
(1998) 08 OHC CK 0024

In the Orissa High Court

Case No : Original Jurisdiction Case No. 4781 of 1998

Debadata Choudhury

APPELLANT

Vs

Principal, Ravenshaw College and Another

RESPONDENT

Date of Decision : 04-08-1998

Acts Referred:

Orissa Education Act, 1969 — Section 24(4)

Citation : (1998) 2 OLR 285

Hon'ble Judges : S.N. Phukan, C.J.;C.R. Pal, J

Bench : Division Bench

Advocate : Indrajeet Mohanty, for the Appellant; Additional Government Advocate and S.P. Misra, for the Respondent

Judgement

S.N. Phukan, C.J.—The petitioner was a student of P.G. Final Year (Political Science) of Ravenshaw College, Cuttack, a premier educational institution of the State. He was elected as the President of the Students' Union for the term 1997-98. On 5.1.1998, he put forth a list of grievances of the students for solution to the principal of the College, vide Annexure-1. A reply was given to the said letter on 6.1.1998. It has been alleged that on 19.1.1998 at 9.00 p.m., the boarders of Parija P.G.Hostel went to the house of the Principal and discussed about the problems faced by them. But, they were rebuked and were physically assaulted by the Hostel Superintendent and some lecturers. FIR was lodged before the Officer-in-charge, Malgodown Police-Station vide Annexure-2. It has also been alleged that the Principal abused the petitioner in rough language and threatened to spoil his career. A news item regarding the action of the Principal came in the local dailies. Two sets of charges were levelled against the petitioner by the opposite party vide Annexure-4. The petitioner submitted a reply on 24.1.1998 denying the charges vide Annexure-3. Dr. D.K. Misra was appointed as convenor of the inquiry committee to enquire into the alleged charges and the petitioner was directed to appear and depose his defence regarding the charges along with written statement and other documentary evidence. The petitioner denied all the charges and stated that those are false and fabricated, vide

Annexure-7. On 19.2.1998 an inquiry was held in most cavalier fashion, as alleged by the petitioner, and the members of the committee, who are the members of the staff of the college, submitted a report. It has been alleged that no witness was examined in support of the charges. No paper was also shown to the petitioner to enable him to adduce rebuttal evidence. On 26.3.1998, the petitioner was asked to apply for transfer certificate within seven days on the ground that he was found guilty of acts of indiscipline. According to the petitioner, he was victim of circumstances and the anguish of the Principal for no fault on his part. Therefore, the order is liable to be set aside. It has also been pleaded that the punishment awarded is disproportionate to the charges proved. Therefore, the petitioner has prayed for quashing the impugned order dated 26.3.1998 vide Annexure-8.

2. In the preliminary counter affidavit filed by the Reader of Economics of the College, it is not disputed that the petitioner was a student of Final Year P.G. Class in Political Science and that he was elected as the President of the Students' Union. It has been alleged that after being elected, the petitioner tried to interfere with the College as well as the Hostel administration and that he did not allow other members of the Union to discharge their normal function. Though the next college election was over in the month of November, 1997, the new union has not been able to function because of the adamant attitude of the petitioner. It has also been stated that instead of conducting the normal function of the Union, the petitioner started threatening the Principal by submitting a charter of demand which were to be fulfilled within 48 hours. Though assurance was given by the Principal to fulfil the demands, the petitioner resorted to agitational method and started "fast-unto-death" strike. However, the same was called off on the intervention of the Director, Higher Education. It has also been alleged that the petitioner, who was a boarder of the Parija P.G. Hostel, along with some of his friends, demanded money from the Superintendent of the Hostel for purposes which were not permitted under rules. He was not paying his hostel dues and has housed outsiders to remain in his room. When this was resisted by the Superintendent, the petitioner started misbehaving with him. In fact, the Superintendent "offered to resign in protest. That apart, the petitioner locked up the hostel clerk and Assistant Superintendent inside the hostel office room on 19.1.1998 and demanded money from the Principal for hostel picnic. On intervention of the Principal and some members of the staff, the above persons were released from illegal confinement. FIR was lodged against the Principal and some other members of the staff. Consequently, the Principal also lodged FIR regarding the illegal confinement. Though the petitioner was asked to explain his conduct in confining the hostel staff, he refused to accept the charges levelled against him and threatened the Principal with severe consequence. On 16.1.1998, i.e., the next day, the Annual Athletic Meet of the College was being conducted. The petitioner led a procession of boarders into the sports field and snatched away the mike from the announcers and did not allow the events to be conducted. He started uttering slang language against the principal and teachers.

Therefore, the Athletic Meet could not be conducted. The Staff Council resolved that stringent action should be initiated against the petitioner for his gross misconduct. Accordingly, an inquiry committee was set up. In spite of the fact that the incident occurred in presence of hundreds of teachers and students, the Principal, before inflicting any punishment, decided to give the petitioner a chance to defend himself. The charges levelled against the petitioner were communicated and he was asked to explain. The inquiry committee also asked the members of the Staff of the College and officers of the Athletic Club including students to submit their views on the charges levelled against the petitioner. All of them have submitted their written statement. After taking into consideration their statements, the inquiry committee found the petitioner guilty of illegal confinement of college staff and of disrupting the Annual Athletic Meet. The Committee recommended penal action to be taken against the petitioner. The recommendation of the inquiry committee was placed before the disciplinary committee of the college, which accepted the recommendation. This was also placed before the Staff Council. Therefore, the petitioner was asked to take transfer certificate by 2.4.1998, failing which he would be given compulsory transfer certificate. As the petitioner did not apply for transfer certificate, a show-cause notice was issued calling upon him to explain as to why he should not be expelled from the college. He submitted written explanation on 15.4.1998, which was rejected and he was expelled from the college with effect from 16.4.1998.

3. We may state here that the Governing Body of the College consists of Mr. P.K. Patnaik, IAS (Retd.) ex- Deputy Chairman. State Planning Board, Mr. Bijoy Krushna Mohanty, Advocate, Prof. H.C. Das, ex-Vice-Chancellor, Berhampur University, Dr. K.B. Mohanty, Professor of Physics, Utkal University, and the Principal and two senior teachers of the College.

4. The petitioner made the following demands :

" 1. Government's special audit to all the accounts of Ravenshaw College and all the hostels.

2. Modernisation and re-opening of College Canteen with better facilities.

3. Construction of metallic sign-board in front of our middle gate.

4. Opening of Public Call Office (P.C.O.) inside the Ladies Hotel.

5. Beautification of our College campus which will create a humble study atmosphere.

6. Stock verification of our Library books, preparation of new catalogues and proper supply of magazines, journals to the study counter and purchase of new text books which are commonly needed.

7. Better lightening system inside the College Campus.

8. All the roads inside the College campus needs repairing which are rough.

9. Opening of P.G. Department in the subject Statistics and Sanskrit.
10. Introduction of M. Phil Courses in all the existing departments.
11. Construction of works of Administrative Block and 3rd Ladies Hostel are to be done immediately.
12. All vacancies in teaching and non-teaching staff are to be fulfilled.
13. To ban the tuition of the teachers inside the campus.
14. Drainage of waste water, in front of Parija Hostel which create health hazards.
15. Opening of student co-operative store.
16. Eradication of public interference inside the campus.
17. Construction of Guest House with purpose."

5. The charges framed against the petitioner are as follows :

"(1) You did not allow Sri J.N.Barik, Hostel Accountant to do his duty on 19.1.1998 and while he was in the office room, you locked the office room from outside keeping Sri Barik inside the room for about an hour.

(2) On being requested by the Addl Superintendent and Asst. Superintendent of Parija P.G.Hostel to release Sri Barik, you locked both of them in the office room.

(3) When the undersigned with a group of teachers persuaded you to release the Addl. and Asst. Superintendent and Hostel Accountant you instigated a group of boarders of Parija P.G. Hostel and led, a procession of boarders giving slogans against the Principal and teachers of the College.

(4) On 20.1.98 at about 1 P.M. while the College Annual Athletic Meet was going on in the College field, you led a procession of boarders of Parija P.G.Hostel and came into the field causing a halt in the conduct of athletic events.

(5) Without paying any heed to the request of the undersigned and the teachers present you snatched any the mike from the announcers, shouted vulgar slogans against the College and the undersigned. You also pulled down the tables and chairs on the dias and did not allow the teachers to perform their duties, as a result of which the meet was abandoned.

(6) Your above mentioned misconduct in the presence of staff and outside spectators has tarnished the image of the College. It has not only caused discontentment among the teachers and students but also a great financial loss to the Athletic Club.

(7) You have refused to accept this letter sent to the bearer of the Hostel.

6. This is a matter involving an educational institution. In view of the doctrine of exclusiveness, normally the writ Court does not interfere with such matters. There is no dispute at the bar that in view of Sub-section (4) of Section 24 of the

Orissa Education Act, 1969. the Orissa Education Code has got statutory forces. Under paragraph 122 (g) of the above Code, the Governing Body of the College has to decide appeals made by students against orders of punishment passed by the Principal where the punishment inflicted is expulsion or rustication for a period exceeding one month. We have been informed that an appeal is pending before the Governing Body. Therefore, we do not want to express any opinion on the subject.

7. Learned counsel for the petitioner has placed reliance on Statute 232 of the Orissa Universities First Statute, 1990, which runs as follows :

"232. (1) If any student is expelled from a college/institution, intimation of the fact of expulsion, with a statement of the reasons therefor, shall be given forthwith by the Principal/Head of the institution-

(a) to the parent or approved guardian of the student; and

(b) to the Syndicate, intimation to the Syndicate being accompanied with the transfer certificate of the student.

(2) It shall be competent for the Syndicate on the application of the student or his parent or his approved guardian, after making such inquiry as it deems fit, to deliver the certificate to the student with any necessary endorsement or withhold it temporarily or permanently."

It has been urged that inasmuch as the Syndicate, on application of the student or his parent or guardian, after such inquiry as it deems fit, may deliver the certificate to the student with any necessary endorsement or withhold it temporarily or permanently, the transfer certificate issued by the opposite party-College will not be effective. We are unable to accept the contention of the learned counsel for the petitioner as, after the transfer certificate was issued, an appeal has been filed and is pending before the Governing Body, and unless the said appeal is decided, no decision can be taken by the Syndicate.

8. In view of the above position, we direct the Governing Body of the College to dispose of the appeal within fifteen days from today. We also direct the Syndicate to decide the matter within two weeks thereafter. If necessary, special meetings of the Governing Body and the Syndicate shall be convened inasmuch as the future of a student is involved. We are not expressing any opinion regarding the decision taken in the proceedings against the petitioner inasmuch as the appeal is pending before the Governing Body and the matter has to be taken up by the Syndicate after disposal of the appeal.

9. With the above direction, this writ petition is disposed of. No costs.

C.R. Pal, J.

10. I agree.