
(1962) 04 MAD CK 0021
In the Madras High Court
Case No : Writ Petition No. 227 of 1962

R. Nagalingam

APPELLANT

Vs

University of Madras and Another

RESPONDENT

Date of Decision : 02-04-1962

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1963 Mad 31 : (1963) ILR (Mad) 177 : (1962) 75 LW 591 : (1963) 1 MLJ 24

Hon'ble Judges : Veeraswami, J

Bench : Single Bench

Advocate : K.K. Venugopal, V.P. Ganapathi and K. Maya Thevar, for the Appellant; M.M. Ismail, for the Respondent

Final Decision : Allowed

Judgement

Veeraswami, J.—The petitioner appeared in September 1961 for the Second B. E. (Integrated course) under the first respondent

University. On 9-11-1961, the Registrar of the University sent a notice to the petitioner stating that the Chief Superintendent, University

Examinations, Thyagaraja College of Engineering, Madurai, reported that he had reasons to suspect that pages 12 to 15 and 28 to 32 of the

answerbook were brought from outside and inserted by him in the examination and in support of it the Chief Superintendent relied that (1) There

were folds at the middle of these pages, (2) the handwriting of the petitioner showed extreme calmness and (3) some of the matter he had written

in those pages were irrelevant to the questions asked in the examination. In the circumstances, the Registrar, by a notice, called upon the petitioner

to submit by return of post his explanation as to why disciplinary action should

not be taken against him for having violated Rule 7 of the pamphlet

Instructions to the Candidates"" issued to him along with the hall ticket. The petitioner received the notice on 13-11-1961 and sent his explanation

on 17-11-1961. On 30-12-1961 the Syndicate Committee on discipline read (1) the letter dated 17-9-1961 from the Chief Superintendent,

University Examinations, Thyagaraja College of Engineering, Madurai, enclosing and forwarding the answer paper of the candidate with the

Register No. 358 in Physics II and (2) the petitioner's explanation and ""Resolved that the examination taken by the candidate be cancelled, that he

be debarred from appearing for the next two examinations held by the University and that the candidate be not permitted to undergo any course of

studies in this University during this period."" The records sent up to this Court relating to this matter show an endorsement dated 30-12-1961,

made by the Convener of the syndicate Committee on discipline :

The explanation of the candidate is unacceptable--the examination taken by the candidate may be cancelled and the candidate debarred from the

next two examinations"".

On 9th January, the syndicate of the University, as its proceedings held on that day, recorded,

Read letter dated 12-9-1961, from the Chief Superintendent, University Examinations, Thyagaraja College of Engineering, Madurai, forwarding

the answer paper of the candidate with register No. 358 in Physics II-B suspected case of malpractice, also the explanation of the candidate

together with the recommendation thereon of the Syndicate committee on discipline, welfare of students, etc.

Resolved that the examination taken by the candidate be cancelled, that he be debarred from appearing for the next two examinations held by the

University and that the candidate be not permitted to undergo any course of studies in this University during this period.

Pursuant to this resolution the University sent to the petitioner the order dated 24-1-1982 :

He is informed that his appearance for the second B. E. (integrated) examination, September 1961 has been cancelled, and that he has been

debarred for any examination of this University for the next two examinations. He will not be permitted to undergo any course of studies in this

university during this period of rustication. He will be permitted to appear for the Second B. E.. (Integrated) examination only in April 1963.

The petitioner asks this Court under Article 226 of the Constitution to quash this order.

2. The main ground urged for the petitioner is that neither the proceedings resulting in nor the resolution of the Syndicate nor the order of the

University communicated to him disclosed what the Syndicate's finding was on the charge levelled against him. It is common ground that the final

authority in matters of discipline is vested in the Syndicate and that no particular procedure to be followed in dealing with cases of discipline has

been prescribed either by the statutory provisions or regulations made thereunder. Even so, the contention is that the Syndicate, when it exercises

its jurisdiction in disciplinary matters, functions in a quasi-judicial capacity and, it is therefore, bound not only to arrive at a conclusion or finding on

the facts and proof of the charge but also give reasons therefor. I consider that the contention is well-founded.

3. That in exercise of its disciplinary jurisdiction the Syndicate functions in a quasi-judicial capacity can admit of no doubt. It is true that on this

aspect neither the statutory provisions nor the rules or regulations framed thereunder throw light. But it is obvious that, particularly in circumstances

as are present in this case, the result of a disciplinary proceeding is fraught with serious consequence to the candidate concerned, and in some

cases the result may be such as may practically destroy his career. In such cases, a disciplinary action decided upon presupposes and involves as I

think, and necessarily by the basic principles of law and justice, an accusation, the answer thereto, examination of both, and a conclusion arrived at

by the duly constituted authority both on the question of guilt and quantum of punishment. In that sense the jurisdiction of the Syndicate to inflict

punishment on candidates for misconduct is quasi-judicial in character. This proposition, as is clear, if I may say with respect, from the judgment of

the Supreme Court in Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, , is well settled.

That was a case where no opportunity whatever was given to the candidates affected to give an explanation and present his case before the

Committee of enquiry. On that ground the order of punishment was set aside. The Supreme Court observed,

Considering therefore the serious effects following the decision of the Committee and the serious nature of the misconduct which may be found in some cases under Rule 1(1), it seems to us that the Committee must be held to act judicially in circumstances as these. Though therefore there is nothing express one way or the other in the Act, or the Regulations casting a duty on the committee to act judicially, the manner of the disposal, based as it must be on materials placed before it, and the serious effects of the decision of the committee on the examinee concerned, must lead to the conclusion that a duty is cast on the committee to act judicially in this matter particularly as it has to decide objectively certain facts which may seriously affect the rights and careers of examinees, before it can take any action in the exercise of its power under Rule 1(1). We are therefore of opinion that the committee when it exercises its powers under Rule 1(1) is acting quasi-judicially and the principles of natural justice which require that the other party (namely, the examinee in this case) must be heard, will apply to the proceedings before the committee. This view was taken by the Calcutta High Court in *Dipa Pal Vs. University of Calcutta*, , and *B.C. Das Gupta and Another Vs. Bijoyranjan Rakshit and Others*, in similar circumstances and is in our opinion correct.

In a later part of its judgment the Supreme Court further said, As to the manner in which it should give an opportunity to the examinee concerned to be heard, that is a matter which can be provided by Regulations or bye-laws if necessary. As was pointed out in *Local Govt. Board v. Alridge*, 1915 A. C. 120, all that is required is that the other party should have an opportunity of adequately presenting his case. But what the procedure should be in detail will depend on the nature of the tribunal.

The Supreme Court, in the case Just referred to, was mainly concerned with the question whether an opportunity should not be given to the examinee to present his case. But in considering that question, the nature of the jurisdiction which the Committee there exercised was held to be quasi-judicial, which also took with it the requirements of the principles of natural justice, particularly the aspect of giving an opportunity to the examinee and hearing him.

4. Once it is held that the Syndicate exercises quasi-judicial functions in deciding

disciplinary matters pertaining to examinees, it should follow, I think, that it should at least specify the relative charges in clear and precise terms, intimate the same to the candidate affected, ask for his explanation, and in the light of the entire material reach and express its factual conclusions on the proof or otherwise of the charges and finally assess the nature and quantum of punishment to be imposed. What is relevant to the facts of the instant case is the necessity for the Syndicate itself to arrive at and express its finding on the guilt with reference to the accusation, for it is in that body the duty to finally decide is vested by the regulations. Such a duty necessarily implies both the mental process of arriving at a finding of merits and an expression of the conclusion to constitute the decision relevant to the charges. In my opinion this requisite is not complied with or satisfied by merely showing that certain records are read and certain punishment is inflicted. But that is what precisely has happened in this case. From the resolution of the Syndicate and the order of the University, which have already been extracted, it is apparent that there is a total absence of an expression of any conclusion a finding on whether in the opinion of the Syndicate the charge levelled against the petitioner was factually established or proved.

The learned Additional Government Pleader suggests that in the context such a conclusion should be implied. He says that the conclusion is implied in the resolution of the Syndicate and the order of the University because it cites reading of certain matters and proceeds to impose a punishment, and that this can only be on the basis of a conclusion reached by the Syndicate and the University. I do not think it need necessarily be so and I have not the slightest hesitation in rejecting this approach to this question. If I were to accept the Government Pleader's suggestion as a proposition, its implication and effect will be something most undesirable, speculative and fraught with injurious consequences. While the syndicate which is made a duty to decide, may take assistance of committees, it should apply its own mind to come to a decision and the fact should appear in some manner or other in its proceedings or resolution.

5. Counsel for the petitioner goes further and contends that the Syndicate should not only in fact express its conclusions but also give reasons therefore and invites my attention to P.J. Joseph Vs. Superintendent of Post

Offices and Another, , which is a service case. The learned Judges of the Kerala High Court after an examination of certain American decisions expressed the opinion ""It follows that where the order by administrative authorities be quasi-judicial, it must be ""speaking order"", and absence or reasons in it, would be fatal to its legality"". In view of the particular facts and circumstances of this case, I do not think I am called upon to decide whether so wide a proposition can be laid down where, as here, no conclusion at all on merits of the charge has been expressed, no question of failure to give reasons calls for consideration.

6. I am aware, as already mentioned, that the convener of the Committee for discipline endorsed on the communication of the Superintendent that the explanation of the candidate was not acceptable. Whether his opinion was accepted by the Committee and whether it also found acceptance by the Syndicate, nowhere does it appear. The opinion of the convener of the Committee is certainly not necessarily the opinion of the Committee or the Syndicate. As I said there must be something in the proceeding of resolution of the Syndicate, and in the order of the University, to indicate not merely that the relevant papers have been read but it had reached is stated conclusion on the guilt or otherwise with reference to the charges framed against the petitioner. In the absence of any conclusion expressed by the Syndicate in its resolution or the order of the University, the order of rustication is vitiated and has to be set aside. It is hereby quashed. This petition is allowed. The rule nisi is made absolute. No costs.