



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 24.07.2026

Date of decision: 05.10.2026

CNR No : DLHC010492542019

+ W.P.(C) 13468/2019

MANOJ DHIRYAN

.....Petitioner

versus

UNION OF INDIA AND ORS.

.....Respondents

CNR No : DLHC010493792019

+ W.P.(C) 13469/2019 & CM APPL. 28229/2020

ANSHU KAPOOR

.....Petitioner

versus

UNION OF INDIA AND ORS.

.....Respondents

CNR No : DLHC010492852019

+ W.P.(C) 13471/2019 & CM APPL. 1483/2023

VAIBHAV MISHRA AND ORS.

.....Petitioners

versus

UNION OF INDIA AND ORS.

.....Respondents

CNR No : DLHC010491902019

+ W.P.(CRL) 3522/2019, CRL.M.A. 147/2020, CRL.M.A. 6521/2020
& CRL.M.A. 3809/2023

NABILA HASAN & ORS.

.....Petitioners

versus

UNION OF INDIA & ANR.

.....Respondents

CNR No : DLHC010496652019

+ W.P.(CRL) 3539/2019

BAHADUR ABBAS NAQVI & ORS.

.....Petitioners

versus

UNION OF INDIA & ORS.

.....Respondents

CNR No : DLHC010100702019

+ W.P.(CRL) 414/2020



MD. MINHAJUDDIN

.....Petitioner

versus

UNION OF INDIA & ORS.

.....Respondents

CNR No : DLHC010126682020

+ W.P.(CRL) 472/2020 & CRL.M.A. 5667/2020

SHAYAAN MUJEEB

.....Petitioner

versus

STATE & ORS.

.....Respondents

CNR No : DLHC010141192020

+ W.P.(CRL) 575/2020

MD MUSTAFA

.....Petitioner

versus

STATE & ORS.

.....Respondents

MEMO OF APPEARANCE FOR PETITIONER(S)

Mr. Salman Khurshid, Sr. Adv. with Mr. Bilal Anwar Khan, Adv. with Petitioner in Person. In W.P.(C) 13469/2019

Ms. Indira Jai Singh, Sr. Adv. with Ms. Nanita Sharma, Mr. Vivek Sharma, Mr. Deepak Sinha & Mr. Paras Nath Singh, Advs., Mr. K.K. Mishra, Additional Standing Counsel for JMI in W.P.(C) 13471/2019

Mr. Kushal Bhattacharya with Mr. Meherdeep Chaurasia, Advs.

Mr. K.K. Mishra, Additional Standing Counsel for JMI. In W.P.(C) 13471/2019

Mr. Colin Gonsalves, Sr. Adv. with Mr. Kamran Khwaja, Advs. in W.P.(CRL) 3522/2019, W.P.(CRL) 3539/2019, W.P.(CRL) 414/2020, W.P.(CRL) 472/2020 & W.P.(CRL) 575/2020

MEMO OF APPEARANCE FOR RESPONDENT(S)

Mr. S.V. Raju, ASG with Mr. Rajat Nair (SPP), Mr. Dhruv Pande & Mr. Shivanshu Tripathi and Mr. Akshaja Singh, Advs. for State in W.P.(C) 13469/2019, W.P.(C) 13471/2019, W.P.(CRL) 3522/2019, W.P.(CRL) 3539/2019, W.P.(CRL) 414/2020, W.P.(CRL) 472/2020, W.P.(CRL) 575/2020

Mr. K.K. Mishra, Additional Standing Counsel for JMI. in W.P.(C) 13469/2019, W.P.(CRL) 3539/2019, W.P.(CRL) 3522/2019, W.P.(CRL) 414/2020, W.P.(CRL) 472/2020, W.P.(CRL) 575/2020



Mr. Harsh Prabhakar, Mr. Yash Kotak and Mr. Dhruv Choudhary, Advs. for R-23 in W.P.(C) 13469/2019

Insp. Kamal Kumar with SI Gulab Singh, ISC, Crime Branch, New Delhi. in W.P.(C) 13469/2019, W.P.(C) 13471/2019, W.P.(CRL) 3522/2019, W.P.(CRL) 3539/2019

Mr. Rakesh Kumar, SPC, with Mr. Sunil, Adv. for UOI. In W.P.(C) 13471/2019

Mr. Sandeep Kumar Mahapatra, (CGSC) with Ms. Mrinmayee Sahu, Mr. Tribhuvan & Mr. Abhimanya Asija, Advs. for R-1. In W.P.(CRL) 3522/2019

Mr. B. Badrinath & Mr. Dhruv Bhardwaj, Advs. for R- 6 in W.P.(CRL) 414/2020, W.P.(CRL) 472/2020

Mr. B. Badrinath, Adv. for R-5 in W.P.(CRL) 575/2020

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

INTRODUCTION

1. The present batch of petitions invoke writ jurisdiction of this Court, seeking appropriate directions against the respondents. Though instituted by different petitioners and seeking diverse reliefs, all the petitions arise out of the events that occurred at and around *Jamia Millia Islamia University* in the backdrop of the enactment of the CAA¹ and proposed NRC², and raise substantially common questions, thus, all these petitions are being disposed of by this common judgment.

2. There are eight petitions that forms part of the present batch. Certain part of the petitions also refers to the events of violence occurred at the Aligarh Muslim University. However, in the aftermath of the incidents at Jamia Millia Islamia University and Aligarh Muslim University, the

¹ Citizenship Amendment Act, 2019.

² National Register of Citizens.



aggrieved approached the Supreme Court, wherein, *vide* Order dated 17.12.2019 in W.P. (Criminal) No.370/2019 titled as ***Alumni Association, Jamia Millia Islamia University & Ors. vs. Union of India & Ors.***, the Supreme Court declined to constitute a single committee to inquire into the incidents, as they took place at different places and involved different sets of facts and circumstances, and that it would be inappropriate for the Supreme Court to undertake such a fact-finding exercise in exercise of its writ jurisdiction. The Court accordingly left it open to the petitioners to approach the concerned High Courts having territorial jurisdiction over the respective incidents.

3. In pursuance thereof, the aggrieved persons of the Aligarh Muslim University approached the Allahabad High Court in Criminal Misc. Writ Petition No. 26085 of 2019, titled as ***Mohd. Aman Khan v. Union of India & Ors.***, against the alleged police action at the University campus on 15.12.2019. The Division Bench declined to constitute a Special Investigating Team at that stage and the NHRC³ was requested to undertake a complete inquiry/investigation into the issues raised in the writ petition, with the petition itself being treated as a complaint before the Commission. Thus, we do not find it appropriate to interfere with the proceedings in respect of those incidents that occurred at Aligarh Muslim University. The present proceedings, therefore, are examined on the basis of the material relating to the incidents at Jamia Millia Islamia University and the subsequent developments concerning those incidents.

4. There are various reliefs prayed for in the present batch of petitions. The gist of such reliefs sought are stated below:

³ National Human Rights Commission.



Sr. No.	Details of the Petitions	Reliefs Sought
A.	W.P. (C) No. 13468 of 2019	1. To direct the Respondent No. 1 to withdraw the excessive force from the JMI campus. 2. To establish a judicial commission to enquire into the JMI tragic episode dated 15.12.2019, 14.12.2019 and 16.12.2019. 3. To restrain the Respondent No. 1 from taking any coercive action against the JMI students. 4. To direct the Respondent No. 1 to compensate the injured adequately.
B.	W.P. (C) No. 13469 of 2019	1. An independent judicial Inquiry into the incident dated 15.12.2019. 2. Inquiry by the National Human Rights Commission into the incident dated 15.12.2019. 3. Medical and financial assistance to the injured persons and direct the Police not to enter the University campus without the written permission of University authorities. 4. Grant compensation to the victim and direct the respondents to pay towards the renovation costs of the damaged University property. 5. Frame guidelines on use of force that would govern the conduct of police personnel in such cases."
C.	W.P. (C) No. 13471 of 2019	1. Provide free medical aid and humanitarian assistance to the injured. 2. Abstain the Respondents from entering the University without permission of the University Administration. 3. No coercive action against the students studying in Jamia Millia Islamia, New Delhi. 4. Grant of transportation facilities or alternate accommodation to the students stranded in University. 5. Constitute a fact finding committee to probe into the incidents of violence at the subject University.
D.	W.P. (C) No. 3522 of 2019	1. Respondents to declare on their website the full list with names of students and residents that were detained by State Police and paramilitary forces. 2. Direction to the Respondents to provide detained persons access to their family members and to legal



		counsel; 3. Direction to the Respondents to release all the students and residents so detained. 4. Direction to the Respondents to provide instant and quality medical care to students and staff detained. 5. Direction to the Respondents to immediately cease the violence being inflicted on to the students and residents of Universities. 6. Direction to the Respondents to quash any and all criminal proceedings initiated against students of the Universities. 7. Direction to the Respondents to preserve the CCTV footage of all cameras in and around the Universities. 8. Direction to the Respondents to provide adequate monetary compensation to all persons detained and/or injured by the Police and paramilitary forces. 9. Direction to the Respondents to set up a court-monitored committee that shall conduct judicial inquiry into the acts of violence in a time bound manner. 10. Direction to the Respondents to ensure the safety of all students within JMI university campuses and to ensure that no student is forced to leave the campuses. 11. Direction to the Respondents to ensure reopening of the University.
E.	W.P. (Crl.) No. 3539 of 2019	1. Direction for inquiry against the erring officials including police personnel conducted by an independent committee. 2. Direction to the concerned State Government/UT Administration/ Police to forthwith remove the-illegal blockades in Jamia Millia Islamia University and Jawaharlal Nehru University. 3. Direction to the State Government/UT Administration/Police to immediately withdraw from the campus of Jamia Millia Islamia University and Jawaharlal Nehru University. 4. Direction to the State Government/UT Administration/Police to not enter any university campus without the written permission/authorization. 5. Direction to the State Government/UT Administration/Police to strictly comply with the



		requirements of arrest. 6. Direction to the State Government/UT Administration/Police- to ensure that proper medical attention, and care all students injured. 7. Direction to the State Government/UT Administration/Police to compensate the students and protestors injured in the protests.
F.	W.P. (CrI.) No. 414 of 2020	1. Direction to the Respondents to bear all the expenses required in the treatment. 2. Direction to the Respondents to pay exemplary compensation commensurate with the qualifications and future well-being of the petitioner. 3. Direction to the Respondents to register an FIR Into the offences committed by police forces. 4. To set up a court monitored Investigation committee and/or set up a Special Investigation team In the present case. 5. To direct the respondents to provide permanent job commensurate with the educational qualifications of the petitioner; 6. To direct the respondents to pay the costs for the petition.
G.	W.P. (CrI.) No. 472 of 2020	1. Direction to the Respondent herein to pay a compensation of at least 2 Crore Rupees. 2. Direction to the Respondents herein to reimburse the Petitioner. 3. Direction to the Respondents to bear all the expenses of the Petitioner required in the treatment in the future. 4. Direction to Respondents to register an FIR into the offences committed by police forces. 5. Direction to the Respondent to pay the costs of this petition.
H.	W.P. (CrI.) No. 575 of 2020	1. Direction to the Respondent to pay a compensation of at least 1 Crore Rupees for physical and mental losses suffered. 2. Direction to the Respondents to reimburse the Petitioner. 3. Direction to the Respondents to bear all the expenses of the Petitioner required in the treatment in the future. 4. Direction to Respondents to immediately register



		<i>an FIR into the offences committed by police forces.</i> 5. <i>Direction to the Respondent to pay the costs of this petition.</i>
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5. A perusal of the reliefs claimed in the present petition shows that, several prayers no longer survive for adjudication.

6. At the outset, Mr. S.V. Raju, the learned Additional Solicitor General for the State stated that a lot of initially sought reliefs have rendered infructuous. Our attention was also brought to the Order dated 29.11.2022 of this Court in W.P. (C) 3522 of 2019, wherein Court records:

“Mr. Colin Gonsalves, learned Senior Advocate appearing on behalf of Ms. Nabila Hasan, the petitioner herein, on instructions, states that in so far as the prayer clauses a, b, c, d, e, f, j and k are concerned, the same have been rendered infructuous, owing to the passage of time. The said prayers are reproduced herein below:-

“a. For a writ of mandamus or any other writ, order, directing the Respondents to declare on their website the full list with names of students and residents of Jamia Milia Islamia University and Aligarh Muslim University that were detained by State Police and paramilitary forces;

b. For a writ of mandamus or any other writ, order, directing the Respondents to provide detained persons access to their family members and to legal counsel;

c. For a writ of mandamus or any other writ, order, directing the Respondents to release all the students and residents so detained;

d. For a writ of mandamus or any other writ, order, directing the Respondents to provide instant and quality medical care to students and staff detained and others



injured during the violence;

e. For a writ of mandamus or any other writ, order, directing the Respondents to immediately cease the violence being inflicted on to the students and residents of Universities,

f. For a writ of mandamus or any other writ, order, directing the Respondents to quash any and all criminal proceedings initiated against students of the Universities;

j. For a writ of mandamus or any other writ, order, directing the Respondents to ensure the safety of all students within JMI university campuses and to ensure that no student is forced to leave the campuses.

k. For a writ of mandamus or any other writ, order, directing the Respondents to ensure reopening of the University.”

In this view of the matter, the reliefs that survive for consideration are as under:-

“g. For a writ of mandamus or any other writ, order, directing the Respondents to preserve the CCTV footage of all cameras in and around the Universities.

h. For a writ of mandamus or any other writ, order, directing the Respondents to provide adequate monetary compensation to all persons detained and/or injured by the Police and paramilitary forces.

i. For a writ of mandamus or any other writ, order, directing the Respondents to set up a court-monitored committee headed by a retired High Court or Supreme Court Judge that shall conduct judicial inquiry into the acts of violence and arbitrary detentions by the State Police and Paramilitary Forces in a time-bound manner;



*l. For any other order/ direction that this
Hon'ble Court may deem fit.”*

Re-notify on 13.12.2022.”

7. Acceding to the aforesaid, Mr. Colin Gonsalves, Ms. Indira Jaisingh, Mr. Salman Khurshid and other counsels appearing for the petitioners submitted that they are confining their arguments to the surviving prayers seeking (i) constitution of an independent judicial commission, court-monitored committee, Special Investigation Team (SIT), fact-finding body, or any other appropriate independent mechanism to inquire into the incidents in question, particularly the allegations of police excesses and arbitrary use of force, and to investigate and take appropriate criminal action in respect of the allegations levelled against police personnel and other public officials in connection therewith; (ii) compensation, reimbursement of medical expenses, or any other monetary relief on account of the injuries suffered, alleged unlawful detentions, damage caused, or violation of their fundamental and legal rights; (iii) regulation of police action during public protests and demonstrations within educational institutions, and (iv) any consequential, incidental, or ancillary directions required to be issued in the facts of the present case, including relief for preservation of evidence.

8. It is imperative to note that except the aforesaid, no other relief is sought or arguments are raised on behalf of the petitioners.

9. Before advertng to the rival contentions and issues arising in the petitions, we may take note of the facts, giving rise to the present proceedings.



10. The CAA was passed by both the Houses of Parliament and received assent of the President of India on 12.12.2019. It resulted in several demonstrations and protests in different parts of the country. While the majority of these protests were peaceful, few such incidents resulted in violence, damage to public property and disturbance to law and order.

11. As per petitioners, on 13.12.2019, Members of the Jamia Teachers Association called for a protest against CAA and the proposed NRC. Students gathered within the campus of University after Friday prayers, where members and office-bearers of the Association addressed the gathering. At around 3:00 p.m., when students sought to march towards Parliament, police personnel resorted to tear-gas shelling within the vicinity of university campus. The petitioners allege that several students suffered injuries and respiratory distress, requiring medical exigency. Students continued to assemble within the campus to express their opposition to the CAA and proposed NRC, while protests were also held by local residents outside the University premises. It is stated that in view of the prevailing circumstances the University suspended classes and examinations for fifteen days.

12. The petitioners further state that on 15.12.2019, when there were no protest or demonstrations organized by students and the campus was peaceful, at about 4:00 p.m. police and paramilitary personnel entered the University campus without any authorization and proceeded to use force against students present in various academic buildings, including library, reading rooms and departmental premises. Tear-gas shells were discharged within the enclosed spaces, causing panic, injuries and breathing difficulties amongst students and staff. It is further alleged that force was used, in and



around the hostels, and even the members of the University's security staff were not spared. The police personnel entered student hostels and residential localities in Jamia Nagar and Batla House, resulting in several students being subjected to physical assault and intimidation. Furthermore, some students were publicly paraded on the roads, adjoining the University.

13. It is further the petitioners' case that students were detained and taken to Kalkaji and New Friends Colony Police Stations. They allege that many of them faced physical violence while being transported and that the advocates, who arrived at the police stations to render legal assistance, were, initially, denied access to them. The petitioners further allege that certain advocates were manhandled and that electronic recordings, allegedly documenting police conduct were deleted. Reference is made to a social media post attributed to the Chief Proctor of the University, wherein it was stated that police personnel had entered the campus without permission and that students and staff were assaulted.

14. The petitioners, thus, contended that the police action of 15.12.2019 involved use of excessive and unlawful force within the University campus and surrounding areas and the entry of police and paramilitary personnel into the campus was neither authorised by nor undertaken at the request of the University administration.

15. It is in this aforesaid backdrop that the present batch of petitions is placed for consideration before this Court. During the pendency of the present petitions, the factual and legal backdrop has also gone through significant developments.

16. The incidents of 15.12.2019 resulted in registration of criminal cases. FIR No. 242/2019 was registered at Police Station New Friends Colony



under Sections 143, 147, 148, 149, 186, 353, 332, 308, 427, 435, 323, 341, 120B and 34 of the Indian Penal Code, 1860, along with Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984. Likewise, FIR No. 298/2019 was registered at Police Station Jamia Nagar under the same provisions. Both these matters were subsequently transferred for investigation to the Special Investigation Team of the Crime Branch, Delhi Police. Upon completion of the investigation to the extent carried out, charge-sheets were filed before the competent courts. It has also been brought to the notice of this Court that arrests were made in connection with the aforesaid cases and certain facets of the matter are stated to be pending for further investigation.

17. Simultaneously, the NHRC received complaint from Ms. Mangal and Mr. Mathew Jacob regarding detention of 34 students of Jamia Milia Islamia University. Similar complaints were filed by various person on 16.12.2019, alleging that one student had died and the police had forcefully entered University Campus and had brutally beaten up the students. On 20.12.2019, the officials of the NHRC visited the campus and assessed the alleged violations.

18. On 16.01.2020, the petitioner in W.P. (Crl.) No. 3522 of 2019 also filed a complaint before NHRC having subject as “*Representation before NHRC on behalf of the students of Jamia Milia Islamia, New Delhi*” accompanied with statements of 91 students. After giving due consideration to the material placed on record, the NHRC vide its report dated 18.05.2020, found that the protests against the CAA had escalated into large-scale violence involving arson, destruction of public and private property, and attacks on police personnel. It found that the assembly had ceased to remain



peaceful, thereby necessitating police intervention to restore public order. At the same time, the Commission noted that certain actions of police and RAF personnel, particularly within the university library premises, reflected a lack of restraint, including the use of force against students and the deployment of tear-gas shells in enclosed spaces. It also recorded lapses on the part of the university administration in managing the situation and coordinating with law-enforcement agencies, as well as deficiencies in intelligence gathering and crowd-control measures by the local police. Reiterating that the right to protest under Article 19 of the Constitution does not extend to acts of violence or vandalism, the Commission accepted the findings of its investigation team and recommended, *inter alia*, compensation for injured students, appropriate action against personnel found responsible for excesses, specialized police training, expeditious completion of investigations and inquiries and institutional measures to improve coordination between the University, students and law-enforcement authorities.

19. Furthermore, an application under Section 156(3) of the Cr.P.C. was preferred by Jamia Milia Islamia University on 20.01.2020, which was dismissed by the learned Court by way of Order dated 03.02.2021, primarily for want of sanction under Section 197 of Cr.P.C. The said Order remained unchallenged and, thus, attained finality.

20. The State *vide* its affidavit dated 05.05.2023 stated on oath that the entire CCTV footage of the cameras in and around the university campus has already been preserved by the state and portions thereof, also formed part of the chargesheets filed in respect of the cases registered.



SUBMISSIONS AND DISCUSSION

21. We have heard the learned counsel for the parties on the surviving prayers and perused the material placed on record.

22. Mr. S.V. Raju, learned ASG, raised a preliminary objection to the maintainability of the present batch of petitions submitting that except for the petitioners in W.P. (Crl.) Nos. 414/2020, 472/2020 and 575/2020, none of the petitioners claim to be direct victims of the incidents in question. He further submitted that the petitions have been instituted in the form of public interest litigations and the reliefs sought therein essentially pertained to criminal investigation, registration of FIRs, prosecution of police officials and constitution of investigative bodies, which fall squarely within the realm of criminal law and cannot be agitated through PIL jurisdiction, when such petitioners are not directly affected.

23. Learned ASG contended that one of the petitioners i.e. Ms. Nabila Hasan had herself approached the NHRC raising substantially similar grievances concerning the incidents of 15.12.2019 and seeking substantially similar reliefs. Despite actively participating in the proceedings before the NHRC, the petitioners did not fairly disclose the same while pursuing the present petitions. It was thus argued that the present proceedings is an attempt to reagitate issues already examined by a competent statutory body and are liable to be dismissed on the grounds of suppression of material facts, misuse of PIL jurisdiction and the availability of alternative statutory remedies.

24. Undisputedly, a significant number of petitions have been instituted in the nature of public interest litigation and the reliefs claimed are not confined to the enforcement of individual rights of the petitioners but they



seek broader directions relating to registration of criminal cases against public officials, their prosecution, and judicial oversight of such criminal investigations. The maintainability and scope of such prayers must, therefore, be examined in light of the settled principles governing the exercise of public interest jurisdiction in matters arising out of criminal law.

25. In ***Janata Dal v. H.S. Chowdhary & Ors.***, (1992) 4 SCC 305, the Supreme Court held as under:

“45.However, with regard to the various questions of law, we expressed our view in our earlier order as follows: (SCC p. 768, para 26)

“Even if there are million questions of law to be deeply gone into and examined in a criminal case of this nature registered against specified accused persons, it is for them and them alone to raise all such questions and challenge the proceedings initiated against them at the appropriate time before the proper forum and not for third parties under the garb of public interest litigants.”

26. Likewise, in ***Simranjit Singh Mann v. Union of India & Anr.***, (1992) 4 SCC 653, the Supreme Court held as below:

“7.On first principles we find it difficult to accept Mr Sodhi's contention that such a public interest litigation commenced by a leader of a recognised political party who has a genuine interest in the future of the convicts should be entertained. In S.P. Gupta v. Union of India [1981 Supp SCC 87] , Bhagwati, J. observed : (SCC p. 219, para 24)

“But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others”



These observations were made while discussing the question of 'locus standi' in public interest litigation. These words of caution were uttered while expanding the scope of the 'locus standi' rule. These words should deter us from entertaining this petition. This accords with the view expressed by this Court in Krishna Swami v. Union of India [(1992) 4 SCC 605 : JT 1992 (5) SC 92]."

27. The same principle was reiterated by the Supreme Court in **Rajiv Ranjan Singh 'Lalan' (VIII) & Anr. v. Union of India & Ors., (2006) 6 SCC 613**. The Court cautioned against the tendency to invoke public interest jurisdiction for the purpose of overseeing criminal investigations or prosecutions. It found that the criminal justice system is founded upon a detailed statutory framework which provides its own safeguards, remedies, and avenues of redress. Ordinarily, criminal law must be allowed to take its course through the procedures prescribed by law without judicial intervention in the guise of public interest litigation. The decision serves as a reminder that the extraordinary jurisdiction of constitutional courts is not intended to convert them into supervisory authorities over every stage of the criminal process.

28. The aforesaid principles also find support from the decision of the Supreme Court in **Tehseen Poonawalla v. Union of India & Anr., (2018) 6 SCC 72**. While considering petitions seeking independent investigation and the constitution of SIT, the Supreme Court sounded a note of caution against invoking the extraordinary writ jurisdiction of constitutional courts in a manner that would bypass or supplant the investigative process contemplated under the ordinary criminal law. The Court declined to countenance the creation of a parallel investigative mechanism in the absence of cogent and credible material indicating that the statutory



machinery had failed, or was otherwise incapable of discharging its functions in accordance with law. The decision reiterates that allegations disclosing the commission of criminal offences, and grievances concerning their investigation, must ordinarily be pursued through procedures provided under the criminal law. Recourse to an extraordinary, judicially supervised investigation cannot be founded merely on apprehensions, conjectures or assertions in the public domain.

29. Having noted the aforesaid, we shall now examine the surviving prayers.

PRAYER SEEKING CONSTITUTION OF AN INDEPENDENT JUDICIAL COMMISSION, COURT-MONITORED COMMITTEE, SPECIAL INVESTIGATION TEAM (SIT), FACT-FINDING BODY, OR ANY OTHER APPROPRIATE INDEPENDENT MECHANISM

30. The petitioners raised serious concerns with the alleged police excesses and disproportionate use of force on 13.12.2019 and 15.12.2019 at Jamia Millia Islamia University. In substance, the prayer is for constitution of an independent judicial commission, court-monitored committee, Special Investigation Team, fact-finding body or any other independent mechanism to inquire into the incidents, particularly the allegations of excessive and arbitrary use of force by the police, as well as for registration of criminal cases and independent investigation into the allegations against police personnel and other public officials.

31. Ms. Indira Jaising and Mr. Colin Gonsalves, learned senior counsels, submitted that even according to the stand taken by the Delhi Police in its counter affidavit, the assembly of protestors was pushed back from the



public roads and once the gathering had retreated into the university campus, there was no occasion for the police to pursue the students inside the institution. The subsequent entry into the university premises, particularly the library and other academic facilities, was neither necessary nor justified. Relying on the statement of the Chief Proctor of Jamia Millia Islamia, who had stated that no permission had been sought before the police entered the campus, they submitted that the police entered the university campus without obtaining permission from the university authorities. They further submitted that there was no material to demonstrate promulgation of any order under Section 144 of the Cr.P.C. and that the safeguards governing dispersal of assemblies and use of force had not been followed. Reliance was placed upon Sections 46 and 47 of the Cr.P.C., the Model Police Manual and the judgments of the Supreme Court in **Anita Thakur & Ors. v. State of J&K & Ors., (2016) 15 SCC 525** and **Ramlila Maidan Incident, In Re (2012) 5 SCC 1**.

32. Learned senior counsels further submitted that the NHRC itself had found that the use of force within the library premises was avoidable and that the use of tear gas inside the library could have been withheld. Moreover, the allegations are directed substantially against the police personnel themselves and, therefore, permitting the police machinery to inquire into its own conduct would violate the settled principle as no person can be a judge in his own cause. It was, accordingly, urged that an independent fact-finding committee headed by a retired Judge of the Supreme Court or this Court, or alternatively a Special Investigation Team, be constituted to ascertain the true facts surrounding the incidents.



33. Mr. Mohd. Umar Iqbal Khan, learned counsel appearing for certain petitioners, adopted these submissions and submitted that the seriousness of the allegations warrants for an independent inquiry by a neutral body.

34. Learned ASG, opposing the prayer, submitted that the criminal law machinery has already been set in motion in respect of the incidents in question. FIR Nos. 242/2019 and 298/2019 were registered in relation to the aforesaid incidents, investigation was thereafter entrusted to the Special Investigation Team of the Crime Branch and charge-sheets have been filed before the competent criminal courts. The criminal proceedings arising from the said incidents are presently pending adjudication. It was, therefore, submitted that directing a parallel or fresh investigation into the same incidents at this stage would necessarily overlap with proceedings already pending before jurisdictional courts.

35. Learned ASG further submitted that although constitutional courts possess the power to direct investigation by an independent agency, such power is extraordinary and is to be exercised sparingly, cautiously and only in exceptional situations where such intervention is necessary to provide credibility to the investigation, instil confidence in the public mind, do complete justice or enforce fundamental rights. It was submitted that the allegations concerning police excesses were also examined by the NHRC, which submitted its report dated 18.05.2020, and that the said report has not been challenged by any of the petitioners. It was, therefore, contended that there was no justification for constituting another fact-finding mechanism into substantially the same incidents.

36. Learned ASG also submitted that the question whether the force employed by the police at any particular stage was justified, would depend



upon the circumstances prevailing at the relevant time and could not be determined merely on the basis of isolated CCTV footage, photographs or video recordings. It was further submitted that the mere fact that allegations are directed against police personnel does not render an investigation incapable of being fair and that no material showing the investigation conducted was tainted, biased, malafide or incapable of inspiring public confidence is placed before the Court. On these grounds, learned ASG submitted that the present prayer be rejected.

37. We have considered the rival submissions advanced by the parties.

38. At the outset, it is imperative to note that the power of this Court under Article 226 to direct an investigation by an independent agency is undoubtedly wide. However, such power is extraordinary and is to be exercised sparingly. The law on the subject stands authoritatively settled by the Constitution Bench of the Supreme Court in ***State of West Bengal & Ors. v. Committee for Protection of Democratic Rights, West Bengal & Ors., (2010) 3 SCC 571***. While affirming that the powers conferred upon the Supreme Court under Article 32 and upon the High Courts under Article 226 are wide enough to direct an investigation by an independent agency, the Constitution Bench simultaneously cautioned that such extraordinary jurisdiction is not to be invoked as a matter of course. The said principle has been consistently reaffirmed in subsequent decisions. In ***K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai & Ors., (2013) 12 SCC 480***, the Court held as under:

“13. The issue involved herein, is no more res integra. This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State investigating agency to any other independent investigating agency like CBI. It has been held that the



power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having “a fair, honest and complete investigation”, and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. Where the investigation has already been completed and charge-sheet has been filed, ordinarily superior courts should not reopen the investigation and it should be left open to the court, where the charge-sheet has been filed, to proceed with the matter in accordance with law. Under no circumstances, should the court make any expression of its opinion on merit relating to any accusation against any individual. (Vide *Gudalure M.J. Cherian v. Union of India* [(1992) 1 SCC 397] , *R.S. Sodhi v. State of U.P.* [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248 : AIR 1994 SC 38] , *Punjab and Haryana High Court Bar Assn. v. State of Punjab* [(1994) 1 SCC 616 : 1994 SCC (Cri) 455 : AIR 1994 SC 1023] , *Vineet Narain v. Union of India* [(1996) 2 SCC 199 : 1996 SCC (Cri) 264] , *Union of India v. Sushil Kumar Modi* [(1996) 6 SCC 500 : AIR 1997 SC 314] , *Disha v. State of Gujarat* [(2011) 13 SCC 337 : (2012) 2 SCC (Cri) 628 : AIR 2011 SC 3168] , *Rajender Singh Pathania v. State (NCT of Delhi)* [(2011) 13 SCC 329 : (2012) 1 SCC (Cri) 873] and *State of Punjab v. Davinder Pal Singh Bhullar* [(2011) 14 SCC 770 : (2012) 4 SCC (Civ) 1034 : AIR 2012 SC 364] .)

14. In *Rubabbuddin Sheikh v. State of Gujarat* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] this Court dealt with a case where the accusation had been against high officials of the Police Department of the State of Gujarat in respect of killing of persons in a fake encounter and Gujarat Police after the conclusion of the investigation, submitted a charge-sheet before the competent criminal court. The Court came to the conclusion that as the allegations of committing murder under the garb of an encounter are not against any third party but against the top police personnel of the State of Gujarat, the investigation concluded by the State investigating agency may not be satisfactorily held. Thus, in order to do justice and instil confidence in the minds of the victims as well of the public, the State police authority could not be allowed to continue with the



investigation when allegations and offences were mostly against top officials. Thus, the Court held that even if a charge-sheet has been filed by the State investigating agency there is no prohibition for transferring the investigation to any other independent investigating agency.

15. In *State of W.B. v. Committee for Protection of Democratic Rights* [(2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401] a Constitution Bench of this Court has clarified that extraordinary power to transfer the investigation from State investigating agency to any other investigating agency must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigation or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. (See also *Ashok Kumar Todi v. Kishwar Jahan* [(2011) 3 SCC 758 : (2011) 2 SCC (Cri) 75 : AIR 2011 SC 1254] .)

16. This Court in *Sakiri Vasu v. State of U.P.* [(2008) 2 SCC 409 : (2008) 1 SCC (Cri) 440] held : (SCC p. 416, para 31)

“31. ... this Court or the High Court has power under Article 136 or Article 226 to order investigation by CBI. That, however, should be done only in some rare and exceptional case, otherwise, CBI would be flooded with a large number of cases and would find it impossible to properly investigate all of them.”

(emphasis supplied)

17. In view of the above, the law can be summarised to the effect that the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is *prima facie* found to be



tainted/biased.”

39. Similarly, a three-judge bench in ***Romila Thapar v. Union of India*, (2018) 10 SCC 753**, reiterated that constitutional courts should be cautious in replacing the investigative mechanisms established under law merely because allegations of bias have been raised and held as under:

“27. This Court in Divine Retreat Centre v. State of Kerala [Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542 : (2008) 2 SCC (Cri) 9], has enunciated that the High Court in exercise of its inherent jurisdiction cannot change the investigating officer in the midstream and appoint an investigating officer of its own choice to investigate into a crime on whatsoever basis. The Court made it amply clear that neither the accused nor the complainant or informant are entitled to choose their own investigating agency, to investigate the crime, in which they are interested. The Court then went on to clarify that the High Court in exercise of its power under Article 226 of the Constitution can always issue appropriate directions at the instance of the aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide.”

40. Equally, the criminal justice system itself contains mechanisms both for investigation and for redressal against inaction. The Supreme Court while examining the statutory provisions in ***Sakiri Vasu v. State of Uttar Pradesh & Ors.*, (2008) 2 SCC 409**, held as under:

“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 CrPC. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).



26. *If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?*

27. *As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 CrPC simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the police officers concerned, and if that is of no avail, under Section 156(3) CrPC before the Magistrate or by filing a criminal complaint under Section 200 CrPC and not by filing a writ petition or a petition under Section 482 CrPC.*

28. *It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere."*

41. The present case has to be examined in the aforesaid backdrop. The incidents that form the basis of the present proceedings took place in December 2019. More than six years have passed since then. In respect of incidents, criminal investigation has undertaken pursuant to FIR Nos. 242/2019 and 298/2019. The investigation was conducted by a Special Investigation Team of the Crime Branch, following which charge sheets



have been filed before the competent courts and the proceedings are presently pending adjudication.

42. Equally significant is the fact that the allegations relating to police excesses at Jamia Millia Islamia University were not left without scrutiny. The NHRC received complaints concerning the incidents of 15.12.2019, including allegations of unlawful police action against students. The petitioner in W.P. (Crl.) No. 3522 of 2019 had also approached the NHRC and submitted detailed representations, accompanied by statements of students and other supporting material. Pursuant to the receipt of the said complaints, the NHRC constituted an investigation team, conducted spot inspections, examined the material placed before it, and eventually submitted a detailed report dated 18.05.2020. The Commission did not simply accept the stand of either side. Rather, the Commission took on its own to investigate the matter and on an assessment of the material collected during the course of its inquiry, found that the protests had, at certain places, turned violent, resulting in damage to public property, attacks on police personnel, and serious disturbances of law and order. At the same time, the Commission also examined the conduct of the police and RAF personnel and observed that certain actions reflected a lack of restraint and specifically noted that the use of tear-gas shells inside the library premises could have been avoided. The Commission accordingly made recommendations relating to compensation, accountability, police training, and broader institutional reforms.

43. Moreover, the report submitted by the NHRC is not challenged by any of the petitioners. Neither proceedings have been initiated seeking judicial review of the findings recorded therein, nor has any relief been sought for



setting aside the report. As the matters stand, the findings recorded by the Commission continue to operate and remain undisturbed.

44. We deem it appropriate to clarify that report of NHRC cannot be treated as a substitute either for judicial adjudication or for criminal investigation. Equally, the findings recorded therein are not binding upon this Court.

45. In addition, Jamia Millia Islamia University had invoked Section 156(3) Cr.P.C. seeking initiation of criminal proceedings against police officials in relation to the incident of 15.12.2019. The application was dismissed on 03.02.2021 and the order was not challenged and has, therefore, attained finality.

46. We are conscious that the remedy under Section 156(3) Cr.P.C. and the jurisdiction under Article 226 are not mutually exclusive. However, once the statutory remedy has been invoked and adjudicated upon, the same grievance cannot ordinarily be reopened through a parallel constitutional proceeding in the absence of circumstances warranting such intervention, and no such circumstances are set-up before us.

47. The petitioners have relied upon CCTV footage, video recordings, photographs, medical records and statements of students. Such material may be relevant to the allegations. However, whether the force employed at a particular stage was necessary or excessive would require examination of the circumstances prevailing at that time, including the conduct of persons present, the nature of the perceived threat and the sequence of events. These are matters involving appreciation of evidence and cannot be concluded in exercise of writ jurisdiction.



48. The reliance placed by learned senior counsel on ***Ramlila Maidan Incident, In Re (supra)*** and ***Anita Thakur (surpa)***, insofar as the necessity, proportionality and reasonableness of use of force are concerned, is not in dispute. The question, however, is whether their alleged violation in the present case warrants constitution of a fresh fact-finding or investigative mechanism.

49. We find no material revealing the same. The allegations were examined by the NHRC, criminal cases were registered, investigation was undertaken by a Special Investigation Team of the Crime Branch, charge-sheets were filed, the criminal proceedings are pending before competent courts and the application under Section 156(3) Cr.P.C. seeking criminal action against police officials was considered and dismissed by the competent Magistrate.

50. The cumulative effect of these circumstances is significant. This is not a case where the State machinery remained wholly inactive, where no investigation was undertaken, where the allegations were ignored by statutory forum, or where the petitioners were denied access to the remedies provided by law. The material shows that processes of multiple institutions have been set in motion and have operated in relation to the incidents in question.

51. The fact that the petitioners remain dissatisfied with the outcome or adequacy of those processes cannot justify their displacement. Constitutional courts undoubtedly possess the power to intervene where an investigation is demonstrably tainted or where the existing process is incapable of inspiring public confidence. But that power is an exceptional constitutional safeguard and it is not a means of obtaining a second investigation merely because the



first investigation or statutory proceeding has not produced the result sought by a party.

52. We are also unable to accept the submission that the mere fact that allegations were made against police personnel renders the investigation institutionally incapable of being fair. Such a proposition, if accepted in absolute terms, would mean that every allegation against a police officer would necessarily require investigation by an outside agency. That is not the law. The relevant consideration is whether the circumstances show actual or demonstrable institutional bias, malafides, deliberate suppression of material, failure to investigate material allegations, or such other defect as would render the existing process fundamentally unreliable. However, no material to prove such a situation is placed before us.

53. The authorities relied upon by the petitioners, including ***Delhi Judicial Service Association, Tis hazari Court, Delhi vs State of Gujarat & Ors.***, (1991) 4 SCC 406, ***Monica Kumar (Dr.) & Anr. vs State of Uttar Pradesh & Ors.***, (2008) 8 SCC 781, and ***In Re: Lakhimpur Kheri (U.P.) Leading to Loss of Life***, W.P.(Crl.) No. 426/2021, recognise the power of constitutional courts to direct independent mechanisms where the circumstances of the case demonstrate a compelling need to preserve the credibility of the process and ensure justice. They cannot, however, be understood as laying down an inflexible rule that every allegation of police misconduct must result in constitution of an independent commission or transfer of investigation.

54. The present case also has to be considered against the passage of time. The incidents occurred in December 2019. More than six years have elapsed. During this period, criminal proceedings have progressed before



competent courts. A fresh inquiry at this stage would necessarily involve re-examination of events and material which have already formed part of statutory and judicial processes.

55. Judicial restraint in such circumstances is not just a matter of prudence. The criminal justice system assigns distinct functions to investigation, prosecution and adjudication. Constitutional courts ordinarily do not substitute their own investigative processes for those created by statute unless compelling circumstances demonstrate that the existing framework has failed to secure justice.

56. Having regard to the criminal investigation already undertaken, the proceedings pending before competent courts, the independent scrutiny undertaken by the NHRC, the Section 156(3) proceedings by the University itself culminated in an order dated 03.02.2021 and remained unchallenged, and the absence of material demonstrating a pervasive or fundamental failure of the existing mechanisms, we are unable to hold that the present case falls within the narrow category of exceptional cases warranting exercise of the extraordinary jurisdiction of this Court. This conclusion does not amount to any finding on the merits of the allegations or the culpability of any individual. Those questions, wherever pending, shall be determined by the competent forum in accordance with law.

57. For the same reason, the prayer seeking constitution of an independent judicial commission, court-monitored committee, SIT, fact-finding body or any other independent mechanism to inquire into the incidents in question, and the consequential prayer for registration and independent investigation of criminal offences against police personnel and other public officials, is rejected.



58. Nothing contained in this judgment shall preclude any competent authority or court from taking such action as may otherwise be permissible in law in respect of any specific offence or individual grievance, where the statutory requirements for such action are independently satisfied.

PRAYER SEEKING COMPENSATION, REIMBURSEMENT OF MEDICAL EXPENSES, OR ANY OTHER MONETARY RELIEF

59. The petitioners have further sought relief for compensation, reimbursement of medical expenses and other consequential monetary reliefs on account of the injuries allegedly sustained during the incidents occurred in December, 2019.

60. Mr. Colin Gonsalves, learned senior counsel, submitted that numerous students sustained grievous injuries during the incidents in question, including fractures, serious head injuries and permanent disabilities. Particular emphasis was placed on the case of a student (also himself a petitioner herein) who allegedly suffered permanent loss of vision in one eye as a consequence of the injuries sustained during the police action. He further submitted that no compensation was paid by the State authorities. It was contended that any financial assistance received by certain students from private individuals could not be treated as compensation for violation of constitutional rights. He further submitted that the injured students had borne their medical expenses personally and continued to suffer the consequences of the injuries sustained. Relying on the observations contained in NHRC report, as well as the medical records, it was argued that the alleged use of excessive force constituted a violation of fundamental rights and that this Court, in exercise of its public law jurisdiction, is empowered to award monetary compensation independent of any private



law remedy. To buttress their arguments, petitioners have placed further reliance on the decisions of the Supreme Court in ***Rudul Sah v. State of Bihar & Anr.***, (1983) 4 SCC 141, ***Bhim Singh, MLA v. State of J&K & Ors.***, (1985) 4 SCC 677 and ***Nilabati Behera (SMT) Alias Lalita Behera (Through the Supreme Court legal & Committee v. State of Orissa & Ors.***, (1993) 2 SCC 746.

61. Opposing said submissions, learned ASG submitted that no case for grant of compensation is made out in the present proceedings. It was submitted that the circumstances in which the alleged injuries were sustained remain matters of dispute and cannot be conclusively determined on the basis of the material before the Court. Moreso, the issue of compensation was specifically examined by the NHRC and appropriate recommendations were issued by the Commission, however, despite the recommendations made by the NHRC, none of the alleged victims pursued such remedies. Thus, the conduct of the petitioners in this regard itself casts doubt upon the claims now sought to be projected before the Court. He, accordingly, submitted that no further directions for grant of compensation are warranted.

62. We have heard the learned counsels for the parties.

63. There can be no quarrel with the proposition advanced on behalf of the petitioners that constitutional courts possess the power, in an appropriate case, to award compensation as a public law remedy for the violation of fundamental rights. The principle is now firmly embedded in our constitutional jurisprudence. Where State action results in a clear infringement of rights guaranteed under the Constitution, particularly the



right to life and personal liberty, courts are not powerless to grant monetary compensation as a means of affording effective and meaningful redress.

64. In **Rudul Sah (supra)**, while dealing with an admitted case of unlawful detention extending far beyond the period authorized by law, the Supreme Court held as under:

“10. We cannot resist this argument. We see no effective answer to it save the stale and sterile objection that the petitioner may, if so advised, file a suit to recover damages from the State Government. Happily, the State's counsel has not raised that objection. The petitioner could have been relegated to the ordinary remedy of a suit if his claim to compensation was factually controversial, in the sense that a civil court may or may not have upheld his claim. But we have no doubt that if the petitioner files a suit to recover damages for his illegal detention, a decree for damages would have to be passed in that suit, though it is not possible to predicate, in the absence of evidence, the precise amount which would be decreed in his favour. In these circumstances, the refusal of this Court to pass an order of compensation in favour of the petitioner will be doing mere lip-service to his fundamental right to liberty which the State Government has so grossly violated. Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilisation is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It



may have recourse against those officers.”

(emphasis supplied)

65. The said principle was elaborated in **Bhim Singh (supra)** where the Supreme Court awarded compensation to a person who had been unlawfully arrested and detained, thereby depriving him of his constitutional rights. It was then subsequently explained in greater detail in **Nilabati Behera (supra)**. The Supreme Court clarified that the power to award compensation and found as under:

“34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting “compensation” in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making ‘monetary amends’ under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of ‘exemplary damages’ awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under



the penal law.

35. This Court and the High Courts, being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings. The State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law — through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible. The decisions of this Court in the line of cases starting with Rudul Sah v. State of Bihar [(1983) 4 SCC 141 : 1983 SCC (Cri) 798 : (1983) 3 SCR 508] granted monetary relief to the victims for deprivation of their fundamental rights in proceedings through petitions filed under Article 32 or 226 of the Constitution of India, notwithstanding the rights available under the civil law to the aggrieved party where the courts found that grant of such relief was warranted. It is a sound policy to punish the wrongdoer and it is in that spirit that the courts have moulded the relief by granting compensation to the victims in exercise of their writ jurisdiction. In doing so the courts take into account not only the interest of the applicant and the respondent but also the interests of the public as a whole with a view to ensure that public bodies or officials do not act unlawfully and do perform their public duties properly particularly where the fundamental right of a citizen under Article 21 is concerned. Law is in the process of development and the process necessitates developing separate public law procedures as also public law principles. It may be necessary to identify the situations to which separate proceedings and principles apply and the courts have to act firmly but with certain amount of circumspection and self-restraint, lest proceedings under



Article 32 or 226 are misused as a disguised substitute for civil action in private law. Some of those situations have been identified by this Court in the cases referred to by Brother Verma, J.”

66. The legal position that emerges from these decisions is clear that where a violation of fundamental rights is established, constitutional courts possess the jurisdiction to award monetary compensation as a public law remedy. At the same time, these decisions are equally instructive for what they do not say. These do not lay down that compensation must follow whenever an allegation of constitutional violation is made before a court. The power has generally been exercised in cases where the violation was either admitted, established, or capable of being determined without undertaking a detailed inquiry into the disputed facts.

67. The present case, in our view, stands on a different footing as there are two sharply divergent narratives. The petitioners have consistently stated that students, who were peacefully assembled within educational institutions, were subjected to excessive and disproportionate force. The respondents, however, contend that the incidents took place in the backdrop of widespread violence, destruction of public property, arson, and attacks on police personnel. The material placed before us reflects these competing versions and does not permit a simple or summary determination of where the truth lies.

68. Even the inquiry conducted by the NHRC did not wholly accept either account. While the Commission made certain observations regarding the need for greater restraint in police action and identified specific instances where the response could have been more measured, it also recorded findings regarding violence, damage to property, and attacks upon law-



enforcement personnel. The report, therefore, presents a neutral picture rather than one-sided. It cannot, by itself, furnish a definitive basis for fixing liability in writ proceedings.

69. More importantly, the question of compensation in the present case cannot be decided in the abstract. It would require examination of several factual issues relating to each individual claimant, what injuries were suffered, how serious those were, in what circumstances those were sustained, whether those were attributable to unlawful acts of the authorities, and whether a constitutional violation can be said to have been established in a given case. These are not matters that can ordinarily be determined on the basis of affidavits and documents alone. They would require appreciation of evidence and resolution of disputed questions of fact, an exercise which lies outside the normal contours of proceedings under Article 226 of the Constitution.

70. In ***Chairman, Grid Corporation of Orissa Ltd. (GRIDCO) & Ors. v. Sukamani Das (SMT) & Anr.***, (1999) 7 SCC 298, the Supreme Court found that where the determination of liability depends upon disputed questions of fact requiring appreciation of evidence, writ proceedings may not constitute the appropriate forum for adjudication of such claims. Constitutional courts exercising writ jurisdiction are not ordinarily equipped to undertake a trial-like inquiry into contested factual issues.

71. That said, we do not consider it necessary to rest our conclusion solely on the existence of disputed questions of fact. In our view, a circumstance of considerable significance, in the present case, is that the issue of injuries allegedly suffered during the incidents, and the consequential question of compensation were specifically examined by the



NHRC. The Commission, in its report dated 18.05.2020, did not stop at recording its findings regarding the events in question. It also made recommendations concerning compensation and other remedial measures for persons who were found to have suffered injuries or adverse consequences arising from the incidents. Despite such recommendations made by the Commission regarding compensation, no material has been placed before us to show that the petitioners, who now seek monetary relief, ever pursued those recommendations or took steps to seek their implementation.

72. In our considered opinion, this aspect cannot be overlooked. The petitioners cannot, on the one hand, rely upon portions of the NHRC report that support their case and, on the other, permit the report to attain finality without challenge, refrain from pursuing the remedial measures contemplated therein, and thereafter seek compensation directly from this Court. The position becomes even more compelling in the case of those petitioners who claim to have personally suffered injuries. Unlike public interest litigants, such petitioners have an independent and personal cause of action. The law provides them with procedure to pursue compensation and other remedies in respect of their individual grievances. Yet, there is nothing on record to indicate that they sought enforcement of the recommendations made by the NHRC or otherwise pursued the remedies available to them under law.

73. The extraordinary jurisdiction of this Court under Article 226 is intended to advance the cause of justice where existing remedies prove ineffective or inadequate. It is not ordinarily exercised in a manner that bypasses or renders redundant a remedial framework that has already been



considered and recommended by a competent statutory body entrusted with the protection of human rights.

74. For the reasons stated hereinabove, we are unable to accept the submission that the present case falls within the category of cases illustrated in ***Rudul Sah (supra)***, ***Bhim Singh (supra)*** or ***Nilabati Behera (supra)***. In those cases, violation of constitutional rights was either established or undisputed, and the award of compensation was considered necessary to provide immediate and effective redress. The present matters do not present a similar situation.

75. Having regard to the totality of circumstances, the disputed factual backdrop, the inquiry already conducted by the NHRC, the recommendations made therein regarding compensation, the failure of the petitioners to pursue the remedial measures contemplated by those recommendations, and the considerable passage of time, we do not consider this to be a fit case for exercise of writ jurisdiction for grant of compensation.

76. The prayer seeking compensation, reimbursement of medical expenses, and other consequential monetary reliefs is, accordingly, rejected. It is, however, clarified that this judgment shall not preclude any person claiming entitlement to compensation or any other relief from pursuing such remedies as may otherwise be available in law before the appropriate forum.

PRAYER SEEKING REGULATION OF POLICE ACTION DURING PROTESTS WITHIN EDUCATIONAL INSTITUTIONS

77. The petitioners have prayed for issuance of directions regulating police action during public protests and demonstrations, particularly those taking place within educational institutions.



78. Mr. Salman Khurshid, learned Senior Counsel, submitted that the events of 15.12.2019 at Jamia Millia Islamia University shows the need for safeguards governing police entry into university campuses, use of force, coordination with the University authorities and the manner in which such intervention is to be carried out. Reliance was placed on the decisions of the Supreme Court in ***D.K. Basu v. State of West Bengal, (1997) 1 SCC 416, Ramlila Maidan Incident, In Re (supra) and Anita Thakur (supra)*** as also on the Model Police Manual and various international and comparative standards relating to regulation of protests. According to learned Senior Counsel, these authorities emphasise the requirements of necessity, restraint and proportionality in the exercise of police powers.

79. Learned ASG on behalf of the State submitted that no fresh guidelines are required. It is submitted that police action is already governed by the Constitution, statutory provisions, binding judgments, police manuals, standing instructions and human rights safeguards. As regards the events of 15.12.2019, he submitted that the protest has escalated into violence, involving damage to public and private property and attacks upon police personnel, and that police intervention was consequently required to restore law and order.

80. We have considered the rival submissions advanced on behalf of the parties.

81. The circumstances in which the police entered the University premises are relevant. As noticed earlier, the protests on 15.12.2019 had, in and around the University escalated into violence and was not confined to the University campus. There were incidents of stone-pelting, burning of buses and other vehicles, damage to public property and attacks upon police



personnel. The NHRC, after examining the material placed before it, found that the protesters blocked traffic, damaged property and attacked the police with stones and other objects. The police attempted to push the protesters back. A number of protesters thereafter entered the University campus, following which the police also entered the campus.

82. Thus, the police did not enter the University premises at the outset to deal with an otherwise peaceful assembly confined to the campus. The entry took place after the situation outside and around the University had escalated and the crowd had moved into the campus. The police intervention, therefore, has to be viewed in the prevalling law-and-order situation which had developed at that time.

83. At the same time, the Commission also found shortcomings in the manner in which the intervention was carried out. It specifically found that the use of tear-gas shells inside the library premises could have been avoided. The report also noticed lapses on the part of the University administration. Thus, the report does not place the entire responsibility on one side and it records shortcomings both in the conduct of the protesters and in the response of the authorities. Significantly, the report has not been challenged before us or, as brought to our notice, before any other appropriate forum. We refer to it as contemporaneous material relevant to the circumstances in which the intervention took place. We do not treat its findings as conclusive of any individual criminal or other proceedings.

84. The right to peaceful protest is not in dispute. Articles 19(1)(a) and 19(1)(b) protect freedom of speech and expression and the right to assemble peacefully and without arms, subject to the restrictions contained in Articles 19(2) and 19(3). These rights do not, however, extend to cause any violence



or destruction of property. Once a gathering ceases to remain peaceful and the circumstances disclose violence, commission of cognizable offences or a threat to life or property, the police cannot be expected to remain inactive or as mute spectator merely because the gathering is taking place within a University campus

85. Equally, the fact that the premises are those of a University is nevertheless a relevant consideration. A University is a place of learning and academic activity, and this crucial aspect must always be kept in mind while exercising police powers. That consideration cannot, however, be taken to mean that the police are prohibited from entering a University campus in all circumstances. Where the situation requires immediate intervention, the police cannot be expected to remain outside merely because the premises belong to an educational institution.

86. Ordinarily, the University authorities should be informed and, wherever the circumstances permit, consulted before police intervention. The Model Police Manual also contemplates informing the head of an educational institution, as far as possible, before entering the premises. This requirement cannot, however, operate as an absolute condition in every situation. An immediate threat to life or property, an unlawful assembly, the commission of cognizable offences or a rapidly developing law-and-order situation may leave no time for prior communication or permission. The police may also receive information from sources other than the institution. This, however, does not place police action beyond scrutiny.

87. The decisions relied upon by the petitioners already lay down the principles which govern these questions. In ***Ramlila Maidan Incident, In Re (supra)***, the Supreme Court emphasised on reasonableness and



proportionality in the exercise of State power affecting fundamental freedoms. In *Anita Thakur (supra)*, the Court reiterated that the force employed by the State should not exceed what is reasonably required in the circumstances. *D.K. Basu (supra)* lays down safeguards governing the exercise of coercive police powers, particularly in matters concerning arrest and detention. These principles do not cease to apply merely because the police intervention takes place within an educational institution.

88. In these circumstances, we do not find it necessary to create a separate set of rules governing police action only within educational institutions. The constitutional and statutory framework, together with the binding decisions of the Supreme Court, already requires police action to remain within the bounds of necessity, reasonableness and proportionality. If those requirements are not observed in a particular case, the conduct reported can be examined on its own facts. The alleged violation of an existing safeguard does not, by itself, establish that the safeguard is inadequate or that a new framework is required.

89. The international and comparative material relied upon by the petitioners does not require a different approach. The principles of necessity, proportionality, restraint and minimum use of force reflected in those materials are broadly the same as the principles already recognised in our constitutional and legal framework. They may be of assistance in understanding the manner in which protests and assemblies should ordinarily be dealt with. They cannot, however, be read as requiring police intervention within an educational institution to await permission or formal communication in every case.

90. More importantly, the prayer for general directions has to be



considered in the facts of the present case. The events of 15.12.2019 arose out of a particular and rapidly developing situation. A protest taking place in and around the University escalated into violence and the crowd moved into the campus. The police entered thereafter in the course of dealing with the situation. These circumstances are materially different from a case where a peaceful assembly is confined to the premises of an educational institution. The facts of the present incident cannot, without more, be made the basis for prescribing a uniform procedure for police intervention in all educational institutions and in every kind of situation.

91. There is also the considerable passage of time. The incidents took place on 15.12.2019 and more than six years have since passed. The NHRC has completed its inquiry. Criminal proceedings were also initiated in respect of the incident, with FIRs registered and charge-sheets filed in the cases referred to in the report. No subsequent incident or material has been brought to our notice to show that the violations of guidelines as alleged in these petitions have continued or have been repeated. Thus, we are of the considered opinion that no fresh guidelines for regulation of police action during protests within educational institutions are required to be framed.

92. This conclusion should not be understood as an approval of every act attributed to the police on 15.12.2019. Nor does it in any manner dilute the right to peaceful protest or the obligation of the police to act with restraint and proportionality. The legality of a particular intervention, including the extent of force used, has to be examined in the facts and circumstances of that case.



93. The prayer seeking formulation of fresh guidelines regulating police action during protests within educational institutions is, accordingly, rejected.

PRAYERS SEEKING CONSEQUENTIAL, INCIDENTAL, OR ANCILLARY DIRECTIONS

94. The petitioners have also prayed for various consequential and ancillary directions, including directions for preservation of CCTV footage, electronic records and other material relating to the incidents in question. Considerable reliance had been placed upon CCTV footage, video recordings, photographs, medical records, complaints and other contemporaneous material generated in the aftermath of the incidents and it was contended that these materials possess significant evidentiary value and, therefore, require preservation, while ensuring that no material evidence was lost, tampered with or destroyed.

95. Mr. Colin Gonsalves, learned senior counsel, in particular referred to the CCTV footage, video recordings and photographic material placed on record and submitted that the same constituted direct evidence of the events that occurred within the university premises. It was argued that such material ought to be preserved and duly examined while considering the allegations of police excesses and determining accountability.

96. On the issue of preservation of evidence, learned ASG submitted that the CCTV footage and other relevant material relating to the incidents had already been preserved and formed part of the records collected during investigation of the criminal cases arising out of the events in question. He submitted that the relief sought by the petitioners in that regard already



stands satisfied and, therefore, no further directions are required to be issued by this Court.

97. The prayer concerning preservation of evidence appears to have been made in view of the apprehension expressed by the petitioners that material relevant to the events of December 2019 may be lost, destroyed or otherwise rendered unavailable. During the course of these proceedings, however, the State have consistently stated on affidavit that the CCTV footage and other electronic records available with the authorities were preserved and formed part of the material collected during investigation.

98. Apart from the aforesaid apprehension, no material has been placed before us to indicate any deliberate destruction, suppression or disappearance of evidence after such statements came to be made before this Court. Nor has any specific circumstance been brought to our notice necessitating further directions in that regard. It is also not in dispute that investigations arising out of the incidents have progressed substantially and that criminal proceedings in connected matters are presently pending before competent courts. Questions concerning the admissibility, authenticity, evidentiary value or reliance to be placed upon any particular electronic record are matters that fall within the jurisdiction of the courts before whom such proceedings are pending and are required to be determined in accordance with law.

99. In these circumstances, we are satisfied that no further directions are called for with regard to preservation of evidence.

100. The petitioners have also sought such other orders and directions as may be considered necessary in the interests of justice. We have, however, examined each of the surviving prayers independently and have found no



ground warranting constitution of a fresh inquiry mechanism, transfer of investigation, registration of criminal cases, award of compensation or formulation of additional guidelines. The ancillary reliefs sought by the petitioners are, in substance, dependent upon the grant of one or more of the surviving reliefs claimed in the petitions. Once those substantive prayers have not been found fit for acceptance, no separate basis survives for issuance of consequential directions.

101. We may also state that the jurisdiction of this Court under Article 226 of the Constitution is exercised for enforcement of legal and constitutional rights and to provide remedy for proven legal wrongs. It is not intended to be invoked for issuance of open-ended or abstract directions unconnected with an enforceable legal entitlement.

102. Having regard to the totality of the present case and the conclusions recorded by us on the preceding issues, we are of the considered view that no further or ancillary directions are warranted in the facts of the present case.

CONCLUSION

103. Constitutional courts are entrusted with the duty of safeguarding fundamental rights and ensuring that public power is exercised within constitutional bounds. Equally, the exercise of that jurisdiction must remain guided by constitutional discipline and bound by the boundaries established by the Constitution and the law.

104. The events of December 2019 undoubtedly generated considerable public concern and gave rise to serious allegations regarding the conduct of various stakeholders. Those allegations have received detailed consideration in the course of the present proceedings. However, the jurisdiction of this



Court cannot be invoked to undertake a fresh fact-finding exercise years after the events in question, particularly where the allegations have already been examined by a competent statutory body, investigations have been carried out under the ordinary criminal law framework, and proceedings arising therefrom have progressed before courts of competent jurisdiction.

105. For the reasons recorded while dealing with the issues framed hereinabove, we find no ground warranting constitution of an independent inquiry mechanism, transfer of investigation, registration of criminal cases, award of compensation, formulation of fresh guidelines or issuance of any further consequential directions.

106. The writ petitions are, accordingly, dismissed.

107. Pending applications, if any, shall stand disposed of.

108. There shall be no order as to costs.

VIVEK CHAUDHARY
(JUDGE)

MANOJ JAIN
(JUDGE)

OCTOBER 05, 2026/kp