
(2010) 02 AHC CK 0246

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 60242 of 2009

Aman Jauhari

APPELLANT

Vs

Mahatama Jyotiba Phule Rohilkhand University, Bareilly &
Ors.

RESPONDENT

Date of Decision : 02-02-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 02 AHC CK 0246

Hon'ble Judges : Dilip Gupta, J

Final Decision : Dismissed

Judgement

Dilip Gupta, J.

The petitioner, who was admitted to the Bachelor of Computer Application Course for the session 200809 in the Khandelwal College of Management, Science & Technology, Bareilly (hereinafter referred to as the "College") which is affiliated to the Mahatama Jyotiba Phule Rohilkhand University, Bareilly (hereinafter referred to as the "University") has filed this petition for a direction upon the respondents to accept the fee for B.CA. II year Course for the session 200910 and permit him to continue his studies in the College.

It is stated that after having been granted admission to the B.CA. Ist Year Course in the College, the petitioner appeared at the first and second semesters examination of the first year but marksheet has not been issued to him. A transfer certificate has, however, been issued to him on 17th September, 2009. It is, therefore, contended that action of the respondent College in issuing the transfer certificate and expunging the name of the petitioner from the rolls of the College without any prayer having been made by the petitioner is arbitrary and a direction needs to be issued to the College to permit the petitioner to continue his studies in the IInd Year.

A counter affidavit has been filed on behalf of the College. In paragraph 7 of the

counter affidavit, details of the misconduct and misbehaviour of the petitioner in the College have been enumerated and the same are as follows:

(a) During examination the petitioner misbehaved with the invigilator and the teachers and used filthy language and tried to disturb the examination. The Principal was compelled to inform the police on 28.03.2009 regarding the misconduct of the petitioner.

(b) On 20.02.2009, he physically assaulted a student in presence of the other students in the bus of the College. The petitioner was given an opportunity and thereafter on the report of the Proctorial Board, he was placed under suspension on 25.02.2009.

(c) On 24.03.2009 he again repeated the same misconduct when he physically assaulted students and after affording opportunity to him he was again placed under suspension on 28.03.2009.

(d) On 15.05.2009 as many as 7 Faculty Members made a written complaint to the Director General, Admission Committee that the petitioner had misbehaved with them, disturbed the classes and also passed vulgar remarks against the girls students of the Class.

(e) Some of the students also made complaint against the petitioner regarding the harassment of the girls students, violent activities in bus, misbehavior with the faculty members, and clipping of photographs of the girl students by mobile camera.

(f) When the College authorities found that the petitioner is not mending his behaviour, his guardian was called on 25.05.2009 for informing him about the various omissions and commissions of the petitioner.

(g) In the month of June the petitioner again harassed the girl students which has given rise to insecurity amongst the girl students. The Director General of the Admission, therefore, banned the entry of the petitioner in the College campus.

(h) The guardian of the petitioner agreed to shift him to some other College. The College, taking a lenient view so that his career may not be spoilt, issued the character certificate on 17.09.2009. However, the College has information, which it believes to be true, that when he went to take admission in Bareilly College, Bareilly he indulged in altercation at the time of admission itself with the concerned clerk. The said College, therefore, refused to admit him and the College did not forward his application to the University for permission to transfer the student from petitioner's College to the Bareilly College, Bareilly.

Learned counsel for the petitioner submitted that for arbitrary reasons, the College has issued the transfer certificate even though neither the petitioner nor his guardian had not made any request for granting the certificates and as the petitioner had been admitted to the B.CA. Course, the College cannot deny him

admission to the IInd year of the course. Learned counsel further submitted that action against the petitioner could have been taken only after affording opportunity to the petitioner but in the instant case, by adopting this method, the College has in fact cancelled his admission to the B.CA. Course.

Learned counsel appearing for the respondent College, however, submitted that in view of the serious acts of misconduct committed by the petitioner, the guardian of the petitioner was called to the College and it is on the request made by the petitioner and the guardian that the College issued the character certificate and the transfer certificate so that he could be admitted in another Institution. He further submits that the conduct of the petitioner disentitles him from seeking any relief from this Court under Article 226 of the Constitution.

I have carefully considered the submissions advanced by learned counsel for the parties.

The misconducts of the petitioner enumerated by the College in the counter affidavit are very serious in nature. Not only had the petitioner misbehaved with the teachers of the College and had resorted to violence against fellow students but he had also misbehaved with the girls students. It is seen that on 23rd March, 2009, the petitioner created disturbance in the examination and beat up fellow students. He was, therefore, suspended by the Proctorial Board upto 31st March, 2009. On 25th March, 2009 he abused the teachers of the College and issued threats. Information was given about this fact to the police. Punishment was also imposed upon the petitioner by the College by the order dated 25th February, 2009 as he had assaulted Siddhnath Jaiswal, a student of B.Sc. I year, while they were travelling in the bus. The petitioner was fined for Rs. 500/ and was warned not to indulge in any act of indiscipline, in future, otherwise drastic action could be taken against him. A fine of Rs. 1,000/ was also imposed upon the petitioner by the order dated 28th March, 2009 for beating another student Saurya Kumar on 23rd March, 2009 and creating disturbance in the conduct of the examination. The petitioner was again warned not to involve himself in acts of indiscipline in future, otherwise severe action can be taken against him.

A complaint dated 15th May, 2009 was also made by 7 teachers of the Computer Department against the petitioner that he not only disturbs the students and uses unparliamentary language but also passes vulgar remarks against the girls students. In this connection the girls students also made a complaint to the Director General of the College on 20th May, 2009 regarding harassment of the girls including clipping of photographs by his mobile camera.

The College Authorities, therefore, sent a communication dated 25th May, 2009 to the father of the petitioner about the aforesaid acts so that he may impress upon the petitioner to improve his conduct. It also needs to be mentioned that the petitioner also harassed the girls students as a result of which, by the order dated 1st June, 2009, his entry in the College was banned.

The Proctor of the College has stated on personal knowledge that because of the

aforesaid acts, the petitioner and his father agreed to take the character certificate and the transfer certificate so that the petitioner may take admission in some other College. This was done because the petitioner and the father were informed that the College will have to take action because of his persistent indiscipline and misbehaviour, particularly with the girls students.

The Courts have repeatedly held that discipline in educational Institutions has to be maintained and the Courts should be reluctant to interfere with the decisions taken by the Institutions for maintaining the discipline. The extent of application of the principles of natural justice has also to be considered in the facts and circumstances of each case.

In *Ashok Kumar Rana Vs. Principal, Madan Mohan Malviya Engineering College, Gorakhpur & Ors.*, 2003(1) ESC 590 the Court, while dealing with indiscipline in educational Institutions, observed as follows:

"The extent and nature of opportunity, which is to be given in the matter of indiscipline by student in educational institutions, varies from case to case. The object of giving education to the student in an educational institution is to acquaint the students with various disciplines in life. Indiscipline in educational institution has a very serious affect in the mind of students which divert them from main object for which they have joined the educational institutions. A duty is cast on the authorities of the University to maintain discipline. In cases of discipline action is necessarily to be quick and immediate..... .."

It is also necessary to note that discipline in educational institution has to be maintained by the educational authorities themselves. This Court and Apex Court has always been reluctant to interfere with action of educational authorities for maintaining discipline with the educational institution in proceeding under Article 226 of the Constitution."

In *Anup Pratap Singh Vs. Principal, Udai Pratap Mahavidyalay (Autonomous), Varanasi & Ors.*, (1998) 3 UPLBEC 2169, the Court also observed:

"The point for determination in the present writ petition is whether at the alter of the procedural law of natural justice and undue insistence on this concept, the orders of suspension and expulsion of the petitioner passed by the Principal of the College should be interfered with on the face of the emphatic assertion that continuance of the petitioner in the institution was not congenial to the orderly atmosphere in the college campus. This controversy has come to be raised in the backdrop of following facts....."

The petitioner has ceased to be a bona fide student of the college on account of his criminal activities. Had it been a solitary incident of indiscipline or of sudden involvement in Criminal activity, one would have thought to extend sympathy to the petitioner. But, contumacious as he was, he repeatedly indulged in criminal activities. On one occasion he entered the house of the Principal with a body of students plundered his house hold effects and damaged college properties. They

also held an open threat to the life of the Principal. These acts amounted to great disrespect to a person who deserved highest respect. The petitioner ignored the suspension order altogether and forced his entry in the college and the classes. He did not show any sign of repentance. Within about 5 months of the first incident, the petitioner indulged in another criminal activity, inasmuch as, he along with other students and undesirable elements came to assault Nav Neet Kumar Singh, a B.Sc. Part II student. This repetitive behaviour of the petitioner smacks of his obstinacy and obduracy. It was not a heartfelt apology tendered by the petitioner. It was merely an excuse to get over of the order of punishment passed against him. In the absence of sincere and earnest apology and repentance for his past deeds, the Principal was justified in not revoking the order of expulsion passed against the petitioner.

In the background of the above facts, I am also of the view that the petitioner deserves no sympathy. The action taken by the Principal was quite honest and based on reasonable grounds. Any tinkering by this Court with the impugned order of expulsion passed against the petitioner is bound to send wrong signals in the educational institutions and if in the cases like the present case, judicial activism is resorted to, it would be difficult to control the already worsened condition of discipline in the educational institutions. I, therefore, feel chary in interfering with the impugned order in exercise of writ jurisdiction."

The facts narrated above demonstrate that the Institution found that the petitioner had misbehaved not only with the staff of the College but with the fellow girls students who had also lodged complaints against the petitioner. The petitioner does not deny that on two occasions punishment was imposed upon him and he was asked to improve his ways otherwise severe action could be taken against him. In spite of such warnings issued to the petitioner, the petitioner continued with his activities. The Proctor of the College on personal knowledge has stated that both the petitioner and his father, fearing severe action against the petitioner, asked for the character certificate and the transfer certificate. There is no good reason to disbelieve the statement made by the Proctor of the College on oath.

In the facts and circumstances of the case, the petitioner is not entitled to any relief from this Court under Article 226 of the Constitution.

The petition is, accordingly, dismissed.