



GAHC010137272023

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3618/2023

YUVRAJ SIDDHARTH

**S/O- SRI PRADIP SINGH, ROLL NO. 206104022, DEPARTMENT OF CIVIL
ENGINEERING, HOSTEL KAMENG (ROOM NO. B2-201) IIT GUWAHATI,
GUWAHATI-781039.**

VERSUS

**THE INDIAN INSTITUTE OF TECHNOLOGY GUWAHATI AND 5 ORS.
GUWAHATI-781039, DIST. KAMRUP, ASSAM, REPRESENTED BY ITS
DIRECTOR.**

2:DIRECTOR

**INDIAN INSTITUTE OF TECHNOLOGY GUWAHATI
GUWAHATI-781039
DIST. KAMRUP
ASSAM**

3:THE BOARD OF GOVERNORS

**INDIAN INSTITUTE OF TECHNOLOGY GUWAHATI
GUWAHATI-781039
DIST. KAMRUP
ASSAM**

4:THE REGISTRAR I/C

**SECRETARY BOG (BOARD OF GOVERNORS)
INDIAN INSTITUTE OF TECHNOLOGY
GUWAHATI
GUWAHATI-781039
DIST. KAMRUP
ASSAM**



5:THE JOINT REGISTRAR AND HOS (HEAD OF STUDENTS)

(STUDENTS AFFAIRS)
INDIAN INSTITUTE OF TECHNOLOGY GUWAHATI
GUWAHATI-781039
DIST. KAMRUP
ASSAM

6:THE STUDENTS DISCIPLINARY COMMITTEE (SDC)

INDIAN INSTITUTE OF TECHNOLOGY GUWAHATI
GUWAHATI-781039
DIST. KAMRUP
ASSA

Advocate for the Petitioner : MR. O P BHATI

Advocate for the Respondent : SC, IITG

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

JUDGMENT

Date : 15.03.2024

Heard Mr. O.P. Bhati, learned counsel for the petitioner. Also heard Mr. A.B. Dey, learned Standing counsel, IIT Guwahati.

2. Challenges made in this writ petition are the letter/order NO.IITG/SA/238/2023/140 dated 15.03.2023 issued by the Joint Registrar and HOS (Students Affairs) Indian Institute of Technology, Guwahati, whereby, studentship of the petitioner is terminated with immediate effect and order NO.IITG/SA/238/2023/328 dated 12.06.2023 whereby, the petitioner has been placed on academic suspension till June, 2024 with a fine of Rs.50,000/- with a rider not to provide hostel facilities and to pay a fine within ten days from the date of receipt of the letter by modifying the order dated 15.03.2023 on appeal.

3. The case of the petitioner, shorn of unnecessary details, is that he is the

student of 6th semester of Ph.D and Civil Engineering Department at Indian Institute of Technology, Guwahati (IITG, in short). On 22.02.2023 at about 10.30 p.m., the petitioner along with his four friends namely, Vidya Bhusan, Chandra Mohan Shakya, Vivek Kumar and Mahendra Patel in Room No.B2-201 of Kameng Hostel, IITG, were listening music and having normal conversations, suddenly two Security Guards entered their room and started video recording of such moments without giving any warning and without the consent of the petitioner and his friends. On such unauthorized act of the said two Security Guards, one of the friends of the petitioner Shri Chandra Mohan Shakya requested them to stop such video recording. Upon such request, the said Security Guards pushed him and told by threatening to produce the said video to the Warden and higher officers. Then and there, the petitioner and his friends stopped the music and apologized to the Security Guards. It is contended that upon such request the language and behaviour of the Security Guards became more inappropriate and in the stair case while coming down, one of the Guards pushed one of the friend of the petitioner. By such sudden force, he came three to four stairs down. Thereafter, on the ground floor the said Security Guards again started abusing the petitioner, which led to physical confrontation. According to the petitioner, he did not take any part in such physical confrontation that he had only tried to pacify the Security Guards as well as his friends.

4. The Security Guards reported the matter to the Warden by producing the videography only on the physical confrontation part of it. Accordingly, the Warden called the petitioner and his friends for meeting in the Warden's room and based on the video evidence, the petitioner and his friends were asked to vacate the hostel and campus within 24 hours. Thereafter, on 24.02.2023, the

petitioner received an e-mail asking him to attend the Students Disciplinary Committee (SDC, in short) meeting at 3.00 p.m

5. The petitioner along with his friends attended the meeting. In the meeting, petitioner and his friends narrated and explained what had happened on that unfortunate night.

6. On the basis of the decision of the SDC, the respondent No.4 issued impugned letter No. IITG/SA/238/2023/140 dated 15.03.2023, whereby, terminated the studentship of the petitioner from the IITG with immediate effect for alleged violation of various Clauses of Ordinances on Code and Conduct of Students of the IITG particularly 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10(c), 3.1.17, 3.1.19, 3.1.20, 3.1.23, 3.1.25, 3.2(e), 3.2(m). It is also mentioned that petitioner was given an opportunity to present his case in the meeting and he has submitted statements before the committee wherein, he had admitted regarding his involvement in the incident.

7. The petitioner along with his two friends being aggrieved by the impugned order preferred a joint appeal before respondent No.3 seeking unqualified apology with further undertaking to desist from any such unfortunate events in future.

8. The appeal of the petitioner and his friends has been disposed of by order No. IITG/SA/238/2023/328 dated 12.06.2023 by the respondent No.4 whereby the termination has been cancelled by placing the petitioner on academic suspension till June, 2024 with a fine of Rs.50,000/- to be deposited within ten days from the date of receipt of the said order with a further rider not to provide any hostel facilities. The said order was received by the petitioner by a

mail on 13.06.2023. The petitioner along with his two friends again submitted a representation on 15.06.2023 for reconsideration of the punishment inflicted upon them.

9. It is the contention of the petitioner that on the fateful night on 22.02.2023, the petitioner along with his friends for the purpose of recreation were enjoying light music apart from having the friendly discussion without any of the nearby other roommates being disturbed and vitiating the atmosphere of the hostel as light music is permissible in the campus of the IITG. It is further contended that no liquor was consumed in the room and one or two friends of the petitioner might have consumed the liquor outside the campus of the IITG, but the petitioner did not consume any liquor even outside the campus and therefore, he was not intoxicated at all at that relevant time. It is further contended that assuming, but not admitting, the petitioner was in a drunken state, the maximum punishment which can be inflicted upon the petitioner is only limited to expulsion of the petitioner from residence hostel within the meaning of Clause 3.2(m) of the Ordinance. Even if the alleged offence committed by the petitioner falls within the meaning of aforesaid Clauses of the Ordinances, it is limited only to the penalty of the expulsion of the residence hostel. Therefore, punishment inflicted by the SDC as communicated by the respondent No.5 apart from being harsh is disproportionate. That apart, the alleged offence committed by the petitioner does not fall under any of the Clauses referred to in the impugned order dated 15.03.2023.

10. It is also contended that during the hearing on 24.02.2023, neither both the Security Guards were present nor written complain, if any, filed by both the Security Guards was made available to the petitioner and the contentions and

reasoning given by the petitioner were not properly considered.

11. It is the contention of the petitioner that as per Circular No.01/2023 dated 10.01.2022, the security personnel are not authorized at all to make surprise/random visit of the hostel rooms and the entry of the Security Guards was illegal as they are not supposed to disturb the petitioner and his friends who have not caused any kind of nuisance by vitiating the atmosphere of the campus.

12. It is contended that the respondent No.3 and 4 have not taken into consideration the aforesaid contention while disposing of the appeal and that too without giving an opportunity of being heard. As such, the impugned order 12.06.2023 is without jurisdiction. It is further contended that in the same incident, two fellow friends of the petitioner were also involved, and were given a lesser punishment, whereby the suspension is reduced to June, 2023 with a payment of fine of Rs.5,000/- only, therefore, the discrimination is writ large.

13. It is further contended that impugned orders/letters 15.03.2023 and 12.06.2023 passed by the respondent authorities are non speaking orders apart from being violative of the principles of natural justice and are disproportionate, therefore, the same are liable to be set aside and quashed.

14. Mr. O.P. Bhati, learned counsel for the petitioner submits that a bare reading of the impugned order dated 15.03.2023 issued by the respondent No.5 has only one allegation as to involvement in the physical and verbal abuse with two Security staff on 22.02.2023 claiming that the Students Disciplinary Committee found the petitioner responsible for violation of various clauses of Ordinance on Code and Conduct of students of the Institution. The clauses enumerated therein i.e. clause 3.1.2 speaks of violation of any published IITG

policies, rules or regulations. It is the responsibility of the students to be familiar with all IITG policies that refer to appropriate behaviour on campus, 3.1.3 speaks of conducts that interfere with the operations of the institute. Such conducts include but are not limited to disruptions or obstructions of teaching, research, administration, or other IITG activities, 3.1.6 speaks of furnishing false or misleading information to a member of the family, staff, students or law enforcement official acting in an official capacity, 3.1.10(c) 5 speaks of abuse of the institute disciplinary system, including but not limited to failure to promptly obey any mandate of any IITG disciplinary authority, 3.1.20 speaks of instigation of a disturbance in violation of IITG policy and/or any local sound ordinance, 3.1.23 speaks of failing to discourage/confront illegal activity and/or violation of the Code and conduct of the students by active/passive participation/presence during the activity, 3.1.25 speaks of physical abuse including but not limited to Inflicting or threatening bodily harm upon any person, or acting in a manner which creates a risk of bodily harm to any person, 3.2 (e) speaks of the examples of behavior thus are prohibited in and around residential facilities, noise or behavior that disrupts other residents in the residential facilities and/or interferes with their ability to study. Therefore, he submits that the aforesaid clauses of the ordinance have no nexus or semblance with the alleged offence or violation committed by the petitioner as to physical or verbal abuse of the security staff. Thus, there is lack of proper application of mind by the respondent No.5 and SDC. Apart from the above, the decision taken by the Students Disciplinary Committee has not been forwarded to the petitioner with the impugned order dated 15.03.2023.

15. He submits that the other clauses referred in the impugned order dated 15.03.2023 are 3.1.5 which speaks of failing to comply with orders or directions



of the IITG officials, institute hearing bodies, institute security personnel or any other law enforcement officials acting in the performance of their duties. There exists no reason in the instant case failing to comply with orders or directions of the Institute's security personnel in as much as the Security Guards unauthorizedly entered the room of the petitioner and began to make video despite of the fact that they had no such authority in view of the Security Guard being barred vide circular dated 10.01.2023.

16. Mr. Bhati, learned counsel, regarding the violation of clause 3.1.19 which speaks of disorderly conducts including but not limited to verbal abuses or inappropriate behavior or any other activities or behavior prohibited by the institute authority, submits that the verbal abuse is not one sided but also from the security guards. The Security Guards were responsible for giving rise to such abuse and behavior which is reflected in the minutes of the SDC held on 24.02.2023 wherein one of the friends of the petitioner Sri Vivek Kumar specifically stated that the physical abuse started by the security guards abusing and pushing them which later turned into a fight. Apart from above, in the statement of the petitioner, the petitioner, specifically stated that the Security Guards pushed and abused them while they were coming down the stairs. These statements have not at all been considered in inflicting the punishment. Regarding the violation of clause 3.2 (m) which speaks of the examples of the behavior that are prohibited in and around residential facilities, Drinking alcohol and use of Drug are strictly prohibited in all residential facilities, in addition, no alcoholic beverages are permitted in facilities designated as "substance free", Drunkenness will not be tolerated and students found in a drunken state may face expulsion from residence hostels, he submits that first at all, the petitioner was not drunken and secondly, they were only enjoying the light music and not

drinking. However, the punishment is only expulsion from residence hostel and nothing more. In view of the aforesaid facts, the offence committed by the petitioner is not so serious as to invite the termination or otherwise suspension from the semester and more so on tendering unconditional apology and undertaking that such thing or things would not happen in future. As the impugned order dated 15.03.2023 is a non speaking order and the same cannot be sustained as the impugned order cannot be supplemented by fresh reasons in the shape of affidavit or otherwise and the same cannot be allowed to get validated by additional grounds later brought out. In support of such contention, Mr. Bhati has placed reliance of the judgments of the Hon'ble Supreme Court in the cases of **Mohinder Singh Gill-versus- Chief Election Commissioner** reported in **(1978) 1 SCC 405**, and **Opto Circuit India Limited -versus- Axis Bank and Others** reported in **(2021) 6 SCC 707**.

17. Mr. Bhati, learned counsel, further submits that the respondents have relied upon the minutes of meeting dated 22.02.2023 and minutes of meeting held on 24.02.2023 of SDC which have not been supplied to the petitioner alongwith the impugned order dated 15.03.2023. The collection of the liquor bottles from the room of the petitioner by the security staffs is untrue in as much as such collection was not done in the presence of the petitioner and his fellow students. Regarding the allegation that the petitioner and the fellow students were found to be in drunken state in front of the committee, he submits, is equally untrue specifically, in view of the fact that none of them were sent for medical examination whether they were drunken. Regarding the minutes of SDC dated 24.02.2023, he submits that the statements recorded of the petitioner as well as his four other friends were not at all taken into consideration during the Investigation conducted by such authority. Apart from

above, no statements of the Security Guards were recorded by the said committee and the alleged summary/ deposition of the Security staffs over mobile to the Chairperson is hearsay evidence. Therefore, he submits that minimum requirement of the natural justice has been denied in the instant case. Even on the basis of the said inquiry report there was no violation of the clauses mentioned in the impugned order dated 15.03.2023.

18. Mr. Bhati, learned counsel, further submits that the Ordinance vide clause 4.2 thereof, there are five types of committees. The assault is a disciplinary matter at the hostel level and not at the stage of SDC and accordingly, the SDC has exceeded its jurisdiction in punishing the petitioner and the power of the SDC vide clause 5.10 of the said ordinance is not suspension for a semester but relates only to suspension of hostel privileges and fine upto Rs.1,000/-. He submits that the punishment inflicted apart from being disproportionate, has also been inflicted without giving opportunity of hearing. The appeal too was disposed of without taking into consideration the unconditional apology and undertaking given by the petitioner not to repeat such acts in future. Further, no opportunity was allowed by the appellate authority to put forward his case and point out that the violation is of minor nature that does not require suspension and imposition of fine of Rs.50,000/-.

19. Further, Mr. Bhati, learned counsel, submits that the two colleagues who were also involved in the incident were given much more lesser punishment by the appellate authority and as such, the petitioner has been denied the equal opportunity and protection within the ambit of Article 14 of the Constitution of India. Therefore, Mr. Bhati, learned counsel prays that this court may reduce the suspension period of the petitioner to a period which the petitioner has already suffered and further the fine of Rs.50,000/- may kindly be substantially reduced

and specifically in view of the fact that the petitioner belongs to a poor family and pursuing his studies on fellowship grant.

20. In support of the above contentions, in addition to the cases already relied and referred to above, Mr. Bhati has placed reliance of the following 2 judgments.

1. **Delhi Transport Corporation –vs- STC Mazdoor Congress**, reported in **1991 Supple (1) SCC 600.**

2. **Ranjit Thakur –vs- Union of India** reported in **(1987) 4 SCC 611.**

21. On the other hand, Mr. A.B. Dey, learned standing counsel, IITG, submits that the petitioner herein is a student of IIT Guwahati pursuing his Ph.D in civil engineering. On 22.02.2023 around 10.30 p.m. security personals, heard loud music coming from one of the rooms of Kameng hostel in second floor. Accordingly, some of the on-duty security staffs were sent to check, they found that the music was coming from room no B2-201 (petitioner's room). There the security staff saw that the petitioner along with other students (viz. Mr. Chandra Mohan Shakya, Mr. Vidya Bhusahan, Mr. Vivek Kumar and Mr. Mahendra Patel) were playing loud music and drinking. As the security staff tried to click photos but they were stopped and pushed out of the room. The students then came out of the room and requested the security not to complaint to the authorities. The security staff asked them to give a letter of apology but the students denied to do so. As all this argument was going on, the students and the security personnel reached the ground floor from the second floor. The arguments started to heat up and the security looked for Mr. Chandra Mohan Shakya as he was the one who pushed them out of the room when suddenly Mr. Chandra Mohan Shakya came running and started punching on duty security personnel.

The petitioner and one Mr. Vidya Bhusan joined Mr. Chandra Mohan and they brutally punched and beat the two security personnel leaving them severely injured. Immediately after the incident, Dean of student affairs along with other professors and student representatives reached the place of occurrence and found that security guards were badly beaten and were accordingly sent them to hospital. The students were found drunk except Mr. Chandra Mohan Shakya. It is pertinent to mention that petitioner was found so drunk he was shouting and his friends has to intervene to stop him in front of dean and other officials. In light of the severity of the incident, he submits the Petitioner along with others were directed to vacate the hostel and were asked to appear before SDC on 24.02.2023. On 24.02.2023 petitioners and others presented themselves before the SDC and the committee interacted with them one by one and violation committed by them were also explained to them. The Committee also summoned the security personnel to remain present before the committee, however as they were hospitalized still, the Chairman along with SDC members interacted with them over phone and their deposition was summarized and were recorded in the SDC minutes. SDC also evaluated the videographic evidences, wherein inter alla it can be seen that there were beer cans inside the room of the Petitioner and security personals being assaulted by the Petitioner and others.

22. He submits that SCD discussed the matter and opined that the students have violated the clauses 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10. (c), 3.1.17, 3.1.19, 3.1.20, 3.1.23, 3.1.25, 3.2(e), 3.2(m) of the Ordinance on Code and Conduct of Students of the Institute and recommended punishment as per their role in the incident. The SDC noted that the petitioner and others had no reason to get into such a brutal fight as according to them they were not drinking in the room.

23. He submits that the SDC in its minutes dated 24.02.2023 recommended termination of the studentship of the Petitioner and Mr. Chandra Mohan Shakya and Mr. Vidya Bhushan immediate effect and whereas Mr. Vivek Kumar and Mr. Mahendra Patel was expelled from the institute till December 2023 and a fine of Rs. 5,000/- was also imposed. As per the procedure laid down, SDC minutes dated 24.02.2023 were placed before the Chairman of the Senate Committee and upon the punishment being approved by him, and was accordingly intimated to the Petitioner vide letter dated 15.03.2023

24. He submits that the appeal of the petitioner and others was placed before the 114th Board of Governor's meeting held 05.04.2023. The BOG, after considering the records and contents of the Petitioner's appeal and the fact that petitioners expressed deepest apologies for his behavior, dedicated almost three years to the Ph.D program and as because there is no previous record of any misbehavior, the BoG decided to give one more opportunity to the Appellant and cancel/revoke the termination order dated 15.03.2023. However, taking note of the serious nature of the incident it inter-alia placed the petitioner along with others under academic suspension till June, 2024 and further decided not to provide hostel facilities to them for the rest of their Ph.D. program and also imposed a fine upon petitioner along with others of Rs.50,000/- each. Of this amount, 50% shall be allocated as compensation for the medical expenses of the security guards, who were assaulted while performing their duties and subsequently faced medical issues and emotional distress. The remaining amount will be credited to the student brotherhood fund. That the decision of the 114th Bog was communicated to the petitioner vide letter dated 12.06.2023. Thus the punishment recommended made by the SDC in its meeting dated 22.04.2023 was altered by the BOG and a lesser punishment was imposed upon

the Petitioner by taking note of entirety of the situation. The view adopted by the BOG in its 114th meeting dated 05.04.2023 is guided by the object of the Ordinance on code and conduct of students IIT Guwahati, i.e. to protect the rights of all the members of IITG Community and to maintain an atmosphere in the community appropriate for an institution of higher education and therefore he has submitted that this Hon'ble Court may be pleased not to interfere with the decision of the BOG as the same is in line with the object of the Ordinance.

25. He submits that when the petitioner and others appeared before the SDC, charges against them were read out and the committee interacted with them individually and after deliberation were asked to submit their response, which they did. Taking note of the reply of the petitioner and other materials gathered during the time of the investigation, SDC deliberated upon the same and after thorough evaluation it proposed necessary disciplinary actions against each one of the students based on the role played by them on the night of 22.02.2023. Further the video which was recovered from the security personnel also shows that there were beer cans inside the petitioner's room. Several beer bottles were obtained from the corridor of Mr. Yuvraj's room. The video which was captured by an Independent witness clearly also shows that the security personnel were brutally beaten up. The students who beat up the security personnel were Mr. Yuvraj, Mr. Chandra Mohan and Mr. Vidya while other two Mr. Mahendra and Mr. Vivek did not beat them up, but they were abusive.

26. He submits that the SDC asked the petitioner to submit his, reply and which he did vide his letter dated 24.02.2023, and if the content of the same is perused, it can be noticed that, the petitioner never sought to cross examine the security personnel and/or dispute the fact that the security personals were not assaulted, he rather admits to the fact that there was fight between them

and security personals. It bears emphasis that, the petitioner was made aware about the charges leveled against him, he submitted his reply to the said charges, the same considered and deliberated by SDC along with other records and consequently they recommended necessary disciplinary sanctions. Thus, the allegation that those impugned orders dated 15.03.2023 and 12.06.2023 are passed without jurisdiction and/or contrary to the principle of natural justice are completely incorrect and fallacious and borne out of improper appreciation of the facts and records involved in the present case.

27. He submits that the petitioner has grossly erred in interpreting the Circular vide no. 01/2023 dated 10.01.2023. In this regard at outset it is stated that the circular under reference inter alia deals with random frisking of students and surprise (random) visit of hostel rooms, which is not the instant case. It is matter of fact that, on 22.02.2023 the Petitioner and others were dancing and listing loud music, in room no. B2-201 of Kameng Hostel i.e. petitioner's room, which is not only confirmed by the security staff but also was accepted by co-students before SDC. Thus, the visit of the security staff to the petitioner's room was not a random/surprise check and they were responding to valid cause, which is loud music coming from room B2-201 of Kameng Hostel. Further, as per the rules applicable on the Hostel Residents of IIT Guwahati, clearly states that between 10PM to 6 AM it is silent hours and during this time if any noise is made the security personnels are authorized to enter the hostel and take necessary measure as to ensure proper maintenance of discipline. Thus, allegation raised by the petitioner that, security staffs have not followed the circular dated 10.01.2023 is fallacious.

28. Mr. Dey, learned counsel, submits that present petition be dismissed being devoid of merit.

29. Mr. A.B. Dey, learned counsel has placed reliance on the judgment of Hon'ble Supreme Court in the case of **State of U.P. –Vs- Sudhir Kumar Singh and Ors.** reported in **AIR 2020 SC 5215**, to project that no prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice. No prejudice has been caused to the petitioner.

30. Due consideration has been extended to the rival submissions of the learned counsel for the parties and also carefully examine the materials available on record.

31. The matter pertains to disciplinary actions against the Ph.D students in the IITG.

32. The facts necessary to appreciate the issue at hand are that at about 10.30 p.m. on 22.02.2023, the petitioner along with his four friends were listening music and having some conversation among themselves at room No.B2-201 of Kameng hostel IITG. Two Security Guards entered the room as the music and other sounds were emanating from the said room where the petitioner and his friends were gathered.

33. On such visit, there was physical confrontation between the petitioner along with his friends and the two Security Guards. Thereafter, the two Security Guards reported the matter to the concerned Warden of the hostel with the videography which shown the physical confrontation between the Security

Guards and the petitioner and his friends. The petitioner and his friends were directed to attend the SDC meeting on 24.02.2023. Accordingly, the petitioner along with his friends have appeared and explained what had happened on that fateful night.

34. On the basis of the decision of the SDC, vide impugned letter dated 15.03.2023, issued by the Joint Registrar HOS (Students Affairs), whereby, the petitioner along with his friends stating that the disciplinary action have been initiated against the petitioner terminating studentship from the institute with immediate effect.

35. It is seen that the petitioner along with his friends were given an ample opportunity to present their case in the meeting wherein the petitioner has submitted a statement before the committee by admitting his involvement in the incident, the said punishment of terminating the studentship from the institute with immediate effect is that the petitioner have violated several clauses of Ordinances on Code and Conduct of Students of IITG.

36. I deem it appropriate to quote the relevant clauses of the said ordinances which are as follows:-

3.1.2. Violation of any published IITG policies, rules, or regulations. It is the responsibility of the student to be familiar with all IITG policies that refer to appropriate behavior on campus.

3.1.3. Conducts that interfere with the operations of the Institute. Such conducts include but are not limited to disruptions or obstructions of teaching, research, administration, or other IITG activities.



3.1.5. Failing to comply with orders or directives of IITG officials, Institute hearing bodies, Institute Security Personnel, or any other law enforcement officers acting in the performance of their duties.

3.1.6. Furnishing false or misleading information to a member of the faculty, staff, student, or law enforcement official acting in an official capacity.

3.1.10(c) Failure to promptly obey any mandate of any IITG disciplinary authority.

3.1.17 Conducts that endanger the health or safety of members of the IITG community or other persons.

3.1.19 Disorderly conducts including, but not limited to, verbal abuses or inappropriate behaviours or any other activities or behavior prohibited by the Institute authority.

3.1.20 Instigation of a disturbance in violation of IITG policy and/or any local sound ordinance.

3.1.23. Failing to discourage/confront illegal activity and/or violation of the Code and Conduct of Student by active/passive participation/presence during the activity.

3.1.25 Physical abuse, including, but not limited to, inflicting or threatening bodily harm upon any person, or acting in a manner which creates a risk of bodily harm to any person.

3.2(e) Noise or behavior that disrupts other residents in the residential facilities and/or interferes with their ability to study

3.2(m). Drinking Alcohol and use of Drug are strictly prohibited in all residential facilities. In addition, no alcoholic beverages are permitted in facilities designated as "substance-free". Drunkenness will not be tolerated and students found in a drunken state may face expulsion from residence hostels.

37. On bare reading of the above clauses, the alleged conduct of the petitioner and his friends attract Clause 3.1.17, which relates to conduct that engage the health and safety of members of the institute community or other. It also attracts clause 3.1.25 which relates to physical abuse includes but not limited to inflicting or threatening bodily harm upon any person or acting in a manner which creates a risk of deadly harm to any person. It also attracts 3.2.(e) which relates to noise or behaviour that disrupts other residents in the residential facilities and/or interferes with their ability to study. It also attracts Clause 3.2. (m) which relates to Drinking Alcohol that are prohibited in an around residential facilities, drinking alcohol and use of drug are strictly prohibited in all residential facilities, in addition no alcoholic beverage are permitted in facilities designated as "substance free". Drunkenness is not to be tolerated and students found in the drunken state may face expulsion from residence hostel.

38. The petitioner along with two other friends have filed an appeal before the Board of Governors, IITG against the impugned order of the letter dated 15.03.2023. On reading of the appeal, it is seen that apart from attempted explanation to the incident of alleged inappropriate conduct of the petitioner and his friends on 22.02.2023 at 10.30 p.m. in the room, the petitioner has stated that it was their first mistake and this will be the last one and asked for one last chance to redeem themselves, therefore, requested to give them another opportunity to complete their Ph.D.



39. On such appeal, the Board of Governors, IITG after careful consideration of an appeal against the termination of the petitioner has been interfered and cancelled and imposed lesser punishment to the extent of academic suspension till June, 2024, thereby allowing the petitioner to register from July, to November, 2024 semester onwards with a fine of Rs.50,000/-vide the impugned letter dated 12.06.2023 as per the decision of the BOG. However, it is provided that no hostel facilities shall be provided for the rest of the Ph.D programmed of the petitioner.

40. The circular-01/2023 dated 10.01.2023 provides that the security personnel (male/female) posted near the entrance gate are authorized to do random frisking of any student and their belongings while entering the campus. It also provides for surprise (random) visit of hostel rooms, whereby hostel wardens/associate wardens are authorized to make surprise (random) visit to hostel rooms and all the students are directed to cooperate.

41. On careful reading of the above circular, I am of the view that the circular authorized the security personnel for random frisking of any student and their belongings while entering the campus. The wardens are also authorized to make surprise (random) visit to hostel rooms. However, it does not prohibit the Security Guard/personnel from entering hostel rooms if any nuisance or noises are made vitiating the atmosphere of the campus. When such conduct and behavior are found to be indulged by the students in the hostel, it is the duty of the Security Guards/personnel to check out such incidence and report it to the concerned authority.

42. As per the general rules for hostel residence issued by the Hostel Affairs Board, IITG, authorized security personnel to switch off audio /video system

during silent hours on week days from 10.00 p.m. to 6 p.m. It also provides that any matter of mis-conduct by residence would be seriously dealt with. Consumption of alcoholic drinks smoking and use of narcotic drugs in hostel premises are strictly prohibited.

43. This Court has perused the minutes of the meeting dated 22.02.2023 and the SDC held on 24.02.2023. Complain of the security personnel dated 23.02.2023 and the medical record of the Security Guards have also been perused. As per record, it is seen that the petitioner along with his friends went out around 6.30 p.m and were consuming liquor till 9.30 p.m. and they were playing music and dancing and the music were loud, therefore, two Security Guards came to check. The materials reflects that there were beer canes inside the room and several beer bottles were recovered the corridor of the room of the petitioner and a video which was captured by other students shows that the Security Guards were brutally beaten up and none of the Security Guards were raised their hand. The petitioner and his friends were also allowed to submit written statement before the committee. As per the statement of the petitioner, he was having a small gathering in his room when security staff came to his room and started recording video. According to him, Mr. Chandra Mohan Shakya, one of his friend, requested to stop recording, but the security staff refused and he started abusing him in local language. They followed the Security Guards to the ground floor when he pushed him and raised his hand which led to a fight. He has apologized for the incident and mentioned that the fight was purely accidental. Medical prescription of the Security Guards reflects that they received an injury and have to be treated due to such confrontation by which the involvement of the petitioner and his friends is clearly established not only through the Security Guards but by other students as well as his own

admission.

44. In such view of the matter, this Court is of the opinion that such a conduct/behavior on the part of petitioner and his friends has vitiated the atmosphere of the campus. The conduct and behavior is in violation of the provisions provided under the Ordinances on Code and Conduct of Students as well as general rules for hostel resident.

45. Having regard to the contention raised by the learned counsel for the petitioner that no opportunity was given to the petitioner of being heard in violation of the principle of natural justice at the appellate stage, I am of the considered view that in the facts and circumstance of the present case, not giving an opportunity of hearing at the appellate stage, may not be necessary as the petitioner has failed to show any prejudice caused to him on being not offered the personal hearing. More so, the petitioner and his friends were afforded ample opportunity on 24.02.2023, whereby, they were given personal hearing and allowed to submit written statement by the SDC. That apart, the petitioner has clearly admitted his involvement in the alleged conduct which is supported by oral and material evidences. It is also revealed from the proceedings that the appellate authority appears to have carefully considered the grounds of appeal of the petitioner and his friends and accordingly cancelled the termination of studentship of the petitioner by modifying the punishment to that of suspension till June, 2024 with a fine of Rs.50,000/- and without hostel facilities during the remaining Ph.D course of the petitioner to which this Court, finds no infirmity.

46. A profitable reference may be made to the case of **State of U.P. –Vs- Sudhir Kumar Singh (Supra)** wherein the Hon’ble Supreme Court has held as

under:-

“39. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”

47. As held herein above, no prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice. In the present case, I find that no prejudice has been caused to the petitioner in not giving personal hearing at the appellate stage.

48. I have perused the judgments relied on by the learned counsel for the petitioner and after careful consideration I find that the cases does not come to the aid of the petitioner as the those cases relates to the departmental proceedings. It is settled proposition of law that there is a substantial difference between an enquiry in a disciplinary action against a civil servant and in a disciplinary action against a student of an educational institution. When in the former strict compliance of the principles of natural justice is imperative, in the latter if the student has been given a fair chance to answer the charges that is sufficient. In the instant case there is no allegation of malafide. The petitioner was informed of the charges against him, then an enquiry was conducted by SDC. He participated in the enquiry and gave statements. Then the punishment was recommended, against which he filed an appeal before the BoG and after considering the facts and circumstances lesser disciplinary sanctions was imposed.

49. In view of the discussion made herein above, I find no infirmity in the impugned letters/orders dated 15.03.2023 and 12.06.2023. Thus, no interference is called for.

50. Consequently, the writ petition stands dismissed being devoid of merit.

JUDGE

Comparing Assistant