

(1998) 10 KAR CK 0042

In the Karnataka High Court

Case No : Writ Petition No's. 29257 and 29258 of 1998

B.G. Vishwa Chetan and Another

APPELLANT

Vs

Bangalore University and Another

RESPONDENT

Date of Decision : 05-10-1998

Acts Referred:

Bangalore University Ordinance on Malpractice in the University Examinations —
Section 8.18, 8.2

Karnataka State Universities Act, 1976 — Section 62

Citation : (1999) 4 KarLJ 623

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : Sri B.M. Baliga, for the Appellant; Sri T.P. Rajendra Kumar, for the Respondent

Judgement

1. Heard Mr. B.M. Baliga, learned Counsel for the petitioner and Mr. T.P. Rajendra Kumar, learned Standing Counsel for respondent-Bangalore University (in short the "University").

2. The petitioners are the students of Bachelor of Engineering Course. They are prosecuting their studies in the 2nd respondent-Vivekananda Institute of Technology (in short the "Institution"). They have approached this Court for writ of certiorari quashing the Charge Memo dated 26-9-1998 issued by the Flying Squad of the respondent-University on the ground of malpractice alleged to have been committed by the petitioner in the Physics paper of B.E. Exam (1st Semester). They have also sought for interim prayer by way of directions upon the respondents to permit them to appear for further examination on the 1st and 2nd Semesters of B.E. Course on 5th, 6th and 9th of October, 1998.

3. Mr. T.P. Rajendra Kumar, learned Standing Counsel appearing for the respondent-University, on instructions, states that the Flying Squad of the University had caught the petitioners while they were indulged in the activities of malpractice of copying on 26-9-1998 and as such their hall tickets, answer

scripts were seized and charge memo dated 26-9-1998 has been forwarded to the Malpractices Enquiry Committee for taking appropriate action in terms of the Ordinance pertaining to Malpractices in the University Examination passed u/s 62 of the Karnataka State Universities Act, 1976.

4. Rule 8.18 of the Ordinance provides for "Procedure for reporting Malpractice". Clause (c) thereof is material for the present purpose which reads thus.-

"(c) The Chief Superintendent shall hold a summary enquiry, record the report of the Room Superintendent, the statement of the candidate in the presence of a teacher other than the Room Superintendent concerned. He shall forward a report along with answer script or other substance and the incriminating material in a sealed cover or box, the statement and report of the Room Superintendent, the statement of the candidate, if any, to the Controller of Examinations by name, who, in turn shall place before the Malpractices Enquiry Committee all the materials and records received by him.

The Chief Superintendent shall forthwith suspend the candidate from writing the examination and withdraw the admission ticket. Further, action is taken under Ordinance 8.18 and the report submitted to the Controller of Examinations of the commission of malpractice".

5. From reading of the above rule, it is clear that the "Malpractices Enquiry Committee" is the fact finding authority appointed by the Syndicate of the University to find out as to whether the student in fact has committed any malpractice as defined under clause (v) of Rule 8.2 of the Ordinance or not after following the procedure for imposing penalties as provided under Rule 8.15 of the Ordinance.

6. In my opinion, though in the Ordinance it is provided for withdrawing the admission ticket and debarring the student from taking further examination etc., but till submission of report by the Malpractices Enquiry Committee, as to the commission of malpractice by a student, debarring the student from taking further examination or further papers is not sustainable.

7. Accordingly, the respondent-University is directed to permit the petitioners to appear for the remaining examination in question but their results should not be announced till completion of the enquiry by the Malpractices Enquiry Committee. It is further directed that the Committee should complete the enquiry and place report thereof before the concerned authority within three months from today.

8. At this stage Mr. Baliga, learned Counsel appearing for the petitioners points out that the Flying Squad of the respondent-University does not furnish any receipt or acknowledgment for having seized the hall tickets or answer scripts or any other material which is found to be impermissible to be carried in to the Examination Hall nor any charge memo is served on the student at the spot.

9. In my opinion, if such procedure is being followed by the respondent-University, then the same should be amended immediately so as to make it

consistent with the requirements of the principles of natural justice. It has to be taken note of that even under the General Law when a seizure is effected, the person from whose custody the documents are seized, is as of legal right entitled to have receipt for the same. Therefore, it will be advisable on the part of the respondent-University to direct the Flying Squad to grant appropriate receipt in case of seizure of hall tickets and other documents on the allegations of malpractices.

10. Subject to the aforesaid observations and directions, the writ petitions are disposed of.

11. Let Registrar (General) ensure sending of copies of this Order to all the Registrars of the Universities in the State under registered post for compliance and necessary action.