

(1965) 01 AHC CK 0020

In the Allahabad High Court

Case No : Writ Petition No's. 461, 462 and 463 of 1964

Surendra Kumar Mehrotra

APPELLANT

Vs

The Secretary Board of Technical Education and Others

RESPONDENT

Date of Decision : 29-01-1965

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Uttar Pradesh Pravidhik Shiksha Adhiniyam, 1962 — Section 13, 25, 3

Uttar Pradesh State Board of Technical Education Rules — Rule 10

Citation : AIR 1966 All 207

Hon'ble Judges : G.D. Sahgal, J

Bench : Single Bench

Advocate : N. Banerji and S.N. Saxena, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

G.D. Sahgal, J.—Though the facts of the cases arising out of these three writ petitions are somewhat different one from the other yet as they raise some common questions of law they have been heard together and will be disposed of by a common judgment. Surendra Kumar Mehrotra is the petitioner in writ petition No. 461 of 1964. The opposite-parties are the Secretary, Board of Technical Education, the Principal, Hewett Polytechnic, Mahanagar, and the Examination Committee of the Board of Technical Education, U. P. The Opposite parties in the other two writ petitions are also the same but while the petitioner in Writ Petition No. 162 of 1964 is Surendra Pal Singh, the petitioner in Writ Petition No. 463 of 1964 is Pramod Swamp Tandon.

2. All the petitioners appeared at the II year examination of Electrical Engineering of the Board of Technical Education in 1964. Their Examination centre was Government Polytechnic at Latouche Road, Lucknow. On the 30th of April, 1964 the examination of Engineering Drawing was scheduled to be held. There was another centre also at the Hewett Polytechnic but the petitioners

appeared at the Government Polytechnic at Latouche Road. There was an uproar at the question paper set for Engineering Drawing as it was considered to be very stiff and some of the examinees left the examination hall and prevented other students also from appearing at the examination centre at Latouche Road. Similar thing happened at the Hewett Polytechnic at Mahanagar also on the same day and while about 250 students walked out of the examination hall at Latouche Road, about 150 walked out of the examination hall at the Hewett Polytechnic at Mahanagar. The three petitioners were charge-sheeted in connection with those disturbances and a charge-sheet was served on each of them by the Secretary of the Examination Committee who also happens to be the Secretary of Board of Technical Education, U. P. He is opposite party No. 1.

3. The charge against Surendra Kumar Mehrotra (W. P. No. 461 of 1964), among others, was that along with other examinees he was responsible for the walk out of the examinees at his centre, he was the first to open the door of the examination hall and run out and at the Hewett Polytechnic Centre he took a leading part in disturbing the examination by entering into the rooms, tearing drawing sheets and committing other acts of indiscipline.

4. The charge against Surendra Pal Singh was that he pushed aside one of the invigilators at the examination hall and forced his way out and led the trouble and at the Hewett Polytechnic Centre also he was one of the intruders who instigated the examinees to walkout and tear drawing sheets taking a leading part in the disturbance.

5. Pramod Swamp Tandon was charged, among other things, for being responsible for the walk out of the examinees at his centre, for threatening the helper invigilator at Government Polytechnic Centre with open knife and abusing him and for taking a leading part in causing disturbance to the examination and indulging in indiscipline and destructive activities At the Hewett Polytechnic Centre. It was also stated as against him that he would have fatally wounded the helper invigilator had he not run away for life.

6. All the three gave a reply to the charge-sheet denying the charges made against them. Surendra Kumar Mehrotra claimed that there was no reference given in the charge-sheet as to who was the complainant and what was the evidence led thereto for arriving at the charges. He claimed that the charges were in the circumstances ultra vires, ineffectual and incapable of fuller comments. The other two contented themselves by denying the charges made against them. They did not raise the question as to who was the complainant and what was the nature of the evidence against them. As the reply of Surendra Kumar Mehrotra involved the disclosure of the evidence against him, the Secretary pointed out that the committee, in view of the secrecy of the conduct of examination and propriety thereof in this behalf and in the interest of discipline, could at the most inform him that there was definite reliable and overwhelming evidence against him on the following points:

"1. That you and a few others stood up creating disturbance and inciting others and that you opened the door of the Drawing Hall and ran out.

2. That you took a leading part in disturbing the examination at Hewett Polytechnic Centre" (Vide annexure III). He was given further opportunity to clarify the position vis-a-vis the charges in this reply.

He had, however, been told in the very beginning that the procedure adopted by the Committee was entirely summary, the guiding principle being that natural justice was ensured. He was also told that the evidence referred to in the reply would be duly weighed and the charges decided in the light of the points raised in the explanation.

7. He then gave the reply which is contained in annexure IV to his writ petition saying that he was suffering from typhoid which prevented him from presenting himself before the Secretary to answer any question that he may have liked to put in order to satisfy himself and know the fullest truth saying that he was always at his disposal as soon as he was physically fit. He expressed wonder

"how the Teachers in order to save themselves for not having controlled the alleged situation had chosen to give conjectural names and if this evidence as on your records is subjected to Judicial Examination the situation becomes unwholesome and discordant between the Teacher and taught and their fair relations for working out the ends of Education."

It would appear that Surendra Kumar Mehrotra was under the impression that he was being asked to appear in person and on that account he expressed his inability to present himself before the Secretary as he was suffering from typhoid but the fact remains that he was only asked to submit his explanation.

8. The Committee then seems to have taken decision which is contained in annexure V to Writ Petition No. 461 of 1964 and annexure III to each of the Writ Petitions Nos. 462 and 463 of 1964 and among other things, the results of the three petitioners were withheld with a rider that further notification would follow in due course. They were also not among those who were allowed to appear at a supplementary examination in Engineering Drawing.

9. A communication, however, was served on them later on which is dated the 16th of July, 1964 requiring them to appear before the Examination Committee on the 18th of July, 1964 for personal hearing in the matter of walk (out ?) disturbances in examination. This notice is contained in annexure VI to Writ Petition No. 461 and annexure IV in each of the other two writ petitions. The petitioners then appeared before the Board and were interrogated. They claim that they denied the charges and repeated what had been said in their previous replies. Their grievance, however, is that the Committee never disclosed the names of the persons who had made allegations against them nor shown any statements made by these persons nor any report made against them. They were also not shown any statements made against them by the invigilators,

teachers or students present at the time of the disturbance nor any report of the Enquiry Sub-Committee. Thereafter all of them received a communication through the Principal of the Hewett Polytechnic to the effect that the Examination Committee in its meeting held on the 18th of July, 1964 after considering the report of the Enquiry Sub-Committee, the charges against them and their written reply and after hearing them personally, came to the conclusion and decision that they were guilty of indulging in violence, gross indiscipline for initiating the trouble at the Drawing Hall or the Heat Engine Laboratory and after disturbing the examinees in various examination halls at the Government Polytechnic, Lucknow Centre, going to Hewett Polytechnic, Lucknow Centre, where they ransacked the examination. They were held to be guilty under Rule 10 (a) of the General Rules of the Board and their examination of 1964 was cancelled and they were further debarred from the Board's Examination, 1965. They were told that they could take readmission in Sessions 1965-66 if they were eligible for admission as per relevant rules of the Board regarding the number of chances to repeat the course subject to the condition that they shall submit prior to admission a written undertaking duly countersigned by the guardian that no kind of "mis-discipline" (indiscipline) would be repeated in future. This communication is contained in annexure VII to Writ Petition No. 461 of 1964 and annexure V to the other two writ petitions.

10. The petitions have, accordingly, been filed praying for a writ, direction or order in the nature of certiorari against opposite-party No. 3, namely, the Examination Committee of the Board of Technical Education cancelling the order dated the 25th of July, 1964 and the order dated the 6th of July, 1964 withholding the result. There seems to be an error in the prayer inasmuch as the orders are not dated the 25th of July, 1964 or the 6th of July, 1964 but they are the dates of the communications made to them by the Principal of the Hewett Polytechnic, Mahanagar. In any case, the order withholding the result of the examination and the order cancelling the examination of 1964 and then being debarred from the Board's Examination 1965 are sought to be quashed.

11. Three grounds have been urged before me in support of the case on behalf of the petitioners. They are:

1. The names of the persons who complained and the nature of the evidence against the petitioners leading to the action taken against them were not disclosed to them and as such they were not in a position to make submission why the evidence should not be accepted

2. No copy of the Enquiry Sub-Committee report was given to them.

3. That Rule 10 (a) of the State Board of Technical Education Rules under which action was taken against them was no longer in force as it stood superseded by the Uttar Pradesh Pravidhik Shiksha Adhiniyam 1962. Under the latter Act it is the Board and not the Examination Committee which has the right to pass the orders of withholding the result, cancelling the examination and debarring the

applicant from appearing at the examination.

12. I have heard Sri Banerji on behalf of the petitioners and the Senior Standing Counsel on behalf of the State.

13. I propose to deal with the third objection first for it goes to the root of the matter and if I come to the conclusion that the rule under which the action was taken stood superseded, then it would not be necessary to deal with the other objections raised on behalf of the petitioners.

14. Under the Uttar Pradesh Pravidhik Shiksha Adhiniyam 1962 (U. P. Act XVII of 1962), u/s 3 there shall be established by the State Government by notification in the Gazette a Board to be called the Uttar Pradesh Pravidhik Shiksha Parishad (i.e. the Board of Technical Education, Uttar Pradesh). u/s 13 the Board shall, subject to the provisions of this Act and the rules made thereunder, have all such powers as may be necessary for the discharge of its functions and performance of its duties under this Act, or the rules or regulations made thereunder. Under Sub-section (2) of the same section in particular and without prejudice to the generality of these powers, the Board shall have, among others, the power to cancel or withhold the result of an examination of a candidate, or to disallow him from appearing at any future examination who is, among other things, found guilty of any act of indiscipline in the course of an examination.

15. It is submitted that as no rules have been made under the Act or any regulations, it is the Board constituted under the Act that could take action and not the Examination Committee. The argument, however, seems to be misconceived as the Act does not seem to have been carefully perused in raising this contention.

16. u/s 25 of the Act, on the commencement of the Act the Board of Technical Education (Technical Education Board) constituted under G. O. No. 1687-A/III-160-K-1958, dated May 13, 1958, as modified from time to time, shall be deemed to be the Board established u/s 3 till such Board was established in accordance with the provisions of that section and Section 4, and upon the Board being so established the Technical Education Board shall stand dissolved. That very section further provides, among other things, that on the commencement of the Act any resolution passed by the Technical Education Board before the said commencement shall until regulations on that subject are made, have the same effect as regulation made under the Act. It is not challenged that Rule 10 (a) under which action has been taken was the result of the resolution of the Technical Education Board constituted by the G. O. above referred to and that no regulations on the subject had been made under the Act as yet. Rule 10 (a) therefore, continues to remain in force and under that rule--the position is not disputed--the Examination Committee could take the action of the type that it had taken against the petitioners. The petitions, therefore, cannot be allowed on the ground that the Examination Committee had no jurisdiction to pass the impugned orders.

17. We have thus to examine the other two grounds taken on behalf of the petitioners but before examining them we have to examine the state of law on the point as to what is the scope of the Enquiry of such domestic tribunals as the Examination Committee of the Board of Technical Education.

18. The first case referred to in this connection is that of *New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd.*, wherein it has been laid down that the question whether the rules of natural justice have been observed in a particular case must itself be judged in the constitution of the statutory body which has to function in accordance with the rules laid down by the legislature and in that sense rules themselves must vary. Reliance was placed in that case on certain English authorities, The following are the observations of Lord Loreburn, L. C. in the course of his speech in the case of *Board of Education v. Rice* 1911 AC 179:

"Comparatively recent statutes have extended if they have not originated, the practice of imposing upon departments or officers of State the duty of deciding or determining questions, of various kinds. In the present instance, as in many others, what comes for determination is sometimes a matter to be settled by discretion, involving no law. It will, I suppose, usually be of an administrative kind; but sometimes it will involve matter of law as well as matter of fact or even depend upon matter of law alone. In such cases the Board of Education will have to ascertain the law and also to ascertain the facts. I need not add that in doing either they must act in good faith and fairly listen to both sides, for that is a duty lying upon every one who decides anything. "But I do not think they are bound to treat such a question as though it were a trial". They have no power to administer an oath, and need not examine witnesses. They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their view." (The underlining (herein is mine).

19. In *Rex v. Local Govt. Board; Ex parte Arlidge* 1913 1 KB 463, which was also considered in that case, the following observations of Viscount Haldane, L. C. made in his speech were cited with approval:

"My Lords, when the duty of deciding an appeal is imposed, those whose duty it is to decide it must act judicially. They must deal with the question referred to them without bias, and they must give to each of the parties the opportunity of adequately presenting the case made. The decision must be come to in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice. But it does not follow that the procedure of every such tribunal must be the same"

20. The following observations of Lord Shaw also were cited:

"And the assumption that the methods of natural justice are ex necessitate those of Courts of justice is wholly unfounded This is expressly applicable to steps of procedure or forms of pleading. In so far as the term natural justice means that

a result or process should be just, it is a harmless though it may be a high-sounding expression; in to far as it attempts to reflect the old jus natural it is a confused and unwarranted transfer into the ethical sphere of a term employed for other distinctions; and, in so far as it is resorted to for other purposes, it is vacuous."

Lord Parmoor's speech also was quoted in the case as follows:

"Where, however, the question of the propriety of procedure is raised in a hearing before some tribunal other than a Court of law there is no obligation to adopt the regular forms of legal procedure. It is sufficient that the case has been heard in a judicial spirit and in accordance with the principles of substantial justice."

In considering the criticism of the High Court that the appellate authority did not give full and effective opportunity to the first respondent to present his point of view before if in connection with the second report their Lordships made the following observations:

"As already indicated, the statutory provisions do not contemplate that either the Regional Transport Authority or the Appellate Authority had to record evidence or to proceed as if they were functioning as a Court of law. They had to decide between a number of applicants as to which of them was suitable for the grant of the fresh permit applied for. They took into consideration all the relevant matters and came to their decision which has not been attacked as partial or perverse. The only ground which survived before the Appellate Bench of the High Court was that the requirements of natural justice had not been satisfied. The only question that we have to determine is whether the Appellate Authority was justified in using the second report made by the police, though it had not been placed into the hands of the parties. That report did not directly contain any allegations against the first respondent. Hence there was nothing in that report which it could be called upon to meet. The only effect of that report was that many of the objections raised against the suitability of the appellant had been withdrawn by the police on further consideration of their records. The police report is more for the information of the authorities concerned with the granting of permits than for the use of the several applicants for such permits. In our opinion, therefore, the fact that the Appellate Authority had read out the contents of the police report was enough compliance with the rules or natural justice. We have also pointed out that no grievance was made al the time the Appellate Authority was hearing the appeal by any of the parties, particularly by the first respondent, that the second report should not have been considered or that they wished to have a further opportunity of looking into that report and to controvert any matter contained therein. They did not move the Appellate Authority for an adjournment of the hearing in order to enable it to meet any of the statement made in that report But the learned counsel for the respondent suggested that the requirements of natural justice could not be waived by any of the parties and that It was incumbent upon the Appellate Authority to observe

the so-called rules of natural justice. In our opinion, there is no warrant for such a proposition. Even in a Court of law a party is not entitled to raise the question at the appellate stage that he should have been granted an adjournment which he did not pray for in the Court of first instance. Far less such a claim can be entertained in an appeal from a tribunal which is not a Court of justice, but a statutory body functioning in a quasi judicial way."

21. The next case referred to was that of Nagendra Nath Bora and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others, , wherein it has been laid down, referring to the observations in the above case that the rules of natural justice vary with the varying constitution of statutory bodies and the rules prescribed by the Act under which they function; and the question whether or not any rules of natural justice have been contravened should be decided not under any pre-conceived notions but in the light of the statutory rules and provisions. It was further observed that simply because a case was viewed in a particular light which may not be acceptable to another independent tribunal is no ground for interference either under Article 226 or Article 227 of the Constitution.

22. Reference was then made to Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, wherein it has been laid down that the Examination Committee of the Board of High School and Intermediate Education. U. P., appointed u/s 13 of the U P. Intermediate Education Act 2 of 1921, when it exercises its powers under Rule 1(1) of chapter VI of the Regulations framed u/s 15 in dealing with cases of examinees using unfair means in examination halls is acting quasijudicially and the principles of natural justice which require that the other party (namely the examinee) must be heard, will apply to the proceedings before the Committee. Though there is nothing express one way or the other in the Act or the Regulations casting a duty on the Committee to act judicially, the manner of the disposal based as it must be on materials placed before it, and the serious effects of the decision of the committee on the examination concerned, must lead to the conclusion that a duty is cast on the Committee to act judicially in that matter, particularly as it has to decide objectively certain facts which may seriously affect the rights and careers of examinees, before it can take any action in the exercise of its power under Rule 1 (1). It was held therein that where no opportunity whatever was given to the examinees to give an explanation and present their case before the Committee the resolution of the Committee cancelling their results and debarring them from appearing at the next examination is vitiated.

23. In Board of High School and Intermediate Education, U. P., Allahabad v. Bagleshwar Prasad 1963 All LJ 676 (SC), it was held that educational institutions like the Universities or the Board of Education set up Enquiry Committees to deal with the problem posed by the adoption of unfair means by candidates, and normally it is within the jurisdiction of such domestic Tribunals to decide all relevant questions in the light of the evidence adduced before them. In the

matter of the adoption of unfair means, direct evidence may sometimes be available, but cases may arise where direct evidence is not available and the question will have to be considered in the light of probabilities and circumstantial evidence. This problem which educational institutions have to face from time to time is a serious problem and unless there is jurisdiction to do so, courts should be slow to interfere with the decisions of domestic Tribunals appointed by educational bodies like the Universities. In dealing with the validity of the impugned orders passed by Universities under Article 226 the High Court is not sitting in appeal over the decision in question; its jurisdiction is limited and though it is true that if the impugned order is not supported by any evidence at all the High Court would be justified to quash that order. But the conclusion that the impugned order is not supported by any evidence must be reached after considering the question as to whether probabilities and circumstantial evidence do not justify the said conclusion. Enquiries held by domestic Tribunals in such cases must, no doubt, be fair and students against whom charges are framed must be given adequate opportunities to defend themselves, and in holding such enquiries, the Tribunals must scrupulously follow rules of natural justice; but it would not be reasonable to import into these enquiries all considerations which govern criminal trials in ordinary Courts of law. In that particular case no animus was suggested and no mala fides had been pleaded. The enquiry had been fair and the respondent had an opportunity of making his defence. In the circumstances it was held that the High Court was not justified in interfering with the order passed against the respondent.

24. Reference was also made to a case of Andhra Pradesh and another of the Punjab High Court.

25. In the Andhra Pradesh case *Sardar Anmol Singh Vs. Registrar, Osmania University, Hyderabad, A. P. and Another*, it was held, following. (S) *New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd.*, and *Nagendra Nath Bora and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others*, that where no rules or regulations have been framed in regard to the matter in which the tribunal passes certain orders natural justice could only mean that the person accused should know the nature of the accusation made; secondly, that he should be given an opportunity to state his case, and thirdly, that the tribunal should act in good faith. In that case the petitioner had smuggled an additional answer book in the examination and was rusticated for a period of two years for having adopted malpractice at the examination. There were six circumstances that were relied upon by the Board of Examiners in taking action against the petitioner and he was given an opportunity to explain those circumstances. The explanation was considered after those circumstances had been made known to the petitioner who was given an opportunity to state his case and the matter was decided against the petitioner. The decision was not challenged on the ground of bad faith. It was found to have been given in good faith. In the circumstances no interference was made with the order made by the Vice Chancellor.

26. In the Punjab case *Karamjit Kaur v. Punjab University* AIR 1964 P&H 327 the two cases, *Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others*, and 1963 All LJ 676 (SC) (*supra*) were considered and the following principles were laid down, namely :

1. The order made by an educational authority while dealing with a charge of unfair means against a candidate is not an administrative order but a quasi-judicial order.
2. The educational authority has to follow such procedure while determining the correctness of these allegations as is prescribed by the regulations or bye-laws.
3. In case the regulations or bye-laws prescribe no procedure, it would be for the authority to devise the procedure as it considers necessary to satisfy itself with regard to the correctness of the charge.
4. The procedure so adopted should be fair and not violative of the principles of natural Justice. It need not, however, be the same as governs trials in ordinary Courts of law.
5. The candidate concerned must be informed of the charge and an adequate opportunity should be given to him to defend himself.
6. In case such an opportunity has been given to the candidate and there is some material before the prescribed authority about the use of unfair means and the prescribed authority accepts that material and is not actuated by any hostile animus, the Court would not interfere with the decision of the aforesaid authority even if the Court disagrees with the conclusion of the authority.

27. With this analysis of the case law, I respectfully agree.

28. In this state of law in the three cases before me what has to be seen is whether requirements of the principles of natural justice have been complied with or not. The Principles of natural justice are not necessarily the same as the principles that govern a Court of law in the deciding of case. The principles of natural justice require that the procedure adopted by the Tribunal is fair, that the person charged is informed of the charge and an adequate opportunity is given to him to defend himself. If such an opportunity has been given and the Tribunal has before it material which leads it to the conclusion that the charge has been established and it accepts that material and is not actuated by any hostile animus then no interference is called for by the High Court in its writ jurisdiction even though the Court may disagree with the conclusions arrived at by the authority concerned.

In the instant case there is no particular procedure prescribed as to how the enquiry is to be held. It was a case of indiscipline alleged to have been committed by the petitioners. The charges were communicated to the, petitioners. They gave their reply. In the beginning no opportunity was given to them to be heard in person or to have their say and their results were withheld

but later on they were required to appear before the Examination Committee personally and after they were heard, the decision was taken against them. The question is whether principles of natural justice in this case have been satisfied. The act of indiscipline that they are said to have committed was that they were responsible for the disturbances at the two centres the details of which have already been given above, When almost all the candidates left the two examination halls, there must have been some evidence against the applicants of their being responsible for creating the trouble. There must have been some evidence with the authorities against Surendra Pal Singh for his having pushed aside one of the invigilators inside the hall and against Promod Swarup Tandon of having threatened the helper invigilator at the Polytechnic Centre. This was a very important piece of evidence and this evidence does not seem to have been disclosed in the charges of any of the applicants. Surrender Kumar Mehrotra even demanded in his reply, which is annexure II to Writ Petition No. 461 of 1964, as to what that evidence was.

It does not appear to have been disclosed to him or to the other petitioners. In the counter-affidavit filed on behalf of the opposite-parties Nos. 1 and 3 it is stated that all the documents concerned with the incident were before the Examination Committee at the time of hearing. The charges were specific and they were explained to them. The Examination Committee did intimate the substance of the evidence whereon the charges had been framed against the petitioners. They assert that if at the time of hearing the petitioners had expressed their desire to see any particular record, or for any person to be produced before them, the Examination Committee would have undoubtedly used its discretion in making available what might have been desired. The petitioners, however, when questioned about the charges levelled against them, did not demand inspection of any documentary evidence against them nor did they express any desire for anyone being produced or to produce any oral or documentary evidence in their defence. The extract from the minutes of the meeting of the Examination Committee dated the 18th of July, 1964 also shows that the Examination Committee heard the examinees in person. None of them either demanded to inspect any documentary evidence nor expressed any desire to produce any oral or documentary evidence in their defence. The Committee, after considering the report of the Enquiry Sub-Committee, the charges against the applicants, their written replies and after hearing them personally came to its conclusions (vide annexure B to the counter-affidavit filed on behalf of the opposite-parties Nos. 1 and 3). The reply to this assertion is that none of the documents that were considered by the Examination Committee was shown to the petitioners at the personal hearing nor was any reference made to the evidence at the hearing. They were only told about the charges. They were also not told as to who were the persons who had stated that the petitioners had taken part in the disturbances. The question about the petitioners' asking for the record or production or any witnesses when it was the duty of the Committee to give them reasonable opportunity did not arise. What appears to be in this case

is that the petitioners have been punished on the material before the Examination Committee having due regard to the nature of the charges. The Examination Committee must have had information from some persons about the petitioners taking the specific part in the disturbances which is attributed to them. On behalf of respondents Nos. 1 and 3 it is asserted that the substance of the evidence whereon the charges were framed against the petitioners was intimated to them. It is nowhere stated in the counter-affidavit that the names of the persons, whose evidence it was, were disclosed to them, It may be that if the names had been disclosed to the petitioners, they might have been in a position to tell the Committee and even satisfy It that the persons who had given that evidence had some reason to falsely implicate them. They could also show that the information given to the Committee was only hearsay It was not necessary that the procedure which is generally followed in a Court of law should have been followed by the Committee but if the Committee had disclosed the names of those persons and the actual information given by them, the petitioners might have been able to satisfy the Committee mat the evidence of those persons could not be relied upon. Instead, though the Committee did intimate the petitioners the substance of the evidence, it did not tell them the source from where that evidence came so that it could be explained that it was tainted. Without the names being disclosed and the actual information to the petitioners they have been denied the opportunity of explaining the main material against them on which reliance was placed by the Examination Committee. The counter-affidavit no doubt states that all the documents were before the Examination Committee at the time of the hearing but it nowhere states that the applicants were told that the materials were before them and they could examine them if they so liked and make their submissions. They were only intimated about the substance of the evidence. No question of demanding the inspection of the documentary evidence in the circumstances arose. How could the applicants produce any evidence in defence without knowing as to who were the persons who had given information to the Examination Committee against them and what had they said ? In 1963 All LJ 676 (SC) (supra) Sardar Anmol Singh Vs. Registrar, Osmania University, Hyderabad, A. P. and Another, the evidence on which the educational authorities relied was of a circumstantial nature.

In 1963 All LJ 676 (SC) (supra) it was a case of the identity of mistaken answers in case of two candidates and the charge was that the respondent had either copied from the candidate bearing Roll No. 94733, or that he connived at the said candidate copying from his answer book, or that both of them had copied from a common source. There was no question of any person having given any evidence against the respondent. In Sardar Anmol Singh Vs. Registrar, Osmania University, Hyderabad, A. P. and Another, also there were six circumstances appearing against the petitioner and there also the charge was not based on any information received by the educational authorities concerned from any person. Similarly, in the Punjab case AIR 1964 P & h 327 (supra) also it was a case of resemblance of the answer books of the various candidates. The circumstances in

all the cases were brought to the notice of the candidates concerned and disciplinary action was taken after they had been given full hearing and given opportunity to explain the circumstances and the explanation did not satisfy the authorities concerned.

In the instant case, however, it is not the evidence of a circumstantial nature on which reliance has been placed by opposite parties 1 and 3 in punishing the petitioners. Reliance in the nature of things must have been placed on some oral information against the petitioners. The names of the persons who gave that evidence and the actual information were not supplied to the petitioners and they were deprived of a very important material which they might have successfully explained to the Examination Committee if it had been placed before them. The observations of Lord Loreburn, L. C. referred to above and underlined from 1911 AC 179 are pertinent to the present case. The Examination Committee could obtain information in any way they thought best but they should have given a fair opportunity to the applicants who were parties to the controversy for "correcting or contradicting the statement prejudicial to their view." This opportunity could have been said to be fair only if the names of the informers would have been disclosed to them and also the information itself for they could then have been in a position to say that the information was tainted or unreliable. It was not necessary that those persons should have been examined by the Examination Committee before the petitioners and the petitioners given an opportunity to cross-examine them. The Examination Committee could adopt such methods as it would have thought fit on the principles of natural justice to satisfy itself that the information given to them was correct and could be depended upon, in case it had been challenged on the ground of being tainted; but when that opportunity has been denied altogether, it cannot be said that the principles of natural justice have been observed.

The cases referred to above do not help opposite-parties Nos. 1 and 3. There is no dispute as to the law laid down in the various authorities cited but the core of the problem is whether the petitioners had been denied a fair opportunity of explaining their position by the names of the informers being withheld by the Examination Committee. It may be repeated for the sake of emphasis that it was not necessary for the Examination Committee to produce those persons for cross-examination by the petitioners, The Committee could adopt any methods consonant with the principles of natural justice to satisfy that the information on which they relied was dependable and was not tainted in case it had been challenged by the petitioners on the ground of animus or bias of the persons giving the information or any similar ground in case the names of the informers had been disclosed to them.

29. On this ground alone, therefore, even though no animus has been shown against the Committee the petitions should be allowed and the impugned orders quashed though it would still be open to the Examination Committee to hold an enquiry in accordance with the principles of natural Justice.

30. The third round taken on behalf of the petitioners that the report of the Enquiry Sub-Committee was not given to the petitioners which was also one of the matters considered by the Examination Committee on the 18th of July, 1964 is not of much significance if the material which was the material before the Enquiry Sub-Committee itself, had been disclosed to the petitioners. Had the names of the informers been disclosed to the petitioners and the information given by them and they had been given an opportunity to have their say against them and the information itself, and the submission of the petitioners duly considered, the fact that the report of the Enquiry Committee was not disclosed to the petitioners would not have been material.

31. The result is that the petitions are allowed and the orders of the Examination Committee passed as a result of the meeting held on the 18th of July, 1964 holding the petitioners guilty under Rule 10 (a) of the General Rules or the Board and cancelling the examination of 1964 and debarring them from appearing at the examination of 1965 are quashed. Petitioners shall get their costs from respondents Nos. 1 and 3, respondent No. 2 being only the person through whom the decision was communicated to the petitioners.