

(1961) 01 KAR CK 0013
In the Karnataka High Court
Case No : Writ Petition No. 1104 of 1960

L. Nagaraj L. Krishnamurthy Rao

APPELLANT

Vs

University of Mysore

RESPONDENT

Date of Decision : 02-01-1961

Acts Referred:

Citation : AIR 1961 Kar 164

Hon'ble Judges : Narayana Pai, J;Iqbal Husain, J

Bench : Division Bench

Advocate : S.K.V. Iyengar, for the Appellant; D.M. Chandrasekhar, High Court Govt. Pleader for A.G., for the Respondent

Judgement

Narayana Pai, J.—The Petitioner, who appeared for the B. Sc. Degree Examination of the Mysore University in April 1960, prays for the issue of an appropriate writ quashing the order of the University notified under No. EX.CEP--148/60-61 D/- 12-8-1900 debarring him from appearing for the B. Sc. Degree Examination for a period of two years commencing from April 1960 Examination and for another writ o? mandamus directing the respondent-University to announce the result of the Examination held in 1960 so far as the petitioner is concerned.

2. The results of the Examination were in fact published by the University disclosing that the petitioner had passed in all the three Parts of the Examination in the Third Class with a note appended at the bottom reading that the results of certain candidates will be announced later, Among those candidates is the petitioner whose Register Number at the Examination is 1353. The enquiries made by the petitioner's father in respect of this note did not elicit any definite information from the University, until by a letter dated the 1st of April 1960 the petitioner was called upon to meet the Controller of Examinations on the 12th of July 1960 in the Chambers of the Director of Collegiate Education at the Central College, Bangalore. The petitioner states that when he did call at the place and time mentioned, he was informed that the Controller of Examinations was not

then available and was asked to call again the following day at 3 p.m.

3. What happened when the petitioner called again on the 13th of July 1960 at 3 p.m. is briefly stated in paragraph 8 of his affidavit. When he entered the Chambers, in addition to the Controller of Examinations, there were present the Director of Collegiate Education and the Professor of Chemistry. The petitioner was asked about the number of additional sheets he had taken for the purpose of answering the Second Paper in Chemistry at the Examination.

A written statement to that effect was also taken from him. He was then asked some questions on Chemistry Second Paper and was also asked whether he could write down the answers there. Though the petitioner stated that he was willing to do so, he was not asked to write out the answers, but one of the interrogators remarked "too clever".

When he was asked how it was possible for him to write out answers which agreed closely with the text in one of the Text-Books of Chemistry, the petitioner is stated to have replied that he had studied the subject day and night and was therefore in a position to write in the manner he had done at the Examination. The petitioner was later asked whether he was acquainted with any person in Mysore or in University. Finally, he was admonished to tell the truth with an assurance that if he did so, he would be given a lesser punishment.

4. With reference to these allegations, the answer made in paragraph 8 of the counter affidavit filed on behalf of the University by the Controller of Examinations, amounts to this, The University authorities had reason to suspect that the petitioner and the examiner who valued his paper were guilty of malpractice at the Examination and therefore a Committee consisting of the Principal of the Central College, Head of the Department of Chemistry, the Controller of Examinations and the Registrar of the University, was constituted to enquire into the matter. That Committee met on 13-7-1960 and took the explanations of the petitioner and the said lecturer. The affidavit proceeds to state;

"Several questions were put to the petitioner during the course of the enquiry. As I am producing before the Hon'ble Court the report of the said Committee, I submit it is unnecessary for me to set out what transpired before the Committee on that day. However, it is necessary to add that some of the allegations made by the petitioner in this para are not correct. His allegation that he was asked by the Committee to tell the truth and that the Committee told him that if he told the truth, he would be given lesser punishment and otherwise he would be punished severely, are not correct".

We do not think that this constitutes a complete or satisfactory denial of the statement made in paragraph 8 of the petitioner's affidavit. It is found stated in the copy of the report of the Committee produced before us that the Syndicate of the University considered several cases of mal-practices besides the alleged one in respect of the petitioner and that in most cases the persons against whom

such allegations had been made had confessed their offence and prayed for lenient punishment and the Syndicate has generally been lenient in such cases. This statement, in our opinion, highly probalises the statement made in the petitioner's affidavit that he would be dealt with leniently by the Syndicate if he would tell the truth.

5. What happened at the meeting of the Committee on the 13th of July 1960 also appears to have been correctly set out in the petitioner's affidavit. We do not propose to refer to that part of the Committee's report which relates to the conduct of the Examiner or Valuer, because we understand that there is a separate writ petition filed by him impugning an order passed against him in connection with the same incident. In relation to the petitioner before us, the narration contained in the Committee's report opens as follows:

"Sri L. Nagaraj was also examined. He told the Committee that he took 4 to 5 additional books for answering B. Sc. Chemistry II paper making an entry of his Reg. No. for each one of the books taken by him on the Invigilators' diary. He still wanted more additional books and he says that the peon came, asked him how many books he wanted, and when told that he might require 4 or 5 more, he placed some books about 4 or 5 more, in number and went away to another student without getting entries made on the invigilators' diary. The Committee has got this in writing from him."

This completely corroborates the statement made by the petitioner in his affidavit. The further statement of the committee is in the nature of an opinion which reads as follows:

"But the candidate made a serious mistake here; He has forgotten that he has taken only one book and that his Reg. Number has been entered only once in the invigilators' diary."

We advisedly use the word "opinion" with reference to this, because it cannot possibly be an inference of fact. The statement that he has forgotten that he has taken only one book is in the nature of ipse dixit. Apparently, there is no basis for this finding of fact other than the fact that in the invigilators' diary there is the signature of the petitioner only in respect of one additional book. Actually the members of the committee had the answer book of the petitioner which, in fact, had seven additional books attached to it.

The petitioner in his affidavit has stated that certain peon gave him the additional books and went away to another examinee without taking his signature to the invigilators' diary. In the face of these circumstances, matter should have been one for enquiry and not one for a conclusion starting from a definite but unproved inference that the number of additional books taken by a student can never be more than the number for which he has signed in invigilators' diary, in the absence of any evidence to show that no additional books were at all issued without obtaining the signature of the examinee. The report proceeds to state as follows :

"Next, questions were put to him to ascertain the powers of his memory since he had reproduced so thoroughly and voluminously in Organic Chemistry only and nowhere else."

The next 7 paragraphs are a summary of interrogation by the members of the Committee to "test the memory powers" of the candidate. The conclusion stated is:

"It is evident the candidate has no such extraordinary memory.

***** His memory must be rather poor because it has played a serious trick on him when he deluded himself by making the statement that he had taken 4 or 5 additional books and made corresponding entries in the invigilators' diary. That he is capable of making deliberately false statements is abundantly clear from this. He has entered his number for one additional book only in the diary."

6. It is perfectly clear that there is no basis for this definite conclusion other than the fact that whereas there are seven additional books attached to answer book of the petitioner, he has signed in respect of only one in the invigilators' diary. We are clearly of opinion that this is too hasty a conclusion to be drawn on so slender material.

7. It is nobody's case, nor is it suggested, that the alleged malpractice, if any, was committed in the Examination Hall or was detected by any invigilators or other officers of the University who were present in the Examination Hall. Even in the re-port, what the Committee states as its conclusion is that the candidate must have somehow or other got hold of these additional books, and after stating certain other facts to which no reference need be made, the further inference stated is that the only place where he could lay his hands on the books was only after it left the University and the possibility of the petitioner getting hold of these books subsequently was not beyond the realm of probability.

8. Hence the case was not one of malpractice in the Examination Hall but one of suspicion that subsequent to the Examination the petitioner had by dubious methods succeeded in adding to his examination paper certain further sheets of paper containing answers to the questions, copied straight from the relevant portions of a standard Text-Book. If the malpractice had taken place in the Examination Hall and such malpractice or indiscipline on the part of the petitioner had been detected immediately, it might well have been argued that no further enquiry was necessary to mete out punishment to the petitioner.

Where, however, as in this case, the University comes to entertain suspicion about the petitioner having adopted some malpractice, it is only not and proper that the petitioner who is so suspected should have a full and fair opportunity to defend himself and offer explanations, if any, which might succeed in dispelling the suspicions entertained against him.

Without any such reasonable opportunity being given, to brand the candidate with the stigma of having adopted unfair means which casts a slur on his

character for the rest of his life is a serious matter. It is true, as the learned Government Pleader suggests, that we need not insist upon bodies like the University to function exactly in the manner in which ordinary courts of law function. But, that is not saying that they are free to proceed in a manner which cannot be supported in Courts is just and fair in the circumstances of the case.

9. From the summary of the affidavit of the Controller of Examinations and the extracts from the report of the Committee of which he was a member, we have no hesitation in holding that the petitioner has not been dealt with justly and fairly. The enquiry by the Committee is in the nature of mere interrogation. It does not appear from the Committee's report that the petitioner was told what exactly was the suspicion entertained regarding his Chemistry II Paper or in what respect the University suspected him to have been guilty of any malpractice.

He was asked certain questions about the number of additional sheets he had obtained for completely answering his Chemistry II Paper, as to which we have already made our comments. The long line of questioning to test the memory powers of the candidate without telling him why he was being subjected to such severe test is, in our opinion, a negation of the ideas of justice. We do not suggest that the Committee has wrongly or inaccurately recorded the answers given by the petitioner in this memory test, nor are we prepared to say that he impressed his interrogators in that respect.

But the business of the Committee was not to subject the petitioner to a memory test but to enquire and come to certain conclusions of fact. The position properly looked at should have been one in which the petitioner should have been told the full contents of the Suspicion entertained regarding his conduct at the Examination with notice or information about the facts upon which those suspicions were entertained and with an opportunity to the petitioner to dispel, if he could, those suspicions.

10. In this view of the matter, it is unnecessary for us to say, and indeed it is beyond our province to assess the accuracy or otherwise of the opinion entertained by the Committee. It is enough to say that it is not and does not in our opinion amount to a finding of fact; it is an emphatic statement of suspicion in the form of an opinion.

11. In the result, we make an order quashing the Notification No. EX. CEP-148/60-61 dated 12-8-1960 of the University of Mysore debarring the petitioner from appearing for the B. Sc. Degree-Examination commencing from April 1960 Examination.

12. The petitioner has also prayed that we should direct the University to announce his result. Results, as already stated, were, published with a note that the announcement is postponed. Really and in effect, the results were withheld from publication in view of the suspicions entertained by the University regarding the alleged malpractice on the part of the petitioner. It has been argued that because there was no other reason for so withholding the results, the further

prayer of the petitioner flows directly from our order quashing the proceedings of the University mentioned above. We do not agree.

The fact that we have upon grounds already stated quashed the decision of the University in the matter of debarring the student from appearing for the Examination for a certain period, does not necessarily mean that the powers of the University as a disciplinary body are at an end. They can correct themselves and act in accordance with law subject, nevertheless, to considerations of justice and the equities of the situation.

13. We, therefore, make a further direction that the University authorities will now reconsider the position and take such steps as they are entitled to, according to law. There will be no order as to costs.

14. Order accordingly.