
(2001) 02 AHC CK 0002
In the Allahabad High Court
Case No : C.M.W.P. No. 31465 of 2000

Siddheswar Shukla

APPELLANT

Vs

Vice Chancellor, Banaras Hindu University and Others

RESPONDENT

Date of Decision : 27-02-2001

Acts Referred:

Citation : (2001) 2 AWC 903

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : Krishna Ji Shukla, K.P. Shukla and Ashim Kumar Rai, for the Appellant; S.C. and V.K. Upadhyaya, for the Respondent

Final Decision : Allowed

Judgement

V.M. Sahai, J.—In this petition filed by a candidate who appeared in Pre-Medical Test (in brief P.M.T.) conducted by the Banaras Hindu University, from Nagpur centre, the short question that arises for consideration is whether there was any material on record from which the Respondents could have concluded or even raise reasonable inference that the Petitioner was guilty of breach of discipline or any other irregularity for which he could have been debarred from the P.M.T. examination and deprived of the privileges of the university including withholding of his result of B. Pharma?

2. The Petitioner, admittedly, had appeared in Pre-Medical Test/Pharmacy Admission Test (in brief P.M.T./P.A.T.) conducted by Banaras Hindu University (in brief university) in 1999. He could not get admission in P.M.T. but he was declared successful in P.A.T. He was admitted in B. Pharma course and declared successful in B. Pharma first semester held in December, 1999 and secured grade point 7.78. The examination for second semester was held in April, 2000. In June, the Petitioner appeared in P.M.T, 2000. His candidature was cancelled by the Vice-Chancellor on 23.6.2000 and his privileges as a university student were suspended, the consequences of which was that his result of B. Pharma second semester was withheld. This order was communicated by Registrar on 24.6.2000.

His result was not declared in July, 2000. The Petitioner, therefore, filed this petition for quashing of order dated 24.6.2000 and for issuing direction to the Respondents to declare his result of second semester.

3. The background in which all this happened may now be narrated in brief. On 6.5.2000, an anonymous complaint was received by the Controller of Examination that the Petitioner had submitted 26 application forms for admission to M.B.B.S. course on 15.3.2000 mentioning therein Nagpur centre for all candidates even though the candidates were of Haridwar, Meerut, Delhi and Muzaffarnagar. Allegation was made that out of 26 candidates, only six were genuine and names and addresses of others were fake. It was alleged that a racket was operating and parents of six candidates were spending Rs. 6 to 10 lacs for getting admission in M.B.B.S. course. The said amount had been distributed amongst the rest including the Petitioner. The complaint mentioned that except six candidates, the applications of remaining were defective, namely, they had given names of different persons and they were aged 25 to 35 years. It was alleged that each detail in the applications was wrong. It was mentioned that entire information was available with the Petitioner. The complaint was examined by the P.M.T. in-charge examination who after scrutinising the application forms and making preliminary inquiry sent an official letter to Senior Superintendent of Police, Varanasi expressing his apprehension that some racket was operating, therefore, an inquiry be made as some mark-sheets appeared to be fake and the candidates may not be genuine, therefore, they may be apprehended at the time of examination on 4.6.2000 at Nagpur centre itself. On this letter a police case was registered on 29.5.2000 and the Petitioner along with 19 others was arrested on 4.6.2000 at Nagpur after the examination was over. They were produced before the Chief Judicial Magistrate, Varanasi, on 6.6.2000. Their bail applications were rejected. But the District Judge released them on bail.

4. According to the counter-affidavit filed by the Respondents, three candidates who were arrested were students of B.H.U. It is stated that Amrendra Kumar and Chandan Kumar are residents of Bihar whereas Petitioner is resident of Ambedkarnagar. Chandan Kumar who was a student of B. Pharma was caught appearing in the examination in name of one Mukesh Chaudhary. It is also stated that the investigation made by the police demonstrates that 20 candidates arrested at Nagpur were impersonating for others and most of the candidates had submitted forged and fake mark-sheets. The counter-affidavit mentions that documents of eight candidates including that of the Petitioner was of doubtful integrity. The Respondents have alleged that Petitioner, Amrendra Kumar and Chandan Kumar were B. Pharma students but they opted for Nagpur centre and in all the forms, Nagpur had been entered in same ink and handwriting. It is urged that from investigation and information revealed after arrest indicates that a racket was operating. The modus operandi was to get candidate impersonated by person who had already appeared earlier in P.M.T. examination and other candidates were implanted at the centre to help the candidate in solving the papers. It is alleged that even though they were not aware of exact amount

involved but from the unconfirmed information, it has come to the knowledge of the university that the amount was more than one crore.

5. On 24.6.2000, the vice-chancellor on inquiry made by in-charge of the examination issued show cause to the Petitioner mentioning therein that it was reported to him that 26 application forms for P.M.T. 2000 was submitted by one person having number of irregularities to succeed in using unfair means. It was further mentioned that the university P.M.T. Cell on screening found that relevant documents attached with the forms were fake. The notice stated that the vice-chancellor had further been informed that the Petitioner and Amrendra Kumar were residing in the same room of Rajputana hostel and they managed to purchase form numbers 21930 and 21931 with clear intention of using unfair means. Further, the name of centre was written in one ink and same handwriting, which was contrary to instructions in Form-A for P.M.T. The notice mentioned that candidates from Bihar and U.P. opted for Nagpur centre instead of nearer examination centres at Varanasi and Delhi, therefore, ulterior motive was clear to fraudulently and illegally use unfair means. The notice mentioned that from the facts, it was clear that they were ineligible to appear in B.H.U. P.M.T. 2000 held on 4.6.2000. It was further stated that the Petitioner being a student of B. Pharma, he acted in an unbecoming manner for a student of the university, therefore, examination of Petitioner for P.M.T. 2000 was cancelled and he being a student of B. Pharma, the privileges including hostel was suspended for which he may show cause. The Petitioner was required to submit reply by 7.7.2000. The notice was replied by the Petitioner on 7.7.2000 denying the allegations in the show cause notice as incorrect and imaginary. He alleged that centre in his application were filed in his own handwriting and was signed by him. There was no irregularity or illegality in it. He mentioned that his roll number and roll number of Amrendra Kumar was 41510 and 41317 and the seats were in different rooms and floor, therefore, there was no relation between the two. The other allegations were also denied.

6. The vice-chancellor on receipt of reply appointed an Inquiry Committee of three university teachers, which submitted its report on 14.11.2000. The committee held that the claim of the Petitioner that he opted for Nagpur centre as it was convenient was incorrect as in earlier year, he had appeared from New Delhi. The centre Nagpur was written in the forms of Petitioner, Amrendra Kumar and Chandan Kumar prima facie in one writing. Therefore, the committee inferred that the form submitted by the Petitioner was not in order and application form was fake. The committee further found that charge in column No. 5 was made out as the form number of Amrendra Kumar and Petitioner were 21930 and 21931 which was submitted on the last date i.e., 15.3.2000.

7. The vice-chancellor Sri Y.C. Simhadri also filed a supplementary counter-affidavit. In paragraph 8, it is stated that in all 32 applications including of Petitioner was deposited by one person probably the Petitioner. But it was admitted that there was no bar in one candidate depositing more than one

application form. In paragraph 12, it is stated that even though roll numbers are allotted after the last date but there is a greater chance that forms submitted together may get consecutive roll numbers and the candidates may get a chance to sit in the same room which may give an opportunity to consult each other specially in toilets. In paragraph 16, it is stated that the vice-chancellor took the action under Ordinance relating to powers to maintain Discipline and Condemnation of Acts of Indiscipline as also read with Executive Council Resolution No. 264 dated 9th June, 1979. But the order cancelling the examination of Petitioner and suspending him was an interim measure. He stated that the committee was appointed to assist him which submitted its report but no final order had been passed as in the meantime the Petitioner approached the High Court.

8. Sri Krishna Ji Shukla, the learned Counsel for the Petitioner has urged that except the fact that name of Petitioner was mentioned in anonymous complaint, there is no other material with the university to show that the Petitioner used unfair means at the examination or was involved in any racket or indulged in impersonation. He urged that Petitioner was successful in P.M.T./P.A.T. 1999 and was admitted in B. Pharma 1st semester course. The university permits those candidates who have been successful in P.A.T. to appear again in P.M.T. and in case they are successful, such candidates are admitted in M.B.B.S. course of the university. Learned Counsel further urged that the order passed by the Respondents cancelling P.M.T. 2000 result of the Petitioner and depriving him of all privileges of the university was passed without affording him any opportunity of hearing and he was illegally deprived of declaration of his result of B. Pharma IInd semester result and registration in B. Pharma III semester. He urged that the action of the Respondents against the Petitioner was illegal and arbitrary and was based on no material. Therefore, the Petitioner was entitled for declaration of his result of B. Pharma IInd semester and registration in B. Pharma III semester course and restoration of all privileges of the university.

9. On the other hand, Sri V.K. Upadhyaya has produced 32 original application forms before the Court and made statement on the basis of record that out of 32 candidates, only 20 candidates appeared in P.M.T. 2000 from Nagpur centre and 12 candidates were absent. He urged that in P.M.T./P.A.T. 1999, the Petitioner appeared from Delhi centre and in P.M.T. 2000 examination, he appeared from Nagpur centre which was far away from the residence of the Petitioner. Therefore, the authorities correctly raised the presumption that the Petitioner appeared from Nagpur centre in order to use unfair means at the examination. He urged that in anonymous complaint received by the university on 6.5.2000, the name of Petitioner was mentioned and the Petitioner was arrested at Nagpur on 4.6.2000, therefore, the university rightly cancelled P.M.T. 2000 result of the Petitioner and suspended all the privileges of the university including the hostel because first information report was lodged against the Petitioner. Learned Counsel urged that the inquiry committee appointed by the vice-chancellor in its report dated 14.11.2000 found the Petitioner guilty of the charges levelled

against him and the handwriting on the Petitioner's application form where Nagpur centre was written was mentioned in the same handwriting as on other application forms which shows that the Petitioner was involved in the racket as alleged in the anonymous complaint.

10. From the facts of this case, it is clear that the Petitioner's name was mentioned in the anonymous complaint received by the university on 6.5.2000. The in-charge P.M.T./P.A.T. 2000, on instructions of the vice-chancellor, lodged a complaint with the Senior Superintendent of Police on 29.5.2000 and the first information report was registered at Varanasi on 2.6.2000. The proctors of the university along with police party went to Nagpur and with the help of Commissioner of Police, Nagpur arrested 20 candidate who appeared in the examination at Nagpur centre, brought them to Varanasi and thereafter the vice-chancellor passed an order on 23.6.2000 which was communicated by the Registrar to the Petitioner on 24.6.2000 cancelling his examination and result of P.M.T. 2000 and deprived him of all the privileges of the university including the hostel facilities. Show cause notice was issued to the Petitioner to which he submitted reply on 7.7.2000 in which the Petitioner categorically stated that his roll number was 41510 and roll number of Amrendra Kumar was 41317. The Petitioner on 4.6.2000 appeared in the examination from room No. 24, which was on the first floor whereas Amrendra Kumar was in room No. 7 on the ground floor and both were allotted Room No. 122 at Rajputana Hostel by the university on which the Petitioner had no control. The university made inquiries from C.B.S.E. and U.P. Board. A report had been submitted by C.B.S.E. that mark-sheets and certificates submitted by 16 candidates were fake. This report was not with regard to the Petitioner. No report has been submitted by U.P. Board against the Petitioner to the university. The Petitioner was not found impersonating any candidate by the police party at Nagpur on 4.6.2000. The vice-chancellor appointed an inquiry committee, which has submitted its report on 14.11.2000. The inquiry committee has considered the explanation of the Petitioner and has found that the candidates who have appeared from Nagpur centre were from Haridwar and nearby places. It recorded that as per 8.2.1. of P.M.T./P.A.T. 2000 information booklet, the Petitioner has mentioned in his form about the fact that he is pursuing his study in university and he was a bona fide student of the university. This claim was false and not justified. In the application form of Petitioner, Amrendra Kumar and Chandan Kumar, "Nagpur" has been mentioned as centre with the same ink and handwriting. The Petitioner was arrested on 4.6.2000 in Nagpur and the matter is under investigation of the police. The inquiry committee also scrutinised the application of the Petitioner for P.M.T./P.A.T. 1999 through which the Petitioner was admitted to B. Pharma Ist semester course in the Institute of Technology during 1999-2000. On the aforesaid facts, the inquiry committee was of the opinion that the Petitioner had opted for Nagpur centre for his convenience was incorrect as he appeared earlier in 1999 examination from New Delhi centre and Nagpur was not given as second choice. It further found that in column No. 15 of form of P.M.T. 2000 regarding

the name of centre, the committee had scrutinised the handwriting with respect to the name of the centre and was of the opinion that the word "Nagpur" written in the relevant column of application form of Petitioner, Amrendra Kumar and Chandan Kumar prima facie appear to be in one handwriting. It was of opinion that the form of Petitioner was not in order. The form of Amrendra Kumar and Petitioner was having number 21930 and 21931, therefore, the charge against the Petitioner was correct and the application forms were submitted on the last date i.e., on 15.3.2000. From this report of the inquiry committee dated 14.11.2000 it is clear that the inquiry committee did not find the allegation of Petitioner that he had appeared at Nagpur from room No. 24 at the first floor and Amrendra Kumar appeared in room No. 7 at the ground floor to be incorrect. The inquiry committee presumed that since Petitioner had appeared from Delhi in 1999 examination but he opted for Nagpur centre in P.M.T. 2000, therefore, he appeared in P.M.T. examination with ulterior motive.

11. From the facts which have been averred in the writ petition, counter-affidavit and supplementary counter-affidavit filed by the vice-chancellor, it is clear that apart from the anonymous complaint, there is no material to show that the Petitioner was guilty of any act of indiscipline. Admittedly, the university conducts examination from four centres. No rule or regulation was placed to show that the choice of centres for the examiness was to be made depending on distance. A candidate could appear from any of the four centres Varanasi, Delhi, Calcutta and Nagpur. There is no bar in the information brochure that a candidate has to appear or to give his option for centre which was nearby his home. It is open to a candidate to appear in the examination from any of the centres. Merely because the Petitioner had opted to appear from Nagpur centre where his maternal grandfather resided cannot lead to an interference that the Petitioner opted Nagpur centre for using unfair means. The Respondents did not produce or even allege that there was any report from Nagpur that Petitioner was guilty of using unfair means. Even assuming that as many as 20 candidates residing in Uttar Pradesh and Bihar opted for Nagpur, that alone could not furnish material for drawing any inference that it was done with ulterior motive. Similarly, the submission of number of forms deposited by one candidate, by itself, was insufficient to warrant any conclusion of unfair means. Even the vice-chancellor candidly stated in the supplementary counter-affidavit that there was no such bar for one candidate to deposit more than one application.

12. Learned Counsel for the Respondents has placed original forms of all 32 candidates before this Court. From the perusal of the forms of 32 candidates, it is clear that Nagpur centre has not been written in all the forms in one handwriting. I have also compared the forms of Petitioner with Amrendra Kumar and other candidates. The Petitioner has filled his entire form as well as column No. 15 opting for Nagpur centre in his own handwriting. The word Nagpur in column No. 15 written by the Petitioner is not in the same handwriting and ink as is written in the application forms of Amrendra Kumar and others. There is neither any allegation nor material that the form of the Petitioner or mark-sheet

or certificates filed by him was fake. The inquiry committee appointed by the vice-chancellor in its report has mentioned that Nagpur centre was written in the form of the Petitioner, Amrendra Kumar and Chandan Kumar in one ink and same handwriting. This observation is factually incorrect. Chandan Kumar was not a candidate for P.M.T./P.A.T. 2000. His name does not find place in the list of 32 forms produced before me. The conclusion of the inquiry committee is based on erroneous assumption of facts.

13. The other objection taken by the inquiry committee was that the Petitioner in his application form in column No. 12 has stated that he is applying under the university student category. This column was required to be filled by the candidates who were appearing for M.B.B.S. course only. The Petitioner has filled column No. 12 and has stated that he is a student of B. Pharma session 1999-2000. The inquiry committee has drawn a presumption that the Petitioner has violated 8.2.1. of P.M.T./P.A.T. 2000 information booklet and application form and his claim of being a bona fide university student is false and not justified. The view taken by the inquiry committee is erroneous as the application form itself in column No. 12 provided that the candidates must give an information whether he is applying against B.H.U. student category for M.B.B.S. course only. Since the Petitioner was a bona fide university student and was studying in B. Pharma course and was appearing for M.B.B.S. course only in P.M.T. 2000, he rightly filled column No. 12 of the application form. Had the Petitioner ignored to fill column No. 12 of the application form, then the presumption would have been against the Petitioner that he tried to conceal that he was a bona fide student of the university. Therefore, the view taken by the inquiry committee that his claim was fake and not justified is incorrect. The vice-chancellor in his supplementary counter-affidavit has stated that in all probabilities, the Petitioner might have deposited all the application forms himself but apart from this presumption, there is no material or evidence with the university to show that in fact the Petitioner had deposited all the forms on 15.3.2000. From the above facts, it is clear that the entire proceedings were started on the basis of an anonymous complaint made on 6.5.2000, first information report was lodged on the direction of the vice-chancellor and the Petitioner was arrested on 4.6.2000, though there was no material available with the university, except the anonymous complaint, that the Petitioner is involved in any manner in use of unfair means at P.M.T. 2000 at Nagpur centre. In absence of any material, the university should not have proceeded to act against the Petitioner to jeopardise his entire career. Merely on anonymous complaint in absence of any material, such action by the university was not warranted. At the best, the university could have requested the police to make investigation in the matter but the university has directed the police to arrest the students at the time of the examination. Therefore, entire action of the Respondents was illegal and was based on suspicion without there being any cogent material against the Petitioner.

14. In the supplementary counter-affidavit filed by the vice-chancellor, the action has been justified under Chapter Condemnation of Acts of Indiscipline. It

mentions various categories of Indiscipline. Out of these, the vice-chancellor had stated in paragraph 15 that the Petitioner had committed an act unbecoming of a student of university and also because he was Involved in an offence involving moral turpitude. During arguments, the learned Counsel for the Respondents relied on Clause (c) and (e) that is an act punishable under any law for the time being in force and an act in breach of any undertaking. If any of these allegations are correct, the action of the vice-chancellor may not be open to challenge. It is well-settled by the Apex Court in *Chairman, J and K State Board of Education Vs. Feyaz Ahmed Malik and Others*, that the Courts should not lightly interfere with campus matters or conduct of examination, as the primary jurisdiction in such matters rests with the university authorities. But the Court has been categorical in holding that general principles would not apply and the Court can interfere where there is breach of rule or regulation or where it would cause injustice. The latter observation made by the Apex Court applies squarely. The non-interference by this Court would not only be unjust and inequitable but it would ruin the career of a young man for no fault except that he decided to appear in P.M.T. 2000 from Nagpur centre. The facts, which could not be disputed, were that the Petitioner a resident of Uttar Pradesh, chose Nagpur as the centre for his P.M.T. test. He deposited more than one form at the university counter. In the form filled by Petitioner and Amrendra Kumar, Nagpur centre is not written by same ink and handwriting. The form numbers of Petitioner and Amrendra Kumar were 21931 and 21930 respectively, but their seats were in different rooms and floor. Mark-sheets of some of the candidates whose name was mentioned in the complaint were fake. The Petitioner and Amrendra Kumar were inmates of room No. 122 Rajputana hostel. They were arrested on 4.6.2000. None of these circumstances could give rise to inference that Petitioner was guilty of using unfair means or he committed any indiscipline as mentioned in the Ordinance. The vice-chancellor has himself admitted that one candidate could deposit more than one form, therefore, the deposit of more than one form by Petitioner, even if accepted to be correct, could not amount to indiscipline. Nor writing of Nagpur centre in same ink or same handwriting could result in indiscipline. A form under the rules has to be filled by the candidate himself but if one of the entries, namely, centre is written by one person in more than one form, it could not be described as indiscipline or violation of the rule. Even assuming it was improper, the Petitioner could not be penalised or held guilty of indiscipline unless the committee would have found that the writing on the Petitioner's form was not his or at least he had written Nagpur in all the three forms. It was necessary because the Petitioner in his reply had categorically stated that he filled his own form alone. The fact that the ink and handwriting in three forms were same is not borne out from record. Similarly, the vice-chancellor or the inquiry committee could not conclude or infer indiscipline because the Petitioner Instead of opting for Delhi from where he competed in 1999 opted from Nagpur in 2000. In absence of any restriction, it was open to Petitioner to appear from any centre. The mere fact that it would have been more convenient for Petitioner to appear from Varanasi or Delhi could not lead to an inference that it was indiscipline or

motivated with ulterior purpose. The committee or the vice-chancellor could not draw any inference of unfair means because Petitioner and Amrendra Kumar purchased form one after the other, when it is not denied that both appeared in P.M.T. 2000 and were in different rooms and floors. Therefore, none of the reasons mentioned in the show cause notice could lead to an inference that the Petitioner was guilty of indiscipline.

15. The inquiry report submitted on 14.11.2000 is founded on incorrect facts. In paragraph 2 of the report, it is mentioned that the Petitioner wrongly mentioned in the form that he was entitled as B.H.U. student to claim undue benefit. This aspect has been discussed earlier. The Petitioner being a student of B. Pharma was a bona fide student of B.H.U. In paragraph 3 of the report, it is mentioned that Nagpur centre in form of Petitioner, Amrendra Kumar and Chandan Kumar was; written in same ink and handwriting. This again was factually incorrect. It has been stated earlier that a comparison of the form of Petitioner and Amrendra Kumar shows that Nagpur centre in these forms is not written in same ink and handwriting. The inquiry committee further was totally incorrect in mentioning that Nagpur centre was written in form of Chandan Kumar. The list of all 32 candidates was filed in Annexure-2 to the counter-affidavit and photostat copies of application forms of 32 candidates who filled their forms from Nagpur centre have been filed as Annexure-S.C.A.6 to the supplementary counter-affidavit. All the original 32 forms were produced before me. Neither in the list nor the application forms name of Chandan Kumar finds place. Chandan Kumar was not a candidate for P.M.T./P.A.T. 2000. He was caught impersonating for Mukesh Chaudhary. The inquiry committee, therefore, based its report more on surmises and rumours than on perusal of records. It cannot be relied. The conclusion of the committee that the ink and handwriting on the forms of Petitioner, Amrendra Kumar and Chandan Kumar were by same person is erroneous at the face of it.

16. The allegation that there was a racket operating could not be gone into these proceedings. The Respondents themselves have admitted that even though there was allegation that huge amount was being spent by some parents to procure admission in M.B.B.S. but they could not get any material in support of it. The circumstances that some of the mark-sheets were fake or Chandan Kumar was found impersonating do give rise to suspicion that the state of affairs were not proper. But that alone could not result in indicting every candidate who was of Uttar Pradesh and chose to appear from Nagpur. The Petitioner was a student of B.Pharma. There is no material to link him with the racket, if any, except the unsubstantiated allegation in the anonymous complaint. Mere suspicion howsoever strong cannot result in proving the allegations.

17. The order of the vice-chancellor cancelling the Petitioner's examination P.M.T. 2000 and suspending him from the privileges of the university including withholding of his result of B. Pharma is further contrary to the Ordinance framed by the university and principles of natural justice and fair play. From the extract of Ordinance filed in supplementary counter-affidavit of the vice-chancellor, it is

clear that it enumerates indiscipline and empowers the authorities to take action against the student committing breach of it. But it is implicit that before taking action, the candidate or the student has to be given an opportunity. In this case, the vice-chancellor cancelled P.M.T. 2000 examination of Petitioner and suspended him first and issued show cause notice thereafter. This was illegal. The averment that it was by way of interim measure is of no consequence as from June, 2000 it is now February, 2001 and the vice-chancellor has not passed any final order, even though Court had not granted any interim order. The result is that the Petitioner is deprived of studying in B. Pharma even. His result for second semester has been withheld. He is not allowed to study for third semester. The course for P.M.T. 2000 must have started. In other words by the time the final order is passed, the Petitioner's entire career would stand ruined. Cancellation and suspension should have taken place in consequence of final order and not before that.

18. The suspension is Justified by the Respondents under Executive Council Resolution No. 264 dated 9th June, 1979, filed along with the supplementary counter-affidavit. An act of indiscipline has been defined in Chapter 11-A of the Ordinance. It provides that no student of the university shall indulge in an act of indiscipline. For instance, misconduct, an act punishable under any law in force, an act in breach of undertaking, etc. Paragraph 2 of the same chapter provides for disciplinary action for breach of discipline, such as, rustication, expulsion, suspension, etc. But the action could be taken against the student on proof of any indiscipline and not on mere allegation or complaint. The vice-chancellor exercised the power on suspicion, against the Petitioner. The show cause notice in the circumstances was formality only. If some mark-sheets were found to be fake or if someone was found impersonating for someone else, it could not result in cancellation of the candidature of a candidate against whom there was no material.

19. The vice-chancellor has justified the action under Resolution No. 264 dated 9th June, 1979 for suspending the Petitioner from privileges of the university. Clause 1 of the resolution empowers the university to suspend privileges of a student if he "...is accused of or involved in a offence involving moral turpitude or heinous crime (including those involving violence or intimidation) and is wanted by the police or has been released on bail in connection with any such offence, or detained under any provision, or against whom a police investigation or criminal prosecution for any such offence is pending, of inquiry under U.P. Goonda Act is initiated...". Therefore, the power could be exercised either for involvement in moral turpitude or wanted in heinous offence. The clause of heinous offence is not attracted. As regards moral turpitude, the power of suspension could be invoked by the vice-chancellor under this clause either for involvement of Petitioner in an offence of more turpitude or heinous offence. On the facts narrated above, there was no material from which either could be inferred against the Petitioner. He was no doubt enlarged on bail. But for the applicability of this clause, it was necessary that the Petitioner should have been

accused of any heinous offence in which bail should have been granted. The Petitioner was arrested on mere suspicion, therefore, this clause was not attracted and he could not have been suspended from the privileges of the university under Resolution No. 264.

20. The vice-chancellor prejudged the issue and cancelled P.M.T. 2000 examination and result of the Petitioner and deprived him of all the privileges of the university. It is admitted by the vice-chancellor that he has not cancelled admission of the Petitioner. Therefore, the university acted illegally in depriving the Petitioner of declaration of his result of B. Pharma IInd semester and in not permitting the Petitioner's registration in B. Pharma IIIrd semester course. Since there was nothing against the Petitioner and no material was found against him, the vice-chancellor was also not justified in cancelling his candidature of P.M.T. 2000, the entire action of the university was illegal and arbitrary and the order passed by the vice-chancellor dated 23.6.2000 communicated by the Registrar on 24.6.2000 cannot be upheld.

21. In the result, this writ petition succeeds and is allowed. The order passed by vice-chancellor/Respondent No. 1 dated 23.6.2000 as communicated to the Petitioner by the Registrar/Respondent No. 2, on 24.6.2000, Annexure-6 to the writ petition, is quashed. The Respondents are directed to declare the result of Petitioner of B. Pharma IInd semester and in case he is declared successful or is entitled for back paper, he shall be granted registration in B.Pharma IIIrd semester course as per rules of the university. All the privileges of the university including hostel of the Petitioner shall stand restored. The Respondents are further directed to declare the Petitioner's result of P.M.T. 2000 and in case he is declared successful in the said examination and opts for M.B.B.S. course, then he shall be admitted in M.B.B.S. course, which shall be subject to decision of the criminal case pending against the Petitioner.

22. The Respondents shall, comply with the aforesaid directions within two weeks from the: date a certified copy of this order is produced before Respondent No. 2.

23. The parties shall bear their own costs.