

**(2020) 12 DEL CK 0257**

**In the Delhi High Court**

**Case No :** Civil Writ Petition No. 5921 Of 2020, Civil Miscellaneous No. 28555, 21590 Of 2020

Professor Rajiv Saxena

APPELLANT

Vs

Jawaharlal Nehru University, Through Its Registrar

RESPONDENT

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**Date of Decision :** 11-12-2020

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation :** (2020) 12 DEL CK 0257

**Hon'ble Judges :** Jyoti Singh, J

**Bench :** Single Bench

**Advocate :** Abhik Chimni, Mayank Goyal, Monika Arora, Kabir Singh Ghosh

**Final Decision :** Dismissed

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**Judgement**

Jyoti Singh, J

1. Petitioner holds the position of Chairperson of Centre of Spanish, Portuguese, Italian and Latin American Studies (hereinafter referred to as the

Centre) and has headed the Centre since February, 2017. Respondent No.2 who holds the post of Assistant Professor at the Centre was

admitted as a Ph.D Degree candidate at the Respondent No.1 University (hereinafter referred to as the University) and has been awarded the

Ph.D degree and the Notification has been issued on 28.07.2020. Petitioner was appointed as Supervisor of Respondent No.2 for Thesis/ Ph.D on

18.07.2017, has filed the present petition to quash the order of the University awarding the Ph.D degree as well as the viva-voce/Committee

constituted for conducting the viva-voce examination on 03.06.2020 amongst other reliefs which are as follows:

(i) Issue an appropriate writ quashing the order of the Respondent University

to award Ph.D. degree to Mr. Gaurav Kumar;

(ii) Issue an appropriate writ quashing the viva voce board/committee constituted for conducting the viva voce examination of Mr. Gaurav

Kumar on 03.06.2020;

(iii) Issue an appropriate writ quashing the RAC constituted for conducting the viva voce examination of Mr. Gaurav Kumar on 03.06.2020;

(iv) Issue an appropriate writ directing Respondent University to set aside the removal of Petitioner from the post of Supervisor for Mr.

Gaurav Kumar;

(v) Issue an appropriate writ directing the Respondent University to set aside the appointment of 2 Supervisors for conducting the online

viva voce examination of Mr. Gaurav Kumar on 03.06.2020;

(vi) Issue an appropriate writ directing the Respondent University to constitute a new RAC as per rules followed and practised in the Centre

for conducting the viva voce examination of Mr. Gaurav Kumar;

(vii) Issue an appropriate writ directing the Respondent University to conduct viva voce of Mr. Gaurav Kumar as per the provisions of JNU

Act, Schedules, Ordinances and Regulations;

(viii) Award the Petitioner costs related to the filing of the present Petition;

(ix) Pass any such further orders as this Honâ??ble Court may deem fit in the facts and circumstances of the instant case and/or in the

interest of justice.â??

2. The brief narrative of facts as set out in the petition is that vide Notification dated 18.07.2017 Petitioner was appointed as Supervisor of Respondent

No.2 for his Thesis/ Ph.D for the topic â??Analysis of Grammatical Errors in the Written Expression of Indian Learners of Spanish as Foreign

Languageâ?? and remained so till 31.05.2020.

3. Petitioner certified on 23.10.2019 that he had supervised the Thesis and forwarded the same to the Examiners for evaluation. The Examiners Dr.

Ravi Kumar and Professor Thakur Dass issued recommendations on 27.01.2020 and 07.02.2020, respectively, to grant the Degree to the candidate

subject to his passing the viva-voce examination. The Assistant/Deputy Registrar sent a letter to the Dean of the Centre on 18.02.2020 containing the

evaluation report, asking the Dean to send the reports together with

recommendations of the viva-voce Board.

4. The Dean of the Centre sent an email to the Petitioner on 09.05.2020, asking him to schedule the viva-voce examination with immediate effect and

assured that all logistics support shall be extended to do so. Petitioner avers that he was surprised at the urgency in conducting the viva-voce and sent

three emails pointing out the Centre's reservations regarding technical infrastructural requirements as well as documentation as per UGC

Guidelines in conducting a viva-voce.

5. Petitioner states that the University issued a notice dated 01.06.2020 scheduling the viva-voce on 03.06.2020 and also mentioned Dr. Sovon Kumar

Sanyal (CSPILAS) and Dr. Lipi Biswas Sen (CSPILAS) as Supervisors of Respondent No.2. Being the Chairman of the Centre and the Supervisor

of Respondent No.2, Petitioner ought to have been informed, in advance, of the appointment of the two Supervisors. Petitioner through his letter dated

02.06.2020 pointed out various issues with regard to the Thesis submitted by Respondent No.2, as well as, the evaluation report including other aspects

in conducting the viva-voce.

6. On 03.06.2020 University issued the Minutes of the Final Meeting of the Ph.D viva-voce, recording that the viva-voce was held on 03.06.2020 at

12:30 pm online and also mentioning the names of the External Examiner therein. The Minutes also recorded the names of the other members of the

Committee constituted for the said purpose. Report was submitted by the External Examiner stating therein that the Thesis submitted were

Respondent No. 2's own work and that his grasp in the field was satisfactory. Finally the University convened the 154th (B) Meeting of the

Academic Council on 22.06.2020 and placed Respondent No.2 in the list of students whose Thesis for Ph.D was to be evaluated by a panel of

Examiners and the name of the Petitioner was mentioned as the Supervisor of the Respondent No.2.

7. The challenge of the Petitioner to the award of Ph.D degree to Respondent No.2 is on manifold grounds which can be aptly summarized as follows:

a. Petitioner was appointed as Supervisor for the Thesis of Respondent No.2 vide Notification dated 09.07.2017 for the topic "Analysis of

Grammatical Errors in the Written Expression of Indian Learners of Spanish as Foreign Language" from 2017 till 31.05.2020. Petitioner was the only

Supervisor and responsible for guiding the Thesis and ensuring that it meets the required academic standards in the field of languages, which concerns

the Centre. Petitioner has been, however, removed in an arbitrary manner as the Supervisor, without communicating the decision to that effect, despite

the fact that he was appointed as a Supervisor because of his expert and domain knowledge in Spanish language.

b. University arbitrarily appointed Dr. Sanyal and Dr. Sen as Supervisors, though none of them had any history of working with Respondent No.2, on

its Thesis and none participated in the viva-voce on 03.06.2020. Neither of the two are expert in teaching Spanish as a foreign language. Process of

appointment of Supervisor for a Ph.D candidate is laid down in Clause 3(a) of the Ordinance relating to the Committee for Advance Studies and

Research (CASR) and the procedure required under the said Clause was not followed for appointment of the Supervisors. The Ordinance relating to

CASR provides the constitution of the CASR which requires the Dean of the School, Heads of Centers and Departments in the School, one

Professor/Senior Fellow, one Associate Professor/Fellow and one Assistant Professor/Associate Fellow as part of the Committee. Petitioner being a

Chairman of the Centre is the member of the CASR and yet was kept out of the process of the appointment of Supervisors of Respondent No.2.

c. Clause 16 of the Ordinance provides that viva-voce shall be conducted by Board of Examiners comprising of one of the External Examiners of the

Thesis and the Supervisor(s). The University undermined and diluted Clause 16 by removing the Petitioner as Supervisor. Additionally, this was a

deliberate attempt to circumvent the objections raised by the Petitioner to the holding of the viva-voce.

d. University has violated Regulations 24 and 25 of the Academic Rules and Regulations which prescribe as follows:

â??S 24. \*Viva-Voce through SKYPE.

The Executive Council resolved to approve that all M.Phil. Viva-Voce will be conducted through SKYPE only. Ph.D. Viva-Voce may also be

conducted preferably through SKYPE. However, in case the Ph.D. Viva-Voce needs to be held by inviting experts to the School or Centre,

due justification may be forwarded through Chairperson/Dean to the competent authority for prior permission in this regard. It was also

resolved to constitute a Committee to frame guidelines to hold Viva-Voce through SKYPE. The Committee has submitted the following guidelines.

#### Guidelines

1. The schedule and details of the Viva-Voce to be held should be circulated to all concerned in advance.

2. The Viva-Voce shall be held in a hall/room which is equipped with necessary infrastructure to hold Viva-Voce examination through

Video-conferencing. Wherever necessary, the CIS, JNU will provide the necessary technical help for conducting the viva-voce examination.

3. Members of the Research Advisory Committee of the concerned student should be present in person during the Viva-Voce. However, in

exceptional circumstances, if a RAC member is unable to attend the Viva-Voce, he/she, in consultation with Supervisor and with the

approval of the Dean of the concerned School/Chairperson of the concerned Special Centre, may nominate some other faculty (as per the

composition of RAC). At least two RAC members, including the supervisor, should be present in person during the Viva-Voce examination.

4. After the Viva-Voce examination, the external examiner may submit his/her report/ recommendation through e-mail and include a signed

scanned copy of report/recommendation as attachment to the official e-mail of the Dean of the concerned School/Chairperson of the

concerned Centre/Special Centre. A printout of this report/recommendation shall be signed and certified by the Supervisor of the Viva-Voce

Committee and the Dean of the concerned School/Chairperson of the concerned Centre/Special Centre.

5. No local travel expenses or any other charges/payment for hardware/software assistance/hiring/purchase etc. will be reimbursed to the

external examiner or any other person for availing of video-conferencing facility for holding of M.Phil./Ph.D. Viva-Voce examination.

6. If, in any case, more than one external examiner is invited to hold the Viva-Voce, the honorarium amount shall be divided equally among

them, as per Clause 3.6 of Academic Ordinance number 27 of JNU.

7. Exemption for Ph.D. Viva-Voce â?" In extraordinary circumstances where viva-voce cannot be held through video-conferencing, the

Dean/Chairperson of the School/Centre/Spl. Centre shall take prior approval of the Vice-Chancellor, to hold viva-voce in person. However,

all the M.Phil Viva-Voce will be conducted through video-conferencing only.

8. The Viva-Voce report with relevant documents must be submitted by the School/Centre in the prescribed existing format along with the

recommendation of the external examiner as mentioned at point-4 above.

9. In case any dispute arises with respect to the recommendation of the examiner and the member(s) of RAC, the Competent Authority may

take appropriate measures to resolve the dispute. The decision of the Competent Authority will be final.

S 25. \*Composition of Research Advisory Committee in Schools/Centres.

The Executive Council resolved that the composition of Research Advisory Committee (RAC) for M.Phil. and Ph.D. students will be as

follows:

(a) Research Supervisor as Convener of the Committee;

(b) One internal expert from the concerned Centre/Special Centre/School (where no Centres exist); and

(c) One external expert from outside the concerned Centre/Special Centre/School(where no centres exist), but from within the University

only.â??

8. Perusal of the viva-voce Committee shows that it is contrary to the Regulations inasmuch as the two Professors teach at the Centre for English

Studies and Indian languages, respectively and have no understanding of the Spanish language. There is also violation of Clause 3 of the JNU

Ordinance 2016 inasmuch as the Supervisors were not appointed by CASR but by the Dean.

9. Petitioner is a person of repute and well-known academician throughout India with great credibility in academic arena. The impugned action of the

University shall have an effect on the other students under his supervision, and would be misused as a precedent seriously undermining the efforts of

the Petitioner and tarnishing his reputation. The violations of the Ordinance in appointment of Supervisors will lead to academic chaos and adversely

affect the quality of research output and the academic council of JNU shall run as per the wishes of the Dean.

10. Ms. Monika Arora learned counsel for University had appeared on advance copy of the writ petition. She submitted that the petition deserves to

be dismissed at the outset as the contentions of the Petitioner are unfounded, misconceived and the Petition is an abuse of process of law. The

submissions made by Ms. Arora are as follows:

a) Respondent No. 2 who is an Assistant Professor in the Centre with effect from 28.12.2006 submitted his thesis for the award of Ph.D. Degree,

under supervision of the Petitioner on 23.10.2019. The Petitioner who is the Chairperson of the Spanish Centre as well as the Supervisor of

Respondent No. 2 signed his thesis and the Official Thesis Submission Form, confirming submission of his Thesis. He also provided the names of five

External Examiners endorsing the Thesis to be sent to the External Examiners for evaluation.

b) Thesis was sent to two External Examiners, one being an Assistant Professor at Mahatma Gandhi International Hindi University, Wardha and the

other retired Professor of Central Hindi Institute, Agra, as per norms. Both appreciated the research work of Respondent No. 2 and recommended

award of the Degree, subject to passing the viva-voce.

c) An External Examiner has four options while evaluating a Thesis viz. (i) to recommend award of Degree and proceed for viva-voce;

(ii) suggest minor corrections before viva-voce; (iii) suggest major corrections and sent the Thesis back for incorporation and for the examiner to

evaluate and (iv) rejection of the Thesis. Both the examiners followed the path of recommending the award of Degree.

d) On receipt of the Report, the Evaluation Branch forwarded the Report to the concerned Centre on 18.02.2020 for conduct of viva-voce. The

Petitioner did not arrange for the conduct of viva-voce despite several requests by Respondent No. 2 vide e-mails dated 11.03.2020, 13.03.2020,

18.03.2020, 14.04.2020 and 28.04.2020. Dean of the School also requested to do the needful both telephonically and via emails dated 14.04.2020,

25.04.2020, 09.05.2020 and 14.05.2020 to schedule online viva-voce, but to no avail.

e) Seeing the apathy of the Petitioner, the Dean apprised the University administration of the deadlock in the matter and accordingly a Committee was

proposed to look into the matter, which concluded that a substitute/alternate

Supervisor be appointed to conduct the viva-voce. Acting upon the recommendations and in accordance with provisions of Ordinance XVI, the University appointed two faculty members as Supervisors and finally the viva-voce was held online on 03.06.2020 as per the UGC Guidelines. The Ph.D. Notification dated 28.07.2020, nonetheless, mentions the name of the Petitioner as Supervisor, to give him credit for his supervision during the relevant period.

f) Once Respondent No. 2 submitted his Thesis and his research work was duly approved by the Examiners, there was no reason why the University should have stalled the holding of the viva-voce and delaying the award of Degree. Petitioner is incorrect in stating that he is affected by the award of the Degree and in fact he has no locus to even file the present petition and the Petition is more in the nature of a Public Interest Litigation and not maintainable. It is also notable that the Petitioner is responsible for not holding the viva-voce despite several requests and can only blame himself if the University appointed two other Supervisors.

11. Respondent No. 2 was also represented by a counsel, who adopted the stand of the University and reiterated the arguments put forth by Ms.

Arora. Learned counsel submits that the Petitioner has no locus to file the present petition and challenge the award of Degree which has been

awarded to Respondent No. 2 on the basis of his research work, duly recommended by the Examiners.

12. I have heard the learned counsels for the parties and examined their rival submissions.

13. The Petitioner was the Supervisor of Respondent No. 2 for his Thesis for award of Ph.D. Degree. The question however that arises for

consideration before this Court is whether the Petitioner has any locus standi to file the present petition challenging the award of Degree to

Respondent No. 2. To answer this question, I may need to examine the provisions of Article 226 of the Constitution of India. Article 226 empowers

the High Court to issue to any person or Authority, including the Government, within its territorial jurisdiction, directions, orders or writs including writs

of habeas corpus, mandamus, prohibition, quo warranto and certiorari for enforcement of fundamental rights and for any other purpose.

14. Going by most of the English decisions, in order to invoke certiorari

jurisdiction, the Petitioner should be an "aggrieved person" and the question that next arises is who is an aggrieved person. In *Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed*, (1976) 1 SCC 671 the

Supreme Court described the expression "aggrieved person" as follows:

"13. This takes us to the further question: Who is an "aggrieved person" and what are the qualifications requisite for such a status?

The expression "aggrieved person" denotes an elastic, and to an extent, an elusive concept. It cannot be confined within the bounds of

a rigid, exact and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning

depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific

circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by

him. English courts have sometimes put a restricted and sometimes a wide construction on the expression "aggrieved person". However,

some general tests have been devised to ascertain whether an applicant is eligible for this category so as to have the necessary locus standi

or "standing" to invoke certiorari jurisdiction."

15. In the same decision, the Court observed that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226 an

applicant should ordinarily be one who has a personal or individual right in the subject matter, though in writs of habeas corpus or quo warranto, the

Rule is relaxed. Para 34 being relevant is as under:

"34. This Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction

under Article 226, an applicant should ordinarily be one who has a personal or individual right in the subject-matter of the application,

though in the case of some of the writs like habeas corpus or quo warranto this rule is relaxed or modified. In other words, as a general

rule, infringement of some legal right or prejudice to some legal interest inhering in the petitioner is necessary to give him a locus standi in

the matter, (see *State of Orissa v. Madan Gopal Rungta* [AIR 1952 SC 12 : 1952 SCR 28] ; *Calcutta Gas Co. v. State of W.B.* [AIR 1962 SC

1044 : 1962 Supp (3) SCR 1] ; *Ram Umeshwari Suthoo v. Member, Board of*

Revenue, Orissa [(1967) 1 SCA 413] ; Gadde Venkateswara

Rao v. Government of A.P. [AIR 1966 SC 828 : (1966) 2 SCR 172] ; State of Orissa v. Rajasaheb Chandanmall [(1973) 3 SCC 739] ;

Satyanarayana Sinha Dr v. S. Lal & Co. [(1973) 2 SCC 696 : (1973) SCC (Cri) 1002] ).â??

16. The expression â??ordinarilyâ?? was also explained by the Court in para 35 as follows:

â??35. The expression â??ordinarilyâ? indicates that this is not a cast-iron rule. It is flexible enough to take in those cases where the

applicant has been prejudicially affected by an act or omission of an authority, even though he has no proprietary or even a fiduciary

interest in the subject-matter. That apart, in exceptional cases even a stranger or a person who was not a party to the proceedings before

the authority, but has a substantial and genuine interest in the subject-matter of the proceedings will be covered by this rule. The principles

enunciated in the English cases noticed above, are not inconsistent with it.â??

17. Explaining the concept of locus standi in the context of writ of certiorari, the Court observed as follows:

â??37. It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these

categories: (i) â??person aggrievedâ?; (ii) â??strangerâ?; (iii) busybody or meddlesome interloper. Persons in the last category are easily

distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They

masquerade as crusaders for justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or

even of their own to protect. They indulge in the pastime of meddling with the judicial process either by force of habit or from improper

motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this

category, may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such

busybodies at the threshold.

38. The distinction between the first and second categories of applicants, though real, is not always well-demarcated. The first category has,

as it were, two concentric zones; a solid central zone of certainty, and a grey outer circle of lessening certainty in a sliding centrifugal

scale, with an outermost nebulous fringe of uncertainty. Applicants falling within the central zone are those whose legal rights have been

infringed. Such applicants undoubtedly stand in the category of ‘‘persons aggrieved’’. In the grey outer circle the bounds which

separate the first category from the second, intermix, interfuse and overlap increasingly in a centrifugal direction. All persons in this outer

zone may not be ‘‘persons aggrieved’’.’’

18. Finally, the Court examined the locus of the Appellant therein to approach the Court for an alleged legal wrong and it would be useful to refer to

two passages of the Report in this regard as under:

‘‘48. In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of a legal right. He

has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, much less

does it wrongfully affect his title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. He has no

legal peg for a justiciable claim to hang on. Therefore he is not a ‘‘person aggrieved’’ and has no locus standi to challenge the grant of

the no-objection certificate.

49. It is true that in the ultimate analysis, the jurisdiction under Article 226 in general, and certiorari in particular is discretionary. But in a

country like India where writ petitions are instituted in the High Courts by the thousand, many of them frivolous, a strict ascertainment, at

the outset, of the standing of the petitioner to invoke this extraordinary jurisdiction, must be insisted upon. The broad guidelines indicated

by us, coupled with other well-established self-devised rules of practice, such as the availability of an alternative remedy, the conduct of the

petitioner etc. can go a long way to help the courts in weeding out a large number of writ petitions at the initial stage with consequent

saving of public time and money.’’

19. Very recently a Coordinate Bench of this Court in Tirupati Buildings and Offices Pvt. Ltd. v. Reserve Bank of India, 2019 SCC OnLine Del 8990,

again examined the law on the expression ‘‘person aggrieved’’ relying on the

earlier judgments on the subject and I may only allude to a few paragraphs as follows:

53. Admittedly, no petition has been filed by the respondent No. 3 Edelweiss Asset Reconstruction Company Limited; who had submitted

the bid which was held to be highest. If the stand of the petition is that the said bid of the respondent No. 3 has not been decided, then it

shall be grievance of the respondent No. 3 to raise an issue. Merely because the bid is for taking over of the loan given by the Dena Bank

to the petitioner even though would suggest some interest of the petitioner but that would not show locus of the petitioner to maintain the

writ petition for a prayer as noted above, as it is settled law to maintain a writ under Article 226 of the Constitution of India it should be

shown by the petitioner that its right has been infringed by the inaction on the part of the respondent No. 2 to decide the bid submitted by

the respondent No. 3 Edelweiss Asset Reconstruction Company Limited, which according to Mr. Aggarwal it has failed. Further it is not the

case of the petitioner that the present petition has been filed in public interest. Surely such cases are exception to the locus standi rule as

held by the Supreme Court in various judgments including *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 : AIR 1984 (SC)

802. Further, the submission of Mr. Tripathi that the Edelweiss and the petitioner have been writing to the Dena Bank for consummation of

sale is concerned; the same can be a ground for Edelweiss but not the petitioner, who is not the bidder to approach the Court with relief as

prayed for. So, the relief to the respondent No. 3 cannot be given at the asking of the petitioner. In other words, the cause of action is the

submission of bid which has not been decided. It is surely a cause for the respondent No. 3 to approach the Court against Dena Bank and

not the petitioner. So, it follows the judicial review of the inaction on the part of the Dena Bank to decide the bid on any ground at the

behest of any party other than Edelweiss is impermissible. Hence, this plea of Mr. Aggarwal needs to be accepted and it must be held that

the petitioner has no locus standi to seek prayer(s) as stated above in this writ petition. In support of my aforesaid conclusion, I may refer to

the following judgments of the Supreme Court on the issue of maintainability of

the writ petition by a person who has no locus standi to file a petition:

54. In *Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal*, AIR 1962 SC 1044, in para 5 the Supreme Court has held as

under:

Article 226 confers a very wide power on the High Court to issue directions and writs of the nature mentioned therein for the

enforcement of any of the rights conferred by Part III or for any other purpose. It is, therefore, clear that persons other than those claiming

fundamental rights can also approach the court seeking a relief thereunder. The Article in terms does not describe the classes of persons

entitled to apply thereunder; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must be one to enforce

a legal right. In *State of Orissa v. Madan Gopal*, 1952 SCR 28: (AIR 1952 SC 12) this Court has ruled that the existence of the right is the

foundation of the exercise of jurisdiction of the Court under Art. 226 of the Constitution. In *Charanjit Lal Chowdhuri v. Union of India*,

1950 SCR 869: (AIR 1951 SC 41), it has been held by this Court that the legal right that can be enforced under Art. 32 must ordinarily be

the right of the petitioner himself who complains of infraction of such right and approaches the Court for relief. We do not see any reason

why a different principle should apply in the case of a petitioner under Art. 226 of the Constitution. The right that can be enforced under

Art. 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas

corpus or quo warranto this rule may have to be relaxed or modified.

55. In *Mani Subrat Jain v. State of Haryana*, (1977) 1 SCC 486 : AIR 1977 SC 276, in para 9 the Supreme Court has held as under:

It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially

enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said

to be aggrieved only when a person is denied a legal right by some one who has a legal duty to do something or to abstain from doing

something. (See *Halsbury's Laws of England* 4th Ed. Vol. I, paragraph 122);

State of Haryana v. Subash Chander, (1974) 1 SCR 165 =

((1974) 3 SCC 220 : AIR 1973 SC 2216); Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed, (1976) 3 SCR 58 = ((1976) 1 SCC

671 : AIR 1976 SC 578) and Ferris Extraordinary Legal Remedies paragraph 198.â??

(emphasis supplied)

56. In Ghulam Qadir v. Special Tribunal, (2002) 1 SCC 33, in para 38 the Supreme Court has held as under:

â??38. There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced

only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the

general rule is the filing of a writ petition in public interest. The existence of the legal right of the petitioner which is alleged to have been

violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid Article. The orthodox rule of interpretation

regarding the locus standi of a person to reach the court has undergone a sea change with the development of constitutional law in our

country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant

merely on hypertechnical grounds. If a person approaching the court can satisfy that the impugned action is likely to adversely affect his

right which is shown to be having source in some statutory provision, the petition filed by such a person cannot be rejected on the ground

of his having not the locus standi. In other words, if the person is found to be not merely a stranger having no right whatsoever to any post

or property, he cannot be non-suited on the ground of his not having the locus standi.â??

(emphasis supplied)

57. Further the expression â??aggrieved personâ? has come up for consideration before the Supreme Court on many occasions wherein

the Supreme Court has held, aggrieved person would mean who has suffered legal injury. In this regard reference can be made to its

opinion in Babua Ram v. State of U.P., (1995) 2SCC689 wherein, in paragraph 17, it observed as under:

17. In Collins English Dictionary, the word 'aggrieved' has been defined to mean 'to ensure unjustly especially by infringing

a person's legal rights'. In Webster Comprehensive Dictionary, International Edition at page 28, aggrieved person is defined to mean

'subjected to ill-treatment, feeling an injury or injustice. Injured, as by legal decision adversely infringing upon one's rights'. In

Strouds Judicial Dictionary, Fifth Edn., Vol. 1, pages 83-84, person aggrieved means 'person injured or damaged in a legal sense'. In

Black's Law Dictionary, Sixth Edn. at page 65, aggrieved has been defined to mean 'having suffered loss or injury; damnified;

injured' and aggrieved person has been defined to mean:

'One whose legal right is invaded by an act complained of, or whose pecuniary interest is directly and adversely affected by a decree or

judgment. One whose right of property may be established or divested. The word 'aggrieved' refers to a substantial grievance, a

denial of some personal, pecuniary or property right, or the imposition upon a party of a burden or obligation.'

58. The person aggrieved, therefore, must be one who has suffered a legal injury.

59. Further the Supreme Court in *Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed*, (1976) 1 SCC 671 : AIR 1976 SC 578,

while dealing with the expression 'aggrieved person', has in paragraphs 12, 25, 29 and 38 observed as under:

12. According to most English decisions, in order to have the locus standi to invoke certiorari jurisdiction, the petitioner should be an

'aggrieved person' and in a case of defect of jurisdiction, such a petitioner will be entitled to a writ of certiorari as a matter of course,

but if he does not fulfill that character, and is a 'stranger', the Court will, in its discretion, deny him this extraordinary remedy, save in

very special circumstances. This takes us to the further question:

Who is an 'aggrieved person'? And what are the qualifications requisite for such a status? The expression 'aggrieved person'

denotes an elastic, and, to an extent, an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive

definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse variable factors

such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent

of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him. English Courts have sometimes put a

restricted and sometimes a wide construction on the expression "aggrieved person". However, some general tests have been devised to

ascertain whether an applicant is eligible for this category so as to have the necessary locus standi or "standing" to invoke certiorari

jurisdiction.

xxx xxx xxx

25. Emphasising the "very special circumstances" of the case, the court read into the statute, a duty to act fairly in accordance with

the principles of natural justice. Thus, a corresponding right to be treated fairly was also imported, by implication, in favour of the

applicants. Viewed from this standpoint, the applicants had an interest recognised in law, which was adversely affected by the impugned

action. They had suffered a wrong as a result of the unfair treatment on the part of the corporation.

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29. Salmon J. quoted with approval these observations of James LJ in James LJ in *Sidebotham* (1880) 14 Ch D 458 at p. 465 The words

"person aggrieved" do not really mean a man who is disappointed of a benefit which he might have received if some other order had

been made. A "person aggrieved" must be a man who has suffered a legal grievance, a man against whom a decision has been

pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to

something.

(emphasis supplied)

xxx xxx xxx

38. To distinguish such applicants from "strangers", among them, some broad tests may be deduced from the conspectus made above.

These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in

which the matter falls to be considered. These are: Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words "person aggrieved" is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals?"

Â (emphasis supplied)

60. In a recent pronouncement the Supreme Court in *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra*, (2013) 4 SCC 465, while

dealing with the expression "person aggrieved" in paragraph 9 observed thus:

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the

authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can

challenge the act/action/order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the

purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty

on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ

jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction

at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence

of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary

jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the

exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who

complains of infraction of such right and approaches the Court for relief as regards the same. [Vide State of Orissa v. Madan Gopal

Rungta, AIR 1952 SC 12, Saghir Ahmad v. State of U.P., AIR 1954 SC 728, Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B., AIR 1962

SC 1044, Rajendra Singh v. State of M.P., (1996) 5 SCC 460 and Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar,

(2009) 2 SCC 784.]â??

(emphasis supplied)

61. The Supreme Court in M.S. Jayaraj v. Commissioner of Excise, Kerala, (2000) 7 SCC 552, examined the issue of â??locus standiâ? and

held that the person should be asked to disclose the legal injury suffered by him and if he cannot, then, obviously, the person has no locus

standi to file a writ petition under Article 226 of the Constitution of India.â??

20. Applying the ratio of the judgments referred to above, the inevitable conclusion that can be drawn is that the Petitioner has no locus standi to file

the present petition seeking a writ of certiorari under Article 226 of the Constitution of India. Petitioner cannot be termed as a â??person

aggrievedâ?? going by the law enunciated in the judgments above.

21. Petitioner was admittedly appointed as Supervisor for the Ph.D. Thesis of Respondent No. 2 vide Notification dated 25.07.2017. He had guided

the Thesis and finally signed on them including endorsing the Thesis Submission Form, thereby confirming the submission of the Thesis. As per

procedure and norms the Thesis was sent to the Examiners, who were from independent Universities and recommended the award of Degree,

without even suggesting a minor correction in the Thesis. The recommendations were subject to the conduct of viva-voce examination. The

documents placed on record by the Petitioner himself are a pointer to the fact

that several emails were sent to the Petitioner to organize the conduct of viva-voce as he was the Chairperson of the Centre. However, requisite action was not taken by the Petitioner despite the fact that it was obligatory for him to hold the viva-voce as a part of his statutory duty, being the Chairman of the Centre.

22. In my view, the University rightly contends that if the Petitioner did not take timely action for conducting the viva-voce, there was no reason why

the process should have been stalled, unnecessarily delaying the award of a Ph.D. Degree to a candidate who worked hard on the Thesis and even

got favourable recommendations from two independent Examiners.

23. I also find force in the contention of the University that the provisions of the JNU Ordinance 2016 itself permit the University to proceed with the

viva-voce examination by recommending another member of the faculty, as a Supervisor, in a situation where the appointed Supervisor is unable to

participate in the viva-voce examination, within a reasonable time. Relevant provision of the Ordinance 2016 is as under:

â??Ordinance 16: Procedure for conduct of viva-voce for award of Ph.D Degree

â??The viva-voce examination of candidate shall be conducted by a Board of examiners consisting of one of the external examiners of the

thesis and the Supervisor(s). Provided, where neither of the examiners, who evaluated the thesis, is in a position to conduct the viva-voce

examination, another examiner shall be appointed in his/her place.

Provided that where the Supervisor is unable to be present within a reasonable time to participate in the viva-voce examination, the

Committee for Advanced Studies and Research may recommend another member of the faculty in his/her place.â??

24. The action of the University is therefore in accordance with the provision of the Ordinance and contrary to what has been argued by the

Petitioner, in the interest of academic institutions. Needless to state that research students cannot be made to suffer on account of delay caused by

administrative constraints or the subjective perceptions of the Supervisors. Petitioner failed to take timely and necessary action to conduct the viva-

voce and can only blame himself for the action of the University in appointing two other Supervisors.

25. During the course of hearing counsel for the University informed the Court

that name of the Petitioner is shown as the Supervisor of Respondent

No. 2 on the Ph.D. Notification dated 28.07.2020 and therefore in my view the Petitioner cannot complain of any harm to his reputation.

26. For all the aforesaid reasons, the petition fails and is accordingly dismissed.

27. Pending applications are disposed of accordingly.