in colonial India. All the three are eminent institutions of higher learning and are renowned for academic excellence.

**13.** The first statutes and academic regulations of BHU, AMU and IIT BHU respectively contemplated a purely punitive approach to deal with student misconduct and curb aberrational behaviour shown by students. The said statutory regimes held the field for long decades.

**14.** In light of the said statutory provisions the Universities invoked disciplinary processes and imposed punishments in the face of misconduct by students as a matter of routine and by adopting a set procedure.

**15.** Various consequences of a completely penal approach and absence of reformative programme to deal with the challenge of student misconduct was squarely posed for consideration before this Court in **Anant Narayan Mishra (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)**.

**16.** The issues were agitated in light of constitutional provisions and holdings of Constitutional Courts. The exclusively penal approach of the universities to check deviant behaviour among students conformed to the dead weight of British imperial policies and imperilled the future of our youth. However, the university statutes/regulations had failed to reckon with the need for reform programs for students in line with the liberating impulses of constitutional law which empower the destiny of young Indians.

**17.** This Court in **Anant Narayan Mishra (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** predicated the discussion by emphasizing the self evident importance of student discipline in the academic pursuits in a university. It was acknowledged that deviant behaviour by students or student indiscipline can vitiate the university atmosphere, impede academic progress and disrupt social harmony.

**18.** Scholars in universities are very often young adults who may be prone to youthful indiscretions. Such transgressions by young students in universities not only have consequences for the delinquent students but can adversely impact academic life in the university at large.

**19.** This Court acknowledged that disciplinary action becomes necessary in many cases of student misconduct. However, equal emphasis was given to reformist approach to deal with aberrational behaviour by students. Conducive environment and corrective action in universities can help an erring student turn a new leaf. With right guidance and encouragement a student who shows deviant conduct can become a dutiful citizen with a promising future. Teachers in today's universities in continuity of Indian traditions remain role models for all students, and universities continue to be the nurseries which develop future leadership. Teachers as role models are the best catalysts for positive changes in our youth, and universities as institutions of learning provide the best environment for moulding minds.

**20.** The Court found that a purely punitive approach to the exclusion of reformatory programmes is not consistent with an environment where fundamental rights of young students under Article 21 of the Constitution of India to live with dignity and to redeem their reputation can prosper. The need for reform programmes in universities for students accused of misconduct was found to be an imperative necessity. However, the powers of disciplinary control or punitive action vested by the statutes being necessary for smooth functioning of the universities were not interfered with or disturbed in any manner.

**21.** This Court in **Anant Narayan Mishra (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** noticed that in absence of statutory reformatory schemes, taking punitive action against students charged with misconduct became the sole statutory option with the decision maker. Such penal action often became vulnerable to the charge of disproportionality and liable to be judicially reviewed.

**22.** In these cases the action of imposing punishment became vitiated not because of the inability of the decision maker to pass a measured judgment but on account of absence of statutory options to pursue any other course of action.

**23.** It is noteworthy that the Universities namely BHU, AMU, IIT BHU and UGC as well as Government of India acquitted themselves with the highest credit by acknowledging their role as stakeholders in the matter and not adversaries in the litigation. The aforesaid parties conceptually agreed with the



need to adopt a reformatory programme along with existing the punitive regime to correct deviant behaviour by students and to inculcate higher ideals of the Constitution. The requirement to incorporate such reformatory programme in the first statutes/regulations governing the universities was also accepted by the said parties/respondents.

**24.** With the consent of the said parties, the Court had issued the following directions:

“235. A writ in the nature of mandamus is issued commanding the respective respondents to execute the following directions in the light of this judgment:

**I.** The University shall create a reform, self development and rehabilitation programme, for students accused of misconduct and against whom disciplinary action or any action to deny facilities of the university is proposed or taken;

**II.** The reform, self development and rehabilitation programme should be created after wide consultations and workshops with institutions of higher learning and research, universities, experts, student counsellors/psychologists, psychiatrists, students and other stakeholders;

**III.** University Grants Commission will aid the above process by providing the necessary support to the University to create, standardize and effectuate the reform, self development and rehabilitation programme in the University.

**IV.** The Secretary, Ministry of Human Resource Development, Government of India, New Delhi (respondent no.1 herein), shall also provide necessary support to create infrastructure in the University to effectuate the reform, self development and rehabilitation programme in the University, in light of this judgment and as per law.

**V.** The reform, self development and rehabilitation programmes shall be processed as per law, and integrated into the existing legal/statutory framework of the University dealing with deviant conduct and punishments.

**VI.** The petitioner shall be given the benefit of the reform, self development and rehabilitation programme. After the creation of the reform, self development and rehabilitation programme, the petitioner shall be reinstated as a student and permitted to continue the Ph.D. course or any other course along with the said programme.

**VII.** Attendance of the petitioner in the said programme shall be compulsory. An evaluation sheet of the petitioner's performance in the programme shall also be prepared.

**VIII.** It shall be open to the BHU to impose necessary restraints, as it deems fit, upon the petitioner even as he pursues his academic course along with the reform, self development and rehabilitation programme. These restraints may include a campus entry ban upon the petitioner, if the University deems it necessary.

**IX.** The exercise shall be completed, preferably, within six months, but not later than 12 months. At all times the respondents, keeping in mind the best interests of the students and the society, shall make all efforts to expedite the compliance of the directions.

**X.** It shall be open to the respondents to create a scheme for reform, self development and rehabilitation for convicts in criminal cases who wish to pursue further higher studies in the respondent University.

**XI.** The counsels for the respondents shall provide certified copy of this judgment to the Vice Chancellor, Banaras Hindu University, Varanasi (respondent no. 2 herein), the Secretary, Ministry of Human Resource Development, Union of India, New Delhi (respondent no.1 herein) and the Chairman, University Grants Commission, New Delhi (respondent no. 6 herein), for necessary compliances.”

**IV. (b) Anant Narayan (supra), Mohammad Ghayas (supra) and Piyush Yadav (supra) – Compliance:**

25. On behalf of the petitioner it was submitted that the directions of this Court in **Anant Narayan Mishra (supra), Mohammad Ghayas (supra) and Piyush Yadav (supra)** were not complied with by the various stakeholders namely Government of India, respective Universities and UGC. This Court consequently directed the UGC, Government of India and the various Universities respectively to disclose the compliance of directions in **Anant Narayan Mishra (supra), Mohammad Ghayas (supra) and Piyush Yadav (supra)**, and reformative programmes evolved for this category of students.

26. In response to the order of this Court dated 10.04.2023 rendered in a companion writ petition registered as Writ C No. 37918 of 2022 (Faim Akhtar Vs. Union of India and 3 Others), the UGC submitted an affidavit disclosing compliance of the directions issued by this Court in **Anant Narayan Mishra (supra), Mohammad Ghayas (supra) and Piyush Yadav**

**(supra)**. The UGC guidelines had initially framed draft guidelines for a reform programme. However, after orders were passed by this Court in the companion writ petition in *Faim Akhtar (supra)*, the UGC notified guidelines dated 12.04.2023 creating a reform programme scheme to deal with students accused of misconduct. The said guidelines also contain a mandate for incorporating the reform programme in the first statutes of universities. The said guidelines are applicable to all universities in the country which fall within the regulatory ambit of the UGC.

**27.** Joint meetings of the competent officials of the Government of India, UGC and BHU and AMU respectively were later held to discuss the implementation of the said UGC Guidelines, and incorporation of the reform programme in the first statutes by the respective universities.

**28.** The BHU has already taken steps to create a reform programme for erring students. The Tripathi Report dated 28<sup>th</sup> February, 2023 submitted by a committee head by Dr. A. R. Tripathi had examined the issue in depth. Various far-reaching recommendations made by the Tripathi Committee have been adopted and are being implemented in the University. It has also been stated on behalf of the BHU that the reformative programme for students charged with misconduct or aberrational behaviour shall also be incorporated in the first statutes of the University within a period of six months from May, 2023.

29. The AMU has moved a step further by incorporating the same in its first statutes thus cementing its status as the premier institution of learning and constitutional values.

#### **V. UGC Guidelines dated 12.04.2023—Implementation**

30. The UGC guidelines dated 12.04.2023 seek to ensure a holistic growth of the students. Under the said guidelines the reform programme is a larger part of personality development programme for students. The UGC scheme provides for physical being of students which is reinforced by a strong moral and ethical framework. The UGC guidelines are appended as appendix<sup>i9</sup>1.

31. The relevant UGC guidelines related to creation of reform programme to deal with issues of student misconduct are extracted hereinunder:

**5. Opportunity to Reform** - The students entering universities embark on a new phase in life. Many are often removed from their comfort zone and the secure environment of their homes to face the challenges of independent life. At times these mods challenges can be intimidating ndependent apprehension in the minds of young adults, which may lead to deviant Behaviors. Generally, the HEIs, without objective analysis of such deviant behaviors, resort to punitive measures, including disciplinary action such as suspension of the student for a specific or indefinite period. Such punitive actions may create a sense of dejection and frustration in young minds. Deviant behaviors among students have several educational implications. The HEIs need to avoid such punitive measures to the extent possible and take affirmative action through programs, including taking the services of professional psychological counselors and promoting wellness through yoga and meditation.

**6. Structured reform/self-development programs** may be initiated by the universities, which can serve as catalysts for inducing behavioral change, teaching values, and nurturing human strengths. The UGC has already issued 'Deeksharambh - A Guide to Student Induction Programme (SIP), Mulya Pravah - Inculcation of Human Values and Professional Ethics in Higher Educational Institutions, Jeevan Kaushal - Curriculum for Life Skills. A successful reform through self-development and rehabilitation can transform a possible danger into an asset for society. It is, therefore, important for university administration to ensure proper and

regular monitoring of students' behavior and adopt necessary preventive and pre-emptive measures to control deviant tendencies among the students. To this end, amendments in the university statutes may be carried out if deemed necessary. HEIs shall develop structured reform programme(s) to address their specific requirements in consultation with stakeholders, including specialists and professionals working in this field.”

**32.** The UGC guidelines dated 12.04.2023 do not diminish the disciplinary powers of the universities. To the contrary the UGC guidelines enable the universities to take a global view of the matter and augment their capacity to deal with the recurring problem of student misconduct. The imperative necessity for the University to carry out necessary amendments in the University statutes to incorporate the reform programmes is being discussed in this judgement.

**33.** Considering the laudable intent and distant scope of the UGC guidelines dated 12.04.2023, the universities which come within the regulatory framework of the UGC have an obligation to implement the same. The UGC too is under a mandate to adequately circulate the said guidelines, and ensure due compliance of the same by the universities. The Government of India is also liable to encourage and support the process of execution of the said UGC guidelines in Central Universities.

## **VI. Historical Perspective of disciplinary approach in institutions of higher learning :**

**34.** Some historical perspectives and approach of Indian traditions to learning would benefit the discussion.

**35.** At the time of independence, many of the policies followed in Indian Universities had their origin in the Macaulay Imperial Policy (now infamous) Minute on Education created

in 1835 which altered the entire course of British educational policies in India. The British education policy in India was best summed up by its author Lord Macaulay in the following words:

“We must at present do our best to form a class who may be interpreters between us and the millions whom we govern; a class of persons, Indian in blood and colour, but English in taste, in opinions, in morals, and in intellect.”

**36.** The education policy adopted by the British in colonial India was intended to curb the development of Indian values, diminish confidence in Indian identity and prevent the growth of Indian nationalism. A strict disciplinarian approach which precluded possibilities of reform in students catered well to the aims of the aforesaid policy.

**37.** The British imperial educational policy was characterised by Jawaharlal Nehru as “education for clerks<sup>10</sup>”

**38.** Noted Jurist Fali S. Nariman after analysing the consequences of the British educational policy for Indians opined:

“For Indians, the changed educational policy no longer produced a learned class imbued with the best that English language and literature could offer, but, rather, an English speaking secretarial and professional class, without a tradition of responsibility and power<sup>11</sup>.”

**39.** Malcolm Muggeridge (editor of PUNCH) in a broadcast over the BBC said “education was about the worst thing the British did to India”<sup>11</sup>.

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10 Glimpses of World History ~ Jawaharlal Nehru

11 You Must Know Your Constitution ~ Fali S. Nariman

**40.** The Indian approach to learning has been reverential since the first stirrings of recorded thought. Admiring the attainments of Indian learning and expositions of Indian wisdom Max Müller was compelled to record:

"If I were asked under what sky the human mind has most fully developed some of its choicest gifts, has most deeply pondered on the greatest problems of life, and has found solutions I should point to India."

**41.** The history of learning in India is marked by freedom of thought, rigorous adherence to logic and acceptance of lived experience as the basis to expand the frontiers of knowledge. Commenting upon the approach of the Upanishadic teachers and pupils in their quest for knowledge and truth C Rajagopalachari said :

"The spacious imagination, the majestic sweep of thought and **the almost reckless spirit of exploration with which, urged by the compelling thirst for Truth**, the Upanishad teachers and pupils dig into the Open Secret of the Universe, make this most ancient among the world's holy books still the most modern and most satisfying<sup>12</sup>." (emphasis supplied)

**42.** The transformational power of learning and wisdom for humankind is a constant in the Indian heritage of learning. The great spiritual thinker and freedom fighter Sri Aurobindo while cautioning against the confining elements of the imperial State and the limiting aspects of routine life held out the unquenchable optimism of Indian spiritual values to attain the highest perfection of being<sup>13</sup>:

"Finally whatever work a man does, if done according to the law of his being, the truth of his nature, can be turned Godwards and made an effective means of spiritual

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12 Upanishads by C Rajagopalachari

13 The Bhagavad Gita by Sri Aurobindo

liberation and perfection. Life, State, society, family, all surrounding powers seem to be in a league to lay their yoke on our spirit, compel us into their moulds, impose on us their mechanical interest and rough immediate convenience. Free children of the spirit empowered to develop the highest characteristic perfection of our being and make it our means of service to the race. **The child's education ought to be an out-bringing of all that is best, most powerful, most intimate and living in his nature; the mould into which the man's action and development ought to run is that of his innate quality and power. The functions of a man ought to be determined by his natural turn, gift and capacities. The individual who develops freely in this manner will be a living soul and mind and will have a much greater power for the service of the race.**"

(emphasis supplied)

43. Akbar's concept of Din-i-Ilahi and Rah-e-Akal are also manifestations of original Indian thought.

44. It is clarified that the quotations above have been extracted not in a religious sense. The spiritual idiom reflects the Indian path to learning and human fulfilment.

45. The controversy at hand depicts the dilemma of higher education in India where on one side it is yoked by inertia to the dead habit of British Imperial policy, and on the other hand instinctively aspires to perfection by tireless striving.

46. Last fetters of colonial legacy which had constrained the Indian educational policy and stifled the energies of Indian students have been cast aside by the UGC and the BHU. The UGC guidelines dated 12.04.2023 and the stand taken by the BHU to incorporate the reform programme in its first statutes



have harnessed the power of young India and set the youth on a free path to all around excellence.

**VII. Punishment Regimes in the first statutes of University, UGC Guidelines and Jurisprudence holding the field:**

**47.** Penal regime and imposition of punishments are part of various fields of jurisprudence. These include criminal jurisprudence, service jurisprudence, student related law and so on. The punishments are imposed not to satisfy the primordial urges of vindictiveness. Punishments in the respective jurisdictions subserve the higher purpose of the society to achieve the existential aims of the concerned institution and the objective behind the penal procedures. Norms related to punishments and evidential standards also vary according to the purpose for which they are imposed.

**48.** In cases of student misconduct punishments are imposed to maintain discipline and a conducive environment in the university campus and to reform the errant students.

**49.** Student indiscipline or misconduct can influence the academics and even lives of other students who are not engaged in such acts. The disciplinary structures of the university also seek to insulate other students from baleful influences of such misconduct.

**50.** A common element in criminal jurisprudence and the law relating to student misconduct in universities is reform and rehabilitation.

**51.** Laying down strong jurisprudential foundations of rehabilitation and reform of prisoners accused or convicted of criminal offences, the Supreme Court in **Inder Singh Vs. State**<sup>14</sup> expounded the law as under:

“11. So, instead of bolting these two young men behind the high walls of a prison and forgetting about them, humanising influences must be brought to bear upon them so that a better sense of responsibility, a kindlier attitude, behavioural maturity and values of a good life may be generated under controlled conditions. In this view, we direct the State Government to issue appropriate instructions to the jail authorities to give these two prisoners treatment which is not likely to degrade or offend dignity and decency but uplift and elevate. Work has a curative property but the kind of work assigned must be satisfying not degrading. The Medical Officer concerned will also be consulted on the proper prescription in this behalf. Furthermore, if the behaviour of these two prisoners shows responsibility and trustworthiness, liberal, though cautious, parole will be allowed to them so that their family ties may be maintained and inner tensions may not further build up. After every period of one year, they should be enlarged on parole for two months. Interviews by family members must be afforded as often as are sought. Useful crafts must be taught inside prison and studies encouraged. The Sessions Judge whose sentence we uphold, shall make jail visits to ensure compliance with these directions. Article 21 of the Constitution is the jurisdictional root for this legal liberalism. The State Government will take proper steps to comply with this curial command. With these broad obligations cast on the State and the Superintendent, we dismiss the special leave petition.”

**52.** The UGC guidelines of 12.04.2023 by taking a holistic and reformative approach to student misconduct mark a paradigm shift in the disciplinary structures of universities. The UGC guidelines dated 12.04.2023 disclose that education embraces character building and physical strength. True learning enjoins social responsibility and encourages creative impulses. The UGC guidelines move beyond the view that education is confined only to academic pursuits.

**53.** The UGC guidelines dated 12.04.2023 integrate a reformist approach in the disciplinary structures of the University. The UGC guidelines envisage that discipline among students can

<sup>14</sup> 1978 (4) SCC 161

be enforced not only by strict penal action, but is also to be instilled by a creative corrective process. The reformative programme for students accused of misconduct which is comprised in the Guidelines dated 12.04.2023 is liable to be incorporated in the first statutes of the University. In this manner, the penal regime to deal with student indiscipline and reformative approach to the student misconduct will achieve legal parity.

54. The purpose of incorporation of reform programme in the first statutes of the University with the penal regime is not far to seek. In case the reform programmes are not placed at the same legal pedestal as the penal regime, the legitimacy of the reform programmes will become questionable and the efficacy of such programmes will become doubtful.

55. With the promulgation of UGC guidelines the approach to student discipline and errant behaviour by students has undergone a sea change. Student misconduct from now on will have to be dealt with by the universities by adopting a composite approach, where punishment for misconduct has to be supplemented by a programme for reformation. Reform and penalty are not mutually exclusive, nor do they cancel out each other.

56. Disciplinary powers of the University have not been curtailed or diluted by the UGC guidelines in any manner, and penal action has not been constrained or dispensed with. [Also see **Anant Narayan Mishra (supra)**]. However under the UGC scheme it is imperative for the university to balance and integrate the penal regime with a reformative programme.

Both the penal regime and reformative programme have to exist side by side or cohabit in the disciplinary structures of the universities.

**57.** The reform programme contained in the UGC guidelines envisages utilizing a wealth of resources which includes spiritual heritage of our country, physical well being systems, counselling, mentorship, community service. Reform activity has to be monitored carefully by motivated mentor teachers. The mentor teacher may make regular assessments and accordingly advise the students. In this process the university will not only add feathers to its reputation but contribute to nation building by transforming a potential threat to social peace into a certain asset of national strength.

**58.** Punishment regime pertaining to student misconduct in any university has to reckon with the concept of proportionality of punishment which is irretrievably entrenched in our constitutional law. The concept of proportionality as regards university students accused of misconduct visualises a graduated response which considers the nature of misconduct, the role of the student, and the opportunities to reform.

**59.** The university while imposing punishment upon the student indicted of misconduct has to correlate and balance the imperatives of institutional discipline and the mandate of student reform. Too light a punishment may not be conducive to institutional discipline. Too harsh a punishment will not be consistent with the norms of justice. The universities also have to be always cognizant of the fact that deviant behaviour trends in students are transient and always susceptible to

positive influences which can be induced by a reform programme.

**60.** Last fetters of colonial legacy which had constrained the Indian educational policy and condemned Indian students have been cast aside by the UGC and the BHU. Reform programmes are liable to imbibe noble ideals and strength of character that insulate students from toxic influences and deter them from deviant actions. The reform programme has to be seen as an opportunity to transform young but restless spirits from the path of errors to the quest of excellence. The reform programme as envisaged in **Anant Narayan Mishra (supra)** and in the UGC guidelines is not a procedure to which lip-service should be paid, but it is an exercise in nation building.

**61.** Certain categories of punishments cast enduring stigmas or impose perpetual disqualifications. For instance endorsements of disciplinary action on marks sheets, disqualification from future employment, adverse remark on the character certificate, etc. Punishments of this nature should be avoided as far as possible. There are persuasive reasons for the same. As a matter of first principle, the purpose of Universities is to empower youth and not to disable them. Learning alone redeems humanity from errors. Universities are repositories of learning, and should guide students away from deviant behaviour.

**62.** The legal processes and evidential standards of the disciplinary structures existing in Universities are not well evolved to permanently blight lives and careers of students accused of misconduct. There is a clear distinction between the

disciplinary process initiated in the universities to deal with misconduct, and the criminal law processes instituted to punish offenders for committing penal offences. Future employers are best suited to determine the suitability of a student for employment.

**63.** The amenability of the students to reform, future possibilities of moral excellence, sporting achievement and academic merit are germane factors for consideration before imposing punishments which create a perpetual disability for erring students.

**64.** The doctrine of proportionality in punishment is applicable to student misconduct. The concept of proportionality was referenced in earlier judgments of the Supreme Court. However, the doctrine of proportionality was embedded most firmly in the administrative law of our country in the case of **Ranjit Thakur Versus Union of India**<sup>15</sup>, by holding thus:

"Judicial review generally speaking, is not directed against a decision, but is directed against the "decision making process". The question of the choice and quantum of punishment is within the jurisdiction and discretion of the Court-Martial. But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the Court-Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction. Irrationality and perversity are recognised grounds of judicial review. "

**65.** The law laid down in **Ranjit Thakur (supra)** was explained by the Supreme Court in the case of **Union of India Versus R. K. Sharma**<sup>16</sup>. **R. K. Sharma (supra)** clearly

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15 1987 (4) SCC 611

16 2001 (9) SCC 592

marked out the limits of the doctrine of proportionality in reviewing the punishment meted out to an employee indicted by an enquiry, in the following terms:

"In our view, the observation in Ranjit Thakur's case (supra) extracted above, have been misunderstood. In that case the facts were such that they disclosed a bias on the part of the Commanding Officer. In that case the Appellant Ranjit Thakur had fallen out of favour of the Commanding Officer because he had complained against the Commanding Officer. For making such a complaint the Commanding Officer had sentenced him to 28 days rigorous imprisonment. While he was serving the sentence he was served with another charge-sheet which read as follows:

"Accused 1429055-M Signalman Ranjit Thakur of 4 Corps Operating Signal Regiment is charged with-Army Act Disobeying lawful command given by his Section 41(2) superior officer, In that he, At 15.30 hrs on May 29, 1985 when ordered by JC 106251-P Sub Ram Singh, the orderly Officer of the same Regiment to eat his food, did not so."

On such a ridiculous charge rigorous imprisonment of one year was imposed. He was then dismissed from service, with the added disqualification of being declared unfit for any future civil employment. It was on such gross facts that this Court made the observations quoted above and held that the punishment was so strikingly disproportionate that it called for interference. The above observations are not to be taken to mean that a court can, while exercising powers under Article 226 or 227 and/or under Article 32, interfere with the punishment because it considers the punishment to be disproportionate. It is only in extreme cases, which on their face show perversity or irrationality that there can be judicial review. Merely on compassionate grounds a court should not interfere."

**66.** The proposition of law stated in R. K. Sharma (supra) was approved and followed in the case of **Union of India and others Versus Bodupalli Gopalaswami**<sup>17</sup> by stating:

"In Union of India v. R.K. Sharma [(2001) 9 SCC 592 : 2002 SCC (Cri) 767], this Court explained the observations in Ranjit Thakur [(1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113] . It clarified that in Ranjit Thakur [(1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113] , the charge was ridiculous, the punishment was harsh and disproportionate and it was on such gross facts that this Court had held that the punishment was so strikingly disproportionate that it called for interference; and the said observations in Ranjit Thakur [(1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113] are not to be taken to mean that a court can, while exercising the power of judicial review, interfere with the punishment merely because it considers the punishment to be

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17 2011 (13) SCC

disproportionate. It was held that only in extreme cases, which on their face, show perversity or irrationality, there could be judicial review and merely on compassionate grounds, courts should not interfere. In this background, we may examine the third question."

**67.** In universities only a just regime of punishments balanced by a vibrant structure of reform can create a responsible citizenry in the country. The university authorities best understand the needs of administration and requirements of students. The university authorities are at a vantage point to make a judgement on the quantum of punishment as well as the method of reform.

**68.** Judicial authority in point clearly restricts the jurisdiction of courts in matter of quantum of punishment and pathway for reform. Both these are in the domain of the university authorities. The interference of courts in these matters is restricted. If punishment is disproportionate to the proven misconduct and in case opportunity to reform has been denied the action of the universities can be interdicted by Courts. Courts of India have adopted a nuanced approach on the issue of imposition of penalty upon the students in universities.

**69.** Application of the doctrine of proportionality to punishments imposed on students has the advantage of authority in point. The law relating to proportionality of punishment was reiterated by the Delhi High Court in **Akshay Chaudhary v. University of Delhi**<sup>18</sup>, with scholarly wisdom clothed in poetic eloquence:

"15. This Court has however reconsidered the matter only on the thought that, all in all punishment hardens and renders people more insensible; it concentrates; it increases the feeling of estrangement; it strengthens the power of resistance (Courtesy Friedrich Nietzsche,



German Philosopher) and that any punishment that does not correct, that can merely rouse rebellion in whoever has to endure it, is a piece of gratuitous infamy which makes those who impose it more guilty in the eyes of humanity, good sense and reason, nay a hundred times more guilty than the victim on whom the punishment is inflicted (Courtesy Marquis De Sade, French Novelist). The French Philosopher Voltaire famously said that the punishment of criminals should be of use, when a man is hanged he is good for nothing. Justice Krishna Iyer also in *Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P.*, (1978) 1 SCC 240 : AIR 1978 SC 429 observed that punitive harshness should be minimized.

16. The petitioners were young lads barely 20 years old when indulged in ragging. Undoubtedly they are guilty, however the said guilt will be in the context of their youth. Aristotle said “Young people are in a condition like permanent intoxication, because youth is sweet and they are growing”. Oscar Wilde by saying “To get back one's youth one has merely to repeat one's follies” put the matter succinctly.

18. To allow the punishment as meted out to stand would also amount to nullifying what this Court had attempted to do by quashing the FIR against the petitioners. Not only the petitioners would remain without Degree of graduation but their future prospects would also be seriously hampered.

22. Therefore permanently putting an end to the career of the petitioners would not be an appropriate punishment. The Karnataka High Court quotes Shakespeare in “Merchant of Venice”: “Justice should be tempered with mercy” and Jesus Christ: “They know not what they do. Forgive them”.

23. In the words of George Bernard Shaw, “If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and men, are not improved by injuries.” Modern penologists hold the view that punishment should not necessarily be ‘retributory’ and ‘deterrent’ but should be ‘rehabilitative’. Hegel, a German Philosopher in his theory on Punishment asserts that “object of punishment is to make the criminal repent his crime, and by doing so to realize his moral character, which has been temporarily obscured by his wrong action, but which is his deepest and truest nature.” Justice Krishna Iyer in *Mohammad Giasuddin v. State of Andhra Pradesh*, (1977) 3 SCC 287 emphasized, “The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by reculturation.”

24. The Supreme Court in *Divisional Controller, N.E.K.R.T.C. v. H. Amaresh*, (2006) 6 SCC 187 : AIR 2006 SC 2730 and *UPSRTC v. Vinod Kumar*, (2008) 1 SCC 115 has held that the punishment should always be proportionate to the gravity of the misconduct and the High Court under Article 226 gets jurisdiction to interfere with the

punishment only when it finds that the punishment imposed is shockingly disproportionate to the charges proved.

25. The Supreme Court in *Shailesh Jasvantbhai v. State of Gujarat*, (2006) 2 SCC 359 faced with the task of balancing of the sentences with the offences quoted *Dennis Councle McGautha v. State of California*, 402 US 183 that no formula of a foolproof nature is possible that would provide a reasonable criterion in determining a just and appropriate punishment in the infinite variety of circumstances that may affect the gravity of the crime. In the absence of any foolproof formula which may provide any basis for reasonable criteria to correctly assess various circumstances germane to the consideration of gravity of crime, the discretionary judgment in the facts of each case, is the only way in which such judgment may be equitably distinguished.

26. This Court is of the view that the duty thrust upon it is to nurture the career of the petitioners and not to damage the same.”

**70.** While examining the validity of permanent expulsion of a student, the Delhi High Court in **Prabhat Kumar Singh Versus Army College of Medical Science and Others**<sup>19</sup> held that various relevant considerations which are required to be factored in while imposing punishment include the young age and social background and laid down the law as under:

“46. Having examined the decisions cited by the Appellant, particularly in the case of *T.T. Chakravarthy Yuvaraj* (supra) and *Akshay Chaudhary* (supra), we respectfully agree with the views expressed in the said decisions with regard to the approach that should be adopted by educational institutions and courts in such like cases. One should not forget that, to err is human. Adolescence and youth are those stages in any persons life, when they do make mistakes without fully appreciating what is right from wrong, and without appreciating the seriousness of the consequences which their acts, deeds and omissions may lead to. Though the Appellant may have crossed the age of majority at the relevant point of time when he indulged in unacceptable conduct, he was still very young. Experience of life shows that while some children mature early, others may take time. It appears to us that the Appellant - who was transplanted from a closed environment of a lower middle class family (being the son of an ex-havildar of army), into the environment of the Respondent No. 1/College - wherein he interacted with children/students and faculty coming from economically higher strata of the society, could not handle the change and made mistakes for which he has sufficiently suffered.

47. At this stage, the Appellant has admittedly completed four years out of the prescribed four and a half years of study for the award of a MBBS degree. In view of the same, when we examine all the surrounding factors, including the Appellant's humble background; brilliant academic career; his young age; his right to education; his right to fulfil his aspirations and reach somewhere in life; and, the fact that for the last six years he has only suffered humiliation from every quarter, we have no hesitation in holding that the penalty of permanent expulsion imposed on him was unduly harsh and shockingly disproportionate.

48. We also find that the view we are taking is very similar to the course of action adopted by various Courts, including this Court. **It has been consistently held that while imposing punishments on students, it must be kept in mind that they are not to be treated as criminals and the punishment imposed on them should not be such as to invoke in them any feeling of being wronged. The approach has to be to correct them, while balancing the requirement of maintaining discipline in the concerned institute.** While convicts of even most heinous crimes are permitted to pursue their academic dreams, the Appellant, a young and meritorious lad coming from a rural and a very humble background, is being denied the opportunity even after he has already suffered for the last six years. (emphasis supplied)

49. We may also note that, though Mr. Chhibber has vehemently argued that the expulsion from the Respondent No. 1/College or Respondent No. 5/University, does not prevent the Appellant from taking admission in any University to pursue his academic career, we find no merit in the said contention, as it needs no gainsaying that with this expulsion, the Appellant is not likely to be granted admission by any other educational institution. It would also mean that he would have to start from scratch and his four years of study, and six years of suffering thereafter would get washed away.

50. Having found that the penalty imposed on the Appellant is unduly harsh and shockingly disproportionate, the question would now be whether we should remit the matter back to the Respondents for modification of penalty or this Court should itself modify the penalty. In our considered view, at this stage when the Appellant has already lost six academic years, interest of justice demands that, instead of remanding the matter back to either the Respondent No. 1/College or the Vice-Chancellor of the Respondent No. 5/University, we should modify the penalty of permanent expulsion to that of rustication for the period already undergone. A similar course of action was taken by this Court in the case of *Air Force Bal Bharti School v. Delhi School Tribunal* [LPA No. 48/2005], wherein it was held as under:—

“7. This Court is now called upon to exercise second review, as it were, of the disciplinary order made by the school....The counsel's emphasis that without a finding that the penalty in a given case is “shockingly” disproportionate, the Court cannot substitute it, exercising the jurisdiction of the decision-maker, does not persuade this Court. It is the disproportionality of the punishment, by

whatever name called, i.e., “shocking”, “serious” or “gross” having regard to the totality of the proven facts, which is to be seen in every case. A case might reveal facts where the penalty is shockingly disproportionate, and the Court may substitute it without saying that the penalty is shockingly disproportionate. Conversely, in another instance, the penalty might not be disproportionate at all, despite which the Court might say it is. Ultimately, it is a matter of substance, and not semantic form, that the Court has to look into...”

51. However, even though we are inclined to modify the penalty and permit the Appellant to pursue his MBBS degree, the same in our considered opinion, has to be made subject to some conditions, which we have arrived at by considering the views not only of the Respondent No. 5/University, but also of the MCI.

52. Resultantly, the impugned order passed by the learned Single Judge is set aside. The order of penalty of permanent expulsion imposed on the Appellant is also set aside and is modified to his rustication from the Respondent No. 1/College till 31.5.2018, whereafter he would be re-inducted in the final semester of his MBBS course in Respondent No. 1/ College itself. However, the same would be subject to the following conditions:—

- (1) The Appellant will not be permitted to join the hostel and would only be admitted as a day scholar.
- (2) While the Appellant is permitted to join the final semester and appear in the exams thereof, he will also have to once again clear all the theory examinations of the second and third phase of the MBBS course by way of supplementary/regular exams, as and when they are held.
- (3) We also direct the constitution of a three member Committee, having one nominee each from Respondent No. 1/College, Respondent No. 5/ University and the MCI, which committee would be free to decide any other conditions (like compulsory rural service etc.) to be imposed on the Appellant, as may be deemed appropriate in the facts of the case. Needless to say, the said conditions must necessarily be consistent with this order. We may observe, that on instruction from the Appellant, Mr. Rai has stated that the Appellant would abide by any such directions and conditions, as are considered necessary to monitor the conduct of the Appellant during the period of his study till he completes the MBBS course and even thereafter. We consider that the conduct of the Appellant may be watched by the said committee till he completes three years after obtaining the MBBS degree.

**71.** The law set its face against the universities irreparably harming the future of the students under the garb of

disciplinary action by the Delhi High Court in **Ravi Kumar Vs. State (Govt of NCT of Delhi)**<sup>20</sup> by propounding as under:

“20. Since the petitioner has not challenged the fact that he was driving a motor bike with an expired driving licence at a speed limit more than the prescribed speed limit of 20 km/hr in a part of the campus, the only issue which needs to engage this Court is as to whether the incident even if seen as an act of indiscipline was a case of such gross indiscipline, that the penalty imposed on him was commensurate with the misconduct. In other words, the only question would be as to punishment imposed meted out to the petitioner is proportionate or whether it can be termed as shockingly disproportionate.

21. To decide whether the punishment meted out to the petitioner can be considered as disproportionate or not, one has to necessarily consider the circumstances in which the incident occurred as also to keep in mind the nature of relationship between the petitioner, a student and the University. In my considered opinion, the duty of the Institute is to nurture its students, who join the Institute as young teenagers at the age of 17-18 years and every attempt must be made to help them blossom as responsible adults. No doubt, this responsibility would give the power and right to discipline them but the moot question would be whether, under the garb of discipline, such a penalty be meted out to them so as to harm their future, even when the Institute is conscious of the fact that the act of the student, though faulty, was unintentional.

24. Thus in any view, while giving autonomy to the institute to maintain its standards and ensure disciplined behaviour by the students, injustice cannot be allowed to be meted out to the student. The institution is also expected to treat the student fairly and the process by which it imposes penalties on the student should take into consideration all the relevant factors, including the nature of alleged act of indiscipline and misconduct.

In the light of facts as noted above and the decisions referred to hereinabove, I am of the considered view that for the act in question, which is alleged to be rash and negligent, the penalty imposed on the petitioner vide order dated 03.11.2017 as modified by order dated 13.11.2017 passed by the Vice Chancellor, is shockingly disproportionate, and cannot be sustained.”

**72.** Imposition of B Cap on the marks secured by student and the endorsement of rustication on the marksheet was assailed before this court in **Prakhar Nagar Vs. State of U.P. in Writ C NO. 21339 of 2020**. Perennial nature of the penalty inflicted under the punishment regime of the university would adversely affect the student for all times. After examining the controversy in light of **Anant Narayan Mishra (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** and

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<sup>20</sup> Writ C No. 9951 of 2017

the UGC guidelines, this Court in **Prakhar Nagar (supra)** held as under:

“15. The scheme of punitive action in an institution of higher learning is an indispensable feature of its administration. The penal regime in a system has to amalgamate essential elements to maintain discipline in the University which is conducive to its academic atmosphere and a reformative approach which is critical to transformation of the students. The key to an effective system of disciplinary action is the balance between deterrent effect and reformative possibilities.

16. This Court in *Anant Narayan Mishra v. The Union of India and others* set its face against adoption of solely punitive regime to deal with the indiscipline or aberrant behaviour by the students to the complete exclusion of a reformist approach. *Anant Narayan Mishra (supra)* directed a composite scheme to deal with matters relating to indiscipline or aberrant behaviour by young scholars wherein a penal system is duly integrated with a reformative approach. The UGC in compliance of the directions of this Court issued appropriate guidelines on 13.04.2023 to all University for creating a scheme for reformation and self development for students accused of misconduct to supplement the penal regime for correcting misconduct.

20. The petitioner it is stated that the petitioner is a young adult person with a bright future. The university-authorities failed to leaven the punitive action with a reformative programme which would have enabled the petitioner to turn a new leaf and make amends for his errors if any.

21. Purely punitive action was taken by the University against the petitioner, to the exclusion of opportunities to reform his conduct, explore possibilities of excellence and redeem his reputation. In matters pertaining to errant behaviour by students such approach may make the action vulnerable to judicial review on grounds of disproportionality.

73. The UGC guidelines dated 12.04.2023 not only complied with the directions of this Court in **Anant Narayan Mishra (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** but set out the goal of nation building. The Universities and the academic leadership have to carry the task forward.

### **VIII. Validity of the impugned orders:**

74. The impugned order of suspension visits the petitioner with penal consequences. According to the petitioner, the impugned order dated 08.10.2022 was passed without

affording any opportunity of hearing to the petitioner and in violation of principles of natural justice. These facts have been duly pleaded and were specifically argued before this Court. The pleadings in response on behalf of the University are in the nature of vague and bald denials. They do not depict adherence of principles of natural justice and holding of proper enquiry. In fact perusal of the counter affidavit shows that neither any inquiry was conducted nor was the petitioner ever granted opportunity of hearing prior to imposition of penalty of suspension.

**75.** In wake of the preceding discussion the impugned order dated 08.10.2022 has been passed in violation of principles of natural justice and has directly prejudiced the petitioner. The impugned order is vitiated and is liable to be set aside on these grounds alone.

**76.** The impugned order dated 08.10.2022 and the material in the record disclose that the petitioner along with a large number of students had indulged in marpeet with a student at Cyber Library. The cause for marpeet and nature of action by the students or the role of the petitioner is not disclosed from the record. The impugned order does not advert to any specific role to the petitioner.

**77.** No aggravating circumstances have been mentioned in the impugned order to justify a penal measure of this nature. The incident has to be seen in light of the fact that young students often get carried away by youthful exuberance. The impugned order dated 08.10.2022 has been passed in a mechanical manner and does not reflect due application of mind.

**78.** Similarly the impugned order dated 14.11.2022 passed by the Deputy Registrar (Academic), BHU rejecting the representation of the petitioner for revocation of the order of suspension is a non speaking order. The order does not recite any reason as to why the petitioner's representation was rejected and the penal action against him was affirmed. The said impugned order is vitiated for absence of reasons.

**79.** In the facts and circumstances of this case, this Court also finds that the penalty imposed by the impugned orders is disproportionate to the misconduct the petitioner is accused of. The impugned orders and the penal action against the petitioner are arbitrary and contrary to law.

**80.** Denial of opportunity to the petitioner to simultaneously undergo a reform programme under the watch of the university is contrary to the directions of this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** and renders the impugned orders indefensible in law. This particularly when the nature of incident itself shows that the petitioner is amenable to reform. Prior to concluding it needs to be mentioned that the University by order dated 14.05.2023 has permitted the petitioner to appear in the supplementary 5<sup>th</sup> semester examination for the sessions 2022-23.

### **VIII: Conclusions and Directions**

**81.** The impugned order dated 08.10.2022 passed by the Registrar, BHU and the order dated 14.11.2022 passed by the Deputy Registrar (Academic), BHU are liable to be set aside and are set aside.



**82.** In wake of the aforesaid following directions are issued:

**I.** The petitioner shall be permitted to continue as a regular student in the University.

**II.** The University is commanded to devise a reform programme for students accused of misconduct in light of the judgements rendered by this Court in **Anant Narayan (supra)**, **Mohammad Ghayas (supra)** and **Piyush Yadav (supra)** and the UGC guidelines dated 12.04.2023.

**III.** The University shall incorporate the said reform programme in the first statutes of the BHU within 6 months (as per the undertaking given by the BHU before this Court). The University thereafter implement and monitor the reform programme.

**IV.** The petitioner shall undergo the reform programme as devised by the University.

## **(II) Directions to the UGC**

**I.** The UGC shall ensure circulation of guidelines dated 12.04.2023 to all universities within the jurisdiction of UGC.

**II.** The UGC shall create a system for monitoring the implementation of the guidelines dated 12.04.2023 by various universities as per law.

**III.** The UGC may also hold regular workshops and seminars to create a library of collective experiences of various universities in these matters. It will enable universities to gain from shared experiences and upgrade their programmes.

**(III) Directions to Union of India**

**I.** The Government of India shall facilitate the implementation of UGC guidelines dated 12.04.2023 in Central Universities as per law and in conjunction with UGC.

**83.** The writ petition is allowed to the extent and the manner indicated above.

**Order Date :- 20.12.2023**

**Kumar Dhananjai**

## **University Grants Commission**

### **Guidelines for Promotion of Physical Fitness, Sports, Students' Health, Welfare, Psychological and Emotional Well-Being at Higher Educational Institutions of India**

#### **Background**

Higher education is a key pathway for social transformation and mobility along with the upliftment of individuals, households, and communities. Considering its importance, NEP-2020 addresses this issue. It provides that to ensure the students' physical, psychological, and emotional well-being, support centers and career counselors are to be made available for all students in higher educational institutions (HEIS).

The key challenge lies in creating institutionalized provisions and practices and standard operating procedures that can ensure comprehensive protection to students from any threat and assault, physical, social, discriminatory, cultural, and linguistic causing psychological distress among students. The responsibility of HEIs is to provide complete protection to ensure the well-being of students to work and study in a friendly environment.

The UGC has already issued guidelines for physical safety, like fortifying the campuses, hostels, playgrounds, cafeteria, library, and other student activity spaces. Security personnel or technological devices must handle the entry points to provide access to only authorized and bonafide students (details can be seen on [www.ugc.ac.in](http://www.ugc.ac.in)).

To comprehensively examine all issues relating to students' mental health and physical, psychological, and emotional well-being on the campuses of higher education institutions and frame the appropriate guidelines, the Commission constituted an Expert Committee. The Committee has suggested the following Guidelines, which are to be implemented by all HEIs under the purview of UGC.

#### **Objectives**

To ensure equitable access to quality mental health services to all the students enrolled in HEIs with special emphasis on (1) promoting physical fitness and sports activities for students (2) creating safeguards against academic pressure, peer pressure, behavioral issues, stress, career concerns, depression and other issues on the mental health of students; (3) to teach positive thinking & emotions in the student community and (4) to promote a positive and supportive network for students.

All HEIs in to ensure that their Ordinances, regulatory provisions, and other rules accordingly to ensure that the directions given in these guidelines and implemented in the best interest students.

#### **Guidelines**

**1. Vibrant campus life** - A lively campus life for students is also essential to a good teaching-learning environment, sound assessment systems, and fair and equitable treatment to all. Given these goals, students will be given plenty of opportunities to understand their inner calling and realize their aspirations and dreams. It may come through opportunities related to academic and co-curricular activities besides having linkages with society and ecology through

field training, job placement activities, educational tours, and summer internships. The various spaces for cultural activities should also be created for community services and building national spirit with a larger humanistic perspective.

## **2. Students Services Centre (SSC) -**

(1) Every HEI shall have a Students Services Centre (SSC) responsible for dealing with and managing the problems related to stress and emotional adjustment. It shall have standardized, systematic arrangements within the relevant provision of Ordinances to provide requisite support to students, especially from rural backgrounds, female students, students from divergent cultural backgrounds, and students with special needs.

(ii) The SSC must have necessary resources like competent physical and mental health counselors, physical and mental health experts, and physical / physio-psychological assessment tools to inform the students, assess them, guide them, and provide necessary counseling interventions to make them feel enabled, energized and independent functionaries capable of pursuing their career goals.

(iii) The SSC will be managed by a Director/ Dean level position equivalent to Professor's rank in a discipline like Psychology, Physical Education and Sports, Psychiatry, Social Work, or Sociology. Respective HEIs shall decide the modality of such an assignment. If the college/institution does not have these disciplines, collaboration with other institutes/ university departments may be explored.

(iv) The SSC will conduct counseling, guidance, and physical and mental health services online, in person, through a telephone helpline, or in group counseling sessions depending upon the circumstances. The SSC will access the database of the students' profiles/demographic details.

(v) The SSC will also maintain separate records of students appearing more vulnerable and stress-prone for further support and resilience to be building exercises. This way dropout rates can also be checked. Subsequent interventions can be designed accordingly.

(vi) The SSC will work as a single-window system to address relevant student issues.

(vii) The SSC will have at least some dedicated, professionally trained counselors working under its Director or In-Charge. The counselors can also be taken from the respective institutions' Psychology and Physical Education Departments in a project-driven mode. It is assumed that students' mental health and well-being-related issues will need greater attention during the transitional phases of their life, such as examinations and different stages of their careers. A reasonable ratio of counselors and students can be worked out to make it a serious business.

(viii) The SSC should have an adequate number of male and female trainers/counselors in the HEI.

(ix) The SSCs will ensure effective coordination with the health center of the HEI. It is generally observed that physical and psychological health issues are interrelated in complex ways.

(x) The SSCs will work in close collaboration with psychiatrists and other mental health professionals of the medical institutions located in the vicinity. The HEIs are encouraged to liaise with such resources, and the related information should be shared.

(xi) Details of the student support system for students' physical and mental health must be properly highlighted on the website of respective HEIs and their admission brochures.

(xii) The coordination of SSC with various centers like EOC, SC/ST cell, Gender Equity Centers, and Student Welfare Committees should be ensured by HEIS.

**3. Physical Fitness Besides educating students,** HEIs must focus on physical activity for all students to help them stay physically fit and mentally healthy. Fundamentally, the brain is a huge problem-solving organ that is more active and precise when involved in physical and mental activities. It is well known that exercise and physical activities enhance the performance of the human body at the neuro-muscular level and in a wide range of psycho-physiological and socio-emotional aspects. A sedentary lifestyle has been observed to contribute to obesity and diseases like diabetes that put our bodies at risk. A key remedy is an exercise; therefore, physical activity is NO Ford. Since body and mind are deeply interconnected, healthy bodies foster thy minds. It has been demonstrated that physical activity for an hour a day reduces the risk of obesity and helps to be smart, happy, and less prone to depression and other mood disorders. Indeed, vigor by being fit, and the challenge is to make exercise necessary men from knowledge of any area implanted in an unfit student will not benefit society. The physically fit learner will imbibe more knowledge in his cognitive domain and will also be able to effectively apply and implement that knowledge for the benefit of society a lot more than an unfit student. The emphasis on all-time reading, writing, and thinking for expanding the knowledge base of students in higher education students with no importance given to participation in physical activity is adversely affecting the health status of the students. The foremost requirement of an individual is good health, and only then, with his knowledge, he is an asset to society. Otherwise, he becomes a liability to society with poor health resulting from a sedentary lifestyle.

**4. Physical activity programs and provisions** - Physical activity is not mandatory despite higher education institutions having sufficient human resources and infrastructure for physical and sports activity. It is a great irony that sports fees are charged to each student admitted to the institution. Still, participation in sports activity or utilization of sports facilities is done by only 1 or 2% of the total strength of the students in a higher education institution. Physically inactive campus life for the students leads them towards various psycho-somatic disorders.

(i) HEIs need to nurture an atmosphere where students are asked to be physically active.

(ii) The NSS, NCC, and other avenues to engage students meaningfully should be strengthened.

(iii) HEIs need to create the necessary outdoor and indoor sports facilities and infrastructure on the campus. There should be a state-of-art gymnasium and yoga center. HEIs are to ensure the proper functioning of all such facilities available on the campus.

(iv) HEIs should regularly organize self-defense training programmes, especially for girl students.

(v) The Sports Council and Physical Education and Yoga Departments must create programs and opportunities for physical fitness and ensure its monitoring regularly.

(vi) The student hostels too should be equipped with minimum facilities for the students.

(vii) HEIs should have a dedicated sports officer/physical fitness trainer/coach to manage and run physical activity programmes.

(viii) Considering that sufficient physical activity is indispensable for developing a healthy body, participation in physical or any sports activity needs to be ensured for each student of the institution.

(ix) Having a good quantum of knowledge is a great thing, but the application of that knowledge for the benefit of society is only possible through a good robust, healthy body. Participation and scoring in physical activity should be part of the credit system for evaluation for promotion to the next semester.

(x) An optimal speed, strength, endurance, and coordinative abilities are required for a healthy body. The level of these functional components in an individual determines his health status. The development of these functional components requires regular participation in physical and sports programs. Assessment of these functional components needs to be part of the evaluation process for promotion to the next class so that each student would be bound to participate in the physical activity programme. In turn, students will develop optimal health and fitness levels. The test batteries suggested for implementation can be the 'American Association for Health, Physical Education, and Recreation (AAHPER) youth fitness test, Canadian physical fitness test, 12-minute cooper run or walk test, or any other test suitable to local conditions.

(xi) The institutions should make provisions for the organization of weekly intramural sports tournaments. Participation in these weekly tournaments should be encouraged and made lucrative with rewards and honors. The institutions should regularly organize training camps for students willing to participate in various inter-university, state, or national level sports activities tournaments. The teams should be regularly sent for participation in these tournaments, and winners of these tournaments should be felicitated with honors and scholarships.

(xii) We have a rich heritage of holistic physical activity in the form of yoga. Learning of a set of yogic asanas with forward bending, backward bending, sideward bending, and twisting of the spine should be promoted among all the students of HEIs. Likewise, pranayama with heart-based meditation should also be initiated among the students.

(xiii) Also, HEIs should strive for

- Organizing general to the specific types of indigenous and recreative activities
- Promote local/nearby adventure and excursion activities
- MOU with premier sports/ physical education/yoga institutes.
- Increase the number of sports trainers/ physical education/ yoga professional

**5. Opportunity to Reform** - The students entering universities embark on a new phase in life. Many are often removed from their comfort zone and the secure environment of their homes to face the challenges of independent life. At times these mod challenges can be intimidating independent apprehension in the minds of young adults, which may lead to deviant Behaviors. Generally, the HEIs, without objective analysis of such deviant behaviors, resort to punitive measures, including disciplinary action such as suspension of the student for a specific or indefinite period. Such punitive actions may create a sense of

dejection and frustration in young minds. Deviant behaviors among students have several educational implications. The HEIs need to avoid such punitive measures to the extent possible and take affirmative action through programs, including taking the services of professional psychological counselors and promoting wellness through yoga and meditation.

**6. Structured reform/self-development programs** may be initiated by the universities, which can serve as catalysts for inducing behavioral change, teaching values, and nurturing human strengths. The UGC has already issued 'Deeksharambh - A Guide to Student Induction Programme (SIP), Mulya Pravah - Inculcation of Human Values and Professional Ethics in Higher Educational Institutions, Jeevan Kaushal - Curriculum for Life Skills. A successful reform through self-development and rehabilitation can transform a possible danger into an asset for society. It is, therefore, important for university administration to ensure proper and regular monitoring of students' behavior and adopt necessary preventive and pre-emptive measures to control deviant tendencies among the students. To this end, amendments in the university statutes may be carried out if deemed necessary. HEIs shall develop structured reform programme(s) to address their specific requirements in consultation with stakeholders, including specialists and professionals working in this field.

**7. Memorandum of Understanding (MOU) with premier Institutions** - HEIs should plan for MOUs with institutions like NIMHANS, HBAS, RINPAS, AIIMS, and other institutions where departments of psychiatry are fully functional in case particular pharmacological intervention or other medical interventions are required.

**8. Mental health professionals**-There is an acute shortage of trained and competent mental health professionals in the country. There is greater demand than supply of mental health professionals recognized by RCI (Rehabilitation Council of India). Given this, the HEIs should start special courses to prepare mental health professionals to be responsible for educating and training professionals as per UGC/AICTE/MCI provisions and guidelines.

## **General Guidelines**

1. The students' welfare provisions, which already exist in the institutions of HEI in India, will have an added responsibility of collaborating with SSC, Equal Opportunity Centre (EOC) and Gender Equity Centre, and SC/ST Cell of the University for holistic and comprehensive services to students, teaching community, and staff.

2. Given the provisions enshrined in the NEP-2020 mental health services form an integral part of education in higher learning, the faculty members of HEIs are encouraged to attend refresher course(s) on Counselling, Meera Health, Well-being, and Mentoring Skills and Competencies. Human Resource Development Centres (HRDC), Pandit Madan Mohan Malviya National Mission on Teachers (PMMNMTs), and Teaching Learning Centers of the country are to take up the responsibility of offering such courses.

3. HEIs must respect linguistic, religious, cultural, and social diversity and ensure that counselors with efficient linguistic skills can impart services to students and teachers. Special care may be taken for LGBT students.

4. The National Assessment and Accreditation Council (NAAC), National Board of Accreditation (NBA), and National Institutional Ranking Framework (NIRF) may consider assigning certain points/grades for provisions of SSCs in HEIS.

5. The records of various activities of SSC must be maintained properly and be made available to NAAC, NBA, NIRF, etc., as and when required.
6. HEIs and SSCs must ensure the confidentiality of each case of student-teacher counseling on mental health issues.
7. Motivational lectures and other activities promoting positive thinking among the students should be regularly organized by the HEIs.
8. The course(s) on mental health may be included in the curriculum, with some credits to be assigned for successful completion of the course.
9. The faculty members may also be allowed to avail the facilities regarding physical fitness and mental well-being.
10. Manodarpan initiative should be used as psychosocial support to students, teachers, and families for Mental Health and Emotional Well being. Under the initiative, Web-page named 'Manodarpan-Psychosocial Support for Mental Health & Well-being has been created on the website of the Ministry of Education (MoE). The Web-page contains advisory, practical tips, posters, videos, do's and don'ts for Psychosocial support, FAQs, and an online query system. Also, a National Toll-free Helpline (8445440632) for a country- wide outreach to students from schools, colleges, and universities has been set up, which provides tele-counselling to address their mental health and psychosocial issues.

Activities of SSC should be included in the Annual Report of HEI.

12. The information regarding the SSC and facilities for physical activities should be made available on the website and information brochure of HEL.
13. The HEIs should take appropriate steps to implement the guidelines considering the specific local, cultural, and educational requirements to ensure the effective institutionalization of such mental health services.”

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**Kumar Dhananjai**