
(1997) 01 DEL CK 0066

In the Delhi High Court

Case No : Civil Writ Petition No. 3032 of 1997

Narender Singh

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 19-01-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 2 AD 321 : (1997) 70 DLT 509

Hon'ble Judges : Cyriac Joseph, J

Bench : Single Bench

Advocate : Madan Lokur, V.R. Datar, S.K. Kaul, Ramji Srinivasan and Shaju Francis, for the Appellant;

Judgement

Cyriac Joseph, J.

(1) The petitioner was a student of Maharaja Agrasen College (respondent No. 2) which is affiliated to the University of Delhi (respondent No. 1).

(2) According to the petitioner, he successfully cleared the IInd year of the B.A. (Pass) Course in August, 1996 and he was entitled to be admitted to the IIIrd year (final year) of the said course On 21st August, 1996 the petitioner went to deposit his fee for admission to the IIIrd year. However, he was prevented from depositing the fee and was told that the Principal of the college had issued instructions that fee should not be accepted from the petitioner. The petitioner was not given any reason for the said decision. The father of the petitioner went and met the Principal on 22nd August, 1996. He was advised to withdraw the name of the petitioner from the college. It was also threatened that in case he did not do so the Principal would see to it that the petitioner would not be admitted to the IIIrd year. On 26th August, 1996, the petitioner and certain other students were summoned to the office of the Principal where they were man-handled by the Principal and the college staff. Thereafter when the father of the petitioner went to see the Principal to enquire about the above incident, a show cause notice dated 23rd August, 1996 was given to him wherein it was

mentioned that a complaint had been received from one Mr. Sanjay Kumar, a IIInd year student of B. Com (Hon) against the petitioner. The said show cause notice referred to a complaint received from Mr. Sanjay Kumar on 30th July, 1996 alleging that the petitioner indulged in ragging students in the canteen premises and that in the course of ragging the petitioner had severely beaten up the complainant. The petitioner was asked to explain latest by 29th August, 1996 why disciplinary action should not be taken against him. On 29th August, 1996 another show cause notice was issued to the petitioner wherein it was alleged that the petitioner Along with 15 other students had forcibly entered the Principal's office, disrupted some classes and assaulted the employees. The petitioner was asked to show cause why disciplinary proceedings be not initiated against him. The replies to both show cause notices were submitted by him on 29th August, 1996. No personal hearing was ever given to him. Thereafter in a meeting held on 3rd September, 1996, the Disciplinary Committee of the college decided that the replies of the petitioner were unsatisfactory and recommended that the petitioner should not be admitted to the next course i.e. IIIrd years B.A. (Pass) course. The said recommendation of the Disciplinary Committee was submitted to the Principal for his approval. By a letter dated September 10, 1996 (Annexure P-4), respondent No. 2, informed the petitioner that as per the recommendations of the Disciplinary Committee his involvement in the incident of beating Mr. Sanjay Kumar had been found to be proved and that he was not permitted to deposit the fee for admission to the next course i.e. B.A. (Pass) IIIrd year course. Being aggrieved by the said action of respondent No. 2, the petitioner submitted a detailed representation dated 19th September, 1996 to respondent No. 1 contending that the recommendations of the Disciplinary Committee be set aside and that he be permitted to deposit fee for admission to the B.A. (Pass) IIIrd year course. The said representation was forwarded by respondent No. 1 to the Dean of Students Welfare for enquiry into the contents of the same. The Dean of the Students Welfare by his letter dated 11th October, 1996 requested the Principal to persuade the Disciplinary Committee of the college to reconsider the matter sympathetically. The petitioner also submitted another application to respondent No. 2 and the Disciplinary Committee of the college seeking sympathetic reconsideration of his case. However, the petitioner did not receive any reply to the said application. Thereafter, the petitioner made repeated requests to respondent No. 2 as also the Disciplinary Committee to reconsider their stand and to permit him to deposit his fee for attending the IIIrd year B.A. (Pass) course. But there was no favourable response. Thereupon the petitioner filed C.W. No. 4343/96 in this Court praying that he be permitted to deposit his fee and attend his classes for the B.A. (Pass) IIIrd year course. When the said writ petition was listed on 21st March, 1997, the petitioner sought leave to withdraw the writ petition since the examinations were scheduled to commence from 22nd March, 1997. He also sought a direction to the respondent college to permit the petitioner to appear in the B.A. (Pass) IIIrd year examination and also offered to seek admission elsewhere thereafter. The prayer was not opposed by the Counsel for the college and accordingly by order dated

21st March, 1997 this Court permitted the petitioner to withdraw the writ petition and directed that the petitioner would be allowed to take the examinations by respondent college subject to completion of formalities prescribed under the Rules. Pursuant to the directions contained in this Court's order dated 21st March, 1997, the petitioner approached the college on 21st March, 1997 and sought to deposit his admission fee and take the admission Roll Number. However, the college authorities refused to accept the fee and informed the petitioner that the Principal had specifically directed not to accept the fee of the petitioner. The petitioner was forcibly ejected from the college premises. Thereafter on 22nd March, 1997, the petitioner approached the college with a copy of this Court's order dated 21st March, 1997 and sought permission to deposit the fee. However, he was not permitted to enter the college even though he succeeded in serving a copy of the order through the watchman of the college. The petitioner, through his Counsel, sent a representation dated 31st March, 1997 to respondent No. 2 and also to the Counsel for respondent No. 2. Still the petitioner was not permitted even to enter the college. Therefore, the petitioner filed C.M. No. 2659/97 in C.W. No. 4343/96. The said application was disposed of by this Court on 9th April, 1997 directing respondent college to reconsider the case of the petitioner on the basis of the directions contained in the order dated 21st March, 1997 as well as on the basis of the relief granted to similarly situated students. Thereafter the petitioner received a letter dated 10th April, 1997 from the Principal intimating that he could not be permitted to take IIIrd year examinations on the ground that the petitioner had not been admitted as a regular student in the IIIrd year and that he had not submitted the examination fee and form before the due date and that he did not have the requisite attendance. Even though the reasons given by the Principal were erroneous the petitioner did not pursue the matter any further as the examinations had already been commenced and he resigned himself to the fact that he lost out one entire academic year without any fault or lapse on his part. On 5th June, 1997 i.e. in the fresh academic session the petitioner once again approached the college and sought to take admission in the IIIrd year course since the period for which he had been denied admission had already lapsed. However, once again he was prevented from entering the college let alone depositing the fee. Hence the petitioner submitted a representation dated 6th June, 1997 to respondent No. 1 as well as to respondent No. 2 pointing out that while directing not to admit the petitioner to the IIIrd year course, the Disciplinary Committee had not specified any period and hence the necessary inference was that the said recommendation was to remain in force only for one academic year. It was also pointed out that there was not plausible reason for not permitting the petitioner to deposit the fee in the next academic year commencing from June, 1997. Since no reply was received to the said representation for one entire month, the petitioner sent a legal notice dated 30th June, 1997 to respondent Nos. 1 and 2 calling upon them to permit him to take admission to the IIIrd year B.A. (Pass) course for the academic year commencing from June 5, 1997. Since no reply was received, the petitioner was constrained to file this writ petition praying for a direction to

respondent No. 2 to permit the petitioner to deposit his admission fee and to admit the petitioner to the IIIrd year B.A. (Pass) course in the Maharaja Agrasen College.

(3) The Principal of the college has filed a reply affidavit on behalf of respondent No. 2. According to the said reply affidavit, the disciplinary action taken against the petitioner was very much in consonance with the provisions of the University Ordinance. Ordinance XV-B gives power to expel a student. Since the petitioner was not a bona fide student of the college at the time of taking action against him as he had not completed his IInd year B.A. (Pass) and had not been admitted to IIIrd year, the Disciplinary Committee recommended the action of not allowing the petitioner to deposit his fees which is equivalent to expulsion in the case of a bonafide student. It is also stated in the reply affidavit that looking at the past acts of indiscipline and the opportunities given to the petitioner, the Disciplinary Committee was of the opinion that the petitioner had failed to improve himself and that the activities of the petitioner had gone to the extent of threatening the harmony and disrupting the normal academic life of the college. It is further stated that the second respondent is directly responsible for the maintenance of discipline in the college. The behavior of the petitioner was criminal in nature and was affecting the discipline and peaceful atmosphere of the institution. Under such circumstances, the second respondent had no other alternative but to act in a firm manner to maintain discipline in the interests of students, staff and institution. It is contended that Ordinance XV-B(2) empowers the Principal of the college with all authority to exercise all such disciplinary powers to expel, rusticate, impose fine, debar a student from taking University or College examination for one or more years or cancel the result of such student. It is stated that the second respondent invoked the above-mentioned powers under the University Ordinance in the best interest of students and institution in dealing with the gross indiscipline of the petitioner bordering on criminal behaviour. According to respondent No. 2, the petitioner had organized an unauthorised picnic on 29.9.1995 in violation of the rules of discipline of the college and on that account the parents of the petitioner were required to meet the Principal and the petitioner was also asked to explain his conduct. On 1.12.1995 a complaint was filed by Shri Atul Bhatia, a student of B. Com (Hons) IInd year against the petitioner. Mr. Atul Bhatia and one Mr. Sidharth Singh were contestants for the post of President and Treasurer respectively of the College Union. The petitioner wanted both of them to resign and threatened with dire consequences if they failed to do so. As a result of that, Mr. Sidharth Singh withdrew his name from the nomination. On 14.12.1995 Mr. Rajesh Kumar Singh of B.A. (Pass) IInd year made another complaint against the petitioner and others for having assaulted him. On 15.12.1995 a show cause notice was issued to the petitioner and the petitioner in his reply admitted his involvement in the incident and apologised for the same. The Disciplinary Committee found that the petitioner was the main person who assaulted Mr. Rajesh Kumar Singh and on the recommendation of the Disciplinary Committee, a fine of Rs. 500.00 was

imposed on the petitioner. On 30.7.1996 yet another complaint was made by another student Mr. Sanjay Kumar against the petitioner. A complaint was also received from the Canteen Contractor and the case was marked to the Convener of the Disciplinary Committee. By a letter dated 31.7.1996 the father of the petitioner was asked to meet the Principal Along with the petitioner latest by 1.8.1996. The letter was delivered to Mr. Jagjit Singh, father of the petitioner by hand by the Section Officer in the college office. Since the father of the petitioner did not meet the Principal, another letter was sent to him by registered post on 21.8.1996 requesting him to meet the Principal. On 21.8.1996 a Notice was put up on the College Notice Board asking the petitioner to appear before the Disciplinary Committee in person on 23.8.1996. It is stated that the Disciplinary Committee held its meeting on 23.8.1996 to consider the complaint of Mr. Sanjay Kumar against the petitioner. The petitioner did not appear before the Disciplinary Committee on 23.8.1996 pursuant to the Notice put up on the College Notice Board on 21.8.1996. Hence on 23.8.1996 the Convener of the Disciplinary Committee issued a show cause notice to the petitioner based on the complaint received from Mr. Sanjay Kumar on 30.7.1996. As per the complaint, the petitioner had indulged in ragging students in the canteen premises and in the course of ragging he had severely beaten up the complainant Mr. Sanjay Kumar. The petitioner was, Therefore, asked to explain by 29.8.1996 why disciplinary action should not be taken against him. Again another show cause notice dated 29.8.1996 was issued to the petitioner for the reason that on 26.8.1996 he had led a group of about 15 students and made forcible entry into the Principal's office using abusive language, disrupting classes and beating up the college employees and that on 27th and 29th August, 1996 the petitioner had intimidated the students and stopped them from entering the college premises.

(4) Respondent No. 2 has denied the allegation that the petitioner was not allowed to enter the college premises and that he was forcibly ejected when he went to the college on 21.3.1997 to deposit his admission fee. According to the respondent no such incident took place. The petitioner was only informed about the inability of the college to allow the petitioner to take his examinations as the University Rules did not permit the same.

(5) It is specifically contended in the reply affidavit that the action of the Disciplinary Committee in not allowing the petitioner to deposit his fees is equivalent to expulsion in the case of a bona fide student and is in consonance with Ordinance XV-B. The respondent has also disputed the assertion of the petitioner that the period for which he was denied admission to IIIrd year course had already lapsed. It is also pointed out in the reply affidavit that the University Rules do not permit a student to be admitted on regular basis after a gap of one year. The respondent has also disputed the argument of the petitioner that a student is not permitted to migrate to any other college in the IIIrd year. According to the respondent the course taken up by the petitioner is available in most of the colleges of the University of Delhi.

(6) The petitioner has filed a rejoinder to the reply affidavit of respondent No. 2. It is contended therein that in terms of Ordinance XV-B under which respondent No. 2 has taken action against the petitioner, a direction can be made not to admit a student to a course of study only for a stated period. Since no period has been stated in the present case, the order passed against the petitioner is honest and void. It is also contended that the direction cannot be permanent and could only remain in force for one academic session i.e. 1996-97. According to the petitioner, any other interpretation of the rule would render the impugned action arbitrary, unduly harsh and illegal and would be contrary to the express provisions of Ordinance XV-B and settled principles of law. It is categorically stated in the rejoinder that the petitioner is not pressing the contention that the order directing not to admit the petitioner to the IIIrd year course is honest and void on the ground that no period has been specified. The case put forward by the petitioner in the rejoinder is that since the order did not specify a period for which the petitioner was not to be admitted to the IIIrd year course, the only necessary and logical interpretation possible is that he was not to be admitted for a period of one year. Since that period has already expired there is no plausible reason for not admitting the petitioner to the IIIrd year course in the fresh academic session. According to the petitioner, respondent No. 2 has taken a new stand in the present case that the direction not to admit the petitioner to the IIIrd year course amounted to expulsion from the college. It is stated that this was not the case of the respondent in the earlier writ petition and that had this stand been taken, the result of the earlier writ petition might have been different. It is also contended that the respondent is estopped from raising a totally new contention not borne out from the records or the facts of the case. It is also pointed out that Ordinance XV-B specifically provides for expulsion as a disciplinary action and that if respondent No. 2 so desired, he could have expelled the petitioner from the college. Since it was not done, respondent No. 2 cannot at this highly belated stage be permitted to assert that the impugned decision/action was really in the nature of expulsion. According to the petitioner, respondent No. 2 misled this Court in the earlier writ petition and made the Court believe that the petitioner could take his IIIrd year examination. It is alleged that the above act of misleading by respondent No. 2 resulted in the petitioner withdrawing the earlier writ petition. Hence, it is contended that the withdrawal of the earlier writ petition cannot stand in the way of the present writ petition being entertained by this Court. It is also stated in the rejoinder that the petitioner had made attempts to obtain admission in other colleges but could not succeed. The petitioner has also disputed the contention of respondent No. 2 that the petitioner was not a bona fide student when the disciplinary action was taken against him. alternatively, it is contended that if the petitioner was not a bonafide student at the relevant time, the respondent-college had no jurisdiction to take action against him.

(7) Notwithstanding the above noted rival contentions and claims of the parties, this Court cannot consider and decide on the legality and validity of the

impugned disciplinary action against the petitioner since the petitioner had earlier filed Civil Writ Petition No. 4343/96 challenging the very same disciplinary action and the said writ petition was withdrawn by the petitioner. While permitting the petitioner to withdraw the said writ petition, this Court had observed thus :

"THE present petition is directed against the respondent for permission to deposit fees and to attend classes at Maharaja Agrasen College which is affiliated to University of Delhi till the completion of the course of third year by the petitioner. The respondents initiated disciplinary proceedings against the petitioner for gross violation of the rules of discipline of the college. It will not be necessary for this Court to go into these questions as these cannot be determined in proceedings under Article 226 of the Constitution of India. The learned Counsel for the petitioner in this background seeks leave to withdraw the writ petition but prays that the respondent college may permit the petitioner to appear in B.A. (Pass) IIIrd year course on the condition that the petitioner thereafter will seek admission elsewhere and will not return to the college. The learned Counsel for respondent college has no objection to this subject to the petitioner being eligible to take his examination according to rules. The present petition is permitted to be withdrawn and the petitioner shall be allowed to take examination by respondent college subject to completion of formalities as prescribed under the rules".

In the said order dated 21st March, 1997 in C.W. No. 4343/96, the Court had specifically stated that the questions as those raised in the said writ petition cannot be determined in proceedings under Article 226 of the Constitution of India. Having invited and suffered the said order dated 21st March, 1997 and having withdrawn the writ petition C.W. No. 4343/96, the petitioner cannot agitate the very same questions in this writ petition. Learned Counsel for the petitioner also very fairly submitted that he was not inviting the Court to decide on the legality and validity of the impugned disciplinary action. Learned Counsel for the petitioner categorically stated that he was confining his arguments to the contention that the direction by respondent No. 2 not to admit the petitioner to the IIIrd year course could remain in force only for a period of one year and that since the said period of one year has been expired, there is no justification for not admitting the petitioner to the IIIrd year course during 1997-98. Hence, in this writ petition, this Court is not called upon to consider and decide the legality and validity of the disciplinary action taken against the petitioner. I shall consider only the earlier mentioned contention raised by the learned Counsel on behalf of the petitioner.

(8) The above mentioned contention of the petitioner is based on University Ordinance XV-B dealing with maintenance of discipline among students of the University. For convenience, the provisions contained in the said Ordinance XV-B are extracted hereunder:

"ORD.XV.B. Maintenance of discipline among Students of the University. 1. All

powers relating to discipline and disciplinary action are vested in the Vice-Chancellor. He may delegate all or such of his powers as he deems proper to the Proctor and to such other persons as he may specify in this behalf. Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action in the interest of maintaining discipline as may seem to him appropriate, the Vice-Chancellor may, in the exercise of his powers aforesaid, order or direct that any student or students be expelled, or be, for a stated period, admitted to a course or courses of study in a college, Department or Institution of the University, or be fined in a sum of rupees that may be specified, or be debarred from taking a University or College or Departmental Examination or Examinations for one or more years, or that the result of the student or students concerned in the Examination or Examinations in which he or they have appeared be cancelled. 2. The Principals of the colleges, head of the Halls, Deans of Faculties, Heads of Teaching Departments in the University and the Director, Correspondence Courses shall have the authority to exercise all such disciplinary powers over the students in their respective colleges. Institutions, Faculties and Teaching Departments, in the University as may be necessary for the proper conduct of the Institutions, Halls and teaching in the concerned Departments. They may exercise their authority through, or delegate authority to, such of the teachers in their college. Institutions or Departments as they may specific for these purposes. 3. Without prejudice to the powers of the Vice-Chancellor and the proctor as aforesaid, detailed rules of discipline and proper conduct shall be framed. These rules may be supplemented, where necessary, by the Principals of colleges. Heads of Halls, Deans of Faculties and Heads of Teaching Departments in this University. Each student shall be expected to provide himself with a copy of these rules. At the time of the admission, every student shall be required to sign a declaration that on admission he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and the several authorities of the University who may be vested with the authority to exercise discipline under the Act, the Statutes, the Ordinances and the rules that have been framed there under by the University. 4. (a) Ragging in any form is banned. Any student found indulging in it would be guilty of gross indiscipline and shall be deal with under this Ordinance. (b) Any student found indulging in eve teasing shall also be guilty of gross indiscipline and dealt with under this Ordinance".

(9) Learned Counsel for the parties including the University of Delhi submitted that they were not aware of the framing of any detailed rules of discipline and proper conduct as contemplated in Clause (3) of Ordinance XV-B. No reference was made to any supplementary rules issued by the Principal of the college as envisaged in the above-mentioned Clause (3). Hence I proceed on the basis that the only rules governing disciplinary action against the petitioner are the provisions contained in Ordinance XV-B.

(10) As per Clause (1) of Ordinance XV-B all powers relating to discipline and disciplinary action are vested in the Vice Chancellor. Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such

action in the interest of maintaining discipline as may seem to him appropriate, certain actions that may be taken by the Vice Chancellor in exercise of his aforesaid powers are mentioned in Clause (1). From the wording of the said clause it is clear that the power of the Vice Chancellor is not restricted to taking only those particular actions mentioned in Clause (1). On the other hand, Clause (1) clearly recognises the generality of the Vice Chancellor's powers relating to the maintenance of discipline and taking such action in the interest of maintaining discipline as may seem to him appropriate. Clause (1) also empowers the Vice Chancellor to delegate all or such of his powers as he may deem proper to the proctor and to such other persons as he may specify in that behalf. As per Clause (2) of Ordinance XV-B, the Principals of the colleges shall have the authority to exercise all such disciplinary powers over the students in their respective colleges as may be necessary for the proper conduct of the institutions. The source of the disciplinary powers of the Principals of the colleges is Clause (2) of Ordinance XV-B. Clause (1) and Clause (2) are independent and each of them independently and separately confers disciplinary powers on the Vice Chancellor of the University and the Principals of the colleges respectively. Whereas under Clause (1) the Vice Chancellor is given all powers relating to discipline and disciplinary action, under Clause (2) the Principals of the colleges are given the authority to exercise all such disciplinary powers over the students in their respective colleges as may be necessary for the proper conduct of the colleges. In other words, through two parallel provisions the Vice Chancellor of the University and the Principals of the colleges are given disciplinary powers over the students of a college affiliated to the University. The said powers of the Vice Chancellor and the Principals of the colleges are independent and co-exist. Since Clause (2) is independent of Clause (1) and since it exclusively deals with the disciplinary powers of the Principals of the colleges, the powers of the Principal under Clause (2) are not circumscribed or controlled by Clause (1). Consequently, the Principals of the colleges are competent to take even actions other than the particular actions mentioned in Clause (1). As already observed earlier, even the disciplinary powers of the Vice Chancellor under Clause (1) are not confined to the particular actions mentioned in Clause (1). Hence I am inclined to accept the contention of the learned Counsel for respondent No. 2 that the disciplinary action against the petitioner was taken by respondent No. 2 in exercise of his powers under Clause (2) of Ordinance XV-B and that his powers are not limited or controlled by the provisions in Clause (1) of Ordinance XV-B. Learned Counsel for respondent No. 2 is right in his submission that the principal of the college has the authority to exercise all such disciplinary powers over the students as may be necessary for the proper conduct of the college and that in exercise of such powers he is competent to impose on a student even a punishment which is not mentioned in Clause (1) of Ordinance XV-B.

(11) According to learned Counsel for respondent No. 2, the petitioner was found to be a threat to the discipline and peaceful conduct of the institution and hence, as recommended by the Disciplinary Committee, it was found necessary

to eliminate his presence from the college campus. At the relevant time the petitioner had completed the IInd year course and had not been admitted to the IIIrd year course. Therefore, it was decided not to admit him to the IIIrd year course. According to the learned Counsel, no period was stated since the intention or object was to prevent the return of the petitioner to the college and to avoid his presence in the college campus. According to the learned Counsel, under the provisions of Clause (2) of Ordinance XV-B, respondent No. 2 was competent to direct that the petitioner will never be admitted to the IIIrd year course in the college. On a proper appreciation of the facts and circumstances relating to the action taken against the petitioner and on a careful perusal of the relevant provisions contained in ordinance XV-B, I am inclined to agree with the above contentions of the learned Counsel for respondent No. 2.

(12) Learned Counsel for the petitioner submitted that the powers of the Principal of the college under Clause (2) to direct that a student be not admitted to a course in the college must be understood in the light of the provisions contained in Clause (1) of Ordinance XV-B and that while directing that a student be not admitted to a course, the Principal is bound to state a period and if such a period is not stated, it should be taken that the direction is only for a reasonable period. According to the learned Counsel, the reasonable period in this case would be one academic year. In view of the independent nature of Clause (2) of Ordinance XV-B I cannot accept the contention of the learned Counsel for the petitioner that in every case where the Principal directs that a student be not admitted to a course in the college, he shall state a definite period. I am also not inclined to accept the contention that if no period is stated, then it should be taken that the direction is for a reasonable period. In my view, if no period is stated by the Principal while directing that a student be not admitted to a course, it would be taken that the direction is for an indefinite period i.e. permanently.

(13) Learned Counsel for the petitioner submitted that a direction not to admit the petitioner to the IIIrd year course for an indefinite period or permanently would amount to expulsion of the petitioner from the college. Respondent No. 2 could have expelled the petitioner from the college instead of directing not to admit him to the IIIrd year course. It is true that in order to prevent the petitioner from returning to the college and to avoid his presence in the college campus, respondent No. 2 did not use the expression "expulsion" and chose to direct that the petitioner be not admitted to the IIIrd year course. It does not follow that this Court should assume a meaning which would be contrary to the real purpose of the action taken. From the materials placed on record I have no hesitation to come to the conclusion that respondent No. 2 and the Disciplinary Committee of the college perceived that the petitioner was a threat to the discipline and peaceful functioning of the college and that by the impugned action they intended to prevent the return of the petitioner to the college and to avoid his presence in the college campus. There is some force in the contention of the petitioner's Counsel that the Disciplinary Committee and the Principal might not have used the expression "expulsion" since the petitioner had already

completed the second year course and had not been admitted to the third year course. In my view, the Principal of a college can inform a student that he cannot be admitted to the college during the next session, if the Principal comes to the conclusion that such an action is necessary in the interest of discipline among students. A student has no right for admission in such a situation. Even assuming that the terminology used in the order of respondent No. 2 does not clearly and fully express the intention of respondent No. 2 to keep the petitioner out of the college permanently. I will not in exercise of my discretionary jurisdiction under Article 226 of the Constitution of India give an interpretation to the order to give it a meaning which is contrary to the real intention of the Disciplinary Committee and the Principal of the college. Nor will I impose on the college a person who is perceived by the college authorities as a threat to the discipline and peaceful functioning of the college. The details given in the counter-affidavit of respondent No. 2 and referred to in paragraph (3) of this judgment have satisfied me that the abovementioned perception of the Disciplinary Committee and the Principal about the petitioner is justified and well founded.

(14) The contention that the direction not to admit petitioner to the IIIrd year course can be in force only for one academic year was not taken by the petitioner in the earlier writ petition (CPW No. 4343/96). The said writ petition was withdrawn by the petitioner on 21.3.1997 when the IIIrd year examinations were admittedly scheduled to commence on 22.3.1997. When the petitioner was not allowed to deposit fees and to appear in the examination even after this Court's order dated 21.3.1997, he filed C.M. No. 2659/97 and the said application was disposed of on 9.4.1997. By that time the examinations had already commenced and the petitioner could have expected to appear in the examinations only in the next year i.e. 1998. However, even at that stage the contention raised in the present writ petition was not taken by the petitioner. If the effect of the direction not to admit the petitioner to the IIIrd year course was only for one year in C.W.No. 4343/96, the petitioner could have and ought to have prayed for a direction to admit him to the IIIrd year course during the academic session 1997-98. Instead of making such a request, the petitioner cannot be allowed in this writ petition to raise the contention that the direction of respondent No. 2 not to admit the petitioner to the IIIrd year course was only for a period of one year. In taking the above view I am supported by the judgment of the Hon'ble Supreme Court in *Sarguja Transport Service Vs. State Transport Appellate Tribunal, M.P., Gwalior and Others*, .

(15) Learned Counsel for the petitioner contended that at the time of hearing of C.W.P. No. 4343/96, respondent No. 2 misled this Court to assume that it was possible under the rules to permit the petitioner to appear in the Third Year Examination from the second respondent-college. From the order dated 21.3.1997 in C.W.P. No. 4343/96 I do not find any basis for the above contention of the learned Counsel. It is apparent that even though the petitioner had not attended the IIIrd year course during 1996-97 the college was willing to permit the petitioner to appear in the IIIrd year examination held in March-April, 1997 if

the rules of the University permitted it. There was no indication of any willingness on the part of the college to allow the petitioner to attend the IIIrd year course in the college either during 1996-97 or during subsequent years. It would appear that when this Court was of the view that the questions raised by the petitioner in C.W.P. No. 4343/96 could not be determined in proceedings under Article 226 of the Constitution of India, the petitioner opted to avoid a dismissal on merits and settled for a willingness on the part of the college to permit him to appear in the IIIrd year examination from the college if the rules permitted it. The petitioner was taking a chance and unfortunately for him, the rules did not permit the petitioner to appear in the IIIrd year examination held in March-April, 1997. Having invited and suffered the order dated 21.3.1997 in C.W.P. No. 4343/96 the petitioner cannot accuse the respondents of misleading the Court and cannot revive the request for admission to the IIIrd year course in the college.

(16) Learned Counsel for the petitioner submitted that if the petitioner is not permitted to be admitted to the IIIrd year course in respondent No. 2 college, he will not be able to complete the course and his studies for the first and second year would be wasted. The petitioner alone is to be blamed for the said unfortunate situation. Though one may have sympathy for a young person whose educational career is being lost, such sympathy cannot be allowed to influence the Court to impose on a college a student whose presence in the campus is perceived by the college authorities as a potential threat to the discipline and peaceful functioning of the college especially when such perception is justifiably based on the past conduct of the student. Between sympathy and concern for an individual and the larger interests of an institution and its students as a whole, the Court can only choose the latter.

(17) In view of what has been stated above, I hold that the writ petition is devoid of merit and is liable to be dismissed. Accordingly, the writ petition is dismissed. There will be no order as to costs.