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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 30.08.2024*  
*Pronounced on: 18.09.2024*

+ **W.P.(C) 8198/2024**

.....Petitioner

Through: Mr. Sulaiman Mohd Khan, Mr. Hilaluddin, Mr. G.K. Singh and Mr. MMA Chowdhary, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Ms. Monika Arora, CGSC with Mr. Subhrodeep Sahal, Advocate for UOI.  
Mr. Anshuman Sharma and Mr. Azaz Ahmed, Advocates for R-2/UGC.  
Mr. Aman Naqvi, Advocate for R-3.

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J.**

1. The present writ petition under Article 226 of the Constitution of India, has been filed on behalf of the petitioner, praying as follows:

“a) set aside/ quash Item No. 1 of the minutes, issued vide D. No. 545/ FLS dated 17.08.2023, of the special meeting of the CASR of the Faculty of life Sciences, AMU held on 10.08.2023;



b) issue a writ, order or directions in the nature of Mandamus commending the Respondent No. 3 to hold a meeting of the concerned Board of Studies of AMU and appoint Ph. D. guide of the Petitioner therein in conformity with the Ordinance 2(ii) for Ph. D. under Chapter XXV (E) of the Ordinances (Academic) of AMU within a time frame as given by this Hon'ble Court.

c) issue a writ, order or direction in the nature of Mandamus commending the Respondent No. 2 to comply with the provisions of Section 14 of the University Grants Commission Act, 1956 against AMU for violation to regulations of the Commission;

d) issue a writ, order or direction in the nature of Mandamus commending the Respondent No. 3 to extend Ph. D. tenure of the Petitioner atleast by 10 months as a bonafide Researcher in the Dept. of Wildlife Sciences, AMU as a special case; and e) allow this Writ Petition with special costs in favour of the Petitioner throughout...”

2. **The case set out by the petitioner** is that she is a wildlife researcher with several publications to her name, and she had enrolled herself in the Ph.D. program at the Department of Wildlife Sciences, Aligarh Muslim University ('AMU') on 13.12.2017. After completing significant portions of her research, she had submitted five chapters of her thesis to her supervisor, Prof. Afifullah Khan, in March 2023. However, between March and April 2023, the petitioner alleges that Prof. Khan had begun making inappropriate advances toward her. He would call her after sunset, make sexually suggestive remarks, and engage in inappropriate physical contact. In one instance, in February 2023, the petitioner alleges that Prof. Khan had physically restrained her in his office. Despite this, the petitioner had continued her academic work, and had submitted corrections and drafts of her thesis. On 15.04.2023, Prof. Khan had reviewed the first



chapter of her thesis and provided feedback, which continued with subsequent chapters until mid-April. However, in the third week of April 2023, when the petitioner had declined Prof. Khan's demand for sexual favors, he had become hostile. He had declared her research, which he had previously deemed satisfactory, as unfit for a doctoral degree. This sudden change in his stance had occurred despite his acknowledgment of the petitioner's consistent research progress throughout her Ph.D. tenure. On 02.05.2023, the petitioner had reported Prof. Khan's behavior to the university authorities, both verbally and through email. Following this, on 03.05.2023, the Registrar had referred her complaint to AMU's Internal Complaint Committee ('ICC'). The ICC had summoned both the petitioner and Prof. Khan for hearings in mid-May 2023 and heard witnesses' testimonies to corroborate the petitioner's allegations. However, on 26.05.2023, the ICC had submitted its report exonerating Prof. Khan, a decision that the petitioner argues was made without proper application of mind and in violation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013. Feeling aggrieved by the ICC's decision, the petitioner had got registered, an FIR No. 65/2023 against Prof. Khan under Section 354 of Indian Penal Code, 1860 ('IPC'). Following this, on 09.06.2023, the petitioner had formally requested the Vice Chancellor of AMU to assign her a new Ph.D. supervisor, preferably a female faculty member. Despite repeated reminders, no decisive action was taken. A meeting of the Board of Studies in June 2023 had also failed to resolve the issue of her supervision, and on 10.08.2023, the



Committee of Advanced Studies and Research (CASR), on the recommendation of Prof. Khan, had appointed a new supervisor for the petitioner. The petitioner contends that this appointment was made without proper procedure, as no meeting of the Board of Studies was held, and that her new supervisor is a witness in the ongoing counter-FIRs, which further compromises the fairness of the process. It is further stated that meanwhile, a counter-FIR had been lodged against the petitioner on 20.07.2023, in which Prof. Khan was listed as a key witness. In October 2023, a charge sheet was filed against Prof. Khan under Section 354A of the IPC, and the Magistrate had taken cognizance of the case. However, the Ph.D. tenure of the petitioner had ended on 31.01.2024 without the submission of her thesis, which the petitioner attributes to the hostile actions of AMU authorities and the unjust hurdles created in her academic progression.

3. The petitioner now has approached this Court, seeking relief from what she alleges to be arbitrary, unlawful, and unjust actions by AMU authorities, including the appointment of a supervisor with clear conflicts of interest. She asserts that the University's actions have not only violated AMU's own ordinances but also the binding University Grants Commission (UGC) Regulations of 2016 concerning the award of M.Phil./Ph.D. degrees. Despite her attempts to resolve the matter through legal notice and repeated petitions to the university administration, no effective action has been taken, leaving her with no alternative but to seek judicial intervention.

4. **At the outset**, this Court, after perusing the contents of the



petitioner and the reliefs sought by the petitioner, had put a query to the learned counsel for the petitioner as to how the present petition was maintainable before this Court.

5. **Learned counsels appearing on behalf of the respondents**, in unison, also submitted that the present writ petition is not maintainable before this Court since no cause of action has arisen in this Court's territorial jurisdiction and the entire cause of action has arisen in the jurisdiction of High Court of Allahabad and the grievance of the petitioner is also against the Aligarh Muslim University, which is situated in State of Uttar Pradesh. Thus, it was prayed on behalf of the respondents that the present petition ought to be dismissed.

6. **Learned counsel appearing on behalf of the petitioner**, on the other hand, contended that even though the substantial cause of action has arisen at Aligarh Muslim University, situated in State of Uttar Pradesh, the same does not preclude this High Court from entertaining the present writ petition. It has been argued that part of the cause of action also arose within the territorial jurisdiction of this Court, given the failure of the UGC, headquartered in Delhi, to act in accordance with the binding provisions of Section 14 of the UGC Act, 1956. Despite the petitioner submitting a representation on 13.01.2024, requesting the UGC to intervene and take action against AMU for its violations of UGC Regulations framed under Section 26(1)(f & g) of the Act, the UGC had remained silent. It is stated that this failure to act on the petitioner's appeal forms a significant part of the cause of action within the jurisdiction of this Court. It has been



argued that the UGC is a statutory body established by an Act of Parliament, and its failure to perform its statutory duties, particularly after being alerted to the issue via the petitioner's representation, directly contributes to the cause of action. Furthermore, it has been submitted that the decision of the CASR at AMU on 17.08.2023, which is challenged in this writ petition, was made in blatant disregard of Regulation 6.3 of the UGC Regulations and AMU's own Ordinance. As such, the petitioner believes that this Court is the appropriate forum to address these grievances, particularly as the UGC's failure to act is central to the relief sought. Additionally, it has been stated that the litigation in New Delhi would be more convenient and cost-effective for the petitioner than in the High Court of Allahabad, given the proximity of Aligarh to Delhi (140 km) compared to Allahabad (500 km). It is also submitted that this Court is the *forum conveniens* and that the balance of convenience, including lower litigation costs and ease of travel, strongly favors the adjudication of the matter in Delhi.

7. This Court has **heard** arguments on behalf of both the parties and has perused the material placed on record.

8. Having considered the arguments advanced by the learned counsels for both the parties, this Court is of the view that the entire cause of action, leading to the filing of present writ petition, has arisen in the State of Uttar Pradesh.

9. It is clear from the petition itself that the petitioner's grievance primarily revolves around the actions of Aligarh Muslim University, where she was a Ph.D. scholar. The petitioner has levelled allegations



of sexual harassment against her supervisor, Prof. Afifullah Khan i.e. respondent no. 4 herein, and these allegations have been the subject of complaints made to the Internal Complaints Committee of the University, situated in Aligarh, Uttar Pradesh. The petitioner's complaint was adjudicated by the ICC at the University, and she had challenged the exoneration of Prof. Khan by the ICC, which too, took place at AMU. Furthermore, she had also got an FIR registered against Prof. Khan under Section 354 of IPC in State of Uttar Pradesh, and a counter-FIR was also lodged against her in the same State. The subsequent criminal proceedings, including the filing of charge sheets and the taking of cognizance by the Magistrate, have all taken place within the territorial jurisdiction of the courts in State of Uttar Pradesh. Thus, it is not in dispute that the actions forming the genesis of this case, as well as the related legal proceedings, have taken place in State of Uttar Pradesh itself.

10. The prayers sought by the petitioner further substantiate the fact that the cause of action lies within the territorial limits of State of Uttar Pradesh. The petitioner is, *inter alia*, seeking the quashing of the minutes of the meeting of the Committee of Advanced Studies and Research of the University dated 17.08.2023, which was convened in Aligarh. Additionally, the petitioner seeks the appointment of a new Ph.D. supervisor in accordance with AMU's own ordinances, as well as the extension of her Ph.D. tenure, both of which are matters which fall squarely within the domain of AMU's internal academic and administrative processes. Thus, the substance of the petitioner's grievances is directed against AMU, which is





located in the State of Uttar Pradesh, and the relief sought relates to decisions taken by authorities within AMU. Consequently, the substantial cause of action has arisen entirely within the territorial jurisdiction of State of Uttar Pradesh.

11. In this background, it will be useful to refer to the judgment of Hon'ble Apex Court in case of *Kusum Ingots & Alloys Ltd. v. Union of India* (2004) 6 SCC 254. The relevant observations which are relevant to the facts of the present case are extracted hereunder:

*“Forum conveniens*

30. We must, however, remind ourselves that **even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.** [See *Bhagat Singh Bugga v. Dewan Jagbir Sawhney*, *Madanlal Jalan v. Madanlal, Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd.*, *S.S. Jain & Co. v. Union of India* and *New Horizons Ltd. v. Union of India.*]”

(Emphasis supplied)

12. Thus, as per the abovesaid judgment, in case a small part of cause of action arises within the territorial jurisdiction of a High Court, the same by itself may not be considered to be a determinative factor to compel that particular High Court to exercise its jurisdiction. Further, in appropriate cases, the Court may decline to exercise its discretion by invoking the doctrine of *forum conveniens*.

13. A similar view was also taken by the Hon'ble Apex Court in the case of *State of Goa v. Summit Online Trade Solutions (P) Ltd.* (2023) 7 SCC 791, wherein it has been held as under:





“14. While dealing with an objection as to lack of territorial jurisdiction to entertain a writ petition on the ground that the cause of action has not arisen within its jurisdiction, **a High Court essentially has to arrive at a conclusion on the basis of the averments made in the petition memo treating the contents as true and correct. That is the fundamental principle.** Bearing this in mind, we have looked into the petition memo of WP (C) No. 38 of 2017 and searched in vain to trace how at least part of the cause of action has been pleaded by the petitioning company, to have arisen within the territorial jurisdiction of the High Court.

15. This is a case where clause (2) of Article 226 has been invoked by the High Court to clothe it with the jurisdiction to entertain and try the writ petitions. **The constitutional mandate of clause (2) is that the “cause of action”, referred to therein, must at least arise in part within the territories in relation to which the High Court exercises jurisdiction** when writ powers conferred by clause (1) are proposed to be exercised, notwithstanding that the seat of the Government or authority or the residence of the person is not within those territories.

16. The expression “cause of action” has not been defined in the Constitution. However, the classic definition of “cause of action” given by Lord Brett in *Cooke v. Gill* [*Cooke v. Gill*, (1873) LR 8 CP 107] that “*cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court*”, has been accepted by this Court in a couple of decisions. It is axiomatic that without a cause, there cannot be any action. **However, in the context of a writ petition, what would constitute such “cause of action” is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.**

17. **Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a**



**cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted.** Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests”

(Emphasis Supplied)

14. The petitioner’s argument that a part of the cause of action has arisen within the territorial jurisdiction of this Court due to the inaction of the University Grants Commission (UGC), headquartered in Delhi, does not hold merit. While it is true that the UGC, being a statutory body, is based in New Delhi and has the authority to take action against universities under its purview, the petitioner’s central grievance is against Aligarh Muslim University. The failure of the UGC to act on the petitioner’s representation is only incidental and does not form a substantial part of the cause of action. The petitioner is essentially challenging the actions and decisions of AMU, not the UGC. Therefore, the inaction of the UGC is not sufficient to confer jurisdiction upon this Court when the substantive actions that have given rise to the dispute are rooted in State of Uttar Pradesh. Even otherwise, it is not a case that UGC cannot be made a party in a petition before any other High Court in the country since its headquarters is in Delhi. UGC is a statutory body, enacted by the law of Parliament, and a writ against the same can be filed in any High Court, where the cause of action has arisen.

15. In this regard, one can refer to the decision of Division Bench



of this Court in case of *Smt. Manjira Devi Ayurveda Medical College and Hospital v. Uttarakhand University of Ayurveda LPA No. 894/2024*, wherein it was held as under:

“12. ...The mere presence by virtue of the location of their offices at Delhi would not, *ipso facto*, confer exclusive jurisdiction upon this Court to exercise its jurisdiction under Article 226 of the Constitution of India. It is apparent that no cause of action at all has arisen within the local limits of the territorial jurisdiction of this Court.”

16. The other contention raised on behalf of the petitioner that Delhi is geographically closer to Aligarh than Allahabad, and hence this Court should entertain the petition, is entirely without merit and must be rejected. The proximity of Aligarh to Delhi has no bearing on the determination of jurisdiction. Jurisdiction is governed by law and not geographical limits and necessarily the jurisdiction will fall, where the cause of action has arisen, not by the convenience of geographical proximity that suits the petitioner. If this argument is to be accepted by this Court, every resident of State of Uttar Pradesh who lives in cities or districts near Delhi could then claim that they must be allowed to approach this High Court for redressal of their grievances instead of the Allahabad High Court even if the cause of action has arisen in the State of Uttar Pradesh, which is clearly an untenable and absurd proposition. The Hon’ble Supreme Court and various High Courts have consistently held that the determination of jurisdiction must be decided on the basis as to where the cause of action has arisen. Therefore, the petitioner’s argument regarding convenience of travel and cost-effectiveness, in this Court’s view, is



clearly misplaced.

17. To conclude, this Court observes that as per judicial precedents, the Courts have power under Article 226 of the Constitution of India to exercise or decline their discretion to entertain writ petitions when the petitioner has an alternative, more appropriate, and convenient High Court to approach and it is a settled position of law that if only a part of the cause of action arises within the territorial jurisdiction of the Court, the Court may decline to entertain the case if it is of the opinion that it is not the *forum conveniens*.

18. This Court is thus of the view that the petitioner, having enrolled herself in the Ph.D. program at Aligarh Muslim University and having conducted her academic work there, must take her grievances against the said University to the appropriate forum in the State of Uttar Pradesh where the University is situated.

19. In view of the aforesaid, the present petition is dismissed alongwith pending applications solely on the ground of territorial jurisdiction. The petitioner would be at liberty to approach the appropriate Court of jurisdiction for redressal of her grievance, in accordance with law.

20. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**SEPTEMBER 18, 2024/at**