

(1954) 03 AHC CK 0017

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 246 of 1954

Ranvir Singh

APPELLANT

Vs

Dist. Inspector of Schools, Allahabad and Another

RESPONDENT

Date of Decision : 17-03-1954

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1954 All 636

Hon'ble Judges : V. Bhargava, J

Bench : Single Bench

Advocate : S.C. Khare, for the Appellant;

Final Decision : Dismissed

Judgement

V. Bhargava, J.—By this petition under Article 226 of the Constitution, the petitioner who was a student of Class XII in the Ewing Christian College, Allahabad has sought the issue of a writ in the nature of mandamus directing the opposite parties, the Inspector of Schools, Allahabad and the Secretary, Board of High School and Intermediate Education, Allahabad to hand over the applicant's admission card for the Intermediate Examination 1953-54 and not to prevent him from taking the Examination.

2. In the affidavit filed in support of the petition, the petitioner has alleged that besides being a student of the Ewing Christian College, Allahabad he was an inmate of the Turner Hostel attached to the College.

In connection with the Saraswati Puja on the Basant Panchami day, the Warden of the hostel got seriously annoyed with the petitioner. The Principal of the institution was also annoyed with the petitioner on the same ground. On the 15th February 1954 the Warden of the hostel sent for several students including the petitioner separately and asked them that the forthcoming Holi celebration had to be done in a style that it should not offend the Christian faith and he further freely commented on the Hindu festivals in a disparaging manner. This caused a

lot of resentment among the students of the College.

On the night between the 4th and 5th March 1954 two Mendhi trees from the hostel compound were uprooted and thrown in the pile of wood that had been collected for Holi by the residents of the neighbouring mohalla and, in addition, human excreta was placed near the door of "the Warden. The Principal, on suspicion against four students, ordered them to leave the hostel.

The petitioner and one Ram Kirpal Srivastava, Secretary, Hostel Union, interviewed the Principal on behalf of the students to represent their case. On that occasion the Principal told the petitioner that he would see the petitioner separately. When the petitioner met the Principal alone, the Principal threatened to rusticate the petitioner saying that he had received a number of complaints against him.

On the next day, the petitioner saw the Warden and questioned him why the Principal had expressed his opinion that he would rusticate the petitioner. The Warden was in a very excited mood and said that, unless, the petitioner or some other student wrote out a letter admitting the commission of the act which had happened in the night between the 4th and 5th March 1954, all the students would be expelled & rusticated. He added that if the petitioner accepted commission of the act he would see that no harm came to any student.

In these circumstances the petitioner wrote a letter addressed to the Warden admitting that he had committed the acts along with four others. According to the petitioner, his letter was given by him on the 7th or 8th March.

Subsequently, on the 10th March, the petitioner was given a copy of a letter from the District Inspector of Schools, Allahabad informing him that the petitioner had been rusticated for four months with immediate effect. A copy of that letter has been attached as an annexure, to the affidavit. The same letter added that the admission card of the petitioner for appearing in the Intermediate Examination 1954 should be withheld. It is against this last direction that the writ of mandamus is sought by the petitioner.

3. Learned counsel's first contention was that the Inspector of Schools who passed the order contained in the letter dated 10-3-1954, annexed to the affidavit, had no statutory authority to pass such an order.

This argument was based on the contention that Rule 96, Education Code of the Uttar Pradesh was not framed under any statutory power and consequently the order passed by any authority purporting to act under that rule would not be a valid order which could be enforced against the person against whom it may be directed.

When asked whether there was any power of disciplinary action being taken by the head of art institution against a student reading in that institution, learned counsel said that the power must be in the head of the institution, as every student entering the institution must be deemed to enter into a contract under

which such a power would vest in the head of the institution.

The position is, however, not so simple. The Education Code of the Uttar Pradesh lays down rules for the guidance of English Schools and Intermediate Colleges and other institutions recognised by the Board of High School and Intermediate Education, U. P. Rule 96 is one of the rules framed for the guidance of English Schools and Intermediate Colleges recognised by the Board of High School and Intermediate Education. Any student seeking admission to an institution recognised by the Board, or an English School or Intermediate College recognised by the Board, must be deemed to have agreed to comply with and be governed by those rules. It is under Rule 96, itself that these institutions admit the students. It is this very rule which lays down how a student leaving one institution can be admitted in another institution and what would be the principles governing transfer of a student from one institution to another.

The same rule lays down the principles on which discipline has to be maintained in the institutions. Clause (p) of Rule 96 gives authority to the head of an institution to impose fine for irregular attendance, including unpunctuality and absence without leave. Clause (q) deals with repair of the property of the school or college, wilfully injured, at the expense of the student causing that damage. Clause (r) gives a general power to the head of an institution to punish a boy in a manner suited to the offence, for example, by detention after school or college hours or of expulsion from the institution.

If a more severe punishment is required this very Clause (r) lays down that the head of the Institution should report the circumstances to the Inspector stating for what period the boy should in his opinion be debarred from readmission to any institution. The Inspector can pass an order for expulsion only from the institution or for rustication for a specified period. Whatever rights the petitioner acquired on admission as a student of this institution were as a consequence of his admission under this rule and obviously, therefore, he cannot claim that he is not governed by this rule.

Whether this rule was framed under any statutory authority or not has not been fully gone into. But there can be no doubt that a student entering an institution under this rule is certainly bound by the other clauses of the same rule which prescribe a procedure for disciplinary action against him, it may be because the rule has a statutory authority or because a student when seeking admission agrees to be governed by these rules.

It may be noticed that the question of validity of an order of the Inspector of Schools under the same Rule 96 came up before a Bench of this Court in the case of -- Keshab Chandra Vs. Inspector of Schools and Others, , and before that Bench it was not contended that the powers exercised by the Inspector strictly in accordance with Rule 96 could be interfered with by this Court by a writ. In fact, the learned Judges in that case recognised the fact that even the power of the head of the institution to take disciplinary action against the students was under

this very Rule 96.

In that case, however, the order of rustication was set aside by the issue of a writ on two grounds. One ground was that the power granted to the Inspector had not been exercised on the report of the Principal as required by Rule 96 and, secondly, on the ground that the order offended the principles of natural justice as it had been passed without an enquiry.

4. Learned counsel for the petitioner in the alternative to his argument about Rule 96 having no statutory force urged that in this case also the order passed by the Inspector of Schools was vitiated by the circumstance that no enquiry was held and consequently it offended against principles of natural justice.

This argument of learned counsel cannot be accepted in view of the facts of this case. The charge against the petitioner was that he had taken part in the uprooting of Mendhi trees from the hostel compound and throwing them in the pile of wood that had been collected for the Holt by the residents of the neighbouring mohalla, and further, that he had taken part in the placing -of human excreta near the door of the Warden. These were clearly acts of indiscipline.

The petitioner in his own affidavit says that he had admitted participation in these acts in his letter handed over by him to the Warden. In the affidavit an attempt has been made to make out that this letter of admission was written under duress when the Warden threatened expulsion or rustication of all the boys from the hostel if an admission was not made. It is, however, significant that in the affidavit it is nowhere stated that the admission was false.

When this petition was argued before me, I put the question to learned counsel whether the petitioner was prepared to swear an affidavit that he had not taken part in these acts. Learned counsel thereupon stated that he had questioned the petitioner & the petitioner had admitted to him that he had really taken part in these acts so that the admission made in the letter was perfectly true. Since the petitioner even at this stage admits that the acts were committed by him and that the admission which was made by him in the letter was a true admission, the circumstances under which that letter was taken become irrelevant.

Once that letter of admission was before the Principal and the Inspector of Schools, it is also clear that there was no question of any further enquiry being held before taking disciplinary action against the petitioner.

Learned counsel urged that, if an enquiry had been held, the petitioner would have got an opportunity to show to the Inspector of Schools that, though he had committed these acts, there were circumstances under which these acts were committed which would justify a milder punishment than the punishment of rustication.

That is not at all the purpose of the enquiry which has been envisaged in the principles laid down by the Division Bench of this Court which has been referred

to earlier. In fact, in that case it was especially remarked by the learned Judges that :

"To hold that a student has a legal right to come to a Court of law and require the head of the institution to justify his action where he has meted out some punishment or taken any disciplinary action will be subversive of all discipline in our schools or colleges and we must not, therefore, be deemed to have countenanced any such suggestion by this order. As a matter of fact in more than one case we have observed that this Court will not interfere in the internal autonomy of educational institutions."

In the present case, where there was an admission of the acts of indiscipline, this Court will not enter into any question whether the punishment meted out is or is not in proportion to the facts of indiscipline committed by the petitioner. For that purpose, it is clear that the petitioner's remedy lay in an approach to the appropriate authorities of the institution itself which may be the Warden, the Principal or the Inspector of Schools. On such a ground no writ petition can be entertained.

5. This petition is consequently rejected.