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**(1994) 10 AHC CK 0031**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 27926 of 1994

Manoj Tewari

APPELLANT

Vs

Vice-Chancellor, LKO University and Others

RESPONDENT

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**Date of Decision :** 04-10-1994

**Acts Referred:**

**Citation :** (1994) 10 AHC CK 0031

**Hon'ble Judges :** S.C.Verma, J

**Final Decision :** Allowed

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## **Judgement**

S. C. Verma, J.—The petitioner claimed to be a student of M. A. PartII (Arab Culture), Lucknow University, having passed in M. A. PartI, examination and while appearing in M. A. PartII examination was informed by letter dated 2771994, the decision of the Admission Committee, taken in its meeting held on 2571994 by which the admission to M. A. PartI (Arab Culture), was cancelled on the ground that he had obtained, admission to M. A. Classes by submitting a forged marksheet of the Bridge Course. The petitioner was further debarred for taking admission for a period of three years.

2. Aggrieved by the above action of the respondents, the petitioner has assailed the order of expulsion in the present petition under Article 226 of the Constitution and has prayed for quashing the same. The petitioner who had passed his B. A. PartI and PartII examinations from Lucknow University and is alleged to have done Bridge Course from Baba Raghav Das Post Graduate College, Deoria, affiliated to Gorakhpur was admitted to M. A. Course in the subject of Arab Culture. The petitioner after admission and after he passed the M. A. PartI examination, was allowed to appear in M. A. PartII examination. The Admit Card for M. A. PartII examination was issued in his favour and after he had appeared in two papers of M. A. PartII examination, the impugned action has been taken.

3. The petitioner for the first time was asked by letter of the Registrar dated 2761994 to submit the original marksheet of the Bridge Course and a true copy

duly attested, of the same within three days as there was some doubt about it. The petitioner by letter dated 27/1/1994 informed that there was a fire in his room and all his books and documents got burnt including the original marksheet etc. and as such he will have to obtain a duplicate copy and for that he prayed for two weeks time to supply the same. The petitioner was served by another letter dated 27/1/1994 issued by the Registrar requiring him to submit the original marksheet within ten days. The petitioner by letter dated 27/1/1994 prayed for a month's time as he was appearing in the examination. The Registrar, again by letter dated 13/7/1994 required that in view of the letter dated 27/1/1994 of the petitioner praying for fifteen days time to submit the marksheet, he has already been allowed ten days time and he directed the petitioner to furnish the marksheet by 15/7/1994. The petitioner by letter dated 13/7/1994 indicated that he is appearing in the examination till 26/7/1994 and for that reason he has not been able to go to his home district to obtain the marksheet, he may be given a month's time. However, by letter dated 22/7/1994, the petitioner in compliance of the above letters of the respondents submitted, the original copy of the marksheet of the Bridge Course and also a certificate issued by the Principal of Baba Raghav Das Post Graduate College, Deoria.

4. It has been alleged that the petitioner had contested the election of the Lucknow University Students Union and he was elected as President for the year 1993/94 and oath taking ceremony was fixed on 26/7/1994 at 11.30 a.m. The University authorities for mala fide reasons passed the expulsion order on 25/7/1994 and for that reason the petitioner could not be administered oath on 26/7/1994. On the other hand, he was arrested by the police and was later on released the next day in the morning. The petitioner has come to know about his expulsion through newspapers on 26/7/1994 and he obtained a copy of the press release, which has been filed as Annexure No. 13 to the writ petition. The petitioner has not been served with any order of expulsion. According to the petitioner the enquiry whatsoever was conducted and the present action is an outcome of political rivalry, and the vindictive attitude of the respondents. The losing candidate Sri Arvind Singh Gope belongs to Samajwadi Party and the entire action has been taken against him at the behest of Samajwadi ruling party. The petitioner approached this Court on the basis of press release issued by the respondents.

5. The respondents were directed to supply a copy of the expulsion order which was later on supplied to the petitioner with a note that the copy of the order was sent at his home address at Gomti Nagar, Lucknow. The contentions raised on behalf of the petitioner may be summarised :

(1) No enquiry or any showcause notice was ever conducted or issued by the opposite parties to the petitioner and the proceedings, if any, were done behind his back. The petitioner was not made aware of any charge nor he was apprised of the material which was being used against him nor any explanation was called from him before taking the impugned action.

(2) The respondents have only required the petitioner to furnish the original marksheet of Bridge Course of B. A. Examination. After the original marksheet was submitted alongwith the letter dated 2271994, the petitioner was not called upon to give any explanation not marksheet submitted alongwith the letter dated 2271994 was considered by the respondents.

(3) The correspondence between the Lucknow University and Gorakhpur University and the material furnished by the Gorakhpur University indicating that the marksheet submitted by the petitioner was forged was not in the knowledge of the petitioner nor he was made aware of the same by the respondents and no explanation whatsoever was called with regard to report submitted by the Gorakhpur University. The impugned action is in utter violation of the principles of natural justice, without affording any opportunity whatsoever, as also mala fide and without jurisdiction.

(4) The admission Committee defined under Section 28 of the State Universities Act under subsection (3) laid down the principles and norms governing the policy of admission to various courses of studies in the Universities. The provisions of the Act and Statutes do not confer any authority in favour of said Admission Committee to cancel the admission and expel an already admitted student to a course. The Ordinance framed under Section 51 also do not contemplate for any action to be taken by the Admission Committee for cancellation of an admission already granted to a candidate, The impugned action has not been taken by the Disciplinary Committee or the Executive Council or by the ViceChancellor or in exercise of their powers, given under the provision of the State Universities Act and the Statutes framed thereunder.

(5) The admission to M. A. PartI cannot be cancelled subsequently after the petitioner had already passed M. A. PartI examination and was appearing in M. A. PartII examination. The impugned action has been taken in haste only to accommodate and appoint the loosing candidate Sri Arvind Singh Gope as President of the University Students Union for mala fide reasons.

6. The stand taken by the respondents in the counteraffidavit is that Sri Arvind Singh Gope represented to the Registrar, Lucknow University that the petitioner was not eligible to be admitted to M. A. (Arab Culture) as he has submitted a fake marksheet of Bridge Course examination. For the above reasons it was alleged that the petitioner was not eligible to contest the election for the Presidentship of the Students Union of Lucknow University. In pursuance to the above a letter dated 2761994, was issued to the petitioner requiring him to submit the original marksheet of the Bridge Course examination. On 2271997, the petitioner had submitted a duplicate copy of the original marksheet of Bridge Course examination. The Lucknow University authorities had enquired from the Gorakhpur University to confirm that the petitioner has passed the Bridge Course examination from Gorakhpur University in the year 1989 from Baba Raghav Das Post Graduate College, Deoria. The Vice Chancellor, Gorakhpur University sent a letter dated 1761994 wherein it was indicated that the marksheet of the Bridge

Course examination submitted by the petitioner was forged. As the petitioner had obtained the admission by misleading the Authorities and by submitting forged marksheet, the admission was cancelled by the Admission Committee. The respondents further submitted that the petitioner was given ample opportunity to prove the case that he has passed the Bridge Course examination from the Gorakhpur University before seeking admission in M. A. Part I examination and as the petitioner failed to submit the original marksheet in spite of various opportunities given to him, the Admission Committee cancelled the admission to M. A. Part I Course. After the cancellation of the petitioner's admission, he cannot maintain the post of President of Lucknow University Students Union. Alongwith the counteraffidavit filed by Sri H. K. Bajpai, Superintendent of Litigation, Lucknow University, Lucknow, on behalf of the respondents, a copy of the letter dated 17/6/1994 was filed without any annexure. However, the office report which is alleged to have been annexed to letter dated 17/6/1994 was filed by the petitioner alongwith the rejoinder affidavit.

7. The validity of the impugned action has to be considered in conspectus of the facts stated above. In view of the incomplete documents furnished by the respondents the original record of the University dealing with the subject matter of the dispute was summoned and was seen by me.

8. The material on record establishes that the respondents had been demanding from the petitioner the original marksheet of the Bridge Course of B. A. Examination. This is evident from the letters dated 27/6/1994, 27/1/1994 and 13/7/1994. In the above letters except for the demand of original marksheet" nothing was indicated as to why the original marksheet is required nor the petitioner was at any point of time apprised that he had submitted any forged marksheet or any enquiry proceedings are being held or for that reason the proposed action of cancellation of admission and expulsion from the University may be taken. Only in letter dated 27/6/1994, it was indicated that there was some doubt with regard to the marksheet of the Bridge Course. Thus it is established that the petitioner had no notice of the case that he has to meet nor he had any knowledge to the nature of the case against him.

9. I have carefully seen the original record and I do not find any notice or any enquiry whatsoever conducted by the respondent asking for the petitioner's explanation with regard to the submission of forged marksheet. There is no whisper as to why the respondents were demanding the original marksheet. There is also no material on record to establish that the material on the basis of which the respondents have taken the above action was apprised to the petitioner or any explanation with regard to the office report and the letter of Vice Chancellor of Gorakhpur University was brought to the notice of the petitioner or any explanation in this regard was called from him.

10. The requirement of natural justice in the given case must depend to a great extent on the facts and circumstances of each case. The requirements of natural justice depend inter alia on the circumstances of the case, the nature of the

enquiry, the rule under which the Tribunal is acting and, the subjectmatter that is being dealt with. The principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual act and the arbitrary procedure that may be adopted by a judicial or quasijudicial authority while moving an order affecting those rights. Every person whose civil rights are affected must have a reasonable notice of the case he has to meet, and he must have reasonable opportunity of being heard in his defence and the hearing must be by an impartial Tribunal and the authority must act in good faith and not arbitrarily but reasonably. The doctrine of natural justice cannot be approached in a doctrinaire spirit, but is purely dependent upon established and proved facts.

11. Very broadly expressed, the first principle is that the party to the controversy must know with reasonable certainty the nature of the case against him. Secondly he should be given a fair and proper opportunity to meet the case against him and to state his own case, if the Statute conferring the power is silent with regard to the giving of a predecisional hearing to the person affected, the administrative decision after postdecisional hearing has been held to be good. From the above facts there is no doubt that the petitioner was neither given predecisional hearing nor he was given postdecisional hearing.

12. The authority cannot make any decision against a party without giving an effective opportunity of meeting the allegations against him. This requires that a person which has civil rights must have reasonable notice to the cancellation to meet and further to take a reasonable opportunity of being heard in his defence. The ultimate charge bearing (sic) to afford opportunity to the party concerned to place its case before the authority and also to know the material proposed to be utilised against him. There is no invariable standard of reasonableness, except that Court's conscience must be satisfied that the person had fair chance to convince the authority that the grounds for the action are nonexistent or that they be not justify the proposed action.

13. There appears to be no reason after the respondents had in their possession the letter of the Vice Chancellor, Gorakhpur University dated 1761994 along with the office report indicating the reasons about the forged marksheet submitted by the petitioner while seeking admission to M. A. classes, this material was not furnished to the petitioner nor his explanation was required in this regard. The respondents had not even disclosed the reasons to the petitioner why the original marksheet is being asked for nor they have submitted any charge calling for his explanation. In my opinion, there was no enquiry conducted whatsoever by the respondents and the decision arrived by them was in utter disregard to the principles of natural justice and fair play. The respondents have not even considered the original marksheet submitted by the petitioner alongwith his letter dated 2271994 before taking the impugned action. If this document was not to be considered, there was no justification for the respondents in asking the petitioner to furnish the original marksheet. All this indicate that the respondents

have predetermined their action and they did not even care to observe the formality of asking the petitioner's explanation.

14. No explanation has been given as to why after the petitioner was admitted and has already passed his M. A. PartI examination for which marksheet was given and after the petitioner was admitted to M. A. PartH and was allowed to appear in the M. A. PartII examination, his admission to M. A. PartI has been cancelled. The respondents without cancelling the result of M. A. PartI of the petitioner, cannot now cancel the admission to M. A. PartI Course. After the petitioner had passed the M. A. PartI examination, the stage of admission has crossed and the cancellation of the admission alone would not be in accordance with law.

15. Without going into the merits of other contentions raised on behalf of the petitioner, I am fully satisfied that the impugned order of expulsion is liable to be quashed as no opportunity was given to the petitioner and is in violation to the principles of natural justice. The petition is liable to be allowed on this ground alone.

16. I accordingly quash the decision of the Admission Committee passed in the meeting held on 25/7/1994 communicated by letter dated 27/7/1994 cancelling the petitioner's admission in M. A. Part I (Arab Culture) and debarring him to take admission for three years.