
(1971) 02 P&H CK 0008
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 3282 of 1970

Birjinder Singh

APPELLANT

Vs

The Kurukshetra University and Others

RESPONDENT

Date of Decision : 04-02-1971

Acts Referred:

Citation : AIR 1972 P&H 17

Hon'ble Judges : Bal Raj Tuli, J

Bench : Single Bench

Judgement

1. The petitioner was a B. A. Part II student of Government College, Kurukshetra, which is affiliated to the Kurukshetra University. He appeared in the examination held in May, 1970, and it was reported against him that he was found copying from a handwritten note which he swallowed when challenged. On the basis of that allegation, an enquiry was held against him. The Standing Committee which held the enquiry found him guilty and disqualified him for two years. The Committee which heard the case consisted of seven members out of which six found the petitioner guilty and one member gave the opinion that the petitioner was entitled to the benefit of doubt and should not be punished. The matter was placed before the Vice-Chancellor. His decision was as under :--

"The majority view is accepted. I do not agree with the contentions of Dr. Budha Prakash."

The petitioner then filed the present petition challenging the order of his disqualification.

2. Written statements have been filed by the Vice-Chancellor and the Registrar of the Kurukshetra University justifying the order of punishment.

3. The rule of the Kurukshetra University with regard to the appointment of a Standing Committee is contained in Clause 11 of Ordinance XXVIII, which reads as under:--

"The "Shiksha Samiti" (Academic Council) shall appoint annually a Standing Committee to deal with cases of alleged misconduct and use of unfair means in connection with examinations. When the Committee is unanimous, its decision shall be final except as given in the proviso below. If the Committee is not unanimous, the matter shall be referred to the Vice-Chancellor who shall either decide the matter himself or refer it to the "Shiksha Samiti" (Academic Council) for decision.

Provided that in cases of alleged use of unfair means, in connection with examinations, if, in the opinion of the Vice-Chancellor, facts have been brought to light within 30 days of the receipt of the decision by the committee which, had they been before the Committee, might have induced them to come to a decision, other than the one arrived at, then the Vice-Chancellor may order that such facts be reduced to writing and placed before the Committee.

The Committee shall then reconsider the case. A unanimous decision of the Committee shall be final. But in the even of a difference of opinion, the case shall be referred to the Vice-Chancellor who may either finally decide the case himself or refer it to the "Shiksha Samiti" (Academic Council) for final decision as he thinks fit."

The petitioner stated in the petition that the Standing Committee appointed by the Academic Council to deal with the cases of misconduct and use of unfair means consisted of twelve members out of whom five were present when the petitioner's case was heard. In the return, however, it is stated that the Standing Committee consisted of eleven members out of whom seven were present. Out of seven members present, six found the petitioner guilty while one gave his dissent. There is no rule providing for the quorum of the members of the Standing Committee. In view of the fact that the Academic Council appointed a Standing Committee of eleven members, it clearly follows that all the eleven members were expected to attend and give their decision. The seven members out of the eleven members of the Standing Committee did not constitute the Standing Committee as appointed by the Academic Council to deal with the case of the petitioner, On this ground, the report of the Standing Committee is without jurisdiction and could not be acted upon.

4. The second infirmity in the order of punishment is that the Vice-Chancellor, while passing his order, has not stated any reasons nor did he give any opportunity to the petitioner of appearing before him to urge that the view taken by Dr. Budha Prakash, who was in minority, was correct. Shamsheer Bahadur, J., held in *Kewal Nain Singh v. Punjab University* (1967) 69 P LR 392 that in the case of a difference of opinion the Vice-Chancellor has to view the matter independently in a quasi-judicial manner in order to give a decision. Agreeing with the majority view is not a decision unless reasons are recorded in support thereof and showing why the minority view is not accepted. The learned Judge held that the Vice-Chancellor is bound to give an opportunity of hearing to the petitioner when he hears the case on a difference of opinion amongst members

of the Standing Committee. Respectfully agreeing with the view taken by Shamsheer Bahadur, J. I hold that the orders passed by the Standing Committee and the Vice-Chancellor in the instant case were without jurisdiction because the Vice-Chancellor did not observe the principles of natural justice, referred to above.

5. For the reasons given above, I accept this writ petition and quash the report of the Committee and the order of the Vice-Chancellor leaving it open to the respondents to hold the proceedings afresh. The petitioner will be entitled to his costs. Counsel's fee Rs.100/-.

6. Petition allowed.