



\$~17 to 21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 187/2024

DR SNEHASHISH BHATTACHARYA & ANR.Appellants

Through: Mr. Abhik Chimni, Mr. Gurupal Singh,
Ms. Pranjal Abrol, Mr. Rishabh Gupta,
Mr. Ayan Dasgupta Samarendra and
Mr. Saharsh Saxena, Advocates

versus

SOUTH ASIAN UNIVERSITYRespondent

Through: Mr. Anuj Tyagi and Ms. Shreelekha
Vyas, Advocates

(18)

+ LPA 223/2024

KESHAV DATTAppellant

Through: Mr. Abhik Chimni, Mr. Gurupal Singh,
Ms. Pranjal Abrol, Mr. Rishabh Gupta,
Mr. Ayan Dasgupta Samarendra and
Mr. Saharsh Saxena, Advocates

versus

SOUTH ASIAN UNIVERSITYRespondent

Through: Dr. Vikrant Narayan Vasudeva, Mr.
Rohit Lochav, Mr. Arindam Gupta, Mr.
Shivansh Aggarwal, Mr. Shah Mohd
and Mr. Sarthak Chiller, Advocates

(19)

+ W.P.(C) 10605/2024

KAVITA A SHARMAPetitioner

Through: Mr. Alakh Alok Srivastava and Mr.
Rishabh Bafna, Advocates

versus

SOUTH ASIAN UNIVERSITYRespondent

Through: Mr. Avneesh Arputham and Mr. Ankit
Sharma, Advocates



(20)

+ W.P.(C) 3553/2024

KESHAV DATT

.....Petitioner

Through: Mr. Abhik Chimni, Mr. Gurupal Singh,
Ms. Pranjal Abrol, Mr. Rishabh Gupta,
Mr. Ayan Dasgupta Samarendra and
Mr. Saharsh Saxena, Advocates

versus

SOUTH ASIAN UNIVERSITY

.....Respondent

Through: Dr. Vikrant Narayan Vasudeva, Mr.
Rohit Lochav, Mr. Arindam Gupta, Mr.
Shivansh Aggarwal, Mr. Shah Mohd
and Mr. Sarthak Chiller, Advocates

(21)

+ LPA 9/2025, CM APPL. 677/2025, CM APPL. 678/2025, CM APPL.
27996/2025 & CM APPL. 27997/2025

SOUTH ASIAN UNIVERSITY

.....Appellant

Through: Mr. Avneesh Arputham and Mr. Ankit
Sharma, Advocates

versus

APOORVA YK

.....Respondent

Through: Mr. Abhik Chimni, Mr. Gurupal Singh,
Ms. Pranjal Abrol, Mr. Rishabh Gupta,
Mr. Ayan Dasgupta Samarendra and
Mr. Saharsh Saxena, Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

%

16.09.2025

1. Having heard the learned counsel for the parties in this batch of matters, we find that a very interesting question of law has emerged to be decided.
2. The South Asian University Act, 2008 (hereinafter referred to as 'the



University Act') has been enacted by the Parliament with a view to give effect to the agreement for establishing the university, amongst the member countries of South Asian Association for Regional Cooperation (SAARC). Section 14 of the University Act provides for certain privileges and immunities to the President and Academic Staff of the South Asian University (hereinafter referred to as 'the University'), according to which the University, the President and the members of the Academic Staff and their dependents or members of the family shall have such privileges and immunities as have been notified by the Central Government under Section 3 of United Nations (Privileges and Immunities) Act, 1947 (hereinafter referred to as '1947 Act')

3. Section 14 of the University Act is quoted herein:

"14. Privileges and immunities of President and academic staff.—The University, the President and the members of the academic staff and, where applicable, their dependents or members of the family, shall enjoy such privileges and immunities as the Central Government may notify under section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947)."

4. The Central Government in exercise of its powers vested under Section 3 of 1947 Act has issued a notification in respect of the University on 15.01.2009, according to which a declaration has been made that provisions of Articles II, III, IV, V, VI & VII of the Schedule appended to the 1947 Act shall, *mutatis mutandis*, apply to the project office and officials thereof, the University, its President, the Registrar and Faculty Members. The said notification dated 15.01.2009 is extracted herein below:

*"MINISTRY OF EXTERNAL AFFAIRS
NOTIFICATION
New Delhi, the 15th January, 2009*

S.O.168(E).—Whereas an Agreement for the Establishment of the South Asian University was signed on behalf of the respective Governments of the Member States of the South Asian Association for Regional Co-operation on the 4th day of April, 2007;

AND Whereas, the Headquarters Agreement between the Government



of the Republic of India and the SAARC Secretariat for the establishment of the South Asian University at New Delhi was signed on the 30th day of November, 2008;

AND Whereas, the Inter-governmental Steering Committee of the SAARC has set up the Project Office at New Delhi for purpose of doing necessary task for establishing the South Asian University;

AND Whereas, in pursuance of the decision of the Inter-governmental Steering Committee of the SAARC, it is expedient to accord the Project Office and officials thereof, and the South Asian University, its President, Registrar and faculty members the privileges and immunities in India similar to those contained in Articles II, III, IV, V, VI and VII of the Schedule to the United Nations(Privileges and Immunities) Act, 1947 (46 of 1947);

No Therefore, the Central Government in exercise of the powers conferred by Section 3 of the said Act hereby declares that the provisions of Articles II, III, IV, V, VI and VII of the Schedule to the said Act shall apply mutatis mutandis to the Project Office and officials thereof, and the South Asian University, its President, Registrar and faculty members for giving effect to the said Headquarters Agreement.

[F. No. L-106/47/2007]

Dr. KHEYA BHATTACHARYA, Jt.Secy."

5. The Schedule to the 1947 Act contains various Articles. Article I is in relation of juridical personality and Section 1 thereof states that the United Nations shall possess juridical personality which will have capacity to (i) contract, (ii) to acquire and dispose of movable and immovable property and (iii) to institute legal proceedings. Article II is in relation to property, funds and assets of the University and Section 2 thereof provides that the United Nations, its property and assets shall enjoy immunity from every form of legal process except in a situation where such immunity has been waived. Articles I & II of the Schedule appended to the 1947 Act are also extracted herein below:

"THE SCHEDULE

(See sections 2 and 3)

ARTICLE I

JURIDICAL PERSONALITY

SECTION 1. The United Nations shall possess juridical personality. It shall have the capacity: (a) to contract; (b) to acquire and dispose of immovable and movable property; (c) to institute legal proceedings.



ARTICLE II PROPERTY, FUNDS AND ASSETS

SECTION 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

SECTION 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

SECTION 4. The archives of the United Nations, and in general all documents belonging to it or held it, shall be inviolable wherever located.

SECTION 5. Without being restricted by financial controls, regulations or moratoria of any kind, (a) the United Nations shall be free to transfer its funds, gold or currency of any kind and operate accounts in any currency; (b) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

SECTION 6. In exercising its rights under section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member in so far as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

SECTION 7. The United Nations, its assets, income and other property shall be: (a) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services; (b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country; (c) exempt from customs duties, prohibitions, and restrictions on imports and exports in respect of its publications.

SECTION 8. While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchase of official for official use of property on which such duties and taxes have been charged or are



chargeable. Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.”

6. Learned Single Judge, against whose judgment, in this batch certain LPAs have been filed has held that the University is not amenable to writ jurisdiction of this Court, giving certain reasons.

7. Learned counsel representing the University asserts that the immunities granted by Section 14 of the University Act read with Section 3 and the Schedule appended to 1947 Act, bars any proceedings in any Court of law including the proceedings under Article 226 of the Constitution of India before this Court. In support of the said submissions, certain judgments have been cited on behalf of the University.

8. On the other hand, learned counsel representing some of the appellants where judgment of learned Single Judge has been challenged, have stated that such immunity as embodied in Section 14 of the University Act will not encompass in itself the remedy under Article 226 of the Constitution of India.

9. It has also been argued that so far as Section 2 of Article II of the Schedule appended to 1947 Act is concerned, immunity is in relation to property, funds and assets of the University and not in relation to any dispute concerning employment of a faculty member with the University. It is also their submission that to give effect to the agreement arrived at amongst the member nations of SAARC, the Indian Parliament has enacted the University Act and therefore, legally speaking, the University owes its existence to the statutory provisions contained in the University Act, though the agreement amongst the members nations may be only a precursor to the University Act. To assert as to whether an employee of the University will be rendered remediless in case the University is held to be not amenable to writ jurisdiction of this Court or that of Hon'ble Supreme Court under Article 32 of the Constitution of India, it has



been argued by learned counsel representing the University that Section 26 of the University Act provides for remedy of arbitration.

10. The said submission has been refuted by the learned counsel appearing on behalf of the employees by stating that in case immunity under Section 14 of the University Act is extended to such matters, and the Arbitral Tribunal passes an award, it still could not be executed on account of the immunity available under Section 14 of the University Act by Court in India. We may also notice that Section 3 of University Act provides that the provisions of the agreement set out in the Schedule appended to the University Act shall have the force of law in India even if anything contrary to the same is contained in any other law. The Schedule, however, does not contain any provision relating to immunity.

11. In the aforesaid factual background, the issue relating to jurisdiction of this Court under Article 226 of the Constitution of India will also arise, for the reason that in any circumstance, the power of judicial review being a basic feature of our Constitution, cannot be taken away even by an Act of Parliament.

12. Having regard to the issue which is of seminal importance, we request Shri Dyan Krishnan and Shri Rajshekhar Rao, learned senior advocates and practicing lawyers of this Court for assistance to the Court. Let the entire paper book of all these matters be supplied by the Registry to the learned Amici.

13. List on 18.11.2025 for hearing.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

SEPTEMBER 16, 2025/kct