

**(1994) 12 PAT CK 0002**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 2907/94 (R)**

Prem Shankar

APPELLANT

Vs

Birla Institute of Technology and Others

RESPONDENT

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**Date of Decision :** 23-12-1994

**Acts Referred:**

**Citation :** (1994) 12 PAT CK 0002

**Final Decision :** Dismissed

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## Judgement

1. The Petitioner, being aggrieved by the order dated 22.10.94, by reason of which the Vice-Chancellor of Birla Institute of Technology, Mesra has expelled the Petitioner from the college and his name has been removed from the rolls of the Institute with immediate effect, has moved this Court for quashing of the said order.

2. The Petitioner is a student of 2nd year B.Sc. Engineering (Civil). He was suspended by order dated 27.9.94 for some incident which is alleged to have taken place on 25.9.94. A notice was received by him on 12.10.94 asking him to show cause as to why an appropriate action against him be not taken for committing the offence mentioned in the said notice.

3. In the show cause notice it was alleged that in the said incident three girl students of the Institute were molested in which the Petitioner was found to be responsible for the said event.

4. The Petitioner showed cause and he, in his show cause while denying the allegations stated that a copy of application filed by the girl students making such allegation against him, was not supplied to him. He also stated that the inquiry report was also not supplied to him.

5. Mr. Debi Prasad, learned Counsel appearing on behalf of the Petitioner, has submitted, inter alia, that the whole action taken against the Petitioner is in complete violation of the principles of natural justice. He contends that the inquiry was held at the back of the Petitioner, only the Petitioner was examined

and a copy of the application filed by the girl students making such allegations against the Petitioner was not supplied to him. Argument of Mr. Prasad continues that when in such matters career of a student is at stake, the authorities concerned before taking any action, whatsoever, must comply with the principles of natural justice. In support of his argument Mr. Prasad has relied upon decisions in Kobad Jehangir Bharda Vs. Farokh Sidhwa and others, and in Bhupendrakumar Singhal Vs. P.R. Mehta and Another, .

6. Mr. Eqbal, learned Govt. Counsel appearing on behalf of the Respondents, on the other hand, strongly controverting the submissions of Mr. Prasad, has contended that before punishing the Petitioner the authority concerned has not only followed the principles of natural justice but has also taken into consideration the allegations of the girl students. The evidences of not only the Petitioner but also some other students, who were travelling in the said Bus as well as the driver and the khalasi were also scrutinised by the Enquiry Committee.

7. In the counter affidavit it is specifically stated that on 25.9.94 those three girl students of the Institute, who were travelling in the Institute Bus, were molested by some boys of the Institute itself. Those girl students made a written complaint to the authority concerned on the basis of which preliminary inquiry was conducted by the Proctor of the Institute. On the basis of the prima-facie findings regarding the allegations, the Petitioner along with three Ors. were suspended with effect from 27.9.94. The Proctor himself has sworn the counter affidavit in which he has asserted that not only notice was served on the Petitioner but the inquiry was also done in his presence. A four-men committee was constituted by the Vice-Chancellor on the basis of the said preliminary inquiry report headed by Professor, G.P.C. Roy as its Chairman. The committee issued general notice requesting the students and the staffs to disclose the facts about the incident which happened on the relevant date. Notice was also issued to two other students as well as the victim girls and other girl students. Copy of the general notice has been annexed as Annexure B to the counter affidavit.

8. From a perusal of Annexure B it appears that the said general notice was issued in order to facilitate fair, impartial and quick inquiry. All the staffs and the students, who were the eye-witnesses or having truthful information which could lead to finding the guilty, were requested to depose before the committee.

9. Similarly on 30.9.94 notice was issued to the suspended students including the Petitioner for their appearance before the committee. The Petitioner along with the other suspended students appeared before the committee. Two of them were interrogated and their statements were recorded. On the said date two victim girl students and the remaining four girls were also interrogated by the Enquiry Committee and their statements were recorded. On 1.10.94 the remaining two suspended students including the Petitioner appeared before the committee and they were interrogated. The Petitioner gave statement in writing in his own pen before the committee. The statement of the Petitioner has been annexed as Annexure D.

10. Similarly the statements of the victim girls were obtained in writing confidentially as they were reluctant to make any statement before the boys in as much as were apprehending that the concerned students may again humiliate and insult them. Not only that, the photographs of the students of 1991, 1992 and 1993 batches, who were reported to be present in the Bus, were placed before the girl students for identification and the victim girls unhesitatingly identified the Petitioner and one Abhay Kumar Singh from the said photographs.

11. On the basis of the complaint, preliminary inquiry, statements of the victim girls and other girl students, the enquiry committee gave its finding holding the Petitioner and two other students, namely Abhay Kumar Singh and Kundan Singh guilty of committing the offence of molestation of the girls. The said inquiry report, thereafter, was sent to the Vice-Chancellor, Respondent No. 2 for his decision and necessary action.

12. The Vice-Chancellor before taking final decision in the matter again thought it proper to ask for further show cause and explanation from the Petitioner and two other students named above and, as such, on 12.10.94 notice was issued to the Petitioner calling upon him to submit a written reply to the Vice-Chancellor by 20.10.94.

13. Referring to other statement of facts in the counter affidavit, Mr. Eqbal firmly asserted that from these facts it is clear that the authority, before issuing the impugned order, has complied with the principles of natural justice which in such circumstances were required to be followed. He, however, contends that it was not incumbent upon the authority concerned to supply the report of the enquiry committee to the Petitioner in such cases. Mr Eqbal has produced before us the entire report of the enquiry committee including the complaint petition as well as the evidences recorded by the Committee.

14. We have carefully gone through the entire file of the inquiry held in this connection. From the records placed before us we find that not only the Petitioner was noticed but the parents/guardians were also in formed by enclosing copy of the show cause notice sent to the Petitioner. It further reveals from the records of enquiry that the Vice-Chancellor after receiving the report of the Committee did not pass any final order immediately but requested the Petitioner and other three students to give their reply. The report of the enquiry committee further reveals that before coming to the conclusion the committee obtained the statements of the victim girl students in writing confidentially and also produced before them the photographs of the students of 1991, 1992 and 1993 batches who were reported to be present in the Bus. The girls clearly identified the Petitioner and Ors. . From the statements of the girls in writing it appears that they narrated the incident before the Committee. The Committee before coming to a definite finding not only interrogated the victims and examined their complaints but also interrogated the suspended students and other students as also the staffs. After considering the materials and evidences available on records of the proceeding, the Committee found that the Petitioner

along with two other students was guilty of grave offence of molestation of the victim girls.

15. From the aforesaid facts it is clear that before punishing the Petitioner the authority concerned conducted a full fledged enquiry into the matter and has come to a conclusion that the Petitioner was one of the students who were responsible for outraging the modesty of the victim girl students. The accusation made by the victim girls are grave and must shock the public conscience.

16. It is now well settled that while exercising powers under Article 226 of the Constitution, the High Court does not sit as a Court of appeal on the findings of fact recorded by the domestic enquiry body nor has power to evaluate the evidences as an appellate Court and to come to some conclusion other than that. In Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others, , the Apex Court has held that if the conclusion reached by the Board can be fairly supported by the evidence on record, then the High Court or the Supreme Court has to uphold the decision, though, as the appellate Court of facts, may be inclined to take a different view.

17. From the discussion made above, we are of the view that under the circumstances of the instant case the requirements of natural justice were fulfilled. Reports were made available to us by Mr. Eqbal in presence of Mr. Prasad, who has not objected from going into those records by us. There is no dispute about the offence being committed. The genuineness of the identification by the victim girls is also borne out by the fact that the photographs of several students were placed before the girls from which they could identify the Petitioner and other guilty students. The girls were very rightly not examined in presence of the Petitioner and other students and the authority also rightly did not give a copy of the report to them because it would have been unwise to do so.

18. In almost similar circumstances, in Hira Nath Mishra and Others Vs. The Principal, Rajendra Medical College, Ranchi and Another, , their lordships have held as follows:

The High Court was plainly right in holding that the principles of natural justice are not inflexible. It may differ in different circumstances.

Referring to Anr. decision in the case of Sardar Govindrao Mahadik and Another Vs. Devi Sahai and Others, , their lordships held that the doctrine of natural justice cannot be imprisoned within the strait-jacket of a rigid formula and its application depends upon several factors.

19. In the present case, as we have noticed the complaint made to the authority related to an extremely serious matter as it involved not only merely internal discipline but the safety of the girl students also who were studying in the Institute.

20. In a more recent decision though in a different context in the case of

Controller of Examinations and Others Vs. G.S. Sunder and Another, the Hon''ble Supreme Court has held that the authorities incharge of Education know better and one cannot import fine principles of law and weigh the same on golden scales.

21. In these backgrounds we are of the firm view that the Respondents have followed the principles of natural justice which were necessary to be followed in the circumstances of the instant case and have come to a definite finding.

22. Now coming to the decisions cited by Mr. Prasad, we may indicate that the ratio of the case of Bhupendra Kumar Singhal (supra) is not applicable in the facts and circumstances of the case in hand.

23. Similarly in the case of Kobad Jehangir Bharda (supra), the Bombay High Court quashed the impugned order mainly on the ground that the Petitioner was not given the opportunity of showing cause against the accusation, rather, the Petitioner's father was called by the Madarsa.

The High Court held that there was a complete violation of the principles of natural justice.

24. The aforesaid two decisions, in our considered view, cannot be applicable in the facts and circumstances of the present case. In this case the principle laid down by the Hon''ble Supreme Court in the case of Hiranath Mishra (supra) is totally applicable.

25. Having given our anxious consideration on the facts and circumstances of the case, we find no merit in this writ application. This application is, accordingly, dismissed.