

(1994) 03 KL CK 0039
In the High Court Of Kerala
Case No : W.A. No. 134 of 1994-B

Headmaster, Poilkav High School, P.O. Edakkulam Quilandy	APPELLANT
Vs	
Murali A. and Others	RESPONDENT

Date of Decision : 02-03-1994

Acts Referred:

Constitution of India, 1950 — Article 14, 226
Kerala Education Rules, 1959 — Rule 10, 6

Citation : AIR 1995 Ker 21 : (1994) 2 ILR (Ker) 684

Hon'ble Judges : Varghese Kalliath, J; P.A. Mohammed, J

Bench : Division Bench

Advocate : M. Vijaykumar, M.S. Manikandhan and A. Kumar, for the Appellant;
K. Ramakumar and A.V. Salahudeen, Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

Mohammed, J.—The Headmaster of Poilkave High School is the appellant in this writ appeal. It is filed against the judgment of the learned single Judge in O.P. No. 15873 of 1993 quashing Ext. P2 show cause notice issued by the appellant and Ext. P3 order passed by the third respondent. The main question that arises for decision in this appeal is whether this court is justified in interfering with the orders passed by the Headmaster and District Educational Officer dismissing a pupil, in exercise of the powers of this court under Article 226 of the Constitution.

2. By Ext. P 2 show cause notice issued to the father of the student, it was proposed to dismiss the first respondent from the rolls of the High School for gross indiscipline. Ext. P3 is the order passed by the District Educational Officer, Badagara rejecting the appeal filed by the father of the pupil and upholding the action of the appellant. After quashing Exts. P 2 and P 3 the learned Judge directed the third respondent to conduct an enquiry into the matter either by himself or by appointing any other member of the staff. According to the learned single Judge, the proceedings initiated against the pupil was "not in accordance with the principles of natural justice". The appellant in this appeal challenges the

correctness of the aforesaid judgment.

3. Though the appellant was shown as third respondent in the original petition, it was decided without hearing him, at the admission stage itself. In that background the appellant filed this writ appeal incorporating certain documents (Annexures A 1 to A 11) which were not available at the time of hearing of the writ petition. The memorandum of writ appeal reveals the following incidents, which, according to the appellant, constitute indiscipline on the part of the first respondent :

(1) "Chandrika, P.M., is a teacher of the school. She had sent a written complaint to the appellant stating that on 9-7-1993 the first respondent had caused disturbance in the class by making noises in class and thus caused disturbance to other students and requested the appellant to take necessary action."

(Annexure A 1)

(2) "Sailaja, P., is a teacher of the school. She gave a written complaint to the appellant stating that while she was taking class, the first respondent was causing disturbance in the class by making unnecessary noises and when it became unbearable the teacher asked him what did he want and the first respondent replied that he wanted a cup of tea. The teacher further stated that it was impossible for her to take classes and requested the appellant to take appropriate action against the first respondent."

(Annexure A 2)

(3) "On 22-9-1993 the appellant received a complaint from the teacher (Shylaja, V.) stating that while the teacher was taking class, some students under the leadership of the first respondent entered the class and told the teacher to stop the class and caused disturbance in the class and behaved with the teacher in a manner not expected from a student."

(Annexure A 4)

(4) "Complaint regarding the conduct of the first respondent was received by the appellant from two other teachers (Madhusoodanan A.I. and Valsala K.) also."

(Annexures A 5 and A 6)

a (5) "A complaint was received from another teacher (Yamuna) stating that on 27-9-1993 while she was coming to the school the first respondent stood in front of her and did not allow her to pass. When the teacher asked him to move, he told the teacher that he wanted to see her properly and this happened in front of other students and caused considerable mental agony to the teacher."

(Annexure A 8)

The above events narrated in the memorandum of appeal have not been denied by the first respondent by filing counter-affidavit or otherwise, though learned counsel for the first respondent took notice in the appeal on 27-1-1994.

4. It appears, the appellant had censured the first respondent when he received Annexures A 1 and A 2 complaints. On 12-8-1993 when the first respondent was found in the compound during class hours the appellant asked for explanation. In reply the first respondent stated in Annexure A 3 that he would not repeat such events in future. He did not improve from his indisciplined way of behaviour in the school. Subsequently the appellant had received complaints, Annexures A 4 to A 6 and A 8, from the teachers of the school complaining about the gross misbehaviour of the first respondent. The first respondent was thus found to be determined to disturb peace and tranquillity in the school. The proper functioning of the school by "maintaining discipline and decorum was found to be difficult. In that situation the appellant sent Annexure A 7 registered notice dated 23-9-1993 to the father of the first respondent, which was received by him on 27-9-1993. (This notice was produced by the first respondent as Ext. P 1 in the writ petition). It also contains the proposal to take disciplinary action against the first respondent. However no explanation was given in so far as the allegations mentioned in Annexure A 7. In that situation the appellant sent Annexure A 9 registered notice to the father of the first respondent on 30-9-1993. (This notice was produced by the first respondent as Ext. P 2 in the writ petition). By the said notice appellant proposed to dismiss the first respondent and to call for written explanation with regard to the allegations alleged against him. Without submitting any explanation or denying the allegations, the first respondent and his father filed Annexure A 10 written statement expressing apology. It was found to be not acceptable in view of the antecedents of the first respondent. The appellant after seriously taking note of the grievous nature of indiscipline decided to dismiss the first respondent from the" school. Accordingly, Annexure A 11 order dated 19-10-1993 was issued, copy of which was also communicated to the father of the first respondent- That order was returned as refused for which the first respondent or his father alone was responsible. Thus before taking the decision to dismiss the first respondent sufficient opportunity was granted to him and to his father to explain the allegations levelled against him. Under these circumstances it cannot be said that there is any infraction of the principles of natural justice in dismissing the student as per Annexure A11.

5, Chapter IX of the Kerala Education Rules (hereinafter referred to as "the Rules" deals with rules of discipline. In addition to the rules contained in the Chapter, Rule 1 gives ample power to the school authorities to formulate their own rules of discipline. Rule 10 declares that the Headmaster of the school shall be responsible for all matters connected with discipline in the school. Rule 12 provides that it shall be the duty of the teachers to maintain discipline in the class room and to assist the Headmaster in maintaining the general discipline of the school. Rule 6 confers power on the Headmaster to censure, suspend or dismiss any pupil who deliberately in subordinate or mischievous or guilty of fraud or malpractice in connection with the examinations or who is found guilty of any other offence under the rules or who by his proved conduct is likely to cause an unwholesome influence on other pupils. It is expressly stated in the rule

that suspension and dismissal of pupils are within the competence of the Headmasters of the secondary schools. The following classic observation of M. S. Menon, C.J. in *Aldo Maria Patroni and Another Vs. E.C. Kesavan and Others*, is apposite (at p. 77 of AIR) :

"The post of the headmaster is of pivotal importance in the life of a school. Around him wheels the tone and temper of the institution; on him depends the continuity of its traditions, the maintenance of discipline and the efficiency of its teaching."

This would evince, the function of the Headmaster in maintaining the internal discipline is sacrosanct. It is this saintliness that makes the master-pupil relationship different from master-servant relationship in industrial law.

6. Since the word "discipline" as such is not defined either in the Kerala Education Act or in the Rules, it would be worthwhile to examine the content of "discipline" so as to see what encompass within it. In common parlance discipline may be a state of order maintained by training and control; a particular system of regulations or conduct; instructions and exercise designed to train to proper conduct or action. But if it is juris-prudentially examined it brings forth something more. "*Obedientia est legis essentia*" (obedience is the essence of law). Obedience is the guiding force to sustain the law, rule regulation or custom. It is that force we call it as discipline. Habit of obedience will alone supply discipline without which the society cannot survive. Of course the discipline is a state of mind. A punctured mind degenerates in committing disobedience; but it can easily be recouped on advice, instructions or com-mands and sometimes on warning, censure or chastisement.

7. Blagden, J. in AIR 1947 193 (Bom.) however remarks: "The word "disciple" from which it is derived, literally means "pupil" and the proper primary meaning of the word is the relationship which ought to subsist between the teacher and the taught. Of course, it has been transplanted into many other walks of life." This would indicate that inherent apparition of discipline in maintaining "tone and timbre" of the school by the Headmaster. A Division Bench of this court in *R.C. Thampan and Others Vs. The Principal, Medical College, Calicut*, observed : "The inherent right and the quasi-parental authority of a teacher to proceed by way of disciplinary action against a pupil under his charge" has been well-recognised over the years; and we should think it is ingrained in the habits of thought and philosophy of our country," The Supreme Court in *Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others*, pointed out : "Teacher occupies pride of place next below the parents as he/she imparts education and disciplines the students. On receiving salary from public exchequer he/she owes social responsibility and accountability to disciple the students by total dedication and sincere teaching." Thus the teachers and Headmasters are in loco-parentis to all the students -- male and female as observed by the Supreme Court in *Hira Nath Mishra and Others Vs. The Principal, Rajendra Medical College, Ranchi and Another*, .

8. Ext.P3 is the order passed by the District Educational Officer in the appeal filed on behalf of the delinquent pupil against the order of dismissal under Rule 6, Chapter IX. While considering the appeal the District Educational Officer conducted personal hearing on 9-11-1993 and 10-11-1993. [The Manager, Headmaster and Senior Assistant of the school were heard. The student and his father were also heard. It was after conducting such a detailed hearing and also after screening the documents, District Educational Officer came to the conclusion that there was no reason to interfere with the decision of the Headmaster dismissing the student from the school. Therefore it cannot be said that the pupil did not get fair opportunity to present his case before the District Educational Officer. It is pertinent to note here that the President of the Parent Teacher Association was also heard by the District Educational Officer during the hearing. In fact the misbehaviour of this student during the earlier years was brought to the notice of his father by the representatives of the Parent Teacher Association. That is also evident from the recital contained in Ext. P 1 notice sent to the father of the student by the Headmaster. Thus the allegations levelled against the delinquent student were sufficiently proved. Indiscipline of the student has thus established beyond any shadow of doubt. The attack against Ext. P3 therefore fails.

9. Notwithstanding the above, the learned counsel for the first respondent reiterated the argument that there is violation of the principles of natural justice in that the delinquent pupil or his guardian did not get adequate opportunity to deny or defend the charges. The submission, in substance, appears to be that mere issuing of show cause notice and calling for explanation would not suffice. In other words the delinquent pupil or his guardian should have been heard before action was taken. This submission persuades us to examine the width and amplitude of the enquiry under Rule 6 while dismissing a delinquent pupil. The relevant portion of Chapter IX, Rule 6 is extracted below :

"6. Suspension and dismissal :-- (1) Any pupil who is deliberately insubordinate or mischievous or guilty of fraud or malpractice in connection with examinations or who is found guilty of any other offence under these rules or who by his proved conduct is in the opinion of the Headmaster likely to cause an unwholesome influence on other pupils, may be, according to the degree of offence, censured, suspended or dismissed by the Headmaster. (The Headmaster of a Secondary School may also for adequate reasons impose fines on pupils studying in Standards VIII to X). In case of dismissal, a report shall be sent to the Educational Officer. An appeal from the dismissed pupil shall lie to the Educational Officer."

A Division Bench of this court had occasion to consider this Rule 6 in A. Raghavan and Another Vs. D.E.O. Attingal and Another, wherein it is observed : "Rule 6 has a purpose, and that is to maintain discipline and order in a school : and from the language of the said rule, it does not appear that it is intended that, when a Headmaster takes action under this rule, the rules of natural justice should be

followed strictly". The above rule did not contemplate an enquiry known to disciplinary action against a civil servant. It did not provide for the application of principles of natural justice either directly or impliedly. There is no express provision much less any indication in the Rule to hear the delinquent student or his guardian before passing the order of dismissal. Ordinarily the Headmaster need not conduct an enquiry which is not prescribed under the Rules. It may be because of his "pivotal position" in maintaining discipline in the school. The duty of the Headmaster and Teacher in maintaining internal discipline is paramount. When they see any slightest threat to discipline, preventive measures are enforced instantly. That necessarily obliterates the extravagance of a full-fledged enquiry. When the courts have recognized the power of the school master to inflict reasonable corporal punishment on erring pupil, the holding of a full enquiry for indiscipline appears to be out of place. The English law, no doubt, has recognized the above power of the school master for purpose of correction and enforcing discipline, in *Reginav. Hopley*, ((1860) 2 F & F 202), where Cockburn, C.J. observed : "By the law of England, a parent or a school master (who for this purpose represents the parent and has the parental authority delegated to him), may for the purpose of correcting what is evil in the child inflict moderate and reasonable corporal punishment, always, however, with this condition, that it is moderate and reasonable." This principle has been followed by the Indian courts. (See : *Ganesh Chandra Saha Vs. Jiw Raj Somani*, , *Sankunni v. Venkataramani*, AIR 1922 Mad 200 and *G. B. Ghate v. Emperor*, AIR 1949 Bombay 226. Without juxtaposing this trait in the teacher-student affinity, it may not be possible for this court to delineate amplitude of the proceeding in a dismissal of a student under Rule 6 and the applicability of right of hearing in such proceeding.

10. The Supreme Court in *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, , held that the rules of natural justice aims at securing justice or to prevent injustice. They operate only in the areas not covered by any law validly made. In *Union of India (UOI) Vs. Col. J.N. Sinha and Another*, it was laid down that principles of natural justice do not supplant law but supplement it. If a statutory provision either specifically or by necessary implication excludes the application of any rules of natural justice then the court cannot ignore the mandate of the legislature or the statutory authority and read into the concerned provision of the principles of natural justice. In this view, the Supreme Court held in that case, the principles of natural justice cannot be read into Fundamental Rules and no opportunity can be given before compulsorily retiring an employee as that implication does not arise by reason of the express statutory language. Applying this ratio the Supreme Court in *Union of India and another Vs. Ex Constable Amrik Singh*, held that in cases of special enactments like Army Act all the principles of natural justice cannot be imported. It further held that the same ratio will apply to a petition u/s 117(2) of the Border Security Force Act, 1968. It is also pointed out that Chapter XIII consisting of Rules 167 to 169 of the B.S.F. Rules deals with petitions filed u/s 117 of the Act and "even in them there is

nothing to indicate that a hearing has to be given before disposal of a petition."

11. We do not find any reason to detract in extending ratio in Union of India (UOI) Vs. Col. J.N. Sinha and Another, , and Union of India and another Vs. Ex Constable Amrik Singh, , to academic bodies like schools and colleges, where the prevalence of discipline is asseverated. It cannot therefore be said, opportunity of hearing to the delinquent student or his guardian is always an invariable attribute in a proceeding under Rule 6. We are fully conscious of the position that "principles of natural justice are fundamental in the constitutional set up of this country" Charan Lal Sahu Vs. Union of India, However, the limitations and restrictions imposed by the Supreme Court in this regard on different occasions are reverberative. Once it said "the extent and application of the doctrine of natural justice cannot be imprisoned within the straight jacket of a rigid formula. The application of the doctrine depends upon the nature and jurisdiction conferred on the administrative authority, upon the character of the rights affected, the scheme and policy of the statute and other relevant circumstances disclosed in the particular case" Union of India (UOI) and Another Vs. P.K. Roy and Others, . In Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others, , the Supreme Court remarked "the applicability of the principles of natural justice is not a rule of thumb or straight jacket formula as an abstract proposition of law. It depends on the facts of the case, nature of the inquiry and the effect of the order/decision on the rights of the person and attendant circumstances." In a recent decision, Rattan Lal Sharma Vs. Managing Committee, Dr. Hari Ram (Co-education) Higher Secondary School and others, , the Supreme Court has approved the following observation of Tucker L.J. in Russell v. Duke of Norfolk (1949) 1 AH ER 109 (C.A.), which is found to be very relevant on the point under discussion :

"..... There are, in my view, no words which are of universal application to every kind of inquiry and the every kind of domestic tribunal. 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."

12. In cases where academic discipline is involved rule of hearing has always been construed strictly. It is not the indispensable facet of principles of natural justice. Such rule can be waived in situation where Headmaster or Principal is satisfied that the "fairness" has been shown to delinquent student or his guardian before action is taken against him. Such satisfaction can be arrived at by the Headmaster or by the Principal depending on the facts of each case and attendant circumstances. Issue of a pre-decisional or show cause notice to the delinquent student or his guardian to explain the allegations would no doubt constitute "fairness". When such fairness is shown it is for the Headmaster or the Principal to decide any further opportunity is necessary in the facts of the case. But we can certainly visualise that even fairness to a delinquent would, in certain cases, cause more injustice than justice. Recently the Constitution Bench of the

Supreme Court made a very significant remark about the extension of the rule of natural justice while dealing with the question of furnishing enquiry report to a delinquent employee. It is contained in *Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc.*, . There it is observed : "Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice." The Supreme Court in *Karnataka Public Service Commission and others Vs. B.M. Vijaya Shankar and others*, remarked : "Even though the procedure of affording hearing is as important as decision on merits yet urgency of the matter, or public interest at times require flexibility in application of the rule as the circumstances of the case and the nature of the matter required to be dealt may serve interest of justice better by denying opportunity of hearing" In that case the Karnataka Public Service Commission did not afford any opportunity to the candidates who appeared in competitive examinations to explain their bona fides and innocence in disobeying the instructions. But the Karnataka Administrative Tribunal issued directions to get the answer books of the candidates evaluated. These directions were challenged before the Supreme Court by the Public Service Commission and State of Karnataka. The orders of the Administrative Tribunal were set aside by the Supreme Court on the ground that facts of the case justify the exclusion of the natural justice before taking any action in the matter.

13. It is the opinion that formed by the Headmaster is the primordial resource for initialing action against a pupil under Rule 6. It is his wisdom alone that prevails over all other considerations. It is the voice of the Headmaster who has constant commanding vigil over all his wards that counts when a question of suspension or dismissal of a pupil arises. However in all actions of dismissal two conditions are to be satisfied. They are : (i) A report shall be sent to the Educational Officer in the case of dismissal, and (ii) Before the pupil is suspended or dismissed from the school guardian of the pupil shall be in-formed. These are the primary requirements to be complied with by the Headmaster. This is a sufficient safeguard as against any arbitrary or capricious exercise of power by the Headmaster under Rule 6. Compliance with the above requirements would mean that the Educational Officer as well as the parent of the pupil get opportunity to know what actually is taking place in the school. If there need be, any unreasonable action can be set right or corrected in appropriate proceedings.

14. Let us evaluate the facts and circumstances in so far as the opportunity of hearing delinquent student had in this case. Ext. P 1 produced along with the writ petition is a copy of notice received by the father of the delinquent student calling upon him to appear before the appellant and to submit explanation, if any, for not initiating disciplinary action against his son. The first respondent admits in the writ petition that in pursuance of Ext. P 1 notice his father appeared before the Headmaster and assured him that the first respondent

would not repeat his misbehaviour causing indiscipline in the school. However, no written explanation was submitted by the delinquent student or by his father in so far as the allegations. It was thereafter the Headmaster issued Ext. P2 show cause notice proposing to dismiss the . first respondent from the school. Even then no explanation was forthcoming in so far as the misconducts alleged in the notice. It is arduous for this court in the aforesaid circumstances to hold that the delinquent student or his guardian did not get an opportunity of hearing in the case. Khalid, C. J. (as he then was) speaking on behalf of the Division Bench of Jammu & Kashmir High Court in Mohinder Singh Jamwal Vs. University of Jammu and Others, observed: "In enquiries before high academic bodies, the delinquent is not, and cannot be, given the right to cross-examine the witness as in a judicial proceeding. Nor can such a person claim access to all the records with the University. All that is necessary, is to give him notice of the allegations against him which is done here." In Pramila Dei Vs. Secretary, Board of Secondary Education, a Full Bench of the Orissa High Court held that after the delinquent having failed to respond to the notice of hearing, she could not later make a grievance that she was not fairly listened to by the Disciplinary Sub-Committee. Exts. P 1 and P 2 notices in the present case are the reflecting materials to show that the opportunity of hearing had been granted. For the non-submission of explanation to the allegations contained in Exts. P 1 and P 2 notices the delinquent alone is to be blamed. That cannot be said to be a denial of opportunity by the Headmaster under any circumstances. Exts. P 1 and P 2 notices are perfectly in order.

15. The delinquent student and his father had, however, submitted a written statement before the Headmaster expressing apology. Thus the allegation contained in the show cause notice remained unchallenged. The expression of apology confirms the allegation in the absence of statements denying them. According to the appellant, the expression of apology is unconvincing. The Headmaster who have had abundant opportunity to observe the conduct and behaviour of the delinquent student did not accept the apology. He may have various reasons for doing so. It may be in consideration of the best interest of the institution and in maintenance of internal discipline. It is the discretionary power of the Headmaster and he is not bound to disclose the reasons that persuaded him to decline to accept the apology. He cannot be compelled to accept it nor is he liable to explain his conduct in that behalf. In this case, the appellant once censured the delinquent and in another occasion the delinquent submitted a statement (Annexure A-3) undertaking that he would not repeat his misbehaviour. However, he could not improve at all and that is evident from Annexure A-4 to A-6 and A-8 complaints later received from the teachers of the school. In this background the delinquent student has no right to question the decision declining to accept the apology taken by the Headmaster, in the aforesaid circumstances. That may be a decision in the paramount interest of the institution and this Court can only sustain it.

16. The next question that comes up for consideration is how far the present

proceeding of the Headmaster is amenable to writ jurisdiction of this Court under Article 226 of the Constitution of India. Lord Delvin expressed in a published report (Report on the Cambridge Sit in 1973) "Contract is the foundation of most domestic or internal systems of discipline.... The power to discipline should be derived from the acceptance of it by the student in the contract of matriculation." Prof. Wade in his Administrative Law (1988) observed that any dispute over the interpretation and administration of the University's internal rules comes within the exclusive jurisdiction of the visitor if there is one, even where there is a relationship of contract. Lord Goddard C. J. in *R. v. Metropolitan Police Commissioner Ex parte--Parke* (1953) 2 All ER 717 observed: "He was exercising what I may call a disciplinary authority, and where a person, whether he is a military officer, a police officer, or any other person whose duty it is to act in matters of discipline, is exercising disciplinary powers, it is most undesirable, in my opinion, that he should be fettered by threats of orders of certiorari and so forth, because that interferes with the free and proper exercise of the disciplinary powers which he has." His Lordship further observed in *Ex parte FRY* (1954) 2 All ER 118: "It seems to be impossible to say, where a chief officer of a force which is governed by discipline, as is a fire brigade, is exercising disciplinary authority over a member of the force, that he is acting either judicially or quasi judicially. It seems to me that he is no more acting judicially or quasi judicially than a schoolmaster who is exercising disciplinary powers over his pupils." In *Herring v. Templeman* (1973) 3 All ER 569 the Court of Appeal held: "... the assumption that the plaintiff was entitled as of right to a full legal trial on every detailed matter was fallacious, the hearing before the governing body was neither a law suit nor a legal arbitration; its purpose was to give the student a fair chance to show why the recommendations of the academic board, which was the competent body to make an assessment, and the principle should not be accepted;. . . ." The Supreme Court in *The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others*, observed: "This problem which educational institutions have to face from 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. In dealing with the validity of the impugned orders passed by Universities under Article 226, the High Court is not sitting in appeal over the decision in question; its jurisdiction is limited."

17. A Division Bench of this Court in *P.M. Unni Raja and Others Vs. Principal, Medical College, Trivandrum and Others*, has modulated the in built restrictions of the Court exercising powers under Article 226 while dealing with the orders of the academic bodies as thus: "Courts have generally set certain limitations and self-imposed restrictions on them while exercising their discretionary power under Article 226 in dealing with decisions of academic bodies. The Courts have consistently kept their hands off high academic bodies unless flagrant violation of fair play based on bias or mala fides is brought to their notice in the orders passed by them." In *Sajii Venu v. Principal S. N. College* (1992) Ker LT 476, this

Court further alerted: "Academic bodies enjoy a position of primacy in matters relating to internal administration. It is primarily a matter in their domestic jurisdiction. That, is not to say that Courts will not interfere, if the procedure adopted by the authority is so grossly unfair, as to produce unjust results. Courts will intervene then, and only then." Interference of this Court under Article 226 in matters relating to internal discipline of academic bodies will normally be rigid. But the Court will be resilient when there is total absence of pre-decisional or show cause notice to the delinquent whatever may be the gravity of charges. When "fairness" is visible in the action of the Headmaster or Principal, the Court can even refuse to look into the complaints when the circumstances of the case so warrant. On the other hand, if there is any allegation of malice or ill-will against the authorities and is supported by prima facie evidence the Court will be justified if interference is made. In *The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others*, , the Supreme Court observed: "In the present case, no animus is suggested and no mala fides have been pleaded. The enquiry has been fair and the respondent has had an opportunity of making his defence. That being so, we think the High Court was not justified in interfering with the order passed against the respondent." As noticed, there is no allegation of malice or ill-will against the appellant or the District Educational Officer in this case.

18. In view of what we have said, with great respect we disagree with the conclusions of the learned single Judge. We accordingly set aside the judgment in O. P. No. 15873 of 1993 and allow the appeal. No order as to costs. However, we make it clear that this judgment will not in any way prevent the first respondent student or his guardian in moving the educational authorities for obtaining transfer certificate so as to enable the student to continue his studies in some other schools.