

**Court No. - 18**

**Case :-** WRIT - C No. - 20885 of 2021

**Petitioner :-** Saumya Tiwari

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Uday Narain Singh,Lal Dev

**Counsel for Respondent :-** C.S.C.,Rohit Pandey

**Hon'ble Ajay Bhanot,J.**

The respondent University was duly noticed on the case of the petitioner. The University had also made their oral submissions while responding to the case of the petitioner. The matter was heard finally. While the judgment was being dictated, it was felt that interest of justice will be served better if the written response of the University is brought in the record by means of an affidavit on the following issues raised by the petitioner:

(A) The petitioner claims that right of maternity benefits including maternity leave is entrenched as a fundamental right flowing from Article 21 of the Constitution by various pronouncements of the Supreme Court Ref:(1) **Suchita Srivastava and Another Vs. Chandigarh Administration AIR 2010 SC 235;** (2) **R. Rajagopal Vs. State of Tamil Nadu and others (1994) 6 SCC 632** (3) **Govind Vs. State of Madhya Pradesh and others AIR 1975 SCC 1378;** (4) **Bandhua Mukti Morcha Vs. Union of India (UOI) and others (1984) 3 SCC 161.** The failure of the respondent University to provide maternity benefits/ leave has resulted in violation of the fundamental rights of the petitioner under Articles 14, 15(3) and 21 of the Constitution of India as upheld by the Supreme Court in the aforesaid pronouncements.

(B) The University cannot permit infringement of the fundamental rights of the petitioner on the footing that there are no regulations of the University which provide for implementation of the fundamental rights of maternity leave

and dignified institutional environment to support pregnant women. The omission of the University to frame Regulations under Section 29 of the Uttar Pradesh Technical University Act, 2000 in regard to the grant of maternity leave reflects the failure on part of the University to implement the law laid down by the Supreme Court and manifests lack of sensitivity towards pregnant women. The petitioner cannot be denied equal opportunities and discriminated against on account of failure of the University authorities to perform their statutory duties.

Put up this matter on 07.10.2021 in the additional cause list for further hearing and dictation of the remaining part of the judgment.

**Order Date :-** 23.9.2021

Nadeem