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**(1989) 11 KAR CK 0015**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 12321 of 1989**

Dinesh Bhat

APPELLANT

Vs

Sri Mahaveera College

RESPONDENT

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**Date of Decision :** 03-11-1989

**Acts Referred:**

Constitution of India, 1950 — Article 14, 15  
Karnataka State Universities Act, 1976 — Section 62

**Citation :** (1990) ILR (Kar) 958 : (1990) 3 KarLJ 178

**Hon'ble Judges :** Balakrishna, J

**Bench :** Single Bench

**Advocate :** P.V. Shetty, for the Appellant; K.R.D. Karanth, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Balakrishna, J.—This is a Writ Petition of a student who has completed his II Year B.Sc., Course in Sri Mahaveera College, Moodabidri. What is not found in the Writ Petition has been relevantly highlighted in the statement of objections filed by the learned Counsel appearing for respondent-College. Annexure-3 to the statement of objections of the respondent makes interesting though shocking reading. This annexure relates to the report of the enquiry Officer into the allegations made against the petitioner. It is seen from this annexure which is not produced by the petitioner that an enquiry was conducted in seven sittings with the Presenting Officer producing eight witnesses to substantiate the various allegations made against the petitioner. The petitioner was not far behind. He was resourceful enough to produce six witnesses in his defence apart from giving his own personal statement. The last sitting was on 6-2-1988. The charges levelled against the petitioner are as follows:

- 1) Forging the signature of the parent in the Cumulative record for the year 1988-89;
- 2) Presenting a stranger before the Principal of the College and making the

Principal to believe that stranger is Sri Dinesh Bhat's father;

3) Indecent behaviour with a girl in front of the College Compound - Pulling her in front of Sri Merwade L.D. Reader and Head of the Department of Chemistry, Sri Mahaveera College, Moodabidri;

4) Misguiding Sri Jaya Moily, Attender, Sri Mahaveera College, Moodabidri in his official errand and inducing him to deliver an official letter addressed to Sri Dinesh Bhat's father to a wrong person.

2. Annexure-4 relates to the proceedings of the Principal, Sri Mahaveera College, Moodabidri dated 7-2-1989 in regard to the enquiry report submitted by Dr. H. Shantaram. The enquiry Officer went into the allegations made against the student Sri Dinesh Bhat (the petitioner herein) and the decision on the report submitted by the enquiry Officer. It would be contextually necessary to reproduce the decision on the report submitted by the enquiry Officer:

"The findings of the enquiry Committee have been accepted by the undersigned. In view of grave nature of the charges, the undersigned feels that continuance of Sri Dinesh Bhat as a student of this College is not desirable. However, in view of the academic year coming to an end shortly, it has been decided to view his case leniently on compassionate ground and allow him to appear for the Annual Examination of II B.Sc., to be held in the month of March/April 1989. However, as his presence in the college is not desirable, in the interest of the College, he will not be permitted to attend the classes from 8-2-1989 and also he will not be admitted to this Institution during 1989-90 or during subsequent years. He will be granted attendance to all the classes lost by him during his suspension period."

(Attested by Sri U. Vasantha Rao, Principal Sri Mahaveera College, Moodabidri)."

The petitioner was communicated with the report of the enquiry made by the Principal on 7-2-1989 and 8-2-1989 respectively. The petitioner approached this Court on 10-7-1989.

3. The petitioner has sought for a Mandamus to the respondent-College to admit him for study of III Year B.Sc., Course in the respondent-College.

4. The substance of the grounds in support of the Writ Petition is that the action of the respondent in refusing to admit the petitioner for study of III Year B.Sc., Course is unreasonable, arbitrary and illegal and therefore violative of the right guaranteed to the petitioner under Articles 14 and 15 of the Constitution of India; it is also stated that the petitioner has not committed any misconduct and that on account of extraneous reasons false charges were foisted and that the petitioner was not given sufficient opportunity to defend himself in the course of enquiry and further that the report of the enquiry Officer is one sided and not based on any evidence. There is also a contention that the students of the respondent-College can be rusticated from the College only after due compliance with Section 62 of the Karnataka State Universities Act, and therefore, the action

taken against the petitioner is not sustainable; yet another contention is that the petitioner has completed two years course and it is not permissible for the respondent to refuse admission to the petitioner to the III Year B.Sc., Course.

5. Admittedly, the petitioner has not challenged the order passed by the enquiry Officer against him. But he has reserved his right to challenge the said order at a later stage for the reason that "a copy of the order is not available with the petitioner immediately."

6. Since neither the enquiry report nor the decision taken thereon is questioned by the petitioner in this Writ Petition, the only point which remains for consideration is whether this is a fit case in which the petitioner deserves to be admitted or entitled to be admitted for studying the III Year B.Sc., Course in the respondent-College.

7. The learned Counsel appearing for the petitioner at the time of arguments laid emphasis only on compassionate grounds and relented by making a submission that if a transfer certificate certifying good conduct of the petitioner is issued, the petitioner would be satisfied and would join some other educational institution.

8. The learned Counsel appearing for the respondent submitted that the petitioner having committed acts of grave indiscipline and having conducted himself in a manner unbecoming of a student of an educational institution cannot expect a good conduct transfer certificate particularly in the light of an unchallenged and clear finding after due enquiry holding the petitioner guilty of the charges levelled against him. It was submitted that there are several institutions run by Societies other than the respondent in that behalf and also by the Government where the petitioner can find refuge. The learned Counsel for the respondent strongly contended that from the enquiry report and the evidence adduced at the enquiry, the undertaking given by the petitioner and his parents have absolutely no meaning or relevance and it would be wholly against the interests of the other students in the institution to admit the petitioner in the said institution and that the order was passed in the best interests of both the institution and its students.

9. Though no arguments were advanced by the learned Counsel for the petitioner in regard to the merits and demerits of the enquiry report and the decision taken thereupon, it cannot be said by any stretch of imagination that there is any legal infirmity or material irregularity or procedural violation or much less an infraction of natural justice in the entire disciplinary proceedings culminating in the decision taken by the institution under Annexure-4. I must say that the enquiry has been meticulously conducted and every reasonable opportunity has been afforded to the petitioner to meet the allegations and to defend himself. It is a fact that the petitioner has examined six witnesses on his behalf and also come forward with a statement before the enquiry Committee that the petitioner indeed made every effort at his command to get himself absolved of the grave charges leveled against him. The manner in which the enquiry has been conducted is remarkably

procedural and in keeping with the norms of justice and fair play.

10. I have no hesitation in holding that the proceedings taken against the petitioner and the enquiry ultimately holding the petitioner guilty of the charges made against him ex-facie do not suffer from any infirmity. Though the petitioner has not challenged the validity of either the enquiry proceedings or the decision taken consequent upon the enquiry, since there are allegations on record in the Writ Petition, it would not be unreasonable for me to make the aforesaid observation.

11. Now about compassion pleaded by the learned Counsel for the petitioner. It is necessary for the Court to consider the nature of charges proved against the petitioner, the gravity of wrongs proved to have been committed by the petitioner in order to decide whether the action taken against the petitioner is commensurate with the seriousness of the frailties of the petitioner. The first charge is that the petitioner forged the signature of the parent in the Cumulative Record for the year 1988-89. The second charge is that he presented a stranger before the Principal of the College to make him believe that the stranger is the father of the petitioner. The third charge is that of indecent behaviour towards a girl right in front of the Reader and Head of the Department of Chemistry of the same College. The fourth charge is that of misguiding the Attender in his official errand and inducing him to deliver a letter addressed to the petitioner's father to a wrong person. In regard to the last charge, there was an exoneration.

12. Education is said to be an ornament in prosperity and a refuge in adversity. Forging, abetting, impersonation and atrocious behaviour with a girl, particularly in the presence of the Reader and Head of the Department of Chemistry of the same College certainly do not commend a sympathetic or liberal treatment to the petitioner. These propensities of the petitioner portend worst things to come if not put down with an iron hand. To bestow sympathy and compassion in a case like this would amount to placing a premium on indiscipline and in indirectly giving stimulus to indiscipline and misbehaviour by potential trouble shooters. The learned Counsel for the respondent was fully justified in submitting that one rotten egg in a basket is likely to spoil the remaining ones, and it would not be in the interest of either the students or the institution to allow the petitioner to continue his course in the same College. I must observe that this is a case in which neither spasmodic sentiments nor misplaced sympathy is warranted. I must also observe that the atmosphere in academic centres of learning should not be allowed to be polluted and that high standards are required to be maintained allowing no room for undermining the place of learning. One relaxation wilt lead to another and ultimately the values will get diluted and there will be no place for academic discipline.

13. Strangely enough the petitioner is now seeking a good conduct transfer certificate which I am afraid is rather paradoxical and quite contrary to his performance and conduct as a student. If such a certificate is issued to the petitioner it is as good as demolishing the decision taken on the enquiry report.

The petitioner does not have any moral justification to lay claim to such a certificate and the respondent would hardly be justified in granting it in the circumstances of the case. Very rarely one comes across these days any enquiry being conducted and depredators brought to book in the academic sphere for excesses and indiscretions unbecoming of students. This is a rare instance indeed and a commendable one too, in tackling the declining cultural and moral standards in academic life of the students and in a bid to uphold the sanctity of education in its noblest sense - learning what is good and unlearning what is bad in terms of accepted values. The petitioner has displayed such a questionable propensity by a conduct typical of infantile indiscretions and retarded adolescence that can neither be soft-pedaled nor condoned. The punishment answers the test of the doctrine of proportionality in as much as it is commensurate with the gravity of the misconduct. Contextually speaking, the interests of the institution out-weighs the dubious interests of the student.

Though not entirely apposite to the instant case, I cite what Abraham Lincoln posited:

"He reminds me of the man who murdered both his parents, and then, when sentence was about to be pronounced, pleaded for mercy on the ground he was an orphan."

14. Therefore, I am of the opinion that the petitioner is not deserving a transfer certificate indicating good conduct on grounds of either equity or compassion. Cherished academic values cannot be bartered away in the name of misconceived compassion. However, the respondent has offered to issue a transfer certificate to the petitioner without comments or remarks on his conduct one way or the other so that the petitioner if he so chooses may continue his studies elsewhere as a person "transformed". It is a gracious offer which the petitioner would do well to accept.

15. Though in the circumstances of the case, was inclined to award costs to the respondent, bearing in mind that the petitioner is a student, I do not propose to do so.

16. The Writ Petition, therefore, fails and is dismissed.