

(1990) 03 KAR CK 0016
In the Karnataka High Court
Case No : Writ Petition No. 17470 of 1989

K. Sathyashankara Shetty	Vs	APPELLANT
Mangalore University, Mangalore and another		RESPONDENT

Date of Decision : 28-03-1990

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 448, 504

Citation : AIR 1992 Kar 79 : (1990) ILR (Kar) 1064

Hon'ble Judges : H.G. Balakrishna, J

Bench : Single Bench

Advocate : Ravivarma Kumar, for S.R. Nayak, for the Appellant; P.V. Shetty and K.R.D. Karanth, for the Respondent

Judgement

1. The petitioner is aggrieved by the expulsion order passed on 25-8-1989 by the second respondent against him and has questioned the validity of the said order. The material facts are as follows:--

The petitioner is a student of Final Year B.Com., in Shri Dhavala College, Mudibidri. It is claimed that the petitioner hails from a respected family and that his father is a well-known and respected headmaster of Zilla Parishad Higher Primary School, Kalya in Karkala Taluk and that the student electorate of Shri Dhavala College, in recognition of the dynamic qualities of the petitioner as a student, elected him as Senate Representative from their college for the academic year 1988-89.

2. On 12-7-1989, the Principal, Shri Dhavala College, Mudibidri served a show cause notice on the petitioner to which the petitioner submitted the reply dated 17-7-1989. The show cause notice is reproduced below:

Sri Dhavala College

(Sponsored by Shree Moodbidri Digamber Jain Vidyavardhaka Sangha (Regd.) Moodbidri)

President: Sri D. Veerendra Hegde Moodbidri - 574 227 (D. K. Dist.)

Ref. No. SDC/DIS/Act/1/89-90

Date: 12-7-1989

Show Cause Notice

The following misconducts and acts of indiscipline have been reported against you.

1. You are aware that the candidate for the election of the office bearers to the Students' Council and Associations shall pass all subjects of the previous classes. This has been the precedent of the institution since 4 years. You have collected the signatures of some students forcibly against their will and wish creating humiliation to them to a memorandum to change the election rules contrary to the rules of the election prevailing in the institution. You have created organisation of movements subversive of discipline of the college and created indecent exposure in a provocative manner.

2. On 5-7-1989 at about 12-30 p.m. Sri Jagadeesha Shenava of Mangalore and others forcibly trespassed into the class room bearing No. 2 of III B. Com. of Sri Dhavala College, Moodbidri and abused and threatened the Lecturer Sri M. Narayana Badikillaya at your instigation. Thus causing insult, mental agony, humiliation, fear and obstructed for the discharge of his duty. Thus you have indulged in criminal acts.

The misconducts and indiscipline as alleged in paras 1 and 2 are very serious in nature and major acts of indiscipline under K.S.U. Act 1976. You are hereby called upon to explain within 7 days on receipt of this letter as to why disciplinary action should not be taken against you. If no explanation is received within the stipulated period, it will be construed that you have no explanation to offer and accordingly appropriate steps will be taken.

Sd/- (K. Devaraja Heggade) Principal, Sri Dhavala College, Moodbidri-574 227

To, Sri Sathyashankara Shetty K., S/o Bhaskara Shetty M., Raghu Tilak Nivas, Post Sachcripete, Via Mundkur Karkala Taluk.

Copy forwarded to Sri Bhaskara Shetty M., Head Master, Zilla Parishad Higher Primary School, Kalya Post, Karkala Taluk for information.

Sd/- Principal, Sri Dhavala College, Moodbidri-574 227".

3. The reply given by the petitioner is also reproduced below:

"From: 17-7-1989: Sathayashankara Shetty K., III Year B.Com Student, Sri Dhavala College. Moodabidri, D.K.

To The Principal, Sri Dhavala College, Moodabidri-574 227 D.M.

Sir, Ref: Your notice bearing reference number SDC/Dis. Act/1/89-90

I was shocked and surprised after reading the contents of your above referred show cause notice. The allegations therein are false and baseless. I never involved in any activities for which I am liable for any disciplinary proceedings so far.

Before answering the charges alleged against me, I would like to bring to your kind notice following facts. I am son of a respected school teacher. I had a good academic carrier also. I have been participating all the curricular as well as extra curricular activities of our college. I am an active member of National Social Service Unit of our college. I have good relationship with teaching staff and students of our college. Because of my good behaviour and honesty, the students of our college elected me as the senate representative from our college for the last academic year. I have been very loyal and obedient to the teaching staff of our college. I am the last person to do any unwanted things towards my teachers. I consider the job of teaching as noble profession. No doubt, I have been taking active role in the college leadership activities with others, since I believe it is one of the mode of developing individual personality. But on no time, I ever tried to misuse my capacity against Management or staff of our Institution. I never tried to instigate the students to revolt against our Institution. My leadership activities are only confined towards the interest of our institution not vice versa. I was an active member of Indian Jaycees Organisation during my pre-degree days at Mundkur which encourages and teaches that for the development of ones personality involvement in leadership activities is essential.

As directed by your above mentioned show cause notice, I would like to give following answers.

For Charge No. 1 : I know that to become a candidate for the election of the officebearers, student Council or Association, the student shall pass in all his previous examinations. The memorandum given to your kind self contains only a request to make amendment in the rules to allow the students to contest the election even if he has failed in some subjects so that all the students will have an opportunity to participate in associations. To become a student leader efficiency in studies itself is not sufficient all other factors should be taken into consideration. The Memorandum was submitted to your kind self by several student leaders jointly. I fail to understand why your kind self has implicated only me in this charge, I do not admit that I obtained signatures of students by force. I am incapable of doing such an unhuman act. Thus I have not done any organisation movements subversive of discipline of college and created indecent exposure in a provocative manner mentioned in the charge.

For charge No. 2 : It is false to allege that I instigated the Mangalore University All College Union President Sri Jagadeesha Shenava to abuse and threaten the Lecturer Sri M. Narayana Badikillaya on 5-7-1989. I love and respect my lecturer Sri M. Narayana. Badikillaya. I got extreme regards towards my lecturer. In my academic carrier, I never hurt or insulted any teachers. I feel very sad that your

kind self has made such untenable allegation against me. I never insulted or caused mental agony, humiliation, fear or obstructed for the discharge of duty of our beloved lecturer M. Narayana Badikillaya. On the other hand, your ill-founded allegation has caused mental agony to me.

I would like to bring to your kind notice that I have not committed any major or minor acts of indiscipline under the provisions of K.S.U. Act 1976 or rules framed thereunder by Mangalore University.

I request your kind self to render justice to me and not to take any action which may hamper my future prospects.

Yours faithfully, Sd/- (Sathyashankara Shetty K.)".

4. The petitioner was served with another notice by the second respondent dated 22-7-1989 informing him that he was placed under suspension from the college with immediate effect pending a detailed enquiry into the allegations made against him. The said notice reads as follows:

" Sri Dhavala College

(Sponsored by Shree Moodbidri Digamber Vidayavardhaka Sangha (Regd.)
(Moodbidri)

President: Sri D. Veerendra Heggade Moodabidri-754 227 (D. K. Dist.)

Ref. No. SDC/Dis. Act/2/89-90

Date: 22 7-1989

Certificate of Posting Obtained

Notice

You are kept under suspension from the College with immediate effect, pending detailed inquiry into the allegations made against you, as your answers through your letter dt. 17-7-1989 to the show cause notice bearing reference number SDC/Dis. Act/ 1/89-90 are unsatisfactory.

Sd/- (K. Devaraja Hegde) Principal Sri Dhavala College Moodabidri-574 227.

To

Sri Sathyashankara Sheety K

S/o Bhaskara Shetty

M Raghu Tilak Nivas, Post Sacheripete

Via Mundkur, Karkala Taluk." 5. By a letter dated 27-7-1989, the father of the petitioner sent a reply to the letter of the second respondent dated 22-7-1989. The petitioner received a notice dated 29-7-1989 from the second respondent directing him to appear in person before the Inquiry Committee in the chamber

of the second respondent on 9-8-1989 at 4-30 p.m. It is stated that before the issue of the notice dated 29-7-1989, the petitioner was not furnished any information regarding constitution of the Inquiry Committee, list of witnesses, the list of documents and articles of charges and statement of imputations.

6. On 9-8-1989, the petitioner appeared before the second respondent at 4-30 p.m. in his chamber when the petitioner was given a charge-sheet dated 9-8-1989 and the said charge-sheet reads as follows;

" Sri Dhavala College

(Sponsored by Shree Modbidri Digamber Jain Vidyavardhaka Sangha (Regd) Moodbidri)

President: Sri D. Veedrendra Heggade Moodabidri-574 227 (D. K. Dist.)

Date 9-8-1989

To

Sri Sathyashankara Shetty K. S/o Bhaskara Shetty M. III B.Com., Charge-sheeted student, Sri Dhavala Collee, Moodabidri. Charge Sheet

1. You are aware that the candidate for the election of the office hearers to the Students' Council and Associations shall pass all subjects of the previous classes. This has been the precedent of the institution since 4 years. You have collected the signatures of some students forcibly against their will and wish creating humiliation to them to a memorandum to change the election rules contrary to the rules of the election prevailing in the institution. You have created organisation of movements subversive of discipline of the college and created indecent exposure in a provocative manner.

2. On 5-7-1989 at about 12 p. m. Sri Jagadesha Shenava of Mangalore and others forcibly trespassed into the class room bearing No. 2 of III B.Com. of Sri Dhavala College, Moodbidri and abused and threatened the Lecturer Sri M. Narayan Badikillaya at your instigation. Thus causing insult, mental agony, humiliation, fear and obstructed for the discharge of his duty. Thus you have indulged in criminal acts.

You have committed the major acts of indiscipline as per the KSU Act, 1976.

Whether you plead guilty or not.

(Signature of Sathyashankara Shetty K.)

Sd/- (K. Devaraja Hegde) Sri Dhavala College, Moodabidri-574 227."

7. It is stated that the petitioner was not able to cross-examine the witnesses of the college since he was not furnished with a copy of the charge-sheet, names of the members of the Inquiry Committee, list of witnesses and list of documents earlier and therefore, he requested the Principal and other members of the

Inquiry Committee to adjourn the inquiry and give him a reasonable time so that he could prepare himself to effectively participate in the disciplinary proceedings. However, the Inquiry Committee, without adjourning the case, proceeded to record the statement of M. Narayana Badikillaya. After recording the statement of the said witness, the petitioner was asked to cross-examine him. Again, the petitioner requested the Inquiry Committee to adjourn the case to some other date so that he could cross-examine the witness. But, the request of the petitioner was turned down. Thereafter the inquiry was adjourned to 11-8-1989 at 3-30 p.m. After the conclusion of the proceedings on 9-8-1989, the Inquiry Committee did not read over the proceedings recorded by the Committee and also did not read out the statement of M. Narayana Badkillaya. Hence, the petitioner requested by his letter dated 11-8-1989 addressed to the Chairman of the Inquiry Committee for a copy of the proceedings which took place on 9-8-1989. Though the said letter for furnishing the copy was acknowledged, the Chairman refused to furnish the copy of the proceedings. Again on 1-8-1989, the petitioner appeared before the Inquiry Committee at 3-30 p.m. in the chamber of the Principal and requested him and other members of the committee to give him a copy of the proceedings which took place on 9-8-1989 so that he could prepare himself to defend his case. Again, the Principal and other members of the Inquiry Committee rejected the request. But, on that day, the Committee proceeded to record the statements of the remaining three witnesses also. It is stated that the petitioner wanted to cross-examine all these three witnesses, but the Committee declined to give him an opportunity. Thereafter, the Committee submitted a report to the Managing Committee of the College through the Principal dated 11-8-1989. However, a copy of the same was furnished to the petitioner.

8. By the letter dated 16-8-1989, the Principal informed the petitioner that the Managing Committee of College has accepted the findings of the Inquiry Committee and it has directed the Principal to issue a notice to the petitioner to show cause why he should not be punished by expulsion from (he college for misconduct and gross indiscipline. The petitioner replied to this letter on 21-8-1989. However, the order of expulsion came to be passed on 25-8-1989 against the petitioner from the college.

9. The petitioner states that on 5-7-1989 which is prior to the show cause notice dated 16-8-1989 M. Narayana Badikillaya had lodged a complaint against the petitioner with the local police regarding an incident alleged to have taken place on 5-7-1989 between 12.15 p.m. and 1.00 p.m. when the said Narayana Badikillaya was teaching the students of Final B.Com., in class room No. 2. The petitioner has made available a copy of the F.I.R. In the F.I.R. it is pointed out that the name of the petitioner is not mentioned and that no allegations were levelled against the petitioner and the complaint was restricted only to Jagadeesh Shenava stated to be the President of All College Unions of Mangalore University. In pursuance of the F.I.R., the statements of K. M. Vasudeva Bhat, M. C. Udaya Kumar, Narayana Shetty and Vardhaman were recorded and that none of the

witnesses stated anything against the petitioner. All the witnesses spoke about the misconduct of Jagadish Shenava. The petitioner has made available the statements of Vasudeva Bhat, M. C. Udaya Kumar, Narayana Shetty and Vardhaman. Thereafter, a charge-sheet was filed before the court on 28-7-1989 and even in the charge-sheet, the petitioner was not cited as an accused. The charge-sheet was only against Jagadish Shenava.

10. On service of the expulsion order on the petitioner on 25-8-1989, he made an application to the second respondent on 5-9-1989 for grant of certified copies or authenticated copies of the statements of four witnesses examined in support of the charge as well as the complete order sheet/ proceedings sheet maintained by the Inquiry Committee. But the petitioner was not furnished the true or certified copies of the documents sought by him and even on personal representation, the second respondent declined to grant copies to the petitioner.

11. The impugned order of expulsion reads thus:

" Sri Dhavala College

(Sponsored by : Shree Moodbidri Dibamber Jain Vidyavardhaka Sangha (Regd) Moodbidri

President: Sri D. Veerendra Heggade Moodabidri-574 227 (D. K. Dist.)

Ref. No. SDC/Dis. Act/5/89-90

Date: 25-8-1989

By R. P. A. D.

Expulsion Order

The Managing Committee of the College having considered your reply dated 21-8-1989 and found no merit in your reply has resolved that you should be punished by expulsion from the College. You are accordingly hereby informed that you are expelled from the college with immediate effect.

Sd/- (K. Devaraja Hegde) Principal, Sri Dhavala College Moodbidri-574 227

To

Sri Sathyashankara Shetty K. S/o Bhaskara Shetty M. Raghu Tilak Nivas, Post: Sacheripete, Via Mundkur, Karkala Taluk."

12. I have heard the arguments of the learned counsel Shri Ravivarma Kumar, appearing for the petitioner and Shri K.R.D. Karanth, appearing for the respondent.

13. The contention of the petitioner is that the impugned order is illegal, arbitrary and quite contrary to facts and probabilities of the case and that the entire proceedings are vitiated for want of material particulars in as much as the charge sheet is quite vague, indefinite and incapable of comprehension. The

second contention is that the inquiry conducted by the Inquiry Committee is wholly illegal and violative of the relevant rules governing such an inquiry. The third contention is that the impugned order is liable to be quashed for violation of principles of natural justice.

14. The learned counsel for the second respondent has filed a detailed statement of objections supporting the impugned order and denying violation of any rule or principles of natural justice and has further denied that the petitioner enjoyed a good reputation as a student.

15. In the statement of objections, elaborate account of what transpired has been set out.

16. Elaborate arguments were addressed by the learned counsel appearing for the parties.

17. The point for consideration is whether the inquiry held against the petitioner suffers from any legal infirmity and whether the impugned order is liable to be quashed for non-compliance with principles of natural justice and further whether the impugned order deserves to be set aside for want of evidence.

18. Since the complaint lodged with the police is anterior to the complaint lodged by the Principal with the college, it would be appropriate to refer to the contents of Annexure-R which is the report of the F.I.R. received describing the occurrence of the cognizable offence on the 5th day of July 1989 at Moodabidri Police Station of Karkala Circle. In this F.I.R. the persons accused are described as "One Jagadechsha Shenava and friends". The offences alleged are punishable under S. 448, 504 read with S. 34, I.P.C. The number of persons stated to be hurt is mentioned as one. The date of occurrence of the incident or the offence is 5-7-1989 between 12 p.m. to 1.00 p.m., at Shri Dhavala College, Mapady village, 1 K.M. North from the police station. The F.I.R. was received on 5-7-1989 at 18.30 Hrs., Moodibidri Police Station and the F.I. R. was despatched on the same day at 19.00 Hrs. The complainant is mentioned as M. N. Badikillaya, Sri Dhavala College, Moodabidri and the accused is named as Jagadisha Shenava, President, AH College Union, Mangalorc University and others. The complaint which is incorporated in the F.I.R. reads as follows:

"Sir,

I the undersigned bring the following facts for your kind perusal and early action in the matter.

I am teaching the students of the final B.Com. degree class between 12.15 p.m. and 1.00 p.m. One Mr. Jagadish Shenava said to be President of All College Union of the Mangalore University entered my class without the permission either of the Principal or of the undersigned illegally and tried to instigate some of the students to attack me along with his friends. Further he used all kind of filthy language and threatened me that he would attack me outside.

At this situation some of my colleagues came to my class room and protected me against manhandling. This has resulted in a bad atmosphere inside the class as well as outside.

Hence I request your kind self to take suitable action against the person and also give protection to me.

Thanking you, Place: Moodabidri Your faithfully,

Date 5-7-1989 Sd/- M. N. Badikillaya

Forwarded with complaint to the Sub-Inspector Town Police Station, Moodbidri, with a request to take immediate action in the matter.

Sd/- K. Devaraja Hegde, Principal, Sri Dhavala College, Moodabidri

Received the complaint on 5-7-89 at 18-30

Sd/- M. Babu, H. C. 783 Moodabidri P. S.

"Correctly copied"

Sd/-M. Babu, H.C. 783

Received on 6-7-89 at 11 a.m. through P. C. No. 605 of Moodabidri P. S.

Sd/- M. L. Shivana, 6-7-89 Addl. Munsiff and J.M.F.C. Karkala".

19. In the entire F.I.R. there is no mention of the name of the petitioner who is K. Sathyashankara Shetty. The complaint was given by M. N. Badikillaya and it was forwarded by K.. Devaraja Hegdc, Principal, Sri Dhavala College, who is the second respondent herein to the Sub-Inspector, Town Police Station, Moodabidri with a request to take immediate action in the matter. The incident, according to the F.I.R., took place on 5-7-1989 between 12-15 p.m. and 1.00 p.m. and the persons alleged to have been involved and committed the alleged offence are Jagadish Shenava and his friends. According to the complaint, when M. N. Badikillaya was teaching the students of final B.Com., between 12.15 p.m. to 1.00 p.m., one Jagadish Shenava said to be President of All College Union of the Mangalore University entered the class without the permission either of the Principal or of M. N. Badakillaya illegally and tried to instigate some of the students to attack M. N. Badakillaya along with his friends. Further it is alleged that Jagadish Shenava used all kind of filthy language and threatened M. N. Badakillaya that he would attack him outside and at this juncture some of the colleagues of M. N. Badakillaya came to the class-room and protected him against the man-handling. Either in the F.I.R. or in the complaint, the petitioner's name does not find a place in any capacity either as an accused or otherwise. Whereas the incident is stated to have taken place on 5-7-1989 at about 12.15 p.m. to 1.00 p.m. on the very same day, a complaint was lodged by M, N. Badakillaya against the alleged offenders and the complaint was received at Moodabidri Police Station at 18-30 Hrs. (6-30 p.m.).

20. On the very same day M. N. Badakillaya gave a complaint in writing to the college, and the same reads thus:

"Sir,

I, the undersigned bring the following facts, for your kind perusal and early action in the matter.

I was teaching the students of the Final B.Com degree class in room No. 2 between 12.15 p.m. and 1 p.m. on 5-7-89. At about about 12.30 p.m. some outsiders came to the doorsteps of my class-room and requested me to send Sri Novel Wilfred Cutinha of the Class. I told them clearly that I could not send any student from the class when it is in progress without the written permission of the Principal. At this moment Sri Sathya-shankara Shetty, who was sent out of the class on the permission of the Principal, instigated these outsiders and at his behest they entered my class and abused and man-handled me before the students. He was spectator and party to this incident."

21. Comparing the contents of the complaint lodged by M. N. Badakillaya before the Sub-Inspector and the complaint filed with the Principal of the College on the very same day, glaringly manifest are material variations found in the version given by M. N. Badakillaya on the same day before two different authorities.

22. Whereas in the complaint lodged with the Sub-Inspector of Police, no allegation is made against Sathyashankara Shetty (petitioner), in the complaint lodged with the Principal, Sathyashankara Shetty's name is specifically mentioned and it is reiterated in the last sentence that he was a spectator and party to this incident. In the sentence the words, "he was spectator and party to this incident" appear to have been subsequently included. In fact in the complaint given to the Principal, there is no mention of the names of Jagadish Shenava and others at all. The persons who are supposed to have entered into the class-room are mentioned in the complaint given to the Principal as some outsiders only. The allegation in the said complaint against the petitioner is that he instigated these outsiders and at his behest the outsiders entered the class-room and abused and manhandled M.N. Badakillaya before the students and that the petitioner was a spectator and party to the incident. However, in the complaint filed before the police, it is stated that Jagadish Shenava along with his friends entered the class without the permission either of the Principal or of the complainant illegally and tried to instigate some of the students to attack him along with his friends and that Jagadish Shenava used all kinds of filthy language and threatened M. N. Badakillaya that he would attack him outside and at this juncture some of the colleagues of M. N. Badakillaya came to the class-room and protected Badakillaya against manhandling. It is interesting to note that there is no allegation of physical assault in the complaint given to the police. But in the complaint given to the Principal, there is an allegation that at the behest of the petitioner, the outsiders entered into the class-room and abused and manhandled M. N. Badakillaya before the students. It is significant to note that the name of

thhe petitioner as culprit figures only subsequent to the complaint lodged with the police as otherwise, there is no reason at all as to why there is no allegation against the petitioner in the complaint given to the police.

23. It is reasonable to probabalise that the management wanted to frame charges and foist a case against the petitioner for reasons best known to them in order to get rid of him from the college. The fact that the complaint lodged with the police as mentioned in the F.I.R. was given is not in dispute and so also the complaint given by M. N. Badakillaya to the Principal of the College.

24. The consequence of the events leading to the expulsion of the petitioner from the college throw considerable light on the truth of the matter. A show-cause notice was served on the petitioner dated 12-7-1989 whereas the incident is supposed to have taken place on 5-7-1989. From the show-cause notice the first allegation against the petitioner was not pressed. A reply was given by the petitioner to the said show-cause notice by his letter dated 17-7-1989. On 22-7-1989, a notice placing the petitioner under suspension was issued and communicated to the petitioner pending detailed inquiry into the allegations and this order of suspension was issued by the Principal who is the second respondent herein. On 22-7-1989, the father of the petitioner addressed a letter to the Principal dated 22-7-1989. A notice dated 29-7-1989 was issued to the petitioner calling upon him to appear in person before the Inquiry Committee in the chamber of the Principal on 9-8-1989 which was the date set down for inquiry. On 9-8-1989 a charge-sheet was issued to the petitioner and it reads as follows:

"To

Sathyashankara Shelly K., S/o. Bhaskara Shetty, M., III B.Com., Charge-sheeted student, Sri Bhavala College, Moodabidri. CHARGE SHEET

1. You are aware that the candidate for the election of the office bearers to the Students' Council and Associations shall pass all subjects of the previous classes. This has been the precedent of the institution since 4 years. You have collected the signatures of some students forcibly against their will and wish creating humiliation to them to a memorandum to change the election rules contrary to the rules of the election prevailing in the institution. You have created organisation of movements subversive of discipline of the college and created indecent exposure in a provocative manner.

2. On 5-7-1989 at about 12.30 p.m. Sri Jagadeeshan Shenava of Mangalore and others forcibly trespassed into the class room bearing No. 2 of III B.Com. of Sri Dhavala College, Moodbidri and abused and threatened the Lecturer Sri M. Narayana Badakillaya at your instigation. Thus causing insult, mental agony, humiliation, fear and obstructed for the discharge of his duty. Thus you have indulged in criminal acts.

You have committed the major acts of indiscipline as per the KSU Act, 1976.

Whether you plead guilty or not. No.

Sd/-

(Signature of Sathyashankara Shetty K.)

Sd/-

(K. DEVARAJA HEGDE)

Principal, Sri Dhavala College, Moodabidri-574227 "

In the last sentence of the charge sheet, it is stated "Whether you plead guilty or not". On the very same day, the names of the Inquiry Officers were announced and again on the same day, the list of witnesses was also furnished on behalf of the college. On 9-8-1989 the petitioner was asked to appear in person on 11-8-1989 at 3.30 p.m. in the chamber of the Principal before the Inquiry Committee. The petitioner appeared before the Inquiry Committee on 11-8-1989 and gave a letter to the Chairman of the Inquiry Committee stating that since the inquiry is going on about the charges framed against him, he would like to have the copy of the daily proceedings. On the same day (11-8-1989) the report of the Inquiry Committee signed by the Chairman and members of the Committee was submitted. In this report it was held that the petitioner Shri K. Sathyashankara Shetty and Shri Jagadish Shenava and others refused to go out of the class and manhandled the lecturer Shri Narayana Badakillaya. It is also mentioned that the evidence of M. Narayana Badakillaya is corroborated by the evidence of the other three witnesses and hence, the committee found the student Sathyashankara Shetty guilty of the second charge. On 16-8-1989 a show-cause notice was again issued to the petitioner indicating to the petitioner that the managing committee of the college has accepted the findings of the Inquiry Committee and a show-cause notice was issued to the petitioner asking him as to why he should not be punished with expulsion from the college for the misconduct of gross indiscipline and the petitioner was directed to show-cause, in writing not later than 23-8-1989. This notice was issued by the Principal. On 21-8-1989, the petitioner submitted his reply. Thereafter on 25-8-1989, the expulsion order was issued against the petitioner by the Principal informing him that he has been expelled from the college with immediate effect.

25. It is very strange that the petitioner was made known of the charges against him only on 9-8-1989 for the first time when he was asked to appear before the Inquiry Committee in the chamber of the Principal and again on the same day the petitioner was informed of the names of the Inquiry Officers and the witnesses on behalf of the college and on the very same day, the petitioner was asked to appear two days later on 11-8-1989 before the Inquiry Committee. The petitioner did appear on 11-8-1989 before the Inquiry Officer but requested for a copy of the daily proceedings. But no such copy was furnished to the petitioner and on 11-8-1989 the inquiry was continued and a report was also submitted by the Inquiry Committee on the very same day. It cannot be said that there is

fairness and reasonableness in the manner in which the inquiry has been held for the reason that the charge-sheet was served on the petitioner at the first sitting of the inquiry on 9-8-1989 where inquiry commenced and at the second and final sitting of the Inquiry Committee on 11-8-1989 he had to defend himself against the allegations made against him. Strangely enough, instead of granting reasonable time to the petitioner after furnishing him the charge-sheet, witnesses list and the list of documents to prepare himself, I find that there was unjustified and undue hurry in continuing the inquiry within an interval of two days time. There is no justification at all for denying the petitioner a copy of the inquiry proceedings held on 9-8-1989. It is not the case of the college that except furnishing a copy of the charge-sheet, list of documents and the list of witnesses, nothing else transpired at the first sitting of the Inquiry Committee on 9-8-1989. On the other hand, the report submitted by the Inquiry Committee dated 11-8-1989 holding that the second charge was proved against the petitioner discloses that inquiry commenced on 9-8-1989 at 4.30 p.m. at the premises of the college and Sri P. Ganapayya Bhat, Lecturer in Ancient History and Archaeology was present as the Presenting Officer and also the statement of M. Narayan Badakillaya in proof of the charge was recorded under his signature. It is also recorded that the student Sri Sathyashankara Shetty refused to cross-examine him and also refused to sign the proceedings contained in the statement of M.N. Badakillaya and further inquiry was adjourned to 11-8-1989 at 3.30 p.m.

26. It is significant that the petitioner refused to cross-examine the witness on 9-8-1989 for obvious reasons. The petitioner was served with the charge-sheet on 9-8-1989 along with the witnesses list and the list of documents and it is reasonable to expect that he would be in a position to cross-examine the witness on the very same day. It appears to me that not even breathing time was allowed to the petitioner. The natural justice is nothing but procedural fairness. Considering the consequences which are likely to result if allegations are proved against the petitioner, it cannot be said that the procedure adopted by the Inquiry Committee is in consonance with the requirements of a fair trial. A fair trial consists of components such as an opportunity to know the allegations, an opportunity to cross-examine the witnesses and finally an opportunity to argue the case after adducing evidence. It is difficult to reconcile how the impugned order emerging from a most unsatisfactory inquiry could be supported by any reasonable standard.

27. Administrative justice contemplated certain requirements to be fulfilled if the hearing is to be regarded as fair. One of them is adequate notice of hearing. The notice must be of sufficient length to enable the defence or the case to be prepared. In *R.V. Thames Magistrate's Court, ex parte Polemis* (1974) 2 All 1219, a conviction was quashed for breach of natural justice since the defendant was not afforded sufficient time to prepare his defence. This was considered to be more important than the apprehension that the defendant might leave the jurisdiction of the Court.

28. In *R. V. South West London Supplementary Benefit Appeal Tribunal, Ex p, Bullen* (1976) 120 Sol Jo 437 it was held that to fail to accede to a request for an adjournment may amount to a failure to give a hearing and thus to a failure of natural justice or fairness.

29. In *Priddle v. Fisher & Sons* (1968) 3 All 506 the applicant was given forty-eight hours notice to attend a hearing. He immediately told the Tribunal that the time of hearing coincide with an interview for employment. This was confirmed by a third party. He asked for an adjournment. The Tribunal said the reason was insufficient to justify an adjournment or to explain the failure to attend and made a direction in the applicant's absence. The direction was quashed. The right to a hearing was restored.

30. In the instant case, after furnishing the charge-sheet, list of witnesses and documents on 9-8-1989, the petitioner was asked to appear for further trial on 11 -8-1989 itself and the petitioner had hardly 48 hours to prepare his case. Moreover, on 9th itself the trial was launched and the deposition of a witness was recorded and the petitioner refused to cross-examine him since he was unprepared. In these circumstances it has to be held that there was a gross violation of the rules of natural justice.

31. I am of the opinion that apart from the glaring discrepancies and inconsistencies which are material and relevant, between the contents of the complaint lodged with the Police Sub-Inspector of Moodbidri Police Station and the complaint lodged with the College by M.N. Badakillaya, the manner in which the inquiry has been conducted justifies an inference that the entire proceedings are revolting to human conscience. Even a criminal is given a fair trial and fair hearing and it is expected that in an academic body a greater sense of fairness, reasonableness and human treatment would be available to a student facing a trial and confronted with the grave consequence of expulsion from the college. In these circumstances, I am compelled to opine that not only the proceeding is draconian but also the impugned order. Apart from that, the impugned order does not stand legal scrutiny by any means. Relevant in the context is the principle which is manifest in, *R. v. Agricultural Land Tribunal Ex P. Bracey* (1960) 1 All 518

"It is also an error of law to give reasons which are inadequate, to act on no evidence, on evidence which ought to have been rejected or to fail to take into consideration evidence which ought to have been considered."

32. I, therefore, allow this writ petition and quash the impugned order, Annexure-Y, dated 25-8-1989. The 2nd respondent is directed to permit the petitioner to pay the examination fees and to permit him to take the examination.

33. Petition allowed.