

(1971) 06 AP CK 0011
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 98 of 1971

Chinni Ramakrishna Rao

APPELLANT

Vs

Registrar, Andhra University and Others

RESPONDENT

Date of Decision : 21-06-1971

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1972 AP 127

Hon'ble Judges : K.V.L. Narasimham, C.J; Parathasarthi, J

Bench : Division Bench

Advocate : K. Venkata Ramayya, for the Appellant; G. Venkateswara Rao and Govt. Pleader, for the Respondent

Judgement

Parthasarthi, J.—This is an appeal from the decision of our learned brother Sambasivarao, J., in Writ Petition No. 141 of 1971. The Appellant was one of the candidates at an examination held by the Andhra University for the students who completed the Second year of B.Com., degree course. On 17th April 1970 when the appellant was answering the question paper in English poetry, the Assistant Superintendent searched his pockets and found a piece of paper on which was written matter relevant to the subject of the examination.

2. On being questioned, the appellant admitted the mal-practice and addressed a letter to the Chief Superintendent. In that letter he confessed to having brought a piece of paper relating to English poetry examination, in spite of warnings given by the Assistant Superintendent at the outset. He also accepted the fact that the paper was in his pocket and was picked by the Superintendent on a search made by him. He further prayed for the condonation of the mal-practice and coupled it with the assurance that in future he would not be guilty of mis-behaviour.

3. This letter was forwarded to the University authorities along with the report of the Chief Superintendent and invigilators. The piece of paper found in the pocket of the petitioner was also transmitted to the University. Thereafter, the University

decided to cancel the result of the appellant and to debar him from appearing from any examination of the University for a period of two years. The appellant's request for a reconsideration of the decision by the University brought forth a negative result. He then moved this Court for issue of a writ to call for the proceedings and to quash the order of the University.

4. The writ petition was heard by Sambasiva Rao, J., who dismissed it holding inter alia that the proceedings of the Andhra University Syndicate are not vitiated by any violation of the principles of natural justice and the instructions given for conducting the examination.

5. In this appeal, the contentions urged before our learned brother are repeated by the Counsel for the appellant.

6. It is strenuously contended that the determination of the question by the University breaks the rules of natural justice and that the Syndicate of the University ought to have adopted the standards of proof of guilt applicable to criminal trials. In any case, it is urged an opportunity ought to have been accorded to the appellant to urge his defence either in refutation or extenuation of the alleged malpractice.

7. The Rule acted upon in criminal trials is that a confession even if satisfactorily proved, need not necessarily be true. Not only may it be made to shield another, but it even, it seems, be made for no better reason than to put an end to police questioning. Confessions may also be induced by suggestions or threats. The proof of guilt in criminal cases eliminates unreliable confessions. We cannot accept as sound the view commended by counsel that (domestic tribunals including academic bodies are bound by the same rules as Courts trying criminal cases in regard to confessions). There is no authority as cited by him which supports his submission. On the contrary Gajendragadkar, J. (as he then was) said in *The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others*, that.

"it would not be reasonable to import into these enquiries all considerations which govern criminal trials in ordinary Courts of law."

8. The next aspect is whether the University authorities were bound in the circumstances of the case and in conformity with standards of natural justice, to given an oral hearing to the appellants before taking disciplinary action. The facts already narrated by us show that a piece of paper was found in the pocket of the appellant and that it contained matter which related to the subject. "English Poetry." He was then writing out his answers to the questions set in the examination on the subject. These facts are beyond question as they are borne out by the admission of the appellant in the letter addressed by him when the mal-practice was detected. There is an unqualified admission of the appellant that he was guilty of a mal-practice and he prayed for the condonation of his lapse or misbehaviour. He does not deny his authorship of the letter. Nor does he deny that it was written by him with an awareness of what he was admitting and

of its consequences.

9. Our learned brother pointed out that there was a clear breach of the rules and that contrary to the warnings administered by the invigilators, the appellant took with him to the examination hall a piece of paper containing written matter relevant to the subject of the question paper he was then answering. We agree with Sambasivarao, J., in his dictum that, "it is immaterial whether the matter contained on the slip of paper was particularly useful in answering the questions" that were set in the paper.

10. The test is whether in all the circumstances of the case, there was incumbent on the domestic tribunal a further obligation of granting a personal hearing or another opportunity of making a representation. Counsel placed reliance on the observation in *The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others*, to this effect:----

"Enquiries held by domestic Tribunals in such cases must, no doubt, be fair and students against whom charges are framed must be given adequate opportunities to defend themselves and in holding such enquiries, the Tribunals must scrupulously follow rules of natural justice."

11. The requirement of adherence to rules of natural justice is coupled with the caution that it is unreasonable to import into the realm of these enquiries by academic bodies the strict techniques and rules of procedure of criminal trials.

12. We have here an instance where the malpractice is admitted in writing by the candidate for the examination. There is, besides, the report of the Superintendent. It was on the strength of these data that the University adjudged the culpability of the appellant and inflicted the penalty. We share the opinion of our learned brother that one can see no need or occasion for any further enquiry. We also accept his conclusion that there was no need for according a fresh opportunity to the appellant to state his case. He had his say, and had it when the incident occurred; and there was an undoubted probability of a straight and untutored account being given. What is of the utmost importance is that neither the truth of what he stated in his letter nor that he acted of his own free will, are in controversy even in this proceeding.

13. The criterion to be applied by Courts in case of this description is whether the cardinal of essential requirements of natural justice have not been met by the procedure adopted in the particular case. The result of this inquiry depends to a great extent on the facts and circumstances of the case in point, the constitution of the tribunal and the rules under which it functions. No rule has been brought to our notice which imposes the obligation of granting a further opportunity even if the examine has accepted his mal-practice at the examination. The tribunal that decided the question is an academic body consisting of persons of standing integrity, experience and an insight into the problems of academic bodies. The circumstances establish that on his own unqualified admission the appellant was guilty of a mal-practice, indulged in by him in spite of warnings. (We are

consequently of opinion that) there is no breach of the standards of natural justice and the appellant had a fair and reasonable opportunity of stating his case.

14. The recent decent Suresh Koshy George Vs. University of Kerala and Others, reaffirms the principle laid down in Russel, v. Duke or Norfolk (1949) 1 All ER 109 at p. 118 that there is no formula of universal application to every kind of domestic tribunal. "Whatever standard is adopted, one essential is that the person concerned should have a reasonable opportunity of presenting his case." Judged by this criterion, the conclusion reached by Sambasivarao, J., must be upheld viz., that in the instant case there is no lack of opportunity of presenting his case by the appellant. The core of the problems is that the person or the body deciding the question must act without bias and must give adequate opportunity of presenting his case to the party concerned. The decision must be come to in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice. We have no doubt that the University authorities acted conformably with the above mentioned rule.

15. It is apt to recall the dicta in The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others, , said His Lordship Gajendragadkar, J.:---

"This problem which educational institutions have to face time to time is a serious problem and unless there is justification to do so, Courts should be slow to interfere with the decisions of domestic tribunals appointed by educational bodies like the Universities."

16. Where there is a reasonable and bona fide exercise of discretion by the educational authority. Courts will not subject the decision of the domestic tribunal to a scrutiny characteristic of an appellate Court. The decision will be set aside if married by bad faith or is manifestly arbitrary or capricious. The exercise of discretion will be corrected also in cases where the decision taken in supported by no evidence at all. The present case suffers from no such infirmity.

17. It is unnecessary to refer in detail to other precedents. We shall mention in brief a few cases where the courts emphasized that the decision of the mal-practice in the examination hall ordinarily rules out the need for any further enquiry. Mention may be made of Dipa Pal Vs. University of Calcutta, where Bose, J., observed:----

"In cases where breaches of discipline are detected by the invigilators or other officers present in the examination hall and candidates concerned are expelled from the hall or are otherwise dealt with, question of any enquiry or investigation upon notice to the candidates may not arise."

18-19. Although in a different context this decision received the approbation of the Supreme Court in Board of High School and Intermediate Education U. P. Allahabad v. Ghanshya, Das Gupta (1962) Supp 3 SCR 36 : AIR 1962 SC 111 ,

Anand Kumar Nirwani Vs. Registrar, Punjab University, is another case where the Court laid stress on the fact that the student was "caught red handed with written chits" and they contained matter relevant to the subject of the examination. The Committee examined the material consisting of the chits, the explanation of the student and the report of the Superintendent. No doubt, in that case there was a personal hearing and the record of the personal hearing was also taken into account. But the point to be noted is that the record of the incident when it occurred was deemed to be very material. In Surendra Kumar Patel Vs. The University of Jabalpur and Another, Division Bench of the Madhya Pradesh High Court followed the decision in Dipa Pal Vs. University of Calcutta, . The learned Judges observed that where breaches of disciplines are detected by invigilators in the examination hall itself the question of enquiry may not arise.

20. Our conclusion is that the appellant having admitted the relevant facts which the decision was and could be taken there is no need for any further enquiry and there is no breach of the rules of natural justice,.

21. The result is, the appeal fails and is dismissed. But we make no order as to costs having regard to the fact that the appellant had to go through a considerable suffering and crisis in his life.

Appeal dismissed.
