

**(1981) 03 MAD CK 0007**  
**In the Madras High Court**  
**Case No : W.A. No. 34 of 1981**

Bright Son Jose

APPELLANT

Vs

Madurai Kamaraj University and Another

RESPONDENT

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**Date of Decision :** 11-03-1981

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** AIR 1982 Mad 79 : (1981) 94 LW 433

**Hon'ble Judges :** Gokulakrishnan, O.C.J.; Venugopal, J

**Bench :** Division Bench

**Advocate :** Selvaraj, for the Appellant;

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## Judgement

Venugopal, J.—The appellant was a student studying in the B.Sc. class in Scott Christian College, Nagarcoil affiliated to the Medurai

Kamaraj University. On the last day of Fourth semester examination held on 14-5-1980 the appellant was caught red-handed by the invigilator

while copying the answers from a hand-written script and he swallowed the same on detection by the invigilator. The invigilator made a

contemporaneous report about the incident to the Chief Superintendent, University examinations, Scott Christian College centre, Nagarcoil and he,

in turn, sent a report to the Controller of Examinations, Madurai Kamaraj University. The appellant was called upon to be present for an enquiry

on 24-6-1980, at 11 a.m. for the alleged malpractice, before the Disciplinary Committee of the Syndicate. At the enquiry the appellant gave a

statement denying the malpractice alleged against him and he further stated that it was all due to previous enmity between him and the invigilator.

On a consideration of these materials, the Syndicate Committee on Discipline, Welfare and Residence of students by its order dated 24-8-1980

recommended that the examination wrote by the appellant should be cancelled and he should be debarred from appearing for examinations to be

held in October 1980, April 1981 and October 1981, and he may be permitted to continue the studies from June 1982. The Controller of

Examinations accepted the recommendations of the Syndicate Committee and passed an order as recommended by the Syndicate Committee, on

1-7-1980. This order was challenged by the appellant by filing a writ petition No. 4421 of 1980. Rejecting the contention that there must be a full-

fledged enquiry and examination of witnesses before the impugned order was passed, the learned single Judge of this court held that the appellant

was apprised of the charge to which he did offer an explanation and that this satisfies the requirement of the principles of natural justice and in

matters relating to internal discipline in educational institutions there should be no strict insistence of the principles of natural justice as done in a

Court of law. Against the order of the learned single Judge, the present writ appeal has been filed.

2. The learned counsel for the appellant contended that the invigilator who reported against the appellant was not examined and even the fact that

the invigilator made a contemporaneous report was not made known to the appellant, and as the impugned order was passed without enquiry, by

examining witnesses, there is gross violation of the principles of natural justice.

3. The two essential ingredients underlying the principles of natural justice are:

1. No man should be judged without hearing; and

2. The Judge hearing must be free from bias.

There are often cited in the form of latin tags *audi alteram partem* and *memento index in re sua*. The appellants contention is that there is violation of

principles of natural justice, since the first requirement *audi altera, partem* has not been complied with. In *Official Solicitor v. K.*, 1965 AC 201, it

was held:

The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is

acting, the subject matter that is being dealt with and so forth.

It is not the appellant's case that the impugned order was passed in contravention of the rules of procedure prescribed for this purpose. His only

contention is that there is violation of the principles of natural justice, as the impugned order was passed without examination of witnesses. There is no in fallible or inflexible rule that every enquiry should be made or completed by an oral examination of witnesses. The need for such oral examination depends on the facts and circumstances of each case. In the instant case the appellant was apprised of the accusations made against him. He was given an opportunity to put forth his defence. It is significant to note that at the time of the enquiry, the appellant had not stated that the invigilator should be examined in his presence. The Syndicate, in fair and impartial manner, considered the charge against the appellant and his explanation, and made the recommendations to the Controller of examinations, on the basis of which the impugned order was passed. Natural justice is often equated with question of violation of principles of natural justice, all that we have to see is whether the Syndicate has acted in a fair manner while recommending imposition of penalty by way of domestic discipline on the appellant. On the facts and circumstances of this case, we are convinced that the Syndicate has acted in a fair manner and the basic requirements of the principles of natural justice have been complied with. A rigid and mechanical insistence of a full-fledged enquiry of examination and cross-examination of witnesses in matters relating to internal discipline of educational institutions under the guise of observing the principles of natural justice may not be conducive for the effective functioning and preservation of the structure of our educational institution. We have, therefore, no hesitation in upholding the order passed by the learned single Judge of this appeal, and it is accordingly dismissed.

3. Appeal dismissed.