
(1961) 04 RAJ CK 0008
In the Rajasthan High Court
Case No : Writ Petition No. 55 of 1961

Babulal

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 03-04-1961

Acts Referred:

Constitution of India, 1950 — Article 226, 311(2)

Citation : AIR 1962 Raj 103 : (1961) RLW 406

Hon'ble Judges : Sarjoo Prosad, C.J;C.B. Bhargava, J

Bench : Division Bench

Advocate : H.P. Gupta, for the Appellant; R.A. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Bhargava, J.—This is an application under Article 226 of the Constitution of India by Babulal who was studying in the Pre-University Class in S. K. N. Government College Jobner for a writ of mandamus or any other writ, order or direction declaring the order of his expulsion from the College (Ex. A) passed by Respondent No. 2 the Principal of the College as illegal and ineffective and directing the respondents to permit him to carry on his studies in the said College in the usual manner.

2. It appears from the impugned order that the petitioner was expelled from the college as he and Madanlal Yadav another student of the same College were found guilty of stealing Rs. 180/- from the box of Surendra Prakash Sharma Mess Accountant. The petitioner's case is that the said order is unjustified, unwarranted, mala fide and passed without sufficient cause against the principles of natural justice inasmuch as neither any enquiry worth the name was made nor was any opportunity given to him to cross-examine Madanlal or to adduce evidence to prove his innocence. Respondent No. 2 should have satisfied himself as to the correctness of the report made against the petitioner. It is alleged that the order is mala fide, and the charge of stealing Rs. 180/- was unfounded and baseless. As the order puts a life long stigma upon his career and renders him

unfit for pursuing his studies further, he prays that it may be declared ineffective.

3. State of Rajasthan, Respondent No. 1 has opposed the application and it has been urged that the order of expulsion of the petitioner was passed after enquiry and due consideration of the materials which came to the notice of the Principal of the College. Their reply is that on 12th November, 1960, it was reported to the Warden of the Hostel by Surendra Prakash Sharma, a student of the Pre-University class residing in the College Lodge that a sum of Rs. 180/- which he had collected from the students as mess advance was stolen from his box on 11th November, 1960 vide Ex. 1. Shri Gajadharsingh Hostel Warden suspected Madanlal Yadav and the petitioner who was an intimate friend of the former. The Warden several times asked both of them about the money but they showed their ignorance. After sometime Madanlal admitted his guilt and told him that he had given the key of the box of Surendra Prakash Sharma to the petitioner who took out the money while he himself stood outside the room as a guard.

The petitioner on the other hand did not admit his guilt. Ultimately, on, 1st December, 1960, he gave it in writing that if Madanlal said that he had given the money to him he would be prepared for any punishment that may be inflicted upon him. This statement is Ex. 2 and bears the endorsement of Dr. B. P. Srivastava Lecturer, Agriculture Zoology and Entomology Section, to the effect that it was made in his presence and that no force was applied on him. An affidavit of Dr. Srivastava to the same effect has also been filed. Madanlal was then asked in the presence of the petitioner and he made a clean breast of the whole affair stating that Rs. 180/- were taken out by the petitioner from Surendra Prakash's box. He gave the same statement in writing on 17th December, 1960 which he had made on 1st December, 1960 in the presence of the petitioner.

The Warden in the report submitted by him to the Principal while mentioning all the aforesaid facts had further reported that the attitude of the petitioner throughout had been arrogant and he recommended that he should be expelled from the College. The whole matter was considered by the Principal in the meeting of the staff held on 21st December, 1960 and as a result of the discussion it was decided that the petitioner should be expelled from the College. This action was taken because:

- (a) The petitioner was not repentant of his guilt.
- (b) He was still arrogant and impertinent towards the staff members who conducted the enquiry.
- (c) It was reported by Shri Madanlal Jain Lecturer in Agricultural Engineering, Mathematics and Physics that there had been instances when the petitioner was caught red handed stealing the equipments in the engineering workshop.
- (d) He is obstinate and in bad company.

4. Learned Counsel for the petitioner contends that respondent No. 2 was bound

to hold a proper enquiry and give the petitioner an opportunity of being heard and in the absence of such an enquiry and opportunity where principles of natural justice have been completely ignored, the drastic action like expulsion of the petitioner from the College should not be allowed to stand. It is contended that even the first principle of justice namely "audi alteram partem" was not observed in the case. In this connection our attention was drawn to the following decisions in *Dipa Pal Vs. University of Calcutta*, *B.C. Das Gupta and Another Vs. Bijoyranjan Rakshit and Others*, *Sadhu Ram Hardwari Lal v. Principal, Rajindra College, Bhatinda*, AIR 1954 Pep 151 and *Ramesh Chandra Sahu Vs. N. Padhy, Principal, Khallikote College*,

5. We are not called upon to decide whether the Principal of the College was acting in any judicial or quasi-judicial capacity while considering the case of the petitioner because it was not so urged before us. It was urged that even if the principal was acting as an administrative or disciplinary body still it was incumbent upon him to observe the principles of natural justice. Our attention was not drawn to any rule or regulation under which the principal was required in the present case to hold any regular enquiry or to record any evidence or to give a personal hearing to the petitioner. It was therefore, quite open to the Principal to hold such an enquiry as he thought proper in the circumstances of the case and after taking the explanation of the petitioner and giving him an opportunity of being heard, to pass such order which the exigencies of the case demanded. The only thing which can be stressed on behalf of the petitioner and which is also the requirement of the principles of natural justice is that he should have been given an opportunity of being heard with regard to the charges made against him.

6. We wish to point out that where the authority is exercising its disciplinary power it is only in exceptional cases that the courts should interfere in those powers. Matters of College discipline are entirely internal affairs of the college concerned. It is both in the interest of the institution and the students that those who are entrusted with this authority should be left free to deal with the situation provided in doing so they do not violate the principles of natural justice and do not act arbitrarily and capriciously. As was observed by Lord Goddard C. J. in *R. v. Metropolitan Police Commr.; Ex parte Parker*. 1953 2 All ER 717 and again in *Ex parte Fry*, 1954 2 All ER 118:

"....where a person, whether he is a military officer, a police officer of any other person whose duty it is to act in matters of discipline, is exercising disciplinary powers, it is most undesirable in my Opinion that he should be fettered by threats of Orders of certiorari and so forth, because that interferes with the free and proper exercise of the disciplinary powers which he has." This by no means implies that in no case can the courts interfere with the orders passed by the authorities in the exercise of their disciplinary powers. In proper cases where the courts find that orders involving civil consequences to the person concerned have been passed in violation of the principles of fair play and justice they should not hesitate to step in and strike down such orders. In the present case we find that

the petitioner knew about the theft of Rs. 180/- from the box of Sureridra Prakash Sharma. He knew that he was suspected of having stolen the money and the Warden of the Hostel on several occasions made enquiries from him. The Warden had also told him that he had come to know from Madanlal Yadav that the petitioner was responsible for stealing the money. The petitioner had expressed his willingness to face Madanlal Yadav and to submit to any punishment that the authorities may like to inflict upon him. Madanlal was called in his presence and he gave a statement at first verbally in the presence of the petitioner on 1st December, 1960 and then confirmed it by a written statement on 17th December, 1960.

It is not denied before us that Madanlal gave such a statement in the presence of the petitioner on 1st December, 1960. The only exception which is taken to it is that in his oral statement Madanlal did not say that he had handed over the key of the box because of the threats held out to him by the petitioner that he would be beaten at the hands of Gundas at Jaipur. Even if this part of the statement is left out still according to the statement of Madanlal it was the petitioner who had committed the theft. It is not alleged that the petitioner wanted to cross-examine Madanlal and that was refused by the Warden. It is not alleged that the petitioner wanted to adduce any evidence about his innocence and that was refused by the warden. About the writing Ex. 2, the petitioner alleges that he gave it under pressure but we are not prepared to accept that statement in the face of the affidavit of Dr. Srivastava who has sworn that the petitioner had written Ex. 2 without any force being brought upon him.

We, therefore, do not agree with the learned counsel for the petitioner that no enquiry was held in the case or it was so done behind the back of the petitioner and he had no opportunity to prove his innocence. Neither the enquiry which the authorities in such disciplinary matters are required to make can be equated with trials in courts for the principles embodied in Article 311(2) of the Constitution of India can be invoked in such cases. All that is necessary is that the decision should not be taken behind the back of the person concerned and without giving him an opportunity of being heard. The measure of punishment again is a matter entirely within the discretion of the authorities and it is no concern of the courts whether the punishment is severe or lenient in any particular case. We are, therefore, satisfied that the order of the petitioner's expulsion was neither mala fide nor in disregard of the principles of natural justice.

7. There is no force in the petition and it is hereby dismissed. In the circumstances, parties shall bear their own costs.