
(1953) 05 AHC CK 0005

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 245 of 1953

Keshab Chandra

APPELLANT

Vs

Inspector of Schools and Others

RESPONDENT

Date of Decision : 04-05-1953

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1953 All 623

Hon'ble Judges : Malik, C.J;Agarwala, J

Bench : Division Bench

Advocate : R.C. Ghatak, for the Appellant; Gopalji Mehrotra, for the Respondent

Final Decision : Allowed

Judgement

Malik, C.J.—This case discloses rather an unfortunate state of affairs. On 12-9-1952, there was some trouble in front of a school known as K. R. Rastogi Higher Secondary School, Farrukhabad. One of the boys reading in that School was the applicant Keshab Chandra, son of Mukta Prasad. He was a student of XIIth class. In the fracas between the police and the students two police officers received some injuries. A report was made at the police station, that about 150 to 200 students had taken part in the incident, but their names were not mentioned, The only name giver* in the report was that of a lecturer of the said School, Suresh Chandra Shukla.

2. Whether the students of this particular institution had taken part in the fracas and who they were, is not a matter about which we can express any opinion. We have been informed that there is a case pending against 10 students in the Court of the Magistrate,. Fatehgarh.

3. On 9-10-1952, even before the students who had been arrested had been put up for identification the Inspector of Schools passed an order rusticating a number of boys. On 16-9-1952, the applicant was arrested but he was released on bail the same day. On 6-12-1952, he was put up for identification but no one

identified him as among those who had taken part in the affray. In the affidavit in support of the application it is mentioned that the applicant was never sent for or interrogated by the Principal of the School in connection with the incident and the Principal did not make any report against the applicant to the Inspector of Schools. It is further mentioned that neither the Director of Education, nor the Inspector of Schools made any enquiries before rustivating the applicant and some other boys on 9-10-1952. As a matter of fact in the rustication order even the name of the boy was not correctly given He was described as Kishan Chandra, son of Mukta Prasad, though his name is Keshab Chandra, son of Mukta Prasad.

4. Notice of this application was issued to the opposite parties which included the Inspector of Schools, Farrukhabad; the Director of Education, Uttar Pradesh; the Board of High School and Intermediate Education, U. P.; and the Principal, K. R. Rastogi Higher Secondary School, Farrukhabad; and no counter-affidavit has been filed on their behalf. We must, therefore, take it that the facts given in the affidavit in support of the application are correct. It would then mean that without any enquiry whatsoever either by the head of the institution or by the Inspector of Schools or by any authority higher than him the applicant was rusticated, probably because of some private information of which we know neither the source, nor the nature.

5. It is not necessary for us in this case to go into the question whether a student reading in an educational institution has any legal right to continue to read in that institution or whether any disciplinary action taken by the head of the institution or those in charge of maintenance of discipline can be made subject to scrutiny in a Court of law. To hold that a student has a legal right to come to a Court of law and require the head of the institution to justify his action where he has meted out some punishment or taken any disciplinary action will be subversive of all discipline in our schools and colleges and we must not, therefore, be deemed to have countenanced any such suggestion by this order. As a matter of fact in more than one case we have observed that this Court will not interfere in the internal autonomy of educational institutions.

6. In this case, however, that question does not arise. No disciplinary action has been taken by the Principal who is primarily responsible for maintenance of discipline in the institution. The Inspector of Schools is an officer appointed by the Government to supervise the work of those who are in charge of these institutions and he is bound by certain instructions issued by the Government as to how he has to conduct himself in the discharge of his duties. Under Para 96 of the Educational Code of Uttar Pradesh, 1936 Edition, the head of an institution has been made responsible for maintenance of discipline and has been given the right to punish and even expel a boy from a school or college. In very serious cases where the student deserves severer punishment than he can inflict, i.e. where a student has not only to be expelled from the school or college but his admission in any other institution has to be debarred a report has to be made to

the Inspector of Schools who passes an order debarring his admission in any other institution for a specific period. In this case the Principal took no action. He made no enquiries. The Inspector never directed him to take any steps. They made no inquiries and yet they rusticated the boy. In the circumstances disclosed in the affidavit we think that the Inspector was not justified in passing the order that he did. His action violates all principles of natural justice. He seems to have been very hasty in his action and he passed the order without even calling for a report from the Principal as to whether the boy had really taken part in the incident or not. The order being in contravention of para 96 of the Educational Code and not having been made on a report of the Principal, the Inspector of Schools had no power to make it.

7. The result, therefore, is that we allow this writ application and set aside the order of rustication passed by the Inspector of Schools on 9-10-1952.

8. Before we leave this case, however, we may mention that on behalf of the learned Standing Counsel the question of jurisdiction of this Court in passing the order under Article 226 of the Constitution, when the rustication order was passed by the Inspector of Schools in contravention of the provisions of para 96 of the Educational Code and not by the Principal was not raised and we have, therefore, not considered that question. Learned Standing Counsel pointed out that if the order of expulsion had been passed by the Head of the Institution or by the Inspector of Schools in accordance with the provisions of Para 96 of the Educational Code he would have raised the point that Article 226 could not be invoked by the applicant for the quashing of the order.

9. We do not think that it is a case in which we should make any order as to costs.