

(1987) 05 P&H CK 0069
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2309 of 1987

Rohtas Singh

APPELLANT

Vs

Haryana State Board of Technical Education, Chandigarh and
Another

RESPONDENT

Date of Decision : 22-05-1987

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1988 P&H 90

Hon'ble Judges : Sukhdev Singh Kang, J

Bench : Single Bench

Judgement

1. This judgment will dispose. of Civil Writ Petitions Nos. 2309, 2582 and 2799 of 1987, because they raise common question of law and fact.

2. A broad-brush factual backdrop will help delineate. the pristinely forensic controversy:

3. On 2nd April, 1987, the students of 6th Semester Civil (Section A) of the Government Polytechnic Ambala city were taken to Delhi in bus by Sarvshri S. K. Sharma and S. K. Kaul, lecturers of the said institution. There was some unpleasantness there between students and the lecturers and the bus was brought back to Ambala City with some of the students next day. As the remaining students did not reach in time, they were left in Delhi. This proved a catalyst agent. On 4th April, 1987, it is alleged Rohtas Singh and Dilbag Singh (students of 6th Semester Civil A) and Anil Kumar (student of 2nd Semester), petitioners in these three writ petitions, along with their companions compelled the other students who were attending their classes to come out of their classes and join the strike. When some of the students resisted, they threatened them. It further alleged that the petitioners and their companions who were armed with lathies and sharp-edged weapons, caused injuries to two students namely, Balaraj Singh and Bal Kishan. The students also damaged the property of the institution and were disrespectful towards the members of the faculty, including

the Principal. A case was also got registered against the delinquent students.

4. An emergent meeting of the Academic Committee of the institution was called on 4th April, 1987. The Committee was of the view that in order to restore normalcy in the institution, generate confidence amongst the students and to uphold the respect of the teaching faculty, it had become essential, though painful to expel the three petitioners. After the decision of the Academic Committee; the petitioners were expelled from the institution with immediate effect vide order of the Principal dated 4th April, 1987 (copy of which is annexed with the writ petitions as Annexure P. 1). The grounds as given in the impugned order for the expulsion of the petitioners from the institution are that they had instigated the students to go on strike on 4th April, 1987 and had played a pivotal role in the murderous attack on the two students, namely, Balraj Singh and Bal Kishan and damaging the property of the institution and that they had also showed complete disregard to the Principal and the faculty members. The entry of the petitioners was barred to the institution campus and hostel premises.

5. Aggrieved by these orders, the petitioners have filed the present writ petitions.

6. The principal ground urged by the Learned counsel for the petitioners in support of these petitions, impugning the orders of their expulsion from the institution, is that the orders which visit the petitioners with evil civil consequences have been passed in flagrant violation of principles of natural justice. It is contended that no show cause notice had been issued to the petitioners and they were also not made aware of the allegations leveled against them or the material in support of these allegations. No enquiry was held. The petitioners were not afforded any opportunity to explain the circumstances which may be appearing there or to project their view point.

The impugned orders are not sustainable. In support of this contention, reliance has been placed on a Division Bench decision of this Court in *Rakesh Kumar Vs. The State of Punjab and Others*, , and a Single Bench decision of this Court in *Devinderpal Singh Sandhu v. K. L. Kapur* AIR 1966 P&H 91. The contention of the petitioners must prevail. Admittedly, no show cause notice was given to the petitioners. No enquiry whatsoever was held against them. The petitioners were not heard before passing the impugned orders. The decision cited by the learned counsel for the petitioners fully support their case. In *Rakesh Kumar's* case (supra) it has been held:

"It is an elementary rule of natural justice that before any order affecting party's interest is passed he must be heard. The principle is expressed by the maxim *audi alteram partem*. In this case a vital decision was being taken from the point of view of the boy and the matter fell for the application of the principles of natural justice. In such a case when the Principal in dealing with one of his students, had considered a matter which was sub judice and did not relate to the discipline of the institution itself, the principle of *audi alteram partem* could not be lightly dispensed with and it behoved the authority to hear the student who

was adversely affected by the impugned order before passing it. The absence of an opportunity provided to the petitioner amounted to a denial of justice and violation of an essential principle of natural justice. Hence the suspension order should be quashed."

The same view was taken by Justice Gurdev Singh in *Devinderpal Singh Sandhu*'s case (*supra*), wherein it has been observed:

"The consequences of the order were admittedly penal. As the result of the rustication for a year; the petitioner had been debarred from attending the classes, as well as from appearing at the two subsequent University Examinations as provided in Rule 4 of Chapter 57 of the Punjab University Calendar Volume III (1962 Edition). The petitioner had a right to be acquainted with the nature of the allegations on the basis of which the order of rustication was sought to be made and also to an opportunity to be heard and to defend himself, before an order entailing such serious consequences was passed against him. When these rules of natural justice were violated, the petitioners was entitled to redress under Article 226 of the Constitution. The orders of rustication made without even informing the person concerned of the allegations on which it was based could not be sustained."

On the other hand, Mr. Harish Rathee, learned counsel for the respondents, has referred me to a decision of a Division Bench of the Kerala High Court in *The Principal, Government Engineering College, Trichur Vs. John K. Kurien and Another*, . This decision does not help the respondents. Therein it has been observed that in academic disciplinary proceedings (in the instant case, for ragging) the principles of natural justice should not be applied with strict standards, provided the proceedings are substantially fair. It is clear from narration of facts of that case that charge was framed and sieved on the students concerned and their statements in answer to the charge framed were also taken. An enquiry was conducted by two Professors of the College; one of (them) being the warden himself. Victims of ragging were examined in the presence of the delinquent students (the writ petitioners) and were Cross-examined by them. Enquiry report was considered by the College Council and acceptance of the enquiry report led to the suspension of the delinquent students till the next Semester in June 1976, and to their expulsion from the College hostel. Thus, there had been a compliance of principles of natural justice.

7. Similarly, reliance by Shri Rathee on another Full Bench decision of the Allahabad High Court in *Triambak Pati Tripathi Vs. The Board of High School and Intermediate Education, U.P., Allahabad*, , also does not help the respondents. Therein it is observed that the Examinations Committee while dealing with the cases of examinees using unfair means in examination hall acts quasi-judicially and the principles of natural justice apply to the proceedings before it.

8. The third judgment relied upon by Shri Rathee is of a learned single Judge of the Allahabad High Court reported as *Mukand Madhav Singh Vs. Agra University*

and Another, . In this case also, as is evident from paragraph 2 of the report, a show-cause notice had been given to the delinquent student and he was asked to show cause as to why action should not be taken against him in accordance with the statutes of the Agra University. The student had sent his explanation. Thereafter correspondence ensued between the delinquent student and the University authorities. So, some semblance of the principles of natural justice was observed in this case also.

9. Mr. Rathee's contention that in the affairs of the academic institutions, the application of the principles of natural justice can be dispensed with has no force. The petitioners, in the present case, have been expelled from the institution for all times to come resultantly depriving them of all their academic attainments which they have achieved during the last 5 semesters (Rohtas Singh and Dilbag Singh's case) and 1 semester (Anil Kumar's case), for which they have taken the examinations. The consequences of the orders of their expulsion from the institution are very grave. Since the orders of expulsion have been passed in violation of the principles of natural justice, the same cannot be sustained.

10. The writ petitions are allowed with costs and the impugned orders, Annexure, P. I, are quashed. The respondents shall pay the petitioners Rs. 200/- as costs in each case. It is, however, made clear that if the respondents are so minded, they can proceed against the petitioners in accordance with law and after faithfully complying with the principles of natural justice.

11. Petitions allowed.