

(1993) 08 DEL CK 0021

In the Delhi High Court

Case No : Civil Writ Petition No. 4042 of 1993 and Civil Miscellaneous Appeal No. 6427 of 1993

Ashish Bhateja

APPELLANT

Vs

Indian Institute of Technology and Others

RESPONDENT

Date of Decision : 26-08-1993

Acts Referred:

Citation : (1993) 3 AD 689 : AIR 1993 Delhi 354 : (1993) 27 DRJ 168

Hon'ble Judges : V.K. Jain, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : Pinki Anand, Geeta Luthra and Vandana Taneja, for the Appellant;

Judgement

D.P. Wadbwa. J.

(1) The petitioner, a third year student of the Indian Institute of Technology (I.I.T.), has filed this petition for quashing the following punishment imposed upon him by the Director, I.I.T.:-

"YOU are rusticated from the Institute for two semesters with immediate effect, i.e., for the remainder of the current semester and the II Semester 1993-94 and expelled from the hostel for the entire stay at the Institute. Further, you are warned sternly not to indulge in any act of indiscipline in the hostel and/or Institute during your entire stay in the Institute. You are also debarred from holding/contesting any official position in the hostel and/or Institute in future."

(2) This punishment was imposed on the petitioner on the following charge :-

"YOU were among the students who were involved in and who participated in a vulgar and shameful incident of ragging in which some first year students were harassed ,forced to strip and perform perverse unnatural acts. Further you failed to bring the same to the notice of the authorities. Thus you violated the instructions contained in the Order IITD/ SAS/93 dated 2.7.1993 and circular "Welcome to Freshers" issued by the Dean of Students, banning ragging in the

Institute."

(3) Contentions raised are two fold: (1) that rules of natural justice have been violated, and (2) the disciplinary authority and the punishing authority should have been different. There is hardly any substance in the second contention. As far as the question of principles of natural justice are concerned these vary from case to case and situation to situation. They cannot be put in a straight jacket formula.

(4) The incident alleged against the petitioner happened on 16 August 1993 at early hours at 1.00 A.M. at the Karakoram Hostel in the campus. He was told of the charge against him on 18 August p7 @, 1993 by the Dean of Students. It was mentioned therein that the incident took place in the early morning of 16th August 1993 at about 1.00 a.m. and continued for a period of over one hour." The petitioner was told that he had appeared before the Hostel Honours Committee and he was informed about his involvement in the incident. The Hostel Honours Committee provided him an opportunity to make a written statement regarding his involvement in the incident which the petitioner did. The petitioner was further told that on the recommendation of the Hostel Honours Committee the case was then to be examined by the Institute Disciplinary Committee of the Institute on 19 August 1993 at 2.30 P.M. By this letter of 18 August 1993 of the Dean the petitioner was informed his direct involvement in the incident and was given opportunity to make his submissions, if any in addition to his written submission already submitted by him to the House Honours Committee. He was told to give the written submissions latest by 10.00 A.M. on 19 August 1993. The petitioner did represent. He denied his involvement and said that he had come from his residence at 10.30 P.M. on 16 August 1993. He said around 1.30 A.M. there was a lot of noise in the corridor outside his room due to very loud music being played. He said he was disturbed in his sleep. He opened the door of his room and retired back to sleep when the deafening music was switched off after 10-15 minutes. That is all what the petitioner said about the incident and then he said about his excellent academic career in the Institute. Lastly, he said as under:-

"IN view of my immaturity (immaturity?) I did not realise that I should not have stood at that place and immediately left it. I am prepared to face punishment on that count."

(5) Then the petitioner was informed by the Deputy Registrar (UGS) of the Institute by office order dated 21 August 1993 that on the basis of his written submission in the House Honours Committee and his reply to the communication dated 18 August 1993, his own evidence and evidence of other students before the Disciplinary Committee, the Disciplinary Committee had come to the conclusion that he is one of the students who were involved in the alleged incident of ragging. The petitioner was told that after due consideration of all the aspects, including the nature and level of his personal involvement in the incident, the Director on the recommendation of the Institute Disciplinary

Committee decided to impose the aforesaid punishment. The petitioner was given, thus, opportunity to represent against this proposed punishment. The petitioner did that by his representation dated 22 August 1993. Again he denied his involvement. He said he was in the room of one of his fellow students up to 12 midnight of 16 August 1993 and thereafter he was in his own room writing some paper which he said he finished at about 1.30 A.M. According to the petitioner, at this time at 1.30 A.M. there was loud noise of deafening music which caused disturbance in his sleep and he came out of his room. After 10-15 minutes, the petitioner said, he came back to his room and went to sleep. In this representation the petitioner also said that there was some confusion about his identity as three "Ashish" were stated to be present at the relevant time. The petitioner stated that there was confusion in involving his name in the alleged incident and prayed that he may be supplied the details, if any, implicating his name which he said "may be out of rivalry from certain quarters who are jealous of my academic achievements." This submission of the petitioner, if appeared, did not find favor with the respondents and the impugned order was made.

(6) It is a matter of common knowledge that menace of ragging is assuming alarming proportion and it has to be curbed with a heavy hand. The incident alleged in the present case required an immediate action, and this is what the authorities have done. Ms. Anand appearing for the petitioner said that proper opportunity was not granted to the petitioner and that the petitioner should have been allowed to cross-examine the students naming him. We do not think right of cross-examination is a part of rule of natural justice in every case. This is what the Constitution Bench of the Supreme Court observed in the State of Jammu and Kashmir Vs. Bakshi Ghulam Mohammad, . In support of her submission Ms. Anand cited a decision of this Court rendered by a Single Judge in Shri Bhairav Nath Vs. Central Board of Education and others, . But facts in that case were entirely different. In that case the petitioner was charged of using unfair means inasmuch as it was alleged against him that he slipped away from the examination hall with his answer book in Mathematics paper without handing over the answer book to the invigilator on duty. The petitioner in that case was appearing in the 10th Class Examination conducted by the respondent board. Record maintained by the invigilator in that case showed that the student did return the answer book and the court found that there was violation of rule 6.6.2 of the Examination Bye-laws which provided for the procedure for dealing with an alleged unfair means. That Judgment is, Therefore, of no help to the petitioner. Ms. Anand cited some more decisions saying that the question of career of the petitioner was involved in the present case and proper opportunity to the petitioner to defend has not been given to him. In Prem Parkash Kaluniya Vs. The Punjab University and Others, , the court had observed that "in the very nature of thing, no hard and fast rule can be laid down and so long as the Court is satisfied that the opportunity which was afforded to the examinee was adequate and sufficient, it will not interfere with any orders prejudicial to him which may have been made by the University authorities," We do Find that

proper opportunity was given to the petitioner in the present case, and we need not refer to other judgments. In *The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others*, , where result of the student appearing in the High School Examination was cancelled, the Supreme Court did not approve the order of the High Court interfering with the order passed against the student. The court also observed as under- in dealing with the question as to whether the Committee was justified in coming to this conclusion against the respondent it would not be reasonable to exclude from consideration the circumstances under which the whole enquiry came to be held and the general background of the prevailing disturbed and riotous atmosphere in the Examination Hall during the days that the High School Examination was held at the Centre in 1960. Unfortunately, the High Court has ignored this background altogether."

(7) We are, however, of the opinion that the question of career of student would be more in the mind of the Director of the Institute. In the educational institution the interference by the courts has to be minimal. In the circumstances, we do not wish to interfere in the matter.

(8) We may, however, observe that if the petitioner has any remorse for his conduct, he may approach the authorities again expressing his regret and seeking forgiveness from the new entrants to the Institute who must have such a traumatic experience, and the authorities might reconsider his case. However, it is entirely for the authorities to take action in the matter for keeping discipline in the Institute, and we wish to say no more on the subject.

(9) This petition is, Therefore, dismissed in limine.