
(1984) 12 KAR CK 0008
In the Karnataka High Court
Case No : Writ Petition No. 19320 of 1984

Sujeeth P.J. Ferrao

APPELLANT

Vs

The University of Mysore and Others

RESPONDENT

Date of Decision : 07-12-1984

Acts Referred:

Karnataka State Universities Act, 1976 — Section 62, 62 (1)

Citation : AIR 1985 Kar 250

Hon'ble Judges : M.P. Chandrakantaraj URS, J

Bench : Single Bench

Advocate : Subramanya Jois, for the Appellant;

Judgement

1. This is a petition by a student of the Adichunchanagiri Institute of Technology, Chickmagalur. He is aggrieved by the memorandum dt. 24-11-1984 issued by the Vice-Chancellor of the 1st respondent University of Mysore. By the said memorandum, the Vice-Chancellor of the said University has kept the petitioner under suspension with a direction that he should not enter the campus of the College in question until the conclusion of the enquiry against the petitioner for alleged acts of gross indiscipline in the campus as reported to the Vice-Chancellor by the Principal of the College. By the same memorandum, the Vice-Chancellor has also constituted an enquiry Committee which is required to look into the matter in question and submit a report to him apparently to enable him to take action in accordance with S. 62 of the Karnataka State Universities Act, 1976, (hereinafter referred to as the Act) if warranted.

2. The challenge is on many grounds touching upon both power and jurisdiction. Shri H. Subramanya Jois, learned Counsel for the petitioner, has strenuously contended that the Vice-Chancellor being the Chief Executive of the University cannot exercise disciplinary control over the students who do not belong to University College. The thrust of the argument is that the petitioner being a student of a private College is out-side the powers whatever that may be of the Vice-Chancellor in the matter of discipline. I do not think this argument would be

taken seriously by the Court. S. 62 (I) of the Act vests in the Vice-Chancellor the sole power or the ultimate power to maintain discipline of University students. The language employed in sub-sec. (1) of S. 62 of the Act by use of the expressions "University Students", it is clear that the legislature had in its mind the discipline of the University as a whole and not of its individual constituent colleges which could be more than one, as is clear from the definitions of the terms "College" and "affiliated College" and "University College" occurring in the provisions of the Act. It is no doubt well known that University has in it the specific power conferred to run its own College. The Government owes to its people the duty to administer and run as many colleges as it may. Similarly, there is no embargo on private individuals or bodies to administer there own educational institutions. But no such institution can exist by itself for purpose of education particularly in the field of general and scientific education unless it seeks affiliation to one or the other Universities in the State. That the said Institute of Technology is an affiliated College, is not in dispute. The moment it is affiliated, its students come, under the disciplinary control of the Vice-Chancellor in clear terms. In the result, the contention is rejected.

3. Next it was contended that the Vice-Chancellor should have taken notice of certain judicial and police proceedings that were pending against the University and the College inasmuch as the petitioner had applied for an injunction in the Court of the Munsiff at Chickmagalur and obtained the same against the order of suspension originally passed by the Principal of the College. It is also stated that there is a complaint instituted by the petitioner himself against the assault made on him by another student which is the subject matter of investigation and continues to be so with the police having jurisdiction. I do not think the Vice-Chancellor as the Chief Executive of the University is bound to take notice of those things when he has to exercise his power of controlling discipline of a University student. In fact S. 62 of the Act does not provide for any procedure for the Vice-Chancellor to act in the matter of discipline but merely puts him as the ultimate authority to maintain discipline among the University students. It is only the procedure at the final stages where disciplinary action has to be taken by the Vice-Chancellor or somebody subordinate to him which is set out. That procedure is the measure of punishment which is only limited to two modes; one of rustication and another of debarment from the examinations of the University and the manner in which the same should be inflicted by the Syndicate. In other words, what is clear from sub-sec. (2) of S. 62 of the Act is that the Syndicate's power of punishment is restricted to the mode and procedure prescribed therein. But Syndicate is not expected to impose that punishment unless it has proposed that punishment to the delinquent student or others subjected to disciplinary action.

4. In the case of the petitioner that stage is not reached yet. The petitioner's alleged misconduct is being looked into. That is how there is appointment of a Committee of enquiry. His acts of indiscipline are yet to be investigated by the Committee and report made to the Vice-Chancellor who in turn, if found

necessary will place the report before the Syndicate for appropriate action. In that circumstance the only other source which the Vice-Chancellor has is under S. 12 of the Act which enumerates his powers.

5. Sub-sec. (5) of S. 12 of the Act gives unlimited power to the Vice-Chancellor to take any action in an emergency. This Court had occasion in B.P. Puttaraju and Others Vs. The Bangalore University and Another, to examine the scope of S. 12(5) of the Act and the need for suspension. A particular view taken by the learned single Judge of this Court was specifically dissented from by the Division Bench: See The Bangalore University, Bangalore and Another Vs. B.P. Puttaraju and Others, The Division Bench after discussing several cases on the subject has taken the view that the test is to apply and see whether the Vice-Chancellor is exercising his power under S. 12(5) of the Act quasi-judicially or magisterially. If the conclusion is that he is acting quasi-judicially then the rules of natural justice compel the Vice-Chancellor to give a hearing before any order adverse to the affected person is made. If he is acting magisterially as in the instant case to maintain in the University campus the peace, liberty to property and person and the College, then it would be an order which may be made without observing the rule of audi alteram partem. I do not see any difference between the facts of The Bangalore University, Bangalore and Another Vs. B.P. Puttaraju and Others, and the present case, except in Puttaraju's case the victim was the Vice-Chancellor himself while here the victim or victims have been somebody else.

6. That does not in any way deter the Vice-Chancellor to make an order under S. 12(5) of the Act of suspending the person complained of from entering the College, its activities and restraining him from entering the College campus. Undoubtedly, as was noticed by the learned single Judge in B.P. Puttaraju and Others Vs. The Bangalore University and Another, this does impose a type of hardship which at times can be incurable. But the Division Bench has pointed out that in such cases what is called for is not judicial leniency but quick disposal by the University of the matter.

7. I do not think the Vice-Chancellor can be denied the power to pass the order in question.

8. This answers both the contentions to which I have referred and also the argument that the order is violative of the rules of natural justice.

9. Lastly, it was pointed out by Mr. Subramanya Jois that this Court in W. R No. 5605/84 has taken the view that similar action by the Syndicate of the University was held to be without jurisdiction. I have perused the judgment. It is under appeal and therefore I do not want to say anything more than this; the facts of that case are wholly different and the authority which passed the order also is wholly different, therefore, the petitioner cannot derive any sustenance to support his present challenge to the impugned order of the Vice-Chancellor from that decision.

10. For the reasons given above this writ petition is without merit and it is

rejected. But it is however observed that the Committee appointed should expeditiously dispose of the case of petitioner so that if he is to be found not guilty of the alleged acts of misconduct, his academic studies should not suffer on that account.

11. The petition is dismissed without issuing rule.

12. Petition dismissed.