
(1978) 06 CAL CK 0031
In the Calcutta High Court
Case No : Matter No. 387 of 1978

Madan Mohan Varma and Others

APPELLANT

Vs

University of Calcutta and Others

RESPONDENT

Date of Decision : 20-06-1978

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1979 Cal 67 : (1979) 1 CALLT 183 : (1979) 1 CompLJ 366

Hon'ble Judges : Sabyasachi Mukharji, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sabyasachi Mukharji, J.—This is an application by three petitioners who claim to have been candidates in the last LL. B. examination held by the University of Calcutta. In this application they challenge the action of the University in cancelling the said LL. B. Examination and the resolution passed by the University Council on the 11th May, 1978 and postponing the other papers of the said examination. It appears that on the 3rd May, 1978, 5th May, 1978 and on 10th May, 1978 final LL. B. Examination was held of the following subjects: Rules of Court, Drafting and Pleading and Law of Equity. Examination of three other papers, viz., Company Law, Labour Law and Taxation had yet to take place when the cancellation order was passed. The ground for cancellation of the said examinations and of postponing of the rest of the examinations was stated by the University to be "mass copying by most of the examinees in the examination as so far held. On behalf of the petitioners it was contended that there were no materials before the University to come to the conclusion that there had been mass copying and as such the action of the University was not justified. It was urged that the said action had jeopardised the future prospects and the career of the students and the University did not act in good faith having regard to natural justice and in consonance with fairplay.

2. In the case of The Bihar School Examination Board Vs. Subhas Chandra Sinha

and Others, , the Supreme Court had to consider a similar position. There the Supreme Court was considering the cancellation of examination by the Bihar School Examination Board. The Supreme Court observed that a case of this type was not a case of a particular individual who was being charged with adoption of unfair means but of the conduct of all the examinees or at least a vast majority of them at a particular centre. It was not a question of charging anyone individually with unfair means but condemnation of the examination as ineffective for the purpose it was held. In those circumstances the Board was not obliged to give opportunity to all the candidates to represent their cases. The Supreme Court noted that the examination was vitiated by the adoption of unfair means on a mass scale and in those circumstances it would be wrong to insist that the Board must hold a detailed enquiry into the matter. The Supreme Court, further, observed that there were sufficient materials on which it could be demonstrated that the University was right in its conclusion that the examinations ought to be cancelled; then the academic standards required that the University's appreciation of the problem must be respected. Similar view was expressed in a slightly different context by the Bombay High Court in the case of Blaise Louis and Others Vs. The Nagpur University, Nagpur and Another, .

3. Counsel for the petitioners, however, drew my attention to the decision of the Division Bench of this Court in the case of B.C. Das Gupta and Another Vs. Bijoyranjan Rakshit and Others, and he drew my attention to the observations of the Division Bench at page 215 where the Division Bench observed that such decisions as to whether the candidates had been guilty of unfair means and what punishment should be inflicted must be arrived at fairly and in consonance with the principles of natural justice. Counsel for the petitioners urged that in this case there was no material -- at least no sufficient material before the university authorities to take the decision that it did. It appears from the affidavit of Dr. Sankari Prasad Baner-jee, affirmed on the 7th June, 1978 that reports were received by the University authorities about mass copying and other breaches of discipline. The Vice-Chancellor thereupon appointed visiting teams from amongst the teachers represented by West Bengal College and University Teachers' Association and also Calcutta University Teachers' Association and directed those visiting teams to visit each of the LL. B. examination centres and submit reports as to how the examinations were going on and as to whether there were any unfair means adopted by the examinees concerned. After visiting each of the centres such visiting teams submitted their reports and copies of the said reports are annexed to the affidavit and marked with the letter "B". I have gone through the reports annexed to the said affidavit and these state, inter alia; "We are convinced from the experience of personal inspection and observation that almost all candidates have resorted to unfair means of serious nature. Be it further mentioned that during our inspection, candidates of some rooms threatened us with physical violence and used ugliest abusive language". The reports of the different centres are more or less in similar terms. If on the basis of these reports the University-Council had taken the decision at its meeting of

12th May, 1978, as mentioned in Sub-para (e) of para 7 of the affidavit of the Registrar, in my opinion, it cannot be said that the university had acted without material or without sufficient materials. On this resolution of the University Council the Vice-Chancellor has taken the decision to cancel the examination. The Vice-Chancellor is authorised to ensure the discipline of the students under Statute 12 of the Calcutta University Statutes. Having regard to the nature of the allegations involved in this case, in my opinion, no question of giving individual notices arises. In that view of the matter the action of the University cannot be said to be either violative of the principles of natural justice or based on no relevant materials at all. In the background of the ratio of the decision of the Supreme Court referred to hereinbefore, in my opinion, therefore, the action of the University cannot be impugned.

4. In the premises, the challenge fails and the application is dismissed. The Rule Nisi is discharged. Interim order, if any, is vacated. There will, however, be no order as to costs.