
(1965) 01 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1614 of 1964

Shri Charnjit Singh

APPELLANT

Vs

The Punjab University, Chandigarh

RESPONDENT

Date of Decision : 06-01-1965

Acts Referred:

Citation : (1965) 01 P&H CK 0038

Hon'ble Judges : Dua, J;Capoor, J

Bench : Division Bench

Advocate : C.L. Aggarwal, for the Appellant; H.S. Wasu, B.S. Wasu and L.S. Wasu, for the Respondent

Final Decision : Dismissed

Judgement

Dua, J.—The petitioner Shri Charanjit Singh took his pre Engineering Examination of the Punjab University held in April, 1964, from the D. A. V. College Jullundur City. According to his averments in the writ petition at about 11 A.M. on 27th April, 1964 when having finished his Mathematics paper "B" he handed over answer-book to Shri Gopal Pati, the Supervisor Incharge, the latter picked up stray printed paper from the floor underneath the petitioner's desk. The petitioner had no knowledge at all of the existence of the said paper, nor did he know what it was because he had not taken it with himself into the examination hall; nor did he use it in any manner. After all the other candidates had left the examination hall, the supervisor closed all its doors. The petitioner was left all alone with the Supervisor, the Superintendent, Shri B.S. Dhodi, one Inspector of Examination and one or two peons in the hall. The Supervisor and others called a police officer and began to threaten the petitioner by saying that he was under arrest and would be sent straight to the lock-up. The Superintendent Shri B. S. Dhodi, according to the writ petition, used the following words:

If you make a statement as I ask you to make it and put your signatures on it, we would set you free.

The petitioner under force, pressure and inducement of the said officer wrote out a statement in Gurmukhi at the Superintendent's dictation. That statement has been translated in the writ petition in the following terms:

Shrimanji, I brought this paper by mistake. I have not used it at all. I may be pardoned.

On this, so proceeds the writ petition, the Inspector wrote out the following report in the petitioner's presence:

The Supervisor brought this candidate to me alleging that a printed paper was recovered from him. Probably the candidate has not used it.

The Superintendent, it is averred, also wrote thereon a similar report. Thereafter, the petitioner was permitted to go out of the hall. It was at that time about 11.45 A.M. and the petitioner, when he came out of the hall, found his father present there who had come to fetch him.

On seeing his father, the petitioner started weeping and disclosed to him the facts that a false statement had been obtained from him. Thereafter, the petitioner's father went to meet the Principal of the College along with the petitioner, but the Principal was out of station. On the Principal's arrival on 29th April, 1964, the petitioner's father handed over a letter (a copy of which is Annexure "A" to the writ petition) and requested him to forward it to the Deputy Registrar, Examinations, Punjab University with his report. On the Principal expressing his inability to do so, the petitioner's father posted that letter under registered cover to the Deputy Registrar, Examinations, Punjab University. The writ petition proceeds to state that the petitioner then received a letter from the Deputy Registrar, Examinations, to appear before him on 22nd May, 1964 between 7 A. M. and 1 P. M. This was stated to be in connection with a confidential enquiry. In response to that letter, the petitioner appeared before the Deputy Registrar, Examinations on the appointed date when the petitioner was handed over a questionnaire on which he was asked to write down his replies. The petitioner answered the questionnaire stating therein that he had not taken any paper with him in the examination hall, nor had he any knowledge of it, nor was any alleged paper recovered from him and that the statement purporting to be his concession was not his free and voluntary statement as it had been procured under coercion, undue influence, threats and inducement. When the result of the examination was declared on 14th June, 1964, the petitioner's result was withheld and it was announced that it would be declared later. The petitioner's result having not been declared up to 23rd June, 1964 and date for admission to the Punjab Engineering College having approached, the petitioner's father wrote to the Deputy Registrar, Examinations, drawing his attention that the Supervisor, the Superintendent and the Inspector in the examination hall had acted in a high-handed manner in obtaining a false statement from the petitioner and that his result was being wrongfully withheld. This letter brought no reply and on 11th July, 1964, other results of the aforesaid examinations were declared

when the petitioner was shown to have been disqualified for two years. The writ petition proceeds on to state that the University has apparently appointed a Standing Committee of three persons consisting of the Principal of the Law College, Shri B.L. Goswami, Retired District and Sessions Judge, and Shri Bodh Raj Malhotra, Deputy Registrar, Examinations, for deciding the cases of use of unfair means in connection with the University Examinations but the petitioner's case, to his knowledge, was never placed before the said committee and he was never given any opportunity of hearing before it. It is on these allegations that the order of disqualification is challenged; and the main ground of attack centres round the challenge to the petitioner's statement which is described as an involuntary confession obtained in the presence of Police Officers and other persons in authority under the influence of coercion, threats and inducement.

2. In the return, it has been asserted that the petitioner had brought the objectionable papers with him and had dispossessed himself of the same as admitted by him immediately after detection of the case. The objectionable papers related to the subject-matter of the examination of the day. Annexure "R-I and R-II" attached to the return are stated to be true copies of the unfair means file prepared in the examination hall and its true translation in English respectively. It has also been pleaded that at no stage had the petitioner ever asked for an opportunity to lead any evidence. On 22nd May, 1964, the petitioner was asked a specific question if he had anything else to say in connection with the unfair means in question, to which he had replied that he had nothing else to say. The story of calling a Police Officer and plaint; the petitioner under arrest has been denied and described to be an after-thought.

3. Before us also, Shri Aggarwal has concentrated his challenge to the impugned order of disqualification on the ground that the statement said to have been made by the petitioner was not a voluntary statement and that the police constable stationed outside the examination hall was actually called in and the petitioner was got arrested. The petitioner's statement it is stressed was secured in these circumstances. The counsel has contended that in compliance with the recognised rules of natural justice, he should have been given an adequate opportunity of establishing this allegation and that omission to hold an enquiry into its truth vitiates the impugned order which is liable to be struck down in the present proceedings. In this connection, he has also drawn our attention to an affidavit of Tarsem Singh, Constable No. 1343, Thana Kotwali, Jullundur City, dated 22nd September, 1964 in which the said Constable has affirmed that he was on duty at the examination hall in the D. A. V. College, Jullundur City at 11 A.M. on 27th April, 1964 and that the Superintendent of Examination had ordered him and Chanchal Singh Constable to arrest Charanjit Singh whom they arrested and searched his person. No paper was recovered from him. In their presence, so proceeds the affidavit, the Superintendent Examinations threatened Charanjit Singh and under pressure got a statement from him according to his own wishes. The petitioner was also told that if he did not write as desired, his whole career would be ruined. According to this affidavit, no objectionable paper

was recovered from the possession of Charanjit Singh. Reliance has been placed by the petitioner on the recent Full Bench decision by a Bench of five Judges of this Court in *Ramesh Kapur v. Punjab University* (1965) 67 P.L.R. 101 (F. B.).

4. Shri Wasu has on the other hand very strongly urged that the whole story of the police constable being called, the petitioner being arrested and a statement having been extracted from him under threat, coercion and undue influence is a lie and an after-thought; and that the petitioner had himself voluntarily admitted having by mistake brought the objectionable paper with him in the examination hall, but since he had not used it and it was first offence, he had asked for forgiveness. This had been recorded by the petitioner in his own hand-writing without any pressure, threat or inducement. The affidavit of Tarseem Singh constable has been described to be wholly false and unbelievable. The report by Shri B. S. Dhodi recorded soon after the petitioner's statement, according to Shri Wasu, is impressive and worthy of credence and it clearly supports the respondent's version. It is strongly urged that there is no violation of any principle of natural justice and on the facts and circumstance of this case, the not petitioner his by no means been prejudiced by the procedure adopted by the University.

5. Dealing with the plea of violation of rules of natural justice, it may be pointed out that the recent Full Bench had been called upon to give an answer to the following question:

Can the University authorities be said to have complied with the rules of natural justice if after giving hearing to a candidate they collect so no other material and take the material so collected into consideration in coming to a decision prejudicial to the candidate without confronting the candidate with such material and giving him an opportunity to offer such further explanation as he may have to offer?

and the answer has been given in the following words:

It will depend on the facts and circumstances of each case whether the rule of natural justice has been complied with by the University authorities by affording an adequate opportunity to a candidate to present his case against the charge or allegation made against him. It may be added that if the right of a candidate to be heard is to be a reality, he must know the case which he has to meet and if he asks the University authorities to supply him with necessary details of such material or evidence on which the case against him is based, any refusal to do so will be prima facie violative of the rule of natural justice.

As I read this decision, the ratio of the Full Bench judgment does not bring about any change in the law which various Benches of this Court had declared earlier. Indeed the law had been so laid down by the Supreme Court and the Supreme Court decisions were largely construed by this Court in the same manner in which the Full Bench has now construed them. It is different that on the facts of a given case opinions may vary but the legal position has in substance been

expressed almost in similar terms by the various decisions of this Court. Shri Aggarwal has, however, strongly urged that in Ramesh Kapur's case¹ after the answer by the Full Bench, the Division Bench allowed the Letters Patent Appeal and granted the relief claimed by the appellant. According to the counsel, the facts of the present case are similar to those with which the Court was concerned in Ramesh Kapur's¹ and indeed he claims that in the case in hand, the violation of rules of natural justice is far more serious. I am not inclined to agree with this submission.

6. It is clear from the writ petition that as soon as the petitioner came out of the examination hall at 11.45 A.M. on 27th April, 1964, he met his father who was present there. If the petitioner had been forced to make a statement under corrosion or threat or, as is now stated on his behalf, after the police constable had been called into the hall and had been made to arrest the petitioner for securing his statement, then, in my opinion, the petitioner's father would have immediately protested against it vocally, and would not have quietly gone back home and thought of protesting against it leisurely after nearly two days. On 29th April, 1964 also, when he wrote a letter (Annexure "A") to the Deputy Registrar, he did not make any mention of the alleged arrest of the petitioner by any police constable. All that is stated in the letter is that Shri Dhodi and Shri Gopal Pati compelled the petitioner to write that he had brought those papers in the hall. There is no reference at all to Tarseem Singh constable No. 1343 or to any constable in this letter. The other letter written by the petitioner's father to the Deputy Registrar, Punjab University on 23rd June, 1964 also silent about the alleged arrest of the petitioner by a police constable. Another remarkable feature worth noting is that no opportunity was sought even in this letter on the point on which now Shri Aggarwal hinges his main case, namely, that opportunity should have been given to the petitioner to prove that his statement had been obtained after his arrest by a police constable under pressure of threat and undue influence. As a matter of fact, since there was no mention of such arrest, there was really no occasion for claiming any opportunity of adducing evidence on this point. In so far as the affidavit of Tarseem Singh Constable No. 1343, Thana Kotwali Jullundur City is concerned, I have not the least doubt that he has not told the truth and that the affidavits sworn by B. S. Dhodi, Lecturer in English, Sikh National College, Banga, as also by Shri Gopal Pati denying Tarseem Singh's presence inside the hall represent the true and correct factual position. It is note-worthy that even in the writ petition and the supporting affidavit dated 3rd August, 1964 the name or number of the constable is not mentioned. All that is alleged in para. 8 is that the supervisor and others called a police officer and began to threaten the petitioner. The writ petition was admitted on 5th August, 1964 and ordered to be heard within six weeks. Tarseem Singh's affidavit which was secured on 22nd September, 1964 and placed on the record apparently without any order from the Court, it is worth-noting, asserts that Tarseem Singh and Chanchal Singh constable were both ordered to arrest the petitioner. Neither did Tarseem Singh constable in my opinion appear to have been called inside the

hall nor was he by himself or along with Chanchal Singh asked to arrest the petitioner, with the result that the question of petitioner's arrest and search of his person by any police constable or constables could hardly arise. Indeed, I am also doubtful if this constable, if he knew his duty, could or should have on the mere asking of the Superintendent or the Supervisor arrested the petitioner without enquiring as to for what offence he was being asked to arrest the petitioner and then let him off in the circumstances alleged. The question of search of the petitioner's person could of course, on no conceivable grounds, arise on this premise. This constable has obviously made an incorrect statement without any justification that I can think of, and it is a matter for real regret that he should have sworn what appears to me to be a false affidavit to support the petitioner's untrue allegation in the writ petition. It is indeed distressing to find this police constable lending himself to serve an untrue cause. This, in my opinion, is a serious matter to which the attention of the higher police authorities might well be drawn, because conduct like this does not bring credit to the police force and may even tend, generally, to bring it into disrepute in the eyes of the general public. Annexures "R-1 and R-2. appear to me to be reliable documents having been prepared contemporaneously at the time of the occurrence representing precisely what actually transpired at that time. I am unable to accede to the petitioner's suggestion that he had been forced to make the statement under undue pressure, threat or inducement. Besides, according to ratio of the Full Bench decision in Ramesh Kaftur's case (1965) 67 P.L.R. 101 (F. B.), the present petitioner having never asked the University authorities for any opportunity of leading evidence, I am unable to sustain in these proceedings the petitioner's grievance pressed before us.

7. Shri Aggarwal has, however, very strongly urged that in Ramesh Kapur's case, the Letters Patent Bench had allowed the appeal and granted the relief claimed by the appellant. That precedent, he says, is a helpful illustration to follow. According to him, the facts before us are even stronger and there are more cogent grounds for us to conclude violation of rules of natural justice than were before the Letters Patent Bench in that case. I am unable to agree with the counsel. The decision in that case, as is obvious from the final order passed by the Division Bench, proceeds on its own facts. The record had been produced before the Full Bench from which it was discovered that the material collected behind the appellant's back was highly prejudicial to him and it was the consideration of that material by the authorities concerned without giving to the appellant an opportunity to rebut it, which was held to amount to non-compliance with or violation of the rules of natural justice. In that case the statements which were considered by the Bench to be prejudicial had not even been brought to the appellant's notice and, therefore, he was considered not to have been given an adequate opportunity to rebut them. There is no such infirmity in the case before us and no material was ever gathered behind the petitioner's back which was taken into consideration, and then he never asked for any opportunity for adducing evidence. Indeed, in my opinion, the petitioner

has tried to falsely represent in the petition that he had been got arrested by the constable which assertion I have no hesitation in holding to be utterly false.

8. I am, therefore, clearly of the opinion that the impugned order is not tainted with any legal infirmities and no violation of the recognised rules of natural justice has been made out. The petitioner has also falsely asserted in the writ petition that he had been arrested and a statement was obtained under threat, coercion and undue pressure. He has also managed to secure an affidavit from a police constable which is unimpressive and appears to us to be untrue. There is accordingly no ground for interference in the present proceedings. The writ petition, therefore, fails and is hereby dismissed with costs.

Capoor, J.

I agree.