

**Court No. - 36**

**Case :-** WRIT - C No. - 54245 of 2017

**Petitioner :-** Saurabh Chaudhary And 5 Others

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Zia Naz Zaidi

**Counsel for Respondent :-** C.S.C.,Ankit Saran

**Hon'ble Mrs. Sunita Agarwal,J.**

Sri Naveen Sinha, learned Senior Advocate assisted by Ms. Katyayini Singh and Ayush Khanna appear for the respondent no.2- University. Learned Standing Counsel appears for respondent nos.1 and 3.

A preliminary objection has been raised by Sri Naveen Sinha, learned Senior Advocate appearing for respondent no.2 regarding the maintainability of the present petition on the ground of alternative remedy of appeal.

Mohd. Aman Khan, learned Counsel for the petitioners submits that the remedy of appeal before the Chancellor is not an efficacious remedy, the petitioners may not be relegated to avail the same. Even otherwise, an alternative remedy is not a bar in entertaining the writ petition under Article 226 of the Constitution of India.

Learned Counsels appearing for respondent no.2 pray for and are permitted to file counter affidavit within a period of two weeks.

Put up this matter on 1.12.2017 in the additional cause list.

**Order Date :-** 16.11.2017

Savita

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Civil Misc. Stay Application No.374236 of 2017

Learned Counsel for the petitioners has insisted upon disposal of the interim application at this stage, itself.

He submits that the petitioners have been expelled from the respondent-University on the pretext that they had indulged in misbehaviour and mishandling of the senior faculty of the University rather the correct fact of the matter is that the petitioners were making peaceful demonstrations regarding illegal fee being charged by the University, for allowing students to appear in the end-terms/midterms examination by charging debaring fee/fine of Rs.2,300/- per subject from those students who had failed to attend minimum attendance requirements of 75%.

Submission is that the said fine was being levied separately on practical and theory papers of the same subject so as to make it up to Rs. 4,600/- per student. Even otherwise, the respondent-University is charging exorbitant fee from the students for providing hostel facilities etc.

Sri Naveen Sinha, learned Senior Advocate disputing the submissions of learned Counsel for the petitioner supplied the copy of the minutes of meeting of Students Disciplinary Committee held on 7.5.2017, 24.7.2017, 31.8.2017, 13.9.2017 and lastly dated 20.9.2017 and 27.9.2017. The above noted meetings were series of meetings of the disciplinary committee to consider the explanations tendered by the students involved in the acts of the indiscipline in the University campus on 4th and 5th May, 2017.

From the said fact, it appears that the disciplinary committee of the University had deliberated, on the acts of indiscipline and action to be taken against the students after considering their explanation.

Having noted the said fact, this Court is of the view that no interim order can be granted and the prayer to allow the petitioners to appear in the forthcoming examinations on the plea that the petitioners would be losing one academic year, cannot be granted at this stage.

The interim stay application is, accordingly, rejected.

**Order Date :-** 16.11.2017/Savita