
(2003) 09 DEL CK 0134
In the Delhi High Court
Case No : Civil Writ No. 1206 of 2002

Shahid Ali Khan	Vs	APPELLANT
Union of India (UOI) and Others		RESPONDENT

Date of Decision : 25-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 109 DLT 353 : (2004) 75 DRJ 51

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Sushil Peter, for the Appellant; B.B. Sawhney and J. Nasir, for the Respondent

Final Decision : Dismissed

Judgement

Vikramajit Sen, J.—The Respondent University contends that the Petitioner was implicated in FIR 416/1999 involving extortion and causing bodily injury with the use of a fire arm. It is vehemently argued that the witnesses had turned hostile and Therefore the Additional Sessions Judge, in his judgment dated 10th September, 2001, had no alternative but to give the benefit of doubt to the Petitioner and his co-accused. The Petitioner had been incarcerated for approximately two years.

2. On December 12, 2001, the following decision was taken by the Respondent:

"F. No. PO/35/99-00 December 12, 2001 OFFICE ORDER

This is in reference to your representation dated September 27, 2001 addressed to the Vice-Chancellor, JMI regarding revocation of Rustication Order dated October 11, 1999.

Your case was placed before the Discipline Committee in its meeting held on December 10, 2001 at 2.30 p.m. The case was deliberated at length. The judgment of Mr. Rajesh Kumar, Addl. Sessions Judge in Session Case No. 93 of

2000 was perused. It was noted by the Committee that the learned Judge has given benefit of doubt to the accused as the prosecution could not prove its case beyond a shadow of doubt. You are hereby communicated that the Discipline Committee, considering the academic stability is the prime concern of the University and the fragile environment of law and order in the Campus is not disturbed in any manner whatsoever, resolved that the decision taken by previous Committee held on September 27, 1999 remains unaltered. Resultantly, your representation (dt. September 27, 2001) stands rejected.

(Dr. Mehtab Alam)

Convenor of D.C./Proctor

Mr. Shahid Ali Khan

S/o Mr. Ashfaq Ali Khan

47/1, Ghaffar Manzil Extension

Jamia Nagar, New Delhi-110025."

3. Mr. Sawhney, learned Senior Counsel appearing for the Respondent contends that the above detailed action was taken pursuant to Statute 31, the relevant portion which reads as follows:

"31. MAINTENANCE OF DISCIPLINE AMONG STUDENTS OF THE UNIVERSITY:

(1) All powers relating to discipline and disciplinary action in relation to students shall vests in the Shaikh-ul-Jamia (Vice-Chancellor).

(3) 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 Shaikh-ul-Jamia (Vice-Chancellor) may, in the exercise of his powers, by order, direct that any student or students be expelled or rusticated, for a specified period, or be not admitted to a course or courses of study in a Department or an Institution of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University or a Department or an Institution for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled."

4. In my view the case is on all fours with that of Mohd. Zareeq Khan and Ors. v. Jamia Millia Islamia, 98 (1999) DLT 768=1999 3 AD (DEL) 498, where the Hon"ble Division Bench observed as follows :

"Statute 31 quoted in the judgment vests all powers relating to discipline and disciplinary action in relation to students on the Vice-Chancellor, which also includes power not to admit a student to a course or courses of study in a Department or an Institution of University as candidate has no vested right for admission to a course in an Educational Institution and it cannot be disputed that

under the powers vested in him the Vice-Chancellor on consideration of relevant factors can refuse admission to a candidate on valid grounds. Learned Single Judge concluded from the material placed before him and from the affidavit of Vice-Chancellor that the Vice-Chancellor had taken into consideration the relevant factors including the situation prevailing in the respondent University and that despite earnest efforts it has not been possible to restore normalcy. It was with a view to prevent re-occurrence of violent and criminal acts and of the fact that the appellant had a tainted record of indiscipline, that their presence in the University was considered to be prejudicial and serious threat to the maintenance of discipline and peace in the Campus.

In such like matters concerning denial of admission to students on the ground of maintenance of discipline in the Campus, when the authority vested with power in that behalf takes a direction by reference to all relevant factors, it will not be permissible to a writ Court to interfere in exercise of its powers under Article 226 of the Constitution of India. We agree with the view taken by a decision of Allahabad High Court in Ramesh Chandra Chaube Vs. Principal Bipin Behari Intermediate College, Jhansi, . A student had been denied re-admission by the Head of the Institution in the interest of discipline. Such an action on the part of the Head of the Institution was found to be within his powers having been taken on due consideration of relevant factors and thus not amenable to writ jurisdiction.

We may also refer to a few other decisions on the point where the authority competent to take decision, on due consideration of the past conduct of the student and the prevailing situation in the educational campus takes a decision declining admission to such a student, the Courts decline to interfere in writ jurisdiction. Such other decisions are Vikaruddin v. Osmania University and Ors., AIRA 1954 Hyderabad 25; Miss Zeenat Tej and Others Vs. The Principal of the Prince of Wales Medical College and Others, ; Deva Singh v. Kurukshetra University, Civil Misc. Writ No. 2955 of 1960, decided by Punjab and Haryana High Court on 15.10.1970 and reported as 1990 AIEC 299 and S. Goverdhan v. Rani Laxmiddevamma College of Arts, Commerce and Science, Wanaapathy, writ petition No. 5517 of 1982 decided on 29.10.1982 and reported as 1990 (2) AIEC 433."

5. Mr. Peter, learned Counsel for the Petitioner has attempted to distinguish the above case on the grounds that the Petitioner has not been convicted of the offences for which charges were framed against him. I cannot accept this argument for the reason that the degree of proof in a criminal case is extremely high inasmuch as the guilt of the accused should be beyond reasonable doubt if he is to be convicted. In all other cases if it is preponderant possibility, the Authority concerned can act on the material presented before it. From a perusal of the file and of the judgment of the Addl. Sessions Judge, it is evident to me that there was sufficient material before the Respondents to arrive at an informed decision and that the impugned Order could be validly predicated on

this material.

6. It has next been contended by Mr. Peter that even assuming that the Petitioner was involved in the incident covered by the said FIR, since it occurred outside the University Campus, it could not have been taken into consideration by the Respondents. The answer is to be found in Ordinance XII.3.14 dealing with "Students Discipline" which stipulates that any conduct anywhere which is considered to be unbecoming of a student can be construed as a breach of discipline. In the circumstances of the case I am satisfied that there was sufficient material before the Respondents to arrive at the conclusion that the Petitioner's conduct, even though it was outside the Campus, was unbecoming of a student. The Rustication Order was, Therefore, valid. Thereafter the decision declining re-admission was also within the powers and jurisdiction of the Respondents since the charges against the Petitioner were of a heinous and serious nature.

7. I do not find merit in the Petition and it is dismissed.