

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5350 of 2024**

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1. Ayushi Anand Daughter of Sri Parmanand Lal, resident of village Chhatanwara, P.O. Susta P.S. Gaighat, District- Muzaffarpur.
2. Nidhi Kumari, daughter of Shambhu Nath Jha, resident of Village - Naruar, P.S. Bhairabasthan, District - Madhubani.

... ... Petitioner/s  
Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Department of Science and Technology and Technical Education Government of Bihar, Patna.
3. Director, Department of Science and Technology and Technical Education, Government of Bihar, Patna.
4. Bihar Engineering University, Mithapur, Patna through its Examination Controller.
5. Examination Controller, Bihar Engineering University, Mithapur, Patna.
6. Principal Darbhanga College of Engineering, Mabbi Darbhanga.
7. Chairman Disciplinary Committee, Darbhanga College of Engineering, Mabbi Darbhanga.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Binodanand Mishra, Adv.  
Ms. Ankita Tripathi, Adv.  
Mr. Sandeep Kumar, Adv.  
For the Respondent/s : Mr. Anand Pd. Singh, SC-15

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**

**Date : 09-09-2025**

Heard the parties.

2. The petitioners having successfully got through the Bihar Combined Competitive Examination Board Examination, 2021 admitted in the Darbhanga College of Engineering in Electrical and Electronics Engineering for the academic session



2021-25.

3. While the petitioners were pursuing their 4<sup>th</sup> Semester, in the meanwhile, owing to lack of basic amenities in the college, a protest was made by the students on 19<sup>th</sup> of October, 2023, which led to interference of the administrative authorities in order to pacify the agitating students. The grievance were reported to the higher authorities. This incident attracted the print and electronic media, however, the agitation made by the petitioners was taken up by the Disciplinary Committee of the College, who in turn, issued office order dated 23.02.2024, asking the petitioners along with others to explain as to why they may not be expelled from the college.

4. The petitioners appeared before the Disciplinary Committee, who have been given a questionnaire to answer. They submitted their reply to each and every points raised in the questionnaire. However, the Disciplinary Committee did not satisfy with the explanation of the petitioners and they have come out with the office order dated 23.02.2024, contained in Letter No. 392 whereby the petitioners have been said to be in leading role in the lockdown of the college by the students and also alleged to have provoked the students and finally, the petitioners have been expelled from the colleges and its hostel



for the period of one year vide order as contained in Memo No. 458 dated 06.03.2024. By the said letter, it has also been informed to the petitioners that they would join the college from the 5<sup>th</sup> Semester along with the students of the academic session 2022-26, besides the direction to vacate the hostel within two weeks.

5. The aforesaid letters were put to challenge by filing the present writ petition. In the meanwhile, the examination of 5<sup>th</sup> Semester was also notified and the petitioners have also prayed for a direction upon the respondents to allow them to participate in the examination. Considering the submissions, this Court vide order dated 01.04.2024 directed the Principal of the College to allow the petitioners to appear in the mid-semester exam, subject to the final outcome of the present case.

6. During the pendency of the writ petition, the respondent authorities of the College have come out with the office order contained in Memo No. 1105 dated 06.07.2024, wherein the petitioners have been restrained from attending the offline/online classes of the 6<sup>th</sup> semester, which led to filing of an interlocutory application bearing I.A. No. 01 of 2024. However, in the light of the earlier order of this Court, the



petitioners have been allowed to appear in all the exams, but their results have not been published, awaiting the final outcome of the writ petition.

7. Mr. Binodanand Mishra, learned Senior Advocate representing the petitioners has submitted that besides the admitted position that the petitioners have been sincerely pursuing their classes and successfully completed all the previous semesters by getting good CGPA; at the time of lockdown by the students, the petitioners were in their hostel and in fact they had nothing to do with the lockdown, as the same was agitated by the students, who were afraid of taking action by the college administration, due to less attendance percentage, as required in terms with letter issued by the Bihar Engineering University bearing no. 470/23 Patna dated 05.10.2023, that minimum 75% attendance was made mandatory. A list of the students was furnished by the authorities of the college, however, the name of the petitioners does not contain in the list, as they had more than 75% of attendance.

8. All that the petitioners did was that on being asked by media reporters, they disclosed the lack of basic amenities like electricity, drinking water, medical facility etc. Moreover, in obedience to the show-cause notice under office order dated



23.02.2024, the petitioners submitted their detailed reply. The teachers/faculty members of the Electrical and Electronics Department was also consulted by the Principal of the College regarding the conduct of the petitioners. The teachers/faculty members unanimous with one voice said that the performance of the petitioners in the class was always satisfactory and their behaviour with the teachers was second to none; the teachers of the department also viewed the video and categorically said that the video was uploaded on India 24 Times on 19<sup>th</sup> October, 2023. In the video clearly 200-300 students were there. Interview of two boys and one girl took place, however, the petitioner no. 2, whose interview was taken by the media did not make any complaint except relating to the lack of facility, language was not at all indecent and no improper words were used. The petitioners were not addressing the students gathered there.

9. Notwithstanding the aforesaid facts, surprisingly the impugned order came to be passed under the signature of Chairman, Disciplinary Committee, Darbhanga Engineering College, Darbhanga under Memo No. 458 dated 06.03.2024 and thereby, expelled the petitioners from college and its hostel.

10. Mr. Mishra, learned Senior Advocate while



assailing the impugned order further contended that a Disciplinary Rules For Government Engineering Colleges/Polytechnics has been duly framed under the Department of Science & Technology, Government of Bihar under Memo No. 2634 dated 27.10.2011 with a categorical stipulation that as soon as any complaint is made to the Principal(s) against any student regarding an act of indiscipline on his part, which satisfied the Principal warranting disciplinary action under the rules, the charges shall be framed and communicated to the students. Further a show-cause will be served to him for reply within a specified period and only after considering the show-cause reply, if the Principal is satisfied that there is *prima facie* substance in the allegation or if the student(s) fails to reply show-cause, he will refer the matter to the Disciplinary Committee to look into it and to give suitable recommendation to the Principal for awarding the punishment. The copy of the rule has been handed over to this Court and taken on record.

11. It is the contention of the learned Senior Advocate that besides various discrepancies in Constitution of the Disciplinary Committee, it is the admitted position that the petitioners have not been given any opportunity of hearing, prior



to the issuance of impugned Memo No. 458 dated 06.03.2024.

The petitioners have been awarded major punishment, however, it has not been disclosed in the show-cause notice. Moreover, the Disciplinary Committee after giving opportunity of hearing to the petitioners, at best could recommended for appropriate action against the petitioners, however, throwing all the norms to the wind, the Chairman of the Disciplinary Committee himself expelled the petitioners and directed them to vacate the hostel within two days, which is impermissible and unsustainable in the eyes of law. The report submitted by the teachers and the faculty with regard to the proper behaviour and non participation in the protest has been completely overlooked.

Referring to the letters as contained in Memo No. 1493 dated 20.10.2023, containing the list of students having attendance less than 60% as on 14.10.2023 and further a list of hardcore disturbing students, who were leading the strike in Darbhanga College of Engineering, Darbhanga on 19.10.2023, it is contended that the name of the petitioners did not find in both the list, nonetheless, severe punishment have been inflicted in a most arbitrary manner.

12. A counter affidavit has been filed on behalf of the respondent nos. 6-7, the College and the Disciplinary



Committee. Learned Advocate for the respondents while refuting the contentions, noted hereinabove, have submitted that on the fateful day, in course of agitation led by the students against the College administration for issuing orders regarding exemption in attendance restrictions, the petitioners along with others were actively participated and the institute was locked down and only after intervention of the District Administration, the college premises was vacated forcefully. The Principal of the College also intimated the Chairman-cum-Dean (Student Welfare) Disciplinary Committee, The Bihar Engineering University regarding misdeeds by the students for appropriate disciplinary action.

13. For the fair and impartial enquiry into the aforesaid incident, a Fact Finding Committee was constituted by the Principal vide Memo No. 1738 dated 14.12.2023. Based upon the report of the Fact Finding Committee, the students, who have been found guilty, actions have been taken. Further after examination of the video of lockout notice, the complicity of the petitioners have come in provoking and pressurizing the students to participate in the said protest. Accordingly, they have been served with the notice. There explanations were duly considered and placed before the Disciplinary Committee, who



came to the conclusion that the aforesaid three students deserve to be punished and accordingly, the Committee unanimously recommended for their expulsion from the college for one year. It is further contended that on the request of the teachers of all faculties vide Letter dated 07.03.2024, a meeting of the Disciplinary Committee was again held, wherein it was decided that the concerned students, if so desired, may submit their representation to the Director, Science and Technology Department, Government of Bihar, Patna against the aforesaid punishment.

14. At this juncture, learned Senior Advocate representing the petitioners submitted that the availability of alternative remedy is not a bar in seeking the remedy under Article 226 of the Constitution of India, if there is violation of Fundamental Rights, Principle of Natural Justice and the order is without jurisdiction.

15. Having considered the submissions set-forth by learned Advocate for the respective parties and taking note of the materials available on record before proceeding further, it would be pertinent to take note of the decision rendered in the case of ***Tamil Nadu Cements Corporation Limited Vs. Micro and Small Enterprises Facilitation Council and Anr., (2025) 4***



**SCC 1**, were the Court unequivocally reiterated the well settled principles that alternative remedy is not a bar to entertain the writ petition, and observed that access to High Courts by way of a writ petition under Article 226 of the Constitution of India, is not just a constitutional right but also a part of the basic structure. Rule of exclusion of writ jurisdiction, in case of alternative remedy, is a rule of discretion and not a rule of compulsion. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and the same is not limited by any provision of the Constitution and cannot be restricted or circumscribed by a statute. Suffice it to observe that it is trite that the plea of alternative remedy would not come in the way of invoking the extra ordinary/prerogative writ jurisdiction of this Court while exercising the power under Article 226 of the Constitution, if there is violation of Fundamental Rights, Principle of Natural Justice and the order(s) having been passed without jurisdiction or the vires is under challenge or otherwise.

16. Now coming to the case in hand, certain facts are not in dispute that the petitioners having successfully got through the examination took admission and also cleared their respective semesters exams in good CGPA and there had never



been any complaint prior to the unfortunate incidence of agitation led by the students. The record clearly reveals that the agitation led by the students, who were having less than 75% of attendance and thereby afraid of taking action by the College Administration due to less attendance percentage, the name of the petitioners did not fall in the list of the students, who have not completed even 60% attendance.

17. The College Administration also published the list of hardcore disturbing students, who were leading the strike in Darbhanga College of Engineering on 19.10.2023. This list also does not contain the name of the petitioners. However, subsequently on verification of the video footings and information collected, the petitioners were served with the show-cause notice by the Disciplinary Committee as contained in Letter No. 392 dated 23.02.2024, along with a questionnaire, which was duly responded by the petitioners. It has been categorically stated that at the time of agitation/protest, they were in their hostel and later on, when the electronics and paper media came in the premises of the college, a query has been made, which was responded by petitioner no. 2, only to the extent of lack of facilities in the college.

18. This fact has also been fortified when the



teachers/faculty member of the Electrical and Electronics Department was consulted by the Principal of the College and questioned the conduct of the petitioners. The teachers of the department were allowed to view the video and all of them have categorically said that the petitioner no. 2 along with one another student did make complaints relating to lack of facilities in the college and their language was not at all indecent and no improper words were used. It has also been said that the petitioners were not addressing the students gathered there.

19. The copy of the report of the faculty/teachers is placed on record as Annexure-5, clearly speaks regarding satisfactory performance of the petitioners and descent behaviour. Nonetheless, the matter was placed before the Disciplinary Committee, however, the Committee neither satisfied with the explanation of the petitioners nor with the behaviour of the parents of the petitioners and returned the finding that the petitioners have played a major role in the agitation/lockdown of the premises and thereby framed a charge for major offence.

20. Bare perusal of the minutes of the meeting of the Disciplinary Committee held on 01.03.2024, this Court finds that there is no deliberation and discussion by the Committee as



to why the explanation of the petitioners did not persuade the Committee and why the Committee did not satisfy with the behaviour of the parents of the petitioners. It is also surprising that once the Committee found that the act of the petitioners constitute an offence of major character and accordingly framed the charge, whether the petitioners were not required to be heard on the point of punishment. Based upon the recommendation made by the Disciplinary Committee for expulsion of the petitioners, the Principal of the College expelled the petitioners from the College and its hostel for the period of one year, but without affording any opportunity to file their reply on the report of the Disciplinary Committee.

21. It is pertinent to note that the Disciplinary Committee has proceeded in pursuant to the Disciplinary Rules issued by the Department of Science and Technology, Government of Bihar issued under Letter No. 2634 (wrongly mentioned as 2637) dated 27.10.2011. The aforesaid rule clearly directs that authorities of the Government Engineering Colleges/Polytechnics as follows:-

*“1. As soon as any complaint is made to the Principals against any student regarding an act of indiscipline on his part, or otherwise it comes to the Principal’s notice and if the Principal is satisfied that this calls for disciplinary action under the rules,*



*the charges shall be framed and communicated to the student. A show cause will be served to him for reply within a specified period. After considering the show cause reply if the Principal is satisfied that there is *prima facie* substance in the allegation or if the student fails to reply show cause within the specified period, he will refer the matter to the Disciplinary Committee to look into it and to give suitable recommendation to the Principal within the period specified by him.”*

22. From the reading of the above noted rules, there is no hesitation to hold that the disciplinary authority and the Principal of the College, in question, failed to follow the mandate of the rules, inasmuch as, neither the charges framed by the Disciplinary Committee communicated to the student nor any show-cause has been served to them for reply before inflicting the punishment, besides the constitution of the Committee, not in conformity with the Disciplinary Rules, 2011, as mentioned under Clause-2 thereof. There is no deliberation and discussion of the explanation of the petitioners, as to why they have not been found to be satisfactory. All the more, the respondent authorities of the College have also failed to take into account the report of the faculties/teachers, who have unanimously submitted favourable report, after going through the alleged video and spoke about the satisfactory performance and good behaviour of the petitioners.



23. On all these counts, this Court has no hesitation to set-aside the impugned order as contained in Memo No. 458 dated 06.03.2024 and hereby, direct the respondent nos. 4-6 to publish the final result of the petitioners, forthwith, without any undue delay, after following the necessary formalities.

24. The writ petition stands allowed.

25. Pending application(s), if any, also stands disposed off.

26. There shall be no order as to cost.

**(Harish Kumar, J)**

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<b>AFR/NAFR</b>	NAFR
<b>CAV DATE</b>	NA
<b>Uploading Date</b>	17.09.2025
<b>Transmission Date</b>	NA

