IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

Present:

The Hon'ble Justice Jay Sengupta

WPA 15084 of 2024

Tamanna Ali
Vs
St. Xavier's University and others.

For the petitioner **:** Ms. Rajyashree Chowdhury Mukherjee
Mr. Yaser Arfat Salim
Ms. Sudipta Bera
.....Advocates

For the respondent nos. 1 to 6 **:** Mr. Partha Sarathi Sengupta, ld. Sr. Adv.
Dr. R. N. Jhunjhunwala
Mr. Ramesh Kumar Patodia
Ms. Megha Agarwal
Mr. Mohit Gupta
Mr. Milind Mohul Ghosh
.....Advocates

Heard lastly on : 07.07.2026

Judgment on : 29.09.2026

Jay Sengupta, J:

1. This is an application praying, inter alia, for direction upon the respondent University not to hold back the candidate / the petitioner from moving to the next semester and permitting her to sit for the relevant examinations on the ground of the alleged lack of attendance. Several other similar matters were taken up for hearing together, but one after the other. Common points were canvassed. Therefore, this Court would be taking into consideration all the contentions raised by the concerned parties in these matters while deciding this petition.

2. Learned counsel appearing on behalf of the petitioner has submitted and has relied on the written notes as follows. The reason for filing this writ petition by the petitioner was that, your petitioner was a student of 4th Semester at the time of filing the instant writ in May 2024 and presently studying in 6th semester by virtue of orders passed by the Court on several dates during the pendency of the matter, petitioner was not allowed to enter into the College premises to collect her admit card of her 4th semester exam, and her 'student portal' became inactive and she had no further information of any development of her issue and no official information from the Respondent authority was available, though the concerned department of the respondents authorities had assured her to revise her attendance record by adding her days of attendance of extra curricular activities on several times in different dates as per the instructions of the rule book of the St. Xavier's University point no 3.4.2 a, b after she handed over all relevant documents to them for their ready references. When after waiting for a considerable time

she didn't get any further information tried to lodge her written complaint to the Dean of the Respondent Authorities, by hand service, stating that due to false assurance of revision in attendance record for adding her days of attendance in extra curricular activities but nothing has been done but her access to the University and to her student portal was blocked. The unfortunate part was that it became too late to understand that she has been debarred from appearing in 4th Semester examination due to negligence and or mistake and misleading action of the respondent authorities, they had neglected to include her days of attendance of extra curricular activities into the attendance register in time to cover-up their irresponsible attitude towards their duties and responsibilities, in spite of being fully aware of her hereabout of those days, they took no initiative to fulfil their respective responsibility which resulted low percentage in her attendance record, despite her full participation on behalf of her college under the instructions of the competent authority representing the respondents authorities, moreover the petitioner and her guardian had tried their level best to bring the actual fact for consideration of the Respondent Authorities, finally they understood that no revision was done by the concerned authorities as per their assurance, and they completely have ignored the fact that the petitioner have taken part in several sports activities representing the college both in her own College and in other Colleges as well, they have neglected to consider that the petitioner have acted in both roles as a sports representative of the college and as a participant, and such participation in extra curriculum activities are considered as participation in

class room activities and included the presence of the student in the attendance record of the class, when counting attendance of a student is concerned, as per the University's guideline, which is written in paragraph no 3.4.2sub paragraphs a and b, her leave of absence due to her medical emergency was not considered and condoned by the Respondent authorities, though the same should have been condoned as per sub paragraph a of paragraph 3.4.2 of the University Guide line, in spite of receiving information through "student portal" with all documents. When the petitioner uploaded all medical reports to inform the respondent authorities through her student portal and uploaded all her prescription in time as that time her portal was active for daily information, but when her portal was blocked and or locked by the respondent authorities all her information and record was deleted from the portal and she had no online access to the respondent authorities but to visit them physically to discuss her problem and to seek remedies. Unfortunate fact is that the petitioner was not allowed to enter inside the College premises, in spite of being a student of her college who had no dues and all her college fees was paid and updated. Being aggrieved by the highly mala fide intention of the respondents, to cover up their negligence to take approximate action to rectify their mistakes and to victimized the petitioner due to the whimsical behaviour of the respondents, having no other way out to resolve such important issue, petitioner moved this writ petition along with a supplementary affidavit with all documents as annexures in support of her pleadings. Respondents version and comment on those version on behalf of the petitioner. Respondent Authorities filed their affidavit in

opposition by formally denying and disputing all the statements and submissions of petitioner but failed to make out any defence in their favour. Moreover the respondent authorities deliberately have avoided to deal with the specific submission and or statement that why did they ignored the petitioner's prayer of considering her documents, violating their own rules and regulations and why did they ignored their own mistakes and not corrected their mistakes at the cost of a student's future, why they did not considered their highly unconstitutional act which is completely mala fide in nature and not maintainable in the eye of law. Respondents have failed to understand the importance of the fact and cleverly have evaded to interact with the queries of the Hon'ble Court with regard to the order dated 14.06.2024 passed by this Court, that - (i) The documents the respondent authorities have relied upon on behalf of the University are at all commensurate with each other as the University has denied petitioner's participation on most of days; (ii) How logical is that a student participating in any extra curricular event in College or participating outside of the college in other Colleges would not be excused for all classes in the same day, except those classes that take place exactly at that time the petitioner was participating but not for the time which the petitioner was not participating in between two events. Such preposterous points has to be decided on exchange of affidavits. Those points were not dealt by the respondents. They have annexed bunches of papers which are their guidelines and internal documents but not to prove them right to their misdeeds by which they are seriously care to destroy future of a student. Petitioner filed Affidavit-in-Reply

upon service to the respondents Advocate-on-Record in time. Though later the Senior Counsel appearing for the all respondents authorities have tried to defend his clients by saying that the University has to follow some rules to maintain the discipline in this Educational Institution, but avoided the point, is that discipline all stand on the shoulder of innocent students or not. If so then why do they show their rule book to justify their pleadings while calculation of percentage of attendance of a student is concerned. Present Situation: In view of the Order dated 14.06.2024 passed by this Court, the Respondent Authorities had allowed your petitioner to take admission in the 5th Semester by depositing fees and 6th Semester without depositing fees and this time petitioner's attendance was above 75% but the Respondent Authorities have recorded her attendance in Classes of 5th & 6th Semester in a separate sheet but not in regular student attendance Register book, further more petitioner have appeared in all the exams of 5th and 6th Semester, along with her 4th Semester back logs Semester but her result has been withheld by the respondents due to pendency of this matter, she doesn't have any idea of her result, petitioner have presently attended her classes of 6th semester without making payment of fees under the order passed by Hon'ble Court and her attendance is getting recorded in a separate sheet, she has appeared for her entire 4th Semester examination with all seven papers along with her 6th semester exam which was held in June, July 2025 but her result of 4th, 5th and 6th Semester are not published therefore unless the situation is become normal she cannot concentrate into her studies and where all other students are enjoying their college days with bliss and

blessings, she has to face many odd situations discrimination on her day today activities what makes her depressed and divested. Point of concern of the petitioner: 1. Petitioner is not aware of the result of her 4th, 5th and 6th Semesters, where all other students are enjoying their promotion. Petitioner is under unbearable psychological pressure; 2. Last date of taking admission in the next Semester i.e., 7th semester has expired, petitioner is fearing to pay huge late fine; 3. In the next Semester i.e., in 7th Semester, if the petitioner has to give examination of all papers of 5th Semester along with all papers of 4th Semester and 6th with 8th Semesters which shall initiate a huge trouble or petitioner right be hold back and may loss her academic years, therefore attending Classes for 7th semester with free mind and full concentration is very important. The following paragraphs are to be noted for Arguments:- The petitioner has few points to argue on - a) The petitioner was selected as a Sports Representative by the respondents and this is evident from the document issued by the respondents in page no 20 & 21 (P 10 o& p) of Supplementary Affidavit filed by the petitioner. Kindly see point no 81 at page no 21 of Supplementary Affidavit of the petitioner, further kindly see at page no 22 of the said Supplementary Affidavit all remaining paragraphs and last but one paragraph" started from ..... Those who are selected.. ..member of XUSS'. Therefore, if the respondents authorities say that they had no information of any such events or the petitioner did not have any official confirmation for participating in such activities is totally baseless and not countable; b) Petitioner refers page no 24 (P 10 s) the document issued by the respondents authorities whereby the petitioner was selected and

requested to be present for heat of Football Tournaments. Kindly note column no 3. There are numbers of heat to select the right Football player to constitute the college Football Team" where petitioner was present as a volunteer. Kindly see pg no 10, 11 of this supplementary affidavit of the petitioner; c) Page no 9 of the Supplementary Affidavit of the petitioner shows the petitioner as participant for practising techniques of "Tug of War"; d) Kindly see Page no 12 & 13 of this supplementary affidavit of the petitioner, whereby she was present on behalf of her college at the Karunamoyee Book Fair as "Thali girl" to assist the Chief Minister of West Bengal for inauguration of the fair; e) Kindly see pg no. 6 (P10) mail dated 12.05.2024 to the Register of the University. Furthermore, there are few arguments on the statements, submissions and documents of the respondents authorities, which are discussed below:- Arguments on Affidavit-in-Opposition filed by the Respondents. In reply to the all paragraphs of annexure R1 in page no 25, argument is this, that the declaration is a common document of the University and all students and their guardians have signed this document, therefore, this particular document cannot create any such specific responsibility solely on the petitioner solely on the petitioner or her ward, for which careless and insufficient act of respondents may condoned. Therefore, 3.4.2 (a), (b) & c) of the document annexed by the respondents in their opposition in page no.46 do not help the respondents to prove their allegation. In reply to the paragraph 20 of the Affidavit-in-Opposition of the respondent, petitioner refers Page No. 5 & 6 Paragraph No.8 of the writ petition, including Page No. 19 of the writ petition (Annexure 'P-2'). And page

no. 6(P10) of the Supplementary Affidavit filed by the petitioner. In reply of Paragraph 21 of Affidavit-in-Opposition of the Respondent Authorities petitioner refers page no. 6 (annexure 'P/10') of the Supplementary Affidavit filed by the petitioner. In reply of paragraph 22 of the Affidavit-in-Opposition petitioner refers page nos. 19, 20, 21, 22 (Sl. No. 81), 23, 24 (Sl. No.3) of the Supplementary Affidavit filed by the petitioner. Annexure R1 at page no 25 of the Affidavit of Opposition filled by the respondents is a common declaration form and this document do not prove anything in support of the respondent. Annexures R2, R3 from page 26 to page of A/O of the respondents are all common documents and respondents failed to show anything in their defense that the way they have dealt with the petitioner was correct. Annexure R4 at page no. 38 is highly illegible, therefore this document can be treated as irrelevant. Annexure R5, R6, R7 from page 39 to 44 are covering letter of Advocate on Record and two orders of this Hon'ble Court. Annexure R8 at page 45 to 50 are college guide line and respondents have violated their own guide lines. Annexure R9 of A/O from page no51 to 56 is UGC (Minimum Standard s of Instructions for the Grant of the First Degree through Formal Education) Regulations, 2003, rules to be followed by the respondents and respondents have made a gross violation to carry out the instructions have given to the teachers in paragraph 3.3 at page 52 of the Affidavit in Opposition filed by the respondents. Annexure R10 at page no 57 of the A/O response of the signed by the Sports Officer of the respondents, whereby this person has categorically denied the participation of the petitioner, in reply petitioner would refer - A) 15th January 2024,page nos 7

and 9 of supplementary affidavit filed by the petitioner; B) 16th January 2024 petitioner refers pg nos. 7, 20, 21 serial no 81 and pg no 24 of the Supplementary affidavit of the petitioner; C) 17th January 2024 petitioner refers pg Supplementary affidavit of the petitioner no. 24; D) 18th January 2024 petitioner reply is there was no such Intimation from the respondents that for practice the Kabadi team has to take official permission, rather it was decided among the team mates to develop their coordination and understanding they fixed their practice time as per availability of all members and it was during the college hours. Moreover the Karunamoyee Book fair was inaugurated by Hon'ble Chief Minister of West Bengal at 4p.m but all the representatives had to report to the Concerned Authority by 1p.m due to security reason. Petitioner as representative of Sports Society of St. Xavier's University was selected by the college and was present there as “Thali Girl” to handing over the scissors to the Honourable Chief Minister to cut the ribbon and to open the Fair for Public. Petitioner refers pg nos. 12 and 13 of the Supplementary affidavit of the petitioner. It is further argued that the petitioner is not a celebrity and can't be a part of such occasion without prior intimation to the Fair Management Committee and the Police Authority who were there for security check. Therefore it is evident from the entire business that petitioner was sent there by the respondent authorities with proper reference but willfully avoided to annex any such documents which actually into their possession to cover up their other activities and to avoid further complication. (From the annexure list of supplementary affidavit of the petitioner and on comment of the respondents in their

affidavit in opposition at page no 11 paragraph no8 hereby argued in following paragraphs); E)19th January 2024has been admitted by Respondents; F) 22nd January 2024, though the Sports Officer have submitted but have not filed any documents supporting such communication; G) With regard to the event of 29th February 2024 the Sports Officer submitted that there was no Official team of Tug of War and on the other way said petitioner failed to take official permission. But the team won Tug of War Competition in Amity University and this is evident from the picture of the petitioner annexed at pg no 14 of supplementary affidavit of the petitioner, when she was clicked by someone else at the time of prize distribution held on 1st March 2024; H) 1st March 2024 petitioner reply the same as above and refers pg no 14 of the Supplementary affidavit of the petitioner. This is argued that as the respondents authorities have denied to receive the medical reports of the petitioner except a prescription dated 27th February 2024, kindly note respondent haven't annexed that document, actually on 27th February 2024 respondent have filed/ uploaded all her medical reports and prescription for condonation of her leave of absence for her illness, which later she handed over all original copies to the concerned respondent authorities to revise and rectify her days of attendance in the record and what they have neglected to do with their mala fide intention to cover up their lapse and latches and to reach harm to the petitioner taking advantage of their position. Kindly see Page nos. 19 to 25 of the Original Writ Petition filed by the petitioner. The statements made and documents filed by the respondents have failed to prove their defense that the petitioner was not

the victim of their whimsical behaviour and irresponsible management. There are numbers of discrepancies in their system and managing authorities for which a student should not be punished and compelled to compromise her academic career and future. A Law Student has to study five years to get the Bachelor degree, where in 5 years students from other streams get Master degree, after becoming Bachelor in law, the person has to pass the examination of Bar Council to be enrolled as an Advocate and thereafter time has no limit to establish oneself in the field of legal practice or to earn as a legal practitioner to maintain one's minimum livelihood. If anyone wants to join legal services in Corporate houses his period of experience is counted along with his age. Most of the Company wants a Young, energetic, diligent person having good experience in the field for quite some time. Therefore, time is very important for a student who wants to build career in this field. Therefore, such whimsical and mala fide attitudes of an Educational Institution should not be reasons of depression of a Youth of the Country. Respondent is a Private University and petitioner is a bona fide citizen of the Country who is a student and under protection of the Constitution of India. This is to remember that petitioner got admitted into this educational institution after passing their Entrance Examination, where she has to prove her eligibility to become a Law graduate. Therefore, the petitioner should be given justice as a student and her constitutional rights have to be protected. During the submission, the Learned Counsel representing the respondents have cited several judgments and all those judgments are irrelevant and not applicable for this instant matter. Judgement dated April 17/1999 passed in

University of Calcutta vs Amit Jalan & Ors case is not applicable in the instant Writ Application filed by the petitioner. The cause of action of these two matters are completely different. In the instant Writ Application petitioner attended her classes but the respondents authorities have neglected to record her attendance in time as per the University guide line and have overshadowed the rules of UGC by their whimsical discretion, by misusing their power and position they have violated the laws and their irresponsible activities may reach harm which can cause irreparable injury to the petitioner and such activities of the respondents authorities are disrespectful to the constitutional rights of a bona fide citizen of India. All other judgments cited and relied upon by the respondents are not applicable into this Writ Application filed by the petitioner. This is to submit as an argument that the petitioner have never asked for or prayed for any mercy, sympathy, condolences, solace or anything similar in nature of the above list. Petitioner have asked or requested to reconsider and rectify the mistakes of the respondents authorities and to correct the record of the University failing which the University shall held liable for a gross injustice to a student, who has to suffer a lifelong punishment for which she is not liable at all. The instant writ petition of the petitioner is about her rights as a citizen of India, as a student of this University. The argument is this that the uncertainty the petitioner is suffering presently due to mistake, misconduct and negligence of others, and such actions of the respondents authorities are not maintainable in the eyes of Law. The argument is this that why not petitioner should get justice in her favour when she never breach any condition of the

University and followed their rules, regulations. The argument is this that the rules and regulations of the University and the UGC as well only to scribe not to execute? The argument is this that why respondents authorities do not have a proper infrastructure to comply with all these rules and regulations? The Argument is this that why did the petitioner should compromise her lawful rights and future for deliberate negligence of the respondents? The argument is this that the petitioner is not seeking any sympathy but why do her genuine participation to enlighten the glory of her college (the respondents authorities herein) would be the reason of her ruined future? The argument is this that the petitioner never done any mistake by filling this instant writ application and never tried to take any advantage of anything but prayed for an order of this Court by revising the whimsical decision of the respondents authorities and to obtain order as per the prayers of the writ petition. Brief Note on Key Points of Argument - A. Aggregate attendance of the petitioner 62.11 (calculated after adjustment of sports, events, off Campus Participation in extra curricular activities) Page No. 35 of Writ Petition. (Document of the Respondent) and Page No. 38 (R4) of Affidavit-in-Opposition of the Respondent; B. Total Class delivered -342 Total Class petitioner attended -211 Number of Classes missed by the petitioner -131 Reason of absence includes:- (a) Taking part in sports events, extra curricular activities within campus and off campus; (b) Illness. (a) Absence for participation in extra curricular activities, sports - 38 classes (b) Absence for illness (7 working days) 7 X 6-42 42 class Total absence-80 class. Therefore, 80 valid attendance was not considered by the

Respondents. Therefore 211 + 80 petitioner attendance. 291 classes are to be recorded as percentage of attendance 85.088% [Concluding Note of Argument] It is pertinent to mention that Respondent Authorities have deliberately neglected to consider the actual number of Classes the petitioner was entitled to add in the register of attendance and the percentage of her attendance was much higher than the minimum attendance. [Concluding Note] It is therefore proved that there is a gross negligence on the part of respondents to calculate the number of Class, they themselves have admitted that they have adjusted the days of participation of the petitioner to reach to their calculation of 62.61% but failed to explain how they have calculated this 62.61% and why have not calculated the appropriate number of days of her participation, the Respondents have not annexed any such document from which they can prove that the method of their calculation was correct and as per the rule book of the University. It is not acceptable in the eye of law that the respondent authorities shall modify the rule book as per their convenience and to camouflage their irresponsible act of mala fide intention to cover up their own negligence and lapse. A student cannot directly interact with the Vice-Principal, Principal, Chancellor, they have to go through the nominated representatives of the respondents, whenever the students has to interact with this nominated representatives, they use to give instruction to the student or confirms things verbally but not in writing and later if any difficulty arises, they without batting an eyelid deny all allegations and hurl all burden on students. This instant writ petition have shown their unkind activities, before taking such decision they do not think twice but keep the

head high ruin the future of a student and keep under the reputation of the University under challenge.

3. Learned senior counsel appearing on behalf of the respondents has submitted and has relied on the written notes as follows. Before adverting to the facts of the case and the written notes of the petitioner, the respondents humbly point out that; i. The Rules and Regulations of the Respondent University (hereinafter referred to as the University Regulations which are statutory in nature and in fact has been so held in a recent judgment of St. Xavier's University Kolkata and Ors. vs. Yash Shroff, being MAT No. 1324 of 2024 [Cal. HC]) have not been challenged in the Writ Petition; ii. Whether a case should be considered sufficient for the purpose of condonation is a question of fact, and it has been repeatedly held by the Hon'ble Supreme Court that the error of fact, however grave, cannot be entertained in a Writ Jurisdiction (reference: AIR 1964 SC. Pg 477. 5 judges Bench); iii. If the view taken by the authority is a possible view of the matter then this Hon'ble High Court cannot substitute the said view with its own; iv. The petitioner, having knowledge that a minimum percentage is to be maintained for appearing in the examination and twenty-five percent (25%) of the absence standing already condoned by virtue of the rules, one cannot act in contravention of the said Rules and more so when an undertaking was given by the petitioner and her guardian with regard to maintenance of the percentage; v. That an Article 226 Writ Petition cannot be filed to do a roving and fishing enquiry against the respondents. A Petition can succeed only if a Petition makes out a case and not to give a chance to establish the claim. [A Hamsaveni v State

of TN (1994) 6 SCC 98]. It is not for the High Court to, at the instance of unsuccessful candidates, place itself into a position of fact finding commission and to commence a roving enquiry. [Sadananda Halo v Momtaz Ali Sheikh (2008) 4 SCC 619]; vi. If any lenient view is taken of the rule, that will destroy the basic purpose of the introduction of the five-year law course, as without attending the classes as prescribed, one cannot get adequate knowledge of the subject so as to be able to render the services to the clients and society at large. As per the said University Regulations, a law student must have 75% of the attendance to be eligible to be promoted to the next Semester. However, the Petitioner's attendance in the 4th Semester was 62.61% only, as a result of which she was debarred from promotion to the 5th semester. The petitioner, Tamanna Ali, is a student of B. Com LLB (Hons.) course, Academic Year 2022-23, the duration of which is five years spread across ten (10) semesters. As such, on or about 28.05.2024, the student Tamanna Ali filed the instant Writ Petition seeking reliefs as prayed for in the Petition. At the time of admission, the petitioner and her guardian/parent signed a Declaration Form on 12.07.2022, to maintain a minimum of 75% attendance (in aggregate) in order to be eligible to appear in the semester examinations as per Regulation 3.4.1 of the University Regulations (hereinafter referred to as the said Regulations) as framed by the Executive Council of the University pursuant to the powers contained in Section 31(XVI) of the St. Xavier's University, Kolkata Act, 2016. The said Regulations in Regulation 3.4 deals with Student's Attendance and Regulation 3.4.1 and 3.4.2 of the said Regulations are quoted as under:

“3.4.1 - A student must maintain a minimum of 75% aggregate attendance in a semester; 3.4.2 - A student who has between 60% (65% for B.A.-LLB & B.COM-LLB) and 74% attendance in a semester will have to seek approval from the Dean of the concerned faculty/Vice-Chancellor on grounds of illness or involvement in extra-curricular activities approved by the University - a) In case of illness, leave application must reach the office of the Dean of Faculty within three days of the student's absence. A medical certificate is also to be submitted within 15 days of joining. Mere submission of leave application in itself will not ensure condonation; b) In case of extra-curricular activities, a student must obtain prior written confirmation of her/her participation from the concerned authorities: Head of Department/Profs.-in-Charge of University Societies/Sports Officer/Programme coordinator of Social Work, which will be countersigned by the Dean of the concerned faculty. When calculating the attendance percentage of the students representing the University in extra-curricular activities in Inter-University competitions, due consideration will be given to the days when they so represented the University. Condonation in such cases must be in explicit written form, authorized by the Dean of the concerned faculty; c) For a student, absence from the classes for the aforementioned reasons may be condoned up to 15% (10% for B.A.-LLB & B.COM-LLB) of the total classes delivered. However, in all such cases, lower limit for condonation will remain as 60% (65% for B.A.-LLB & B.COM-LLB). A student who is condoned will have to pay a condonation fee within the notified period of time.” I say that after admission, the petitioner was given a link through email dated 21.07.2022, so as to

enable the petitioner to register herself on the University Student Portal ‘www.sxuk.edu.in’ and upon such registration, the petitioner had access to all academic information including her attendance, from the Student Portal. During the 4th semester, relevant for this writ petition, classes commenced on 15.01.2024 and ended on 06.05.2024, with a total of 342 classes delivered, out of which the petitioner attended only 211 classes, being 61.70% of the classes delivered. Your petitioner was given an adjustment for 5 classes on account of her participation in extra-curricular activity, namely XAVKALA 2024 and after considering such adjusted classes, the petitioner's aggregate attendance in the 4th semester was 62.61% of the classes delivered and thus the petitioner's attendance being less than the required minimum as per Regulation 3.4.1 of the said Regulations, the petitioner was attendance debarred from appearing in the 4th semester examinations which commenced from 10.05.2024 in pursuance of Notification No. SXUK/COE/Exam/001/04/24, published by the University on 04.04.2024 on the University's website and also displayed on the Notice Boards in the University campus. Thus, the petitioner was unable to download her admit card on 09.05.2024, 4:00 PM, being the date and time from which the admit cards could be downloaded as per the above notification issued by the University. Upon being debarred from appearing in the semester examinations on account of shortfall in attendance, the petitioner filed a writ petition being WPA No. 15084 of 2024 on 28.05.2024, claiming condonation of her attendance on account of illness suffered in the month of February, 2024 (para 8 of the writ petition) and for participation in extra-curricular

activities in the month of January, 2024 from 15th till 23rd January 2024 and 29th January 2024 and 1 March 2024 (para 7 of the writ petition, where the petitioner craved leave to show a detail chart of her sports events along with other supporting documents at the time of hearing) and praying that the petitioner's absence be condoned by adjusting her sports participation dates into her classroom attendance from January 2024 to May 2024 and she be allowed to sit in the 4th semester examinations either before the commencement of the 5th semester or at the time of the 6th semester to be held on May 2025 and she be allowed to take admission in the 5th semester. The petitioner had filed such a writ petition on 28.05.2024, on which date, the examination for the 4th Semester was about to end, and the said writ petition was moved before the vacation Bench comprising the Hon'ble Justice Bibhas Ranjan De, on 30.05.2024, when all the examinations for the 4th Semester were over. The Hon'ble Justice Bibhas Ranjan De, vide Order dated 30.05.2024, directed to place the matter before the regular Bench, finding no urgency in the matter. Thereafter, on 13.06.2024, before the matter could be heard by the regular Bench of this Hon'ble Court, the petitioner filed a supplementary affidavit adducing certain additional facts and documents in view of the leave craved in paragraph 7 of the writ petition as referred to hereinbefore. The said writ petition was thereafter moved before the regular bench on 14.06.2024, and in pursuance of directions of this Hon'ble Court vide Order dated 14.06.2024, affidavits were exchanged. Thereafter, the said writ petition was heard on several dates, and the petitioner had filed a written note of arguments on 01.09.2025, before this Hon'ble Court, and

served a copy of the same upon the advocate for the respondents. Upon checking the records, it is found that certain points were argued by the petitioner during the course of the hearing, but we confine our arguments to the said written note of arguments filed by the petitioner, as the petitioner did not press the arguments. At the outset, before dealing with the petitioner's submissions as contained in the aforesaid written notes, I would like to state that the respondent University is a Juristic Person having limited powers as defined under the Statute and being a creature of the Statute, it cannot transgress the barriers of the statutory provisions and have to travel within the circumference thereof. The respondent University got the autonomous status by virtue of the St. Xavier's University, Kolkata Act, 2016, which was duly notified in the Official Gazette on January 16, 2017 and in pursuance of the powers contained Section 31 (XVI) of the said Act, the Executive Council of the University has framed the Rules and Regulations as referred to hereinbefore, which the University is bound to adhere to and cannot exercise any powers de hors the said Regulations as such an act would be regarded as arbitrary and in excess of powers conferred. In the light of the above and the facts of the given case, I say that the petitioner's absence from classes in the fourth (4th) semester could not be condoned by the University on account of the following reasons: - a. In the writ petition, the petitioner has claimed condonation of her attendance on two counts i.e., for illness suffered in the month of February 2024 and for participation in extra-curricular activities in the month of January 2024 from 15th till 23rd January 2024 and 29 January 2024 and 1 March 2024

without giving the details of the classes missed on account of the aforesaid reasons although leave has been craved in paragraph 7 of the writ petition for furnishing the details of the petitioner's sports event along with supporting documents. Moreover, the prayer is limited to the condonation of her absence of classes on account of her sports participation only; b. In the supplementary affidavit filed on 13.06.2024 the petitioner in view of the said leave as craved in paragraph 7 of the writ petition have adduced certain documents in support of her claim that she had missed 38 classes in the 4th semester on account of her participation in extra-curricular activities for the events 'tug of war for Xavrang', 'football volunteering for Xavrang', 'Xavrang practise for Kabaddi and Book Fair', 'Xaviesta', 'Amiphoria tug of war' etc. during the period from January 15, 2024 to March 01, 2024; c. However, after verifying the records it has been found that out of the said 38 classes as claimed, the writ petitioner was entitled to condonation of only 5 classes for her absence on account of her participation in the event 'Xaviesta' held on 19.01.2024 for which the petitioner was duly given adjustment for 5 classes by the University authorities; d. After considering the said adjustment of 5 classes, the petitioner's attendance in the 4th semester is 62.61%. The records of the University revealed that apart from the classes missed by the writ petitioner on 19.01.2024 for which her absence was condoned, the petitioner is not entitled to condonation of her absence on the other days mentioned by the petitioner as because on the said dates she did not participate in any extra-curricular activities representing the University and the same is evident from the attendance records of the University duly signed

by the concerned sports officer and for reasons inter alia contained in the statement prepared and signed by the said sports officer of the University who is in charge of sports activities, which document is annexed to the Affidavit-in-opposition as Annexure R/10; e. In so far as the petitioner's claim for condonation of her absence on the count of illness is concerned, no prayer has been made in the writ petition for allowing such condonation and neither proper averments have been made in the writ petition stating the number of classes missed for such reason except for stating in para 7 of the writ petition that the petitioner fell sick in the month of February 2024 and could not attend classes due to her poor health. In para 8 of the writ petition, your petitioner claims to have furnished all prescription and test reports along with her leave application written to the Respondent authorities to condone her absence, however, the writ petition encloses only two medical prescriptions dated 15.02.2024 and 20.02.2024 along with certain test reports dated 19.02.2024, as Annexure P-2, and the leave application as claimed to have been submitted by the petitioner is not annexed to the writ petition. Further, it is stated in the list of dates annexed to the writ petition. that 27.02.2024 is the date of submission of application by the petitioner itself indicating the reasons for not attending the classes by the petitioner owing to her fatty liver; f. Moreover, it was only on 12.05.2024, i.e., after the petitioner was debarred from appearing in the 4th semester examinations which commenced from 10.05.2024, that the petitioner wrote an email to the Registrar at 1:50 PM enclosing her medical prescription dated February 27, 2024 [on account of her illness for the said period without any application for

condonation of her period of absence in accordance with the provisions of Regulation 3.4.2(a)) before the respondent authorities, the aforesaid period of absence of the petitioner was not considered while arriving at her percentage of attendance of 62.61% as because the petitioner did not file any application within three days in accordance with the mandatory provisions of the Regulation 3.4.2(a) the University Regulations and it is also apparent that the petitioner did not submit her medical certificates within 15 days of her joining classes in accordance with the mandatory provisions of Regulation 3.4.2(a) of the University Regulations and no reason has been given for the same. In the aforesaid facts the petitioner was not entitled to condonation of her period of absence as prayed for in her email dated 12.05.2024 on, inter alia, the following reasons; a. As per the University records the petitioner's attendance was 62.61%. Since the petitioner's percentage of attendance was below 65% and was therefore not between 65% to 74%, she did not come within the zone of consideration for having her period of absence condoned in terms of the specific provision of Regulation 3.4.2 of the University Regulations. These regulations stipulate a mandatory attendance limit that must be met before any condonation of attendance is to be allowed. Since the Petitioner's attendance percentage does not meet even the required limit for invoking the University's discretionary powers, the request for condonation was not allowed; b. Without prejudice to what has been stated in the preceding sub-paragraph, and assuming, though not admitting, that the petitioner could still pray for condonation of her absence, her prayer for condonation of her absence could not be and was not acceded to by the

University authorities because of the reasons stated in the following sub-paragraphs; i) The petitioner was not entitled to condonation of her absence on the ground of her illness as prayed for by the petitioner in her email dated 12.05.2024 under any of the relevant clauses of the University Regulations relating to attendance namely clauses 3.4, 3.4.1, 3.4.2 and 3.4.3 and the sub-clauses thereunder; ii) The petitioner was also not entitled to condonation of her absence on the ground of her illness because she has failed to make any application and submit her medical certificates in such manner and within such time as stipulated in the University Regulation and in clause 3.4.2(a) thereof; iii) Under University regulations, requests for condonation must be made in a timely manner; iv) The petitioner was not eligible to have her period of absence, if any, condoned on the ground of participation in extra-circular activities for the University, as per Regulation 3.4.2 (a), (b), (c) of the University Regulations as quoted hereinabove, since the records of the University revealed that apart from the classes missed by the writ petitioner on 19.01.2024 for which her absence was condoned, the petitioner is not entitled to condonation of her absence on the other days mentioned by the petitioner as because on the said dates she did not participate in any extra-curricular activities representing the University and the same is evident from the attendance records of the University duly signed by the concerned sports officer and for reasons inter alia contained in the statement prepared and signed by the said sports officer of the University who is in charge of sports activities. The prayers made by the petitioner, whose attendance is below 65%, to promote her to sit in the 4th semester

examination and/or to promote her to the next semester, i.e., 5th semester cannot be granted in view of specific provisions of the University Regulations as the same would be contrary to the rules and regulations of the University as also contrary to the law laid down in several decisions of this Hon'ble' Court as also by the Hon'ble Supreme Court; C. It is a settled position of law that an Article 226 Writ Petition cannot be filed to do a roving and fishing enquiry against the Respondents. A Petition can succeed only if a Petition makes out a case and not to give a chance to establish the claim. [A Hamsaveni v State of TN (1994) 6 SCC 98]. It is not for the High Court to, at the instance of unsuccessful candidates, place itself into a position of fact-finding commission and to commence a roving enquiry. [Sadananda Halo v Momtaz Ali Sheikh (2008) 4 SCC 619]. Therefore, contentions made by the Petitioners that there were students who were given the benefit of condonation despite having less than 65% attendance, without any evidence being adduced to the petitioner, are liable to be dismissed; d. It is a settled position of law that allegations of mala fide are serious in nature, and they essentially raise a question of fact. It is, therefore, necessary for the person making such allegations to supply full particulars in the petition. If sufficient averments and requisite materials are not on record, the court would not make "fishing" or roving enquiry. Mere assertion, vague averment or bald statement is not enough to hold the action to be mala fide. It must be demonstrated by facts. Moreover, the burden of proving mala fide is on the person levelling such allegations, and the burden is very heavy. [Dhampur Sugar v State of Uttarakhand (2007) 8 SCC 448, para 83]. Therefore, it is

submitted that since no evidence was provided by the Petitioner regarding any student being provided with preferential treatment, their contention should be dismissed; e. Further, it was held in Padam Sen and Anr v State of Uttar Pradesh, 1960 SCC OnLine SC 77 that the defendants' request really amounted to the Court's collecting documentary evidence which the defendants considered to be in their favour at that point of time. It is no business of the Court to collect evidence for a party or even to protect the rival party from the evil consequences of making forged entries in those account books. It was also held that “The courts cannot be used as a tool to create evidence” [Tejo Ratna Kongara v National Housing Bank and Ors. W.P. (C) 4113/2024 and CM Appl. 16783/2024, para 13]. Therefore, the Respondents submit that since evidence was not provided by the Petitioners in furtherance of allegations of discrepancies in promotion of students having less than 65% attendance, the same should be dismissed by the Hon'ble Court; f. The Respondents submit that the Hon'ble Calcutta High Court had dismissed the Petition of a student in IIM Calcutta who had claimed relaxation of the attendance requirement and passage to the next Semester on sympathetic grounds of health. The Court held that "The Petitioner being awarded degree in such circumstances, would send a bad message to the student community at large and in such cases, sympathy and compassion should have no role to play, and in the event of a doubt, the benefit should go to the institution rather than the student [Shubham Pal and Ors. vs Staff Selection Commission and Anr. (Civil Appeal No(s). ..... of 2026 (arising out of SLP (cNo(s). 21999/2024)] as such indigence will not create difficulties for

the institution but also for the students." [Harish v Union of India and Ors WPA 24155 of 2025]. It is further submitted that he Respondents further submit that pursuant to the order dated 13.02.2026 the Petitioners submitted documents available in the office of the Dean, Xaviers Law School, relating to condonation and attendance adjustment records of the concerned batches, namely: BALLB (Hons) Semester VI - Even Semester AY 2023-24, B.Com LLB (Hons) Semester VI - Even Semester - AY 2023-24, B.Com LLB (Hons) Semester IV Even Semester AY 2023-24. In compliance with the requisition, the following documents were submitted before the court; i. Original letter of condonation prayer/recommendation submitted to the Vice Chancellor in May 2024; ii. Original medical applications/documents submitted by the students, as available in the records of the Dean's office. A detailed statement indicating the availability and non availability of original medical documents/applications in respect of the concerned students. It was further submitted before the court that, as reflected in the enclosed statement, certain original medical documents/applications could not be traced in spite of the best possible efforts of 13 students (non petitioners). This was because the current Dean of St. Xavier's Law School took charge on 01.07.2024 and was not handed over the papers from the previous Dean. A perusal of the records submitted by the Respondents will show the Hon'ble Court that the condonation was granted only to students who had more than 65% attendance. No student who had less than 65% attendance were granted condonation of attendance on health grounds. Therefore there was no arbitrariness or prejudice in the decisions taken by the Respondents.

Thus, the petition filed by the petitioner is devoid of any merit and deserves to be dismissed with costs. Decisions relied upon by the respondents: i. By virtue of the powers conferred in the parent Act, the Executive Council framed the Rules and Regulations for Under-Graduate Degree Courses containing the exhaustive provisions relating to conducting the examinations, the attendance percentage, the medium, the discipline and so on so forth. The regulation is exhaustive and imbibes within itself the minimum attendance to be adhered by the student in order to qualify in the examination conducted for a particular Semester. Rule 3.4.2 of the said Rules and Regulations are quoted as under: "3.4.2 - A student who has between 60% (65% for B.A.-LLB & B.COM-LLB) and 74% attendance in a semester will have to seek approval from the Dean of the concerned faculty/Vice-Chancellor on grounds of illness or involvement in extracurricular activities approved by the University; a) In case of illness, leave application must reach the office of the Deana of Faculty within three days of the student's absence. A medical certificate is also to be submitted within 15 days of joining. Mere submission of leave application in itself will not ensure condonation; b) In case of extra-curricular activities, a student must obtain prior written confirmation of his/her participation from the concerned authorities: Head of Department/Profs.-in-Charge of University Societies/Sports Officer/Programme coordinator of Social Work, which will be countersigned by the Dean of the concerned faculty. When calculating the attendance percentage of the students representing the University in extra-curricular activities in Inter-University competitions, due consideration will

be given to the days when they so represented the University. Condonation in such cases must be in explicit written form, authorized by the Dean of the concerned faculty; c) For a student, absence from the classes for the aforementioned reasons may be condoned up to up to 15% (10% for B.A.-LLB & B.COM-LLB) of the total classes delivered. However, in all such 4 cases, lower limit for condonation will remain as 60% (65% for B.A.-LLB & B.COM-LLB). A student who is condoned will have to pay a condonation fee within the notified period of time." It is manifest from the above quoted provision that the minimum percentage of attendance in each Semester shall be 75 percent. However, the students having attendance percentage ranging between 60 to 74 percent may be permitted to seek approval from the Dean of Faculty/Vice Chancellor on the ground enumerated therein and it is no gain saying that the University is conferred with the power to condone or relax the percentage of attendance in a particular Semester below 75 percent with a minimum cap of 60 percent. The authority, therefore, cannot act beyond the statutory provisions and the moment the outer cap for exercise of discretion or the power to relax is fixed, it becomes inflexible and the University cannot exercise the power de hors the same. In the event if it is so, it would be regarded as an arbitrary and in excess of the power so conferred. The Court shall not direct the authority to act in defiance of the law or to act contrary to law. The authority being the creature of the statute cannot transgress the barriers of the statutory provisions and have to travel within the circumference thereof. The said Clause 3.4.2 does not confer upon the appellant, the power to condone the shortfall below 60 percent of the

attendance and, therefore, the direction of the Single Bench to condone the same despite the attendance being short of 60 percent is contrary to the aforesaid statutory provisions and, therefore, cannot be sustained; a. St. Xaviers University Kolkata and Ors. vs. Yash Shroff, being MAT No. 1324 of 2024 (Cal HC); ii. In instances of occasional aberrations, whereby ineligible students are permitted under court orders to undertake university examinations, such orders should not be treated as precedents and unless the High Court can justify its decision on principle and precept, it should better desist from passing such orders, for it puts the "Rule of Law" to a mockery and promotes rather the "Rule of Man"; a. Central Board of Secondary Education vs. Nikhil Gulati and Anr., reported in (1998) 3 SCC 5. para 1; iii. When an order states that it is not to be treated as a precedent, it should not be followed by the High Courts and the courts below. Also, the Rules laid down cannot be made redundant; a. Maharshi Dayanand University vs. Dr. Anto Joseph and Ors. reported in (1998) 6 SCC 215, para 7; iv. This five years law course is being sought to be frustrated by permitting this kind of indulgence to the students that they may not attend 65% of the lectures and they may be permitted to appear in examination on grounds like medical and other grounds then the whole purpose of improving the standard of legal education will be frustrated. The relaxation should be granted only in exceptional cases and not in mass scale as has been granted; a. University of Calcutta & Ors. vs. Amit Jalan & Ors., reported in 1999 SCC Online Cal 152, para 12, 13, 16 and 19. The directions to the appellants to disobey the law is subversive of the rule of law, a breeding ground for

corruption and feeding source for indiscipline. The High Court, therefore, committed manifest error in law, in exercising its prerogative power conferred under Article 226 of the Constitution, directing the appellants to permit the students to appear for the examination etc.; a. State of Maharashtra vs. Vikas Sahebrao Roundale and Ors.. reported in (1992) 4 SCC 435, para 12; vi. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect; a. Tarun Kundu and Ors. vs. State of West Bengal & Ors., reported in 2000 SCC Online Cal 649, para 7; b. Jyostnamayee Mishra vs. The State of Odisha and Ors.. in SLP (C) No. 13984 of 2023, para 31; c. U.P. State Sugar Corpn. Ltd. and Anr. vs. Sant Raj Singh and Ors. reported in (2006) 9 SCC 82. para 26; d. Vice-Chancellor, M.D. University vs. Jahan Singh, reported in (2007) 5 SCC 77, para 28; vii. It is a trite law that the Court while adopting an interpretative tool in ascertaining the meaning, object and the language of a statutory provision should firstly take endeavour to make the provisions workable rather to render it otiose or redundant. Mere one word or an expression should not be viewed jealously so as to render the entire provisions unworkable. Since the writ petitioner/appellant did not challenge the vires of the said provision on the test of a reasonability, we do not delve to go into the aforesaid aspect as an appellate court, more particularly, in absence of any pleading having made in the writ petition filed before the Trial Court; a. Tanusree Mazumdar vs. The State of West Bengal & Ors.. in MAT No. 156 of 2024, para 10, 12; viii. If a

law student does not attend lectures or obtain the requisite percentage of attendance, he cannot think of taking a leap to another year of study. Mercy does not come to her aid as law requires a student to digest her experience and gradually discover her own ignorance and put a progressive step thereafter; a. Chaudhary Ali Zia Kabir va. GGSIP University & Ors. reported in 2011 SCC Online Del 1356, para 13.; ix. When there is a conflict between law and equity, it is the law which has to prevail, in accordance with the Latin maxim 'dura lex sed lex' which means the law is hard, but it is the law'. Equity can only supplement the law, but it cannot supplant or override it; a. State of Uttarakhand and Anr. vs. Archana Shukla and Ors. reported in (2011) 15 SCC 194, para 6; x. order Ld. Single Judge held to have committed a serious error in making an based on compassionate endowment directing the appellant-corporation 'as a special case' to reappoint an employee whose date of birth was erroneous in the records; a. General Manager (Marketing) Hindustan Fertilizer Corporation of India Ltd. and Ors. vs. Subodh Chandra Das and Ors.. reported in (1988) 1 SCC 594, para 2; xi. While construing a statute, 'sympathy' has no role to play. Sympathy or sentiment by itself cannot be a ground for passing an order in relation whereto the appellants miserably fail to establish a legal right. It is further trite that despite an extraordinary constitutional jurisdiction contained in Article 142 of the Constitution of India, this Court ordinarily would not pass an order which would be in contravention of a statutory provision; a. State of Bihar and Ors. vs. Amrendra Kumar Mishra, reported in (2006) 12 SCC 561, para 15; b. Maruti Udyog Ltd. vs. Ram Lal and Ors., reported in (2005) 2 SCC 638, para

44; c. Guru Nanak Dev University vs. Parminder Kr. Bansal and Ors.. reported in (1993) 4 SCC 401, para 7; xii. This court in several cases deprecated the practise of allowing students to appear provisionally in the examinations of the Board or the University and then ultimately regularising the same by taking a sympathetic view of the matter. The Court cannot by its fiat direct the University to disobey the Statute to which it owes its existence and the Regulations made by the University itself as that would be destructive of the rule of law; a. C.B.S.E. and Anr. vs. P. Sunil Kumar and Ors., reported in (1998) 5 SCC 377, para 3; xiii. It would not be correct to say that this Court in B.C. Chaturvedi case has accepted the view that the High Courts/Tribunals possess the same power which this Court has under Article 142 of the Constitution for doing complete justice, even in the absence of such a provision; a. Sanchalakshri and Anr. vs. Vijayakumar Raghuvirprasad Mehta and Anr., reported in (1998) 8 SCC 245, para 8; xiv. It is not for the High Court to, at the instance of unsuccessful candidates, place itself into a position of fact finding commission and to commence a roving enquiry; a. Sadananda Halo v Momtaz Ali Sheikh (2008) 4 SCC 619, para 58; xv. A Court is not expected to indulge in roving enquiry to rule out all possible explanations and alternative scenarios justifying such irregularities; a. West Bengal Board of Primary Education and Anr v Priyanka Naskar and Ors.2025 SCC OnLine 9448, para 188; xvi. Allegations of Mala Fide are serious in nature and they essentially raise a question of fact. It is, therefore, necessary for the person making such allegations to supply full particulars in the petition. If sufficient averments and requisite materials are

not on record, the court would not make "fishing" or roving enquiry. Mere assertion, vague averment or bald statement is not enough to hold the action to be mala fide. It must be demonstrated by facts. Moreover, the burden of proving mala fide is on the person levelling such allegations and the burden is “very heavy”; a. Dhampur Sugar v State of Uttarakhand (2007) 8. SCC 448. para 83; xvii. The defendants' request really amounted to the Court's collecting documentary evidence which the defendants considered to be in their favour at that point of time. It is no business of the Court to collect evidence for a party or even to protect the rival party from the evil consequences of making forged entries in those account books; a. Padam Sen and Anr v State of Uttar Pradesh 1960 SCC OnLine SC 77 para 10; xviii. A Petition can succeed only if a Petition makes out a case and not to give a chance to establish the claim; a. A Hamsaveni v State of TN (1994) 6 SCC 98, Para 5; xix. A writ is issued in favour of a person who has some right and not for the sake of roving enquiry having scope for maneuvering; further held that where neither steps to enforce claims are taken except sending vague representations nor any material produced before the Court, it would be too dangerous to accept a plea, as here, to call upon the respondents to produce their records; a. Ratan Chandra Sammanta v UOI 1993 Supp (4) SCC 67. The court cannot be used as a tool to create evidence - a. Tejo Ratna Kongara v National Housing Bank and Ors. W.P. (C) 4113/2024 and CM Appl. 16783/2024, para 13; xxi. The Hon'ble Calcutta High Court had dismissed the Petition of student in IIM Calcutta who had claimed relaxation of attendance requirement and passage to the next Semester on sympathetic

grounds of health. The Court held that "The Petitioner being awarded degree in such circumstances, would send a bad message to the student community at large and in such cases, sympathy and compassion should have no role to play and in the event of a doubt, the benefit should go to the institution rather than the student (Shubham Pal and Ors. vs Staff Selection Commission and Anr. (Civil Appeal No(s). (arising out of SLP (c) No(s). 21999/2024)) as such indigence will not create difficulties for the institution but also for the students of 2026; a. Harish v Union of India and Ors WPA 24155 of 2025, para 32; The petitioner has not relied upon and referred to any judicial decisions in support of her claim. Countering the Submissions made by the Petitioner in the written notes of Arguments; a. Regarding the petitioner's claim that she had uploaded all her prescriptions and medical reports in time, (as contained in page 2 of the written notes) it has been mentioned in the writ petition in para 8, that she had furnished all prescription and test reports along with her leave application written to the Respondents authorities to condone her absence, but regarding submission of the said documents within the time as prescribed under the said Regulations, neither any averments have been made in the writ petition nor any document evidencing the submission of the said documents have been adduced except for stating in the list of dates that 27.02.2024 is the date of submission of application by the petitioner itself indicating the reasons for not attending the classes by the petitioner owing to her fatty liver. Also, the writ petition encloses two medical prescriptions dated 15.02.2024 and 20.02.2024 along with certain test reports dated 19.02.2024; however, the

leave application, as claimed to have been submitted by the petitioner, is not annexed to the writ petition; b. Regarding the petitioner's claim that she had uploaded all her prescriptions and medical reports in time, but when her portal was blocked and or locked by the respondent authorities, all her information and record was deleted, and she had no online access to the respondent authorities but to visit them physically to discuss her problem and seek remedies. But the petitioner was not allowed to enter the college premises (as contained in page 2 of the written notes). It is submitted that there is no provision for uploading the medical prescriptions and reports on the online students' portal, and the same has to be submitted before the authorities in the manner and time as prescribed under the said Regulation. Therefore, the question of blocking and or locking of the portal and deletion of information and records, as claimed, does not arise; c. Regarding the petitioner's aforesaid claim, it is further submitted that it has been mentioned in the affidavit in reply in para 12 that the respondent authorities have closed the student portal, but nothing has been mentioned regarding the deletion of records as is being claimed now through the written notes; d. Regarding the petitioner's claim that the respondents have cleverly evaded to interact with the quarries (the petitioner might have meant 'queries) of the Hon'ble Court with regard to Order dated 14.06.2024, (as contained in page no. 3 of the written notes under the heading 'respondents version) it may be noted that the said Order dated June 14, 2024 does not pose any queries to the respondents rather the points raised in the said order and as referred to in page no. 3 of the written notes by the petitioner are the observations made

by the Hon'ble Judge. Also, there are no averments with respect to the said observations in the affidavit-in-reply filed by the petitioner; e. Regarding the points of concern of the petitioner as contained in page no. 5 of the written notes, the respondents have nothing to say as the respondents, though keeps a sympathetic view towards their own students, are bound by their regulations and have acted all along within the four corners of their regulations and the orders passed by this Hon'ble Court; f. With regard to the arguments of the petitioner, as contained in paragraphs 1 to 3 on page no. 5 of the written notes, it may please be noted that the petitioner has not made any submissions whatsoever except referring to various paragraphs and annexures of the Affidavit-in-opposition filed on behalf of the respondents and referring to the paragraphs and annexures from the writ petition and supplementary affidavit filed by the petitioner in reply to the said referred paragraphs and annexures of the Affidavit-in-opposition even when affidavit-in-reply was filed by the petitioner specifically dealing with the averments contained in the affidavit-in-opposition. With respect to the arguments contained in paragraph 4 of the written notes, it is submitted that the declaration at page no. 25 of the affidavit-in-opposition is a Form signed by the petitioner and her mother, and it proves that the petitioner was aware that she had to maintain 75% attendance to be eligible to appear for the semester examinations. Hence, the claim that such a document does not prove anything in support of the respondent is not called for; h. With respect to the arguments contained in paragraph 5 of the written notes, it is submitted that the Annexure R2 page 26 of the Affidavit-in-opposition is an

email through which the petitioner was sent the link to register herself on the University Student Portal 'www.sxuk.edu.in' and upon such registration, the petitioner had access to all academic information, including her attendance from the Student Portal. Thus, the petitioner was aware of her attendance throughout the 4th semester. Thus, the claim of the petitioner that it is a common document and the respondents failed to show anything in their defence that the way they have dealt with the petitioner was correct is totally uncalled for; i. With respect to the arguments contained in paragraph 5 of the written notes, it is submitted that the Annexure R3 on page 26A of the Affidavit-in-opposition is the notification through which the date and time for downloading the admit cards for the end semester exams were notified; j. With respect to the arguments contained in paragraph 6 of the written notes, it is submitted that the Annexure R4 at page no 38 of the Affidavit-in-opposition is the student subject wise attendance record, which is a legible and relevant document; k. The arguments contained in paragraph 7 of the written notes on no. 6 do not give any submission; 1. The arguments contained in paragraph 8 of the written notes do not state in what manner the respondents have violated their own guide lines except for stating so; m. The arguments contained in paragraph 9 of the written notes referring to para 3.3. of the UGC Regulations does not find any mention either in the writ petition, or in the supplementary affidavit or in the affidavit-in-reply filed by the petitioner and is being raised for the very first time through the written notes of arguments; n. The arguments contained in paragraph 10 of the written notes tries to establish the petitioner's participation on the days

denied by the Sports Officer of the University as per Annexure R/10 to the Affidavit-in-opposition. However, none of the documents appended to the supplementary affidavit establishes the petitioner's participation in extra-curricular activities eligible for being condoned as per the said Regulations. Adjustment for eligible participation has already been given to the petitioner and as referred to hereinbefore; o. The copy of the communication from the Registrar to all the respective heads of the University regarding no classes on January 22, 2024 for Xavrang 2024 was displayed in the University Campus which has been claimed by the petitioner as having not been submitted, in sub-para-F of paragraph 10 of the written notes is annexed hereto and marked as Annexure 'A'; p. Regarding the argument of the petitioner as contained in sub-para-G and H of paragraph 10 of the written notes concerning the submission of the Sports Officer on the event tug of war, we would like to state that it has been rightly stated so that no official tug of war team was there. Also, no official permission was sought by the petitioner to participate in any such event. Also, nothing is borne out from page no. 14 of the supplementary affidavit in this regard; q. It is also to be noted that the petitioner on page no. 5 of the written notes under the heading 'point of concern of the petitioner' has raised concerns regarding her results in 5th semester and admission in the 6th semester, which are not the subject matter of the instant writ petition. In view of the above submission, it is repeated that the writ petition filed by the petitioner should be dismissed with cost.

4. I heard the learned counsels for the parties, perused the writ petition, the affidavits and the written notes of submissions.

5. First, the respondent University was requested to produce the relevant records, especially as some of the petitioners expressed doubts about proper maintenance of the same. The records were produced in respect of the two courses of LL B and BMS. On 20.02.2026, it was submitted on behalf of the University that out of 18 students who had sought condonation of absence / leave on medical ground, records were available only for 5 students. It was also submitted that as regards the attendance record for programme / events, the documents were themselves forwarded by the Dean, but there was no prior approval given by the Dean to each of the students, separately. However, it appears from the Form itself that there is a clause no 2 which stated that copy of prior approval letter from the Dean of the respective Faculty was to be attached. Although the records were not complete and it was argued on behalf of the University that they did no contain details of all students and that some parts may be missing, it appears that records have been maintained in respect of certain number of students who had prayed for leave and the like. Therefore, there is a substantial compliance regarding maintenance of records by the University. Although there was an allusion made on behalf of some of the students that some other students might have been unduly favoured in this regard, there is no specific allegation leveled and/or example given in this regard nor were such candidates made parties herein. Therefore, it will be futile to delve into this aspect. As found earlier,

the University has been able to show maintenance of records as regards grant of leave to students.

6. As rightly contended by the respondent University, both the University and the reputed College in Kolkata have maintained high standards in education and have contributed greatly to the society. According to them, discipline is a thing which came in handy in achieving such goals. Perhaps, no one can dispute this. However, no one is infallible. Therefore, if there is an erroneous handling of matters regarding dealing with lack of attendance of the students by the University or any of their staff, this Court would be duty bound to look into it if the student's rights were prejudiced by the same. Exceptional circumstances may even warrant interference by this Court.

7. Withholding of students from the next semester for lack of attendance cannot be a means to punish students, far less an end by itself. However, there are certain rules in life that all have to adhere to. A curriculum in a study course is prepared carefully by keeping in mind its requirements including as regards attendance of classes. Law has traditionally been a mature subject studied after an under graduate course. But, now it is taught even after Class 12 as an integrated 5 years course. Thus, the requirement of attending classes in order to have a proper feel of the subject from an early stage is perhaps more pronounced now than ever before. Just as we expect doctors coming out of medical institutes to be of a particular standard, we cannot expect any less of lawyers. This is what our society requires. Incidentally, unlike certain other professions, the avocation of an Advocate is not covered by the provisions of the Consumer Protection Act. So, there is a

greater need to train our would-be legal professionals well and as per the curriculum formulated. In University of Calcutta & Ors. vs Amit Jalan (supra), a Division of this Court had been very categorical in holding legal education as a thing to be taken seriously and if a student is supposed to attend certain minimum number of classes, then the same has to be scrupulously followed. A similar view had been taken by the Hon'ble Apex Court in a catena of decisions as regards maintenance of such discipline in an educational course.

8. In this regard, it would not be out of context to say that we who have been able to complete our education to some extent and the students who are in the process of completing their education are a privileged lot. In our country, there are several persons who do not get the opportunity to start, far less complete their education. Due to financial strain or otherwise, students drop out even from schools. To them, College education is a distant dream. Moreover, the students of Colleges and Universities are young, but adults. They are not juveniles. They should be aware of their rights and responsibilities as well. One wonders whether if a young man of the same age as a student of the College who works in a farm or in a factory infringes the rules of engagement in an organization, he would be spared the consequences only because of his or her age. Therefore, a student cannot claim a similar advantage, as of right, for non-adherence to the rules of engagement in a College.

9. That apart, it is the case of the University that not only were the students made aware of the strict rules regarding attendance. In some cases,

either the students or their parents had to sign undertakings that they would be abiding by such conditions.

10. The other impediment in showing undue leniency as regards attendance of classes is the supposed wrong that would be perpetrated on the numerous others who had, despite all odds, scrupulously attended the classes as required. They might then very well object claiming that they could have honed their skills in some sports or tried their luck in some other avocation if they had known that absence from classes would be condoned anyway.

11. However, all these do not mean that if there is an overall violation of natural justice or if the University had contributed to or had acquiesced to the leave or absence of a candidate or that the student had been able to prima facie show that he or she had good grounds to claim exemption, the candidate would not be able to get necessary benefit.

12. A question of law has been raised by the petitioners that the rules framed by the University regarding attendance were defective. According to them, the students need to attend minimum number of classes. Certain absence would be excused upon strict compliance of the provisions. However, according to this petitioner, there have been occasions where the rules were not scrupulously followed. More importantly, the calculation was to be done by deducting the excusable absence from the total number of days attended. But, in some cases, like in the case of one Bhavini Sinha, the same was not done. There even before the total calculation could be done, certain

days were excused. In fact, as per the petitioners, permissions required were not given in time and it was assured verbally that such strict compliance would not be required.

13. For the sake of clarity, the relevant provisions of the rules as framed by the University regarding attendance may be set out as under:

> *"3.4 Student's Attendance*
>
> *3.4.1 A student must maintain a minimum of 75% aggregate attendance in a semester.*
>
> *3.4.2 A student who has between 60% (65% for B.A.-LLB & B.COM-LLB) and 74% attendance in a semester will have to seek approval from the Dear of the concerned faculty/Vice-Chancellor on grounds of illness or involvement in extra-curricular activities approved by the University.*
>
> *a) In case of illness, leave application must reach the office of the Dean of Faculty within three days of the student's absence. A medical certificate is also to be submitted within 15 days of joining. Mere submission of leave application in itself will not ensure condonation.*
>
> *b) In case of extra-curricular activities, a student must obtain prior written confirmation of his / her participation from the concerned authorities: Head of Department / Profs.-in-Charge of University Societies / Sports Officer/ Programme Coordinator of Social Work, which will be countersigned by the Dean of the concerned faculty. When calculating the attendance percentage of the students representing the University in extra-curricular activities in Inter-University competitions, due consideration will be given to the days when they so represented the University. Condonation in such cases must be in explicit written form, authorized by the Dean of the concerned faculty.*
>
> *c) For a student, absence from the classes for the aforementioned reasons may be condoned up to 15% (10% for B.A.-LLB & B.COM-LLB) of the total classes delivered. However, in all such cases, lower limit for condonation will remain as 60% (65% for B.A.-LLB & B.COM-LLB)."*

14. It is true that in the case of one Bhavini Sinha, it appeared from the reasoned order passed by the Vice Chancellor that certain days were exempted from the total number of attendance although the total attendance was below 65%. This was indeed a one off case and the matter was being taken up for decision by the Vice Chancellor pursuant to a direction passed by this Court. Any action taken therein and the manner of calculation adopted therein, thus, cannot be used against the University.

15. Otherwise, it does not appear that the rules framed by the University in this regard were inherently defective. However, the University is requested to scrupulously follow what they laid down regarding grant of permission to students for engaging in extra-curricular activities and the like. They should also maintain their records better and in a complete manner and preserve the records for a term not less than 7 years.

16. Now, let us come to the particular facts of the present case -

A. The petitioner's main grievances with the University are the debarment from appearing in the Fourth Semester examination on account of shortage of attendance the failure to publish the results of the Fourth, Fifth and Sixth Semesters despite the petitioner having subsequently appeared in the examinations pursuant to the order dated 14th June 2024, the failure to regularise her attendance and academic records for the Fifth and Sixth Semesters despite her having maintained attendance above 75%; and the alleged consequential prejudice to her admission and progression to the

Seventh Semester, including apprehension of late fees, multiple backlog examinations and possible loss of an academic year, arbitrary, discriminatory and lack of consistency in applying the University's attendance and condonation Regulations.

B. According to the petitioner, her lower attendance was attributed to her participation in University sports activities during class hours, including Tug of War, Kabaddi practice, football volunteering and Xavrang-related activities. She also attended the Karunamoyee Book Fair, inaugurated by the former Hon'ble Chief Minister at 4:00 p.m., for which she was required to report at 1:00 p.m. and participated as the University's "Thali Girl". She further represented the University in the Tug of War competition at Amity University, and was absent from classes in February 2024 due to excessive pain in lower abdomen and fatty liver.

C. The reasons given by the University for refusal of condonation of attendance of the petitioner are that the petitioner's attendance was recorded at 62.61%, below the minimum 65% threshold prescribed for consideration of condonation under Regulation 3.4.2. The University further stated that the petitioner had failed to submit the leave application within 3 days of her absence and the medical certificates within 15 days of rejoining classes, as required under Regulation 3.4.2(a), and was therefore, not entitled to medical condonation. The University also stated that, except for the five classes missed on 19.01.2024 for Xaviesta, for which condonation had already been granted, the petitioner's claimed absence on other dates for participation in extracurricular activities was not substantiated by the University's records.

17. Therefore, the prime thrust of the petitioner's claim is that she participated in certain programmes and extra-curricular activities, mostly on behalf of the University, but was not granted exemption for the same. The University, on the other hand, contended that some exemption was granted that were just. Such claims of the petitioner as regards illness appear to be secondary.

18. Here, a practical distinction is required to be made in respect of extra-curricular activities and illness. Perhaps, there is more force in the University's stipulation in Clause 3.4.2 b) that in case of extra-curricular activities, a student must obtain prior written confirmation of his / her participation from the concerned authorities, than in Clause 3.4.2 a) that in case of illness, leave application must reach the office of the Dean of Faculty within three days of the student's absence and a medical certificate was also to be submitted within 15 days of joining. The reason is quite elementary. While the issue of prior permission to be given in case of extra-curricular activity by an instrumentality of the University itself may be subjected to greater scrutiny and distrust by an affected party, thereby requiring stricter compliance, the existence of a medical certificate issued by an independent medical professional / concern would be more sacrosanct in the present facts unless it is found patently erroneous or irreconcilable. Hence, a delay on the part of a student afflicted by illness in either making a leave application or providing a medical certificate beyond time cannot be treated as fatal. The furnishing of the medical certificate itself should be sufficient compliance of the requirement stipulated. Incidentally, the records do not

show recording of prior according of sanction in case of leave for extra-curricular activities. But, this also has been accepted as sufficient compliance of the Rules by the University in view of their contention that in cases where such permission was granted, the papers were forwarded for necessary action.

19. As stated earlier, here the petitioner's prime contentions are that she was not granted exemption for participating in some programmes and extra-curricular activities. A few days were exempted by the University on this score, but not all. It appears that the petitioner did not go for one particular extra-curricular activity, but went for a myriad of activities, right from Tug of War, Kabaddi, football volunteering and Xavrang-related activities and being 'Thali Girl' for the inauguration of the Karunamoyee Book Fair. There is nothing wrong whatsoever in these. But, the petitioner had to ensure that either she complied with the attendance requirement for the University course or she took steps to obtain prior permission of the concerned authorities in participating in such activities. The petitioner, however, has not been able to show that she obtained prior permission as required for participating in all the extra-curricular activities for which she had claimed exemption. As a result, the University records show her attendance to be 62.61% while the required minimum attendance is 75%. Even for consideration of such condonation, the minimum attendance had to be 65%.

20. In view of the above, this Court is not inclined to allow the petitioner's application. However, in view of the fact that during the pendency of the application, without prejudice and without creating any equity in favour of

the petitioner, she had been allowed to sit in examinations and move to the subsequent semester / s, the present application is disposed of with the following directions -

(i) The petitioner shall again attend the classes for the semester for which she had inadequate attendance and fulfil the attendance requirement;

(ii) Immediately thereafter, all her examination results for the said and / or the following semesters, which had been kept unpublished, shall be published;

(iii) For such purpose, if the examination papers have not been evaluated till now, shall be kept evaluated in the mean time;

(iv) No stigma shall be attached or further prejudice shall be caused to the student for having to participate in the said semester classes afresh;

(v) At the completion of the course as contemplated above, the petitioner shall receive all certificate / s, mark sheets /s and other relevant documents, if any, without further delay.

21. Urgent certified copy of the order shall be provided to the parties upon compliance of usual formalities.

(Jay Sengupta, J.)