



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3359 OF 2024

Ramadas KS, )  
Occupation: Student )  
Indian National, Age : 30 years )  
Kizhakkekara House, Adlaid, )  
Puzhamudi PO, Kalpetta, )  
Wayanad, Kerala-673121 ) ...Petitioner

Versus

1. Tata Institute of Social Sciences) )  
Through its Registrar, )  
V.N. Purav Marg, Deonar, )  
Mumbai 400 088 )
2. University Grants Commission )  
Bahadur Shah Zafar Marg, )  
New Delhi 110 002 )
3. Union of India )  
Through the Ministry of Social )  
Justice and Empowerment, )  
Government of India )  
Shastri Bhawan, New Delhi )  
New Delhi-110001 )
4. National Scheduled Castes )  
Finance and Development )  
Corporation )  
14<sup>th</sup> Floor Scope Minar, )  
Core '1' & '2', North Tower, )  
Laxmi Nagar District Centre, )  
Laxmi Nagar, Delhi-110092 ) ...Respondents

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Mr. Mihir Desai, Senior Advocate i/b Ms. Rishika Agarwal & Ms. Lara Jasani, Advocates for Petitioner.

Mr. Rajeev Kumar Pandey a/w. Mr. Madhur Rai, Mr. Sachin Kanse, Mr. Ashish Kanojia, Mr. Yogesh Mishra & Ms. Sneha Nandgaokar i/b PRS Legal, Advocates, for Respondent No. 1 – TISS.

Mr. Rui Rodrigues, Advocate for Respondent No. 2.

Ms. Shilpa Kapil, Advocate for Respondent No.3-UOI.

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**CORAM** : **A.S. CHANDURKAR &  
M.M. SATHAYE, JJ.**

**RESERVED ON** : **24<sup>TH</sup> JANUARY, 2025**  
**PRONOUNCED ON** : **12<sup>TH</sup> MARCH, 2025**

### **JUDGMENT (Per M.M. Sathaye, J.)**

1. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

2. By this petition under Article 226 of the Constitution of India, the Petitioner, a Ph.D. student of 30 years of age, studying in Respondent No.1 Institute (**‘TISS’**, for short) is challenging the report dated 17.04.2024 of the Empowered Committee constituted by Respondent No. 1 Institute and also challenging the suspension letter dated 18.04.2024 issued to him by Respondent No.1 - Institute, in pursuance of inquiry in respect of a show cause notice dated 07.03.2024 issued by Respondent No.1 - Institute. A direction is sought to Respondent No.1 to revoke the suspension and to restore Petitioner’s entitlements as a student. Direction is further sought to Respondent Nos. 3 & 4 to ensure continuation and monthly disbursement and payment of NFSC fellowship of the Petitioner. Also a consequent direction is sought to Respondent No.1 to take back its Public Notice dated 20.04.2024 issued

against the Petitioner.

3. During pendency of the petition, on 09.07.2024, without prejudice to the contentions of Respondent No.1, it was directed that if the Petitioner's Guide is satisfied and recommends renewal of the Petitioner's fellowship, Respondent No.1 was directed to upload relevant documents. This exercise is made subject to outcome of the petition and it is further directed that the Petitioner shall not claim any equity in that regard.

### **CASE AND SUBMISSIONS**

4. In 2015, the Petitioner first enrolled with Respondent No.1 for a Masters degree in the course Media and Cultural Studies. The Petitioner was awarded scholarship from Respondent No.3. In 2017, the Petitioner got enrolled in the integrated M.Phil. and Ph.D. course in Development Studies, however, he deferred the same by a year and got enrolled in 2018 batch. The Petitioner successfully finished M.Phil. degree in 2021. On 08.02.2023, the Petitioner was awarded National Fellowship in Scheduled Caste by Respondent No.3 in view of his performance in UGC-NET examination. On 21.04.2023, Petitioner received a show cause notice in respect of a protest by the Petitioner and other students on 21.03.2023 since they were denied permission to hold a guest lecture on the occasion of late Bhagat Singh's 92<sup>nd</sup> death anniversary. On 27.04.2023, the Petitioner replied to the show cause notice stating *inter alia* his version of peaceful protest led outside the Director's bungalow on 21.03.2023. On 14.06.2023, Respondent No.1 released a circular by which students were informed that propagating their personal views as views of the Institute would lead violation of Clause 20 of the Student Code of Conduct as well as Clause 9 of the Honour

Code applicable to students. On 11.01.2024, Respondent No.1 - Institute issued a public declaration clarifying its non involvement in the demonstration called the 'Parliament march'. On 12.01.2024, the Petitioner attended demonstration called the Parliament March at Jantar Mantar as a member of Progressive Student's Forum (PSF). This demonstration was conducted by United Students of India, which is a joint platform of 16 student bodies. On 16.01.2024, the Petitioner met with an accident and underwent a surgery and was hospitalized until night of 25.01.2024. He was bed ridden thereafter and went to Kerala for recuperation. The Petitioner did not enter the campus since then. On 07.03.2024, a show cause notice was issued to the Petitioner alleging misconduct and anti-national activity. The Petitioner thereafter replied to the said show cause notice on 20.03.2024 alongwith 5 appendixes. The Empowered Committee thereafter issued impugned report dated 17.04.2024 and suspended the Petitioner from the Respondent No. 1 Institute for 2 years debarring his entry across all its campuses. In these circumstances, the Petitioner has approached this Court with prayers already indicated above.

5. The Registrar (Officiating) of Respondent No. 1 filed affidavit in reply dated 18.05.2024 contending *inter alia* that the Petitioner has antecedents of indulging in objectionable behaviour. It is contended that during the very first academic year, the Petitioner's conduct of using personal and identity based comments against a fellow student, who was a cultural secretary of the Institute had resulted into initiation of an inquiry against the Petitioner and thereafter based on a report submitted by inquiry committee, a memo was issued on 09.10.2018 to the Petitioner, calling upon him to tender apology. It is contended that the Petitioner did not tender written apology as required. It is further

contended that a show cause notice was issued to Petitioner on 21.04.2023, on account of Petitioner's participation in a demonstration outside the then Director's bungalow, which is located on the premises of the institute, without approval of the Institute. It is contended that after suspension letter was issued to the Petitioner, letters from political parties, organisations and even member of parliament were received for revocation of suspension, which shows that the Petitioner was using his influence and strong political links to pressurize the Institute. It is further contended that without resorting to remedy of Appeal available under applicable Rules, this petition is directly filed challenging the suspension and therefore it is an abuse of process of law. The copy of the memo issued to the Petitioner and provisions of applicable Rules under the Handbook, providing for appellate authority, are produced on record.

6. The Petitioner thereafter filed an affidavit in rejoinder dated 20.05.2024, inter alia contending that the earlier incident mentioned in the affidavit in reply by the Institute is beyond the scope of show cause notice, committee report and suspension letter which is impugned in the present petition. It is contended that no allegation in respect of earlier incident have been raised during the present proceedings or after January 2019. it is contended that an effort to prejudice the mind of the Court is being made. The Petitioner elaborated on the earlier incidents and justified his stand. He contended that he did not tender an apology because he was contesting the allegations. He justified the support received from student bodies, civil society groups and political organizations and leaders demanding revocation of his suspension. He contended that the same is only indicative of the overwhelming public objection to his suspension. He denied using his influence or strong

political links to pressurize the Institute. It is contended that when the Petitioner took admission in the institute in the year 2018–19, the Handbook of 2016–17 relied upon by the institute was not applicable and it was not made available to the Petitioner. On this basis, the objection of the institute about appeal before the director as an alternative remedy, is opposed. He contended that the present proceedings are being undertaken under the Handbook of 2023–24. He contended that the constitution of high-level-committee is entirely arbitrary and questionable since there is no provision for constituting a committee of such nature in disciplinary proceedings as per applicable rules, regulations, and policies of the institute. The petitioner alleged that the conduct of the institute points at vindictive bias against him.

7. The Deputy Secretary of Respondent No. 2 - University Grants Commission (“UGC” for short) filed an affidavit-in-reply dated 26.06.2024 taking a stand that Respondent Institute is a Deemed University and as per applicable regulations i.e. UGC (Institution Deemed to be University) Regulations, 2023, the Vice-chancellor shall have all the powers necessary for the proper maintenance of discipline in the Institute and he or she may delegate any such powers to such person or persons, as he or she may deem fit. The copy of regulations is placed on record. It is submitted that in addition to above the regulations, a mechanism and procedure is provided for redressal of grievances by Ombudsperson and Student Grievance Redressal Committees in case of a complaint by the student.

8. The under Secretary at Ministry of Social Justice and Empowerment, Government of India has filed an affidavit-in-reply on behalf of Respondent No. 3 on 08.07.2024. It is contended that the

National Fellowship Scheme for Scheduled Caste Students (“NFS-SCS” for shot) is a central sector scheme introduced by Ministry of Social Justice and Empowerment and its objective is to provide fellowships in the form of ‘financial assistance’ to students belonging to scheduled caste category to pursue higher studies, it is submitted that the institution or college is responsible for updating it on the portal. It is submitted that under the scheme, the University holds the authority to confirm and sustain the fellowship and it is within the Institute’s purview to determine the discontinuation of the scholarship with designated nodal officer being responsible for disbursement. It is confirmed that since the Petitioner has been suspended by the institute for a period of two years, he is not eligible to get fellowship during the suspension period. It is further placed on record that the fellowship amount to the Petitioner has been disbursed till May 2024, on the basis of confirmation by the institute except the month of April 2024, which could not be disbursed due to non-availability of funds.

9. Pursuant to hearing on 20.08.2024, the Respondent Institute filed an affidavit on 23.08.2024 contending that the competent authority to hear the appeal against decision of the committee, has neither participated nor adjudicated the issues or applied its mind. It is contended that the high-level committee has acted independently and has issued the impugned report to the competent authority, who has merely accepted and accorded its approval as principal executive officer of the University. It is contended that the acceptance of the report does not *ipso facto* mean that competent authority (hearing appeal) has applied its mind. On this stand, Respondent No. 1 justified its objection to maintainability of this petition, on the ground that alternative remedy is available.

10. On 30/08/2024, on finding that the Appellate Authority before whom decision of the Empowered Committee can be challenged, is the same authority being the Vice Chancellor, who had accepted the recommendation of the Committee that resulted in suspension of the Petitioner, it was held that the Petitioner cannot be relegated to invoke remedy of appeal and therefore this petition was decided to be entertained.

11. By a further affidavit dated 17.09.2024, Respondent No. 1 Institute placed on record the relevant documents which has been appreciated by the Committee while giving its decision which is impugned in the petition. The Petitioner thereafter filed an affidavit in rejoinder dated 27.11.2024, dealing with the said affidavit and documents produced on record thereunder. He contended that except for Annexures 1, 17 and 18 produced along with said affidavit, rest of the documents are completely new and previously undisclosed. He however dealt with Annexure 4 and 5 on merits. He denied having circulated the document at Annexure No. 4, which is a screenshot of a WhatsApp message apparently forwarded by PSF-TISS. He also contended that he is not aware of the document at Annexure No. 5 and that he is not creator of the said document. It is contented that Petitioner has neither created nor shared nor posted the poster on any social media platform or otherwise.

12. Learned Senior Advocate Mr. Desai, appearing for the Petitioner submitted that the impugned committee report proceeds on 2 aspects, namely participation in Parliament March and posting of pamphlets on social media sites calling upon to join screening of Ram-Ke-Naam. The Parliament March pamphlet does not show TISS name. That there was

no march as such, and the protest was conducted at Jantar Mantar with police permission. He submitted that there was no violence or disturbance at the said march. He submitted that the protest was conducted in a public place which was permitted and overseen by police authorities, and there is no report of any crime being committed. About the aspect of Ram-Ke-Naam screening, he submitted that the said documentary film is not banned. He submitted that in the committee that conducted the enquiry, only Dean, students affair is common as compared to the empowered committee provided under rules, and if empowered committee was already in place, there was no need of constituting a high power committee. He further submitted that Clause 20 of the Code of Conduct is applicable only to faculty members and cannot be made applicable to the Petitioner as he is a student. He submitted that Petitioner being a Ph.D. student, he is not required to take permission for leave. He submitted that in the report of the Committee, a new Clause 2.2 of the Code of Conduct was added and considered, about which show cause notice is silent.

13. Learned Counsel Mr. Pandey appearing for the Respondent-Institute submitted that the Institute does not take action unless it is absolutely necessary. He submitted that the Petitioner has not come to the Court with clean hands. Inviting this Court's attention to reply filed by the Petitioner to the show-cause notice, it is submitted that the Petitioner has admitted that in the demonstration at New Delhi, the word "TISS" was mentioned alongwith the abbreviation of PSF on one poster to show that the protesting students were from student group of TISS. He submitted that therefore the name of the Institute was used by the Petitioner in a demonstration, which was clearly politically motivated. He submitted that alongwith reply, the Petitioner has

produced Appendix-5 which is his reply given during the earlier incident of March 2023, where he has admitted that he had participated in the gathering outside Director's bungalow. He submitted that under Circular dated 14/06/2023, the Institute had drawn attention of the students to Clause 20 of the Code of Conduct, which requires everyone to direct all questions or requests for information from media or reporters to the Registrar or Deputy Director or Director of the institute for the purpose of consistency and accuracy of information. He submitted that under the said Circular it was clearly informed to the students that expressing and promoting their personal views, comments and or observation on any media platform, while identifying them as TISS student or associating those views with TISS in any form is strictly prohibited. He submitted that the said Circular had clarified that any student breaching this policy will invite strict action and such behaviour will be recorded as bad behaviour in the Institute's records and which may affect the concerned student's academic journey. He submitted that this Circular also informed the students that unauthorised use of Institute's name, logo or other identifiers if persists despite the said Circular, the Institute reserves its right to seek legal recourse.

14. He submitted that in view of this Circular read with the Code of Conduct, the action of the Petitioner in participating in the Parliament March with a poster showing name of Respondent-Institute, is clear breach of applicable Rules and the action of s1997 SCC OnLine Bom 3.uspension is justified. He has also invited attention of the Court to the provisions regarding discipline under Clause 24 thereof. He submitted that while entering the Institute, every student is required to sign the Honour Code. He submitted that the Petitioner is a Ph.D. student who is supposed to focus on academics, however, he has indulged into acts of

participating in political demonstrations and organizing unapproved events, screenings, holding sit-ins and has therefore committed breach of various Rules. He submitted that the Petitioner is a student who is enjoying scholarship in the form of fellowship given by Central Government, which is given with the object to provide financial assistance to students belonging to the schedule caste to pursue higher studies. He submitted that while enjoying such government grants meant for pursuing studies, the Petitioner has participated in politically motivated protests, using the name of the Respondent–Institute, which is clearly breach of applicable Rules. Drawing attention of the Court to the pamphlet of ‘Parliament March’ and its wording he submitted that the said pamphlet says “Save India, Reject BJP” and therefore, it was obviously a march which was politically motivated and even if the Petitioner had any personal views opposing a particular political ideology, he could not have used the name of TISS on a placard or a poster, which is admittedly used. Inviting this Court's attention to email communication between the Director of the Institute and its security agency, he highlighted the security problem the Institute had faced in January 2023.

15. In rejoinder, Mr. Desai, learned Senior Advocate for the Petitioner reiterated his arguments made earlier and further submitted that the documents relied upon by the institute under affidavit dated 17.09.2024 were not made available to the Petitioner, except those which are admitted in affidavit in rejoinder. He submitted that no personal hearing was given to the Petitioner. He submitted that this Court has power to modify the suspension order and is empowered in a fit case to do what the committee ought to have done. He lastly submitted that the punishment of suspension for two years is

disproportionate. Mr. Desai relied upon following judgments in support of his case :

- i. Shri Anand Patwardhan Vs. The Union of India & Anr. 1997 SCC OnLine Bom 3.
- ii. Mazdoor Kisan Shakti Sangathan Vs. Union of India and Anr. (2018) 17 SCC 324.
- iii. Iftexhar Zakee Shaikh Vs. The State of Maharashtra & Ors. (Criminal Writ Petition No. 223 of 2020) dated 13.02.2020.
- iv. Javed Ahmad Hajam Vs. State of Maharashtra and Anr. (2024) 4 SCC 156.
- v. 'X' Vs. Maharashtra National Law University, Mumbai and Ors. (Bombay High Court WP (L) No.21030 of 2024 Ord. dt. 10<sup>th</sup> October 2024).

16. Mr. Rodrigues appearing for the Respondent No. 2-UGC has submitted that the Respondent No. 1-Institute is a Deemed University, which is governed by the said Regulations of 2023 and ultimately it is for the Institute to take appropriate decision whether a given student is crossing the line of freedom of speech and expression within the applicable set of Rules about Code of Conduct.

### **REASONS AND CONCLUSIONS**

17. We have carefully considered the submissions and perused the record. Before proceeding to deal with facts of this case, it would be appropriate to reproduce the applicable Rules, which admittedly govern the parties in the present case, they being the Code of Conduct, the Circular dated 14/06/2023 and the Honor Code for academic year 2023-24.

18. Perusal of the Code of Conduct shows that in its opening paragraph it is made applicable to student as well. The opening

paragraph of the Code of Conduct reads as under:

*“The TISS Code of Conduct provides the standards by which the Institute's faculty, administrators, staff and students should conduct themselves. The Institute aims to foster the highest possible ethical standards in the interaction of its faculty, administrators, staff and students with each other, and with customers, suppliers, regulators and the community at large. The code of conduct is a guide to provide direction to its faculty, administrators, staff and students in using the principles of ethical conduct as a foundation for behaviour.”*

19. Clause 24 of the said Code of Conduct provides as under:

***“24.0 DISCIPLINE***

*Discipline will be promptly and consistently applied to serve as notice that there are serious consequences for intentional wrongdoing and to demonstrate that TISS is committed to integrity as a core part of its culture. TISS believes that application of discipline for a violation of our ethical standards should be prompt and must be appropriate. Therefore, the Institute will weigh all mitigating and aggravating circumstances, including whether the violation was intentional or inadvertent, the extent of the likely damage to the Institute resulting from the violation and whether the offending person has committed previous violations of this code or other Institute policy concerning ethical behaviour.*

*Staff and faculty members using students for creating disturbances, and indiscipline will face serious action. Using students to play divisive and obstructive activities is a serious crime.*

*Violation will be marked and memo will be given by the Registrar. Suitable action will follow. Violation of Institute rules and norms will be investigated through due process. Extreme action may include dismissal from service or compulsory retirement.”*

20. Clauses 9 & 11 of the Honour Code read as under :

“9. I will not malign the name of the institute by presenting fabricated and falsified views on any platform, tarnishing/damaging the image of the Institute in public domain bringing disrepute to the institute.

xxx

11. I will not obstruct the functioning of the Institute, offices, classes and its activities way of preventing faculty, officers/staff from discharging their normal duties and enjoying their personal rights.”

*[Emphasis supplied]*

21. At the outset, so far as the argument of learned Counsel for the Petitioner that the material relied upon by the Respondent/Institute along with its further Affidavit dated 17.09.2024 was not made available to the Petitioner, we specifically note and record that we are only considering the documents admitted by the Petitioner under his affidavit-in-rejoinder dated 27.11.2024 i.e. Annexure – 1 (pamphlet of Parliament March), Annexure - 17 and 18 (circular dated 14.06.2023 and Honour Code), of which copies are produced on record. We find it appropriate in our limited wisdom to refer to only these admitted documents and not other documents relied upon by the Respondent-Institute, which are denied by the Petitioner. This will save us dealing with disputed questions of facts.

22. On the insistence of the Petitioner that this Petition is maintainable and this Court under Article 226 of the Constitution of India can consider the impugned report of the Committee and the impugned decision of suspension, this Court under order dated

30/08/2024 rejected the objection of the Respondent-Institute that the Appellate Forum is available to the Petitioner. We have taken such decision since we found that the Appellate Authority in the present case is the same authority who accepted the recommendation of the Committee to suspend the Petitioner. Therefore, we make it clear that on Petitioner's own insistence and accepting his contention about maintainability of this Petition despite availability of Appellate Forum, we are looking into admitted factual aspects of the dispute between the parties and considering the material objectively.

23. Perusal of the show cause notice dated 07.03.2024 indicates that there are three charges. First, participation in the demonstration outside Indian Parliament on 12.01.2024 under the banner of organization PSF-TISS, when the said organization is not recognized by the TISS and has no connection with any activity of TISS, still the name of the Institute being misused, creating impression that the views expressed by the protesters are views of the Institute. Next charge is posting pamphlets on social media calling upon to join screening of documentary 'Raam-Ke-Naam' on 26/01/2024 as mark of dishonor and protest against the Ram Mandir inauguration in Ayodhya. Third charge is specifically referring to the Petitioner's antecedents and conduct in the past including the Petitioner holding unauthorized events, demonstrations, and participating in sit-ins outside Director's Bungalow, TISS, Mumbai campus at late night with loud sloganeering. The show cause notice specifically refers to the conduct of the Petitioner in violation of Clause 9 of the Honor Code, the Circular dated 14.06.2023 and Clause 24 of the Code of Conduct.

24. It is important to note that the Petitioner has advisedly or in his

wisdom or both, in his written reply dated 20.03.2024, has not only dealt with the charges in respect of participation in the Parliament March and about screening of documentary 'Ram-ke-Nam' but has also chosen to reply on merits about the allegations about his past conduct. We therefore specifically note here, that the Petitioner has been given sufficient notice about his past conduct and he has replied to the same on merits and as such, the past conduct of the Petitioner is an important consideration for us, as well, while deciding the legality and proportionality of the impugned suspension order.

25. Perusal of the reply filed by the Petitioner to the show cause notice, shows following admissions given by the Petitioner.

- (i) That the Petitioner has participated in the demonstration titled as 'Parliament March' in New Delhi on 12.01.2024.
- (ii) That the Petitioner attended the protest as Central Executive Committee Member of Students' Federation of India (SFI) as a member of Progressive Student's Forum (PSF).
- (iii) That regarding the demonstration, the word 'TISS' was mentioned along with abbreviation of 'PSF' in one poster released by PSF to show that it was student group from TISS.

It is therefore clear that the Petitioner had participated in Parliament March, being from the student group of TISS and at that time the word TISS was mentioned along with abbreviation of PSF in one of the poster. From the admitted pamphlet of 'Parliament-March' it can be seen that it mentioned 'Save India, Reject BJP'. It reads as under:

“SAVE EDUCATION  
REJECT NEP

SAVE INDIA  
REJECT BJP

**Parliament March**  
by 'United Students of India'  
(Joint platform of student organisations in India)  
**12 January 2024**

The attack on quality education in India is scaling dangerous heights under the current BJP-led union government. The RSS-backed government not only aims to undermine and dismantle the public education system but also seeks to replace it with a communal, destructive scheme that fundamentally contradicts the constitutional vision of education. The BJP govt, have even initiated their attempt to remove the name of the country, INDIA from text books.

The Parliamentary Elections are approaching us in 2024 and 2025 will mark the 100th anniversary of the world's largest fascist organization which controls the BJP govt in power. In this context, we, the undersigned student organisations share our serious concern and suspect that Sanghparivar forces may escalate their attacks on the education sector and democratic, secular and progressive values of our country. Given this challenging backdrop, it becomes imperative to sustain the momentum of the ongoing student movements. We, the undersigned 16 student organisations have decided to come together to form a united student front named **UNITED STUDENTS OF INDIA** and join hands in strengthening the fight to protect the education and employment sector in India.

In a joint meeting, we have unitedly adopted the slogan, **Save Education, Reject NEP. Save India, Reject BJP**. We have decided to conduct campaigns across the country, hold a joint parliament march in national capital, Delhi on **12 January 2024**, Friday and United Student Rally in Chennai on **01 February 2024**.”

[Emphasis Supplied]

It is therefore clear as sunshine that the said march was politically motivated, which the Petitioner participated in under the banner PSF-

TISS in a student group. Therefore, the finding of the Committee that the Petitioner created an impression in general public that the politically motivated protest and views were the views of the Respondent/institution TISS, is founded on material available on record and no fault can be found to that extent. This has brought disrepute to the Institute in its view. Petitioner can have any political view of his choice, but so does the Institute. The Petitioner has full freedom of expressing his political view; but to do so under the banner of Respondent Institute is what is objected to by the Institute. As per clause (9) of the Honour Code, which is signed by the every student of the Respondent/Institution, the student undertakes that he will not malign the name of the Institution by presenting views on any platform, tarnishing/damaging the name of the institution in public domain. Therefore the Petitioner has violated the student code.

26. Perusal of the impugned Committee report shows that under charge no. 3, the contravention with the Code of Conduct by the Petitioner was considered. Considering that the contravention with the entire Code of Conduct was under consideration, the argument that the new Clause 2.2 and Clause 8 are considered, is without merit. In any case, the said Clauses are not being considered by us while testing the legality of the impugned report. Bare perusal of the Code of Conduct shows that in its opening paragraph, the same is made applicable to students. Clause 24 deals with discipline to be maintained. Considering the opening paragraph and said Clause, as reproduced above, in the facts and circumstances narrated above, the finding of the Committee that the Petitioner has breached the Code of Conduct is clearly sustainable.

27. Now turning to past conduct of the Petitioner. Under clause (11) of the Honour Code, it is undertaken by the student that he will not obstruct the functioning of the faculty/officers and staff from discharging their normal duties and enjoying their personal rights. As already noted above, the show cause notice clearly put the Petitioner to notice that the Petitioner's past conduct was being considered against him including sit-in outside the Director's bungalow at late night and other incidents. The Petitioner knowing fully well that his past conduct about alleged incidents are under consideration, has replied to the same on merits.

28. The Petitioner has admitted under Appendix - 5 to his reply to the show cause notice (page 93 of the petition) that he, alongwith other four students and other concerned students of PSF and BSML organisation had gathered outside the Director's bungalow at 9.30 p.m. on 22.03.2023. He has also admitted that he had participated in sloganeering. He has also admitted that there was an over-night gathering held on 22.03.2023 night on the nearby road side of Director's bungalow. This conduct amounts to disturbing the Institute's director from enjoying his/her personal life/rights. These admissions coupled with the fact that the Respondent institute had not initiated any action against the Petitioner in the past, clearly shows that the Respondent Institute had taken a lenient view about the Petitioner because he was a student, keeping in view his future prospects. However, considering the present subject matter conduct i.e. participating in politically motivated Parliament March under the banner of PSF – TISS in the year 2024, the action of the Petitioner was taken seriously by the Respondent/Institute.

29. Having found that the Petitioner was given sufficient notice on

the consideration of past conduct, we do not find any error in the committee's decision to consider the past conduct of the Petitioner. It is settled position of law that in any inquiry, once the delinquent is given sufficient notice about past conduct or antecedents and opportunity is given to the reply to the same, the past conduct can be taken as material consideration while arriving at the quantum of punishment. It is therefore clear that the institute can consider whether the Petitioner has committed previous violation of the Code or other policy. In the present case, the Committee has come to the conclusion of suspension from the institute for a period of two years barring his entry across all campus of Respondent/Institute. In the facts and circumstances narrated above, considering the Petitioner's past and present conduct, we do not find that the said punishment is disproportionate.

30. In this regard, it was urged by the learned Senior Advocate for the petitioner that the suspension of the petitioner from the Institute for a period of two years was disproportionate assuming that the Institute was entitled to impose the penalty of suspension. Since the petitioner was pursuing higher studies, the punishment would deprive him of further studies for a period of two years. Reliance in this regard was placed on the decision of the Division Bench in '**X** Vs. **Maharashtra National Law University, Mumbai (supra)**).

31. It may be observed that ordinarily, the discretion to impose penalty is on the Disciplinary Authority. Such decision has to be taken in the light of the facts of the case and the gravity of the misconduct attracting such penalty. As held in **Ranjit Thakur Vs. Union of India (1987 INSC 285)**, it is only if the penalty imposed is so disproportionate to the misconduct in question, so as to shock the conscience of the Court and there is conclusive evidence of bias, that the Court may

consider substituting such punishment imposed by the Disciplinary Authority. In the facts of the present case, it cannot be said that the penalty of suspension as imposed, is so disproportionate to the reasons for which the same has been imposed, so as to shock the conscience of the Court. The principles of natural justice having been complied with and the Petitioner having been given a fair opportunity to present his case, we do not find any reason to hold the penalty to be so disproportionate so as to warrant interference in extra-ordinary jurisdiction. The ratio of the decision in **“X” Vs. Maharashtra National Law University (supra)** cannot be applied to the facts of the present case, inasmuch as the penalty imposed therein was found to be disproportionate because expulsion from the Educational Institution in that case was to operate perpetually for an indefinite period. In the present case, it is for 2 years. Hence, the contention that the penalty imposed in the present case is disproportionate, cannot be accepted.

32. Coming to charge No.2 from the impugned Report, perusal of the circular dated 14.06.2023 indicates that the Respondent/Institute had clearly informed all the students that expressing and promoting their personal views, comments and/or observations on any media platform, while identifying themselves as TISS students, is strictly prohibited. The action of the Petitioner in participating the Parliament March under the banner of PSF-TISS is clearly a breach of this regulation, duly published by the Respondent/Institute in June 2023 itself. The said circular provided that if any student breaches this policy, strict action from the institution will follow. The present inquiry is obviously in keeping with the said circular.

33. The impugned report has held under charge No. 4 that it is for the law enforcement agencies to investigate whether the acts of

Petitioner are anti-national.

34. So far as reliance placed on Clauses 5 & 6 of UGC guidelines for students entitlement (page 109 of the petition) are concerned, it is material to note that the same provide for salutary principles of non-discriminatory treatment and freedom of thought & expression within and outside of the Institution. In the facts and circumstances narrated above, we do not find this case as an outcome of any discrimination or against freedom of expression. This case is about involving name of the institution in the expression of politically motivated thoughts and protests undertaken by the Petitioner, a student. If such actions are prohibited under applicable rules, then the necessary consequences of the breach is bound to follow.

35. Now, let's test the use of government grant / fellowship to the Petitioner. Admittedly, the Petitioner is receiving the grant under the fellowship in the form of financial aid from the Government. When the Petitioner participated in the Parliament March, he was a Ph.D. student receiving the aid. From the reply filed by the Respondent No.3 (Union of India), it is clear that financial aid is given as per guidelines. Under Clause (10) of Scheme Guidelines the grant is made available to student selected and approved by the Institution, who has authority to confer and sustain the fellowship. The Petitioner used the name of the Respondent Institute when he was utilizing the said grant which is a resource. The Petitioner while enjoying the financial aid approved by the Respondent/Institute, participated in a clearly politically motivated protest in a student group under a banner having name PSF-TISS. Therefore the necessary effect of such conduct on the decision of the Respondent Institute about grant is bound to follow.

36. Lastly, turning to the other judgments relied upon by the learned counsel for the Petitioner.

- (i) The judgment of **Shri. Anand Patwardhan (supra)** is relied upon to stress that the documentary Ram Ke naam has been directed to be telecast by the Supreme Court. We are not confirming impugned action based on screening or otherwise of this documentary.
- (ii) The judgment of **Mazdoor Kisan Shakti Sangathan (supra)** is relied upon to the argument about right to peaceful protest is a fundamental right. The protest participated by the Petitioner in Parliament March using TISS name with PSF was clearly politically motivated. Therefore aspect of 'peaceful' is not concerned. He could have participated in his individual capacity but he chose to use PSF-TISS banner and therefore name of the Respondent Institute was involved and therefore the action followed.
- (iii) The judgment of **Iftexhar Zakee Shaikh (supra)** is relied upon to contend that if the Court finds that the impugned action to agitate and oppose the law is part of fundamental right then it is not open to the Court to ascertain whether exercise of such right will create law and order problem and a person cannot be called traitor only because he wants to oppose a particular law. We are not entering in this subject, as the Committee in the impugned Report has rightly left it to the investigating agencies to decide whether the acts of the Petitioner are anti-national or not.

(iv) The judgment of **Javed Ahmad Hajam (supra)** is relied upon to contend that right to dissent in a legitimate and lawful manner is an integral part of rights guaranteed under Article 19 of the Constitution of India and every individual must respect the right of others to dissent. We respectfully agree with this salutary principle, and we have said nothing about Petitioner's right to dissent.

37. In the aforesaid facts and circumstances, having ourselves considered the material on record, we do not find that the impugned Committee report suspending the Petitioner for two years, suffers from any perversity or illegality. The impugned report and consequent action of suspension are based on material available on record and it is proportionate. This is not a fit case to interfere. There is no merit in the petition and the same is dismissed with no order as to costs.

38. All concerned to act on duly authenticated or digitally signed copy of this order.

**(M.M. SATHAYE, J.)**

**(A.S.CHANDURKAR, J.)**