
(1980) 07 KAR CK 0040

In the Karnataka High Court

Case No : Writ Appeals No's. 1407 to 1409 of 1979

The Bangalore University, Bangalore and Another

APPELLANT

Vs

B.P. Puttaraju and Others

RESPONDENT

Date of Decision : 29-07-1980

Acts Referred:

Constitution of India, 1950 — Article 226

Karnataka State Universities Act, 1976 — Section 12, 62

Citation : AIR 1981 Kar 202 : (1981) ILR (Kar) 1 : (1981) 1 KarLJ 72

Hon'ble Judges : M.N. Venkatachaliah, J;K. Jagannatha Shetty, J

Bench : Division Bench

Advocate : A.J. Sadasiva, for the Appellant; H. Subramanya Jois, for the Respondent

Judgement

Jagannatha Shetty, J.—These appeals raise a narrow but an important question. The question is whether the Vice-Chancellor upon suspending the students pending enquiry against their misconduct could prevent, them from attending classes and deny them the hostel facilities. The learned single Judge while disposing of the writ petitions preferred by the students has answered the question in the negative and quashed that portion of the interim order of suspension made by the Vice-Chancellor. The University and the Vice-Chancellor have challenged the order of the learned single Judge in these appeals.

2. The facts are these: By order dated 30th October, 1979, the Vice-Chancellor in exercise of his powers under Sections 12 and 62 of the Karnataka Universities Act, 1976 ("the Act"), suspended three students who are the respondents herein. The order reads:

"BANGALORE UNIVERSITY Jnana Bharathi Campus Bangalore-56. No. VCP: 134: 79 D/- 30th Oct., 1979. ORDER By virtue of the powers conferred on me u/s 62 and Section 12 of the Karnataka State Universities Act, 1976. I hereby order that the following students be suspended, pending enquiry into their misconduct in not attending the classes regularly and causing disturbance to the meetings

conducted by the Vice-Chancellor, working of the Administrative Offices and smooth working of the classes at Jnana Bharathi and Central College. (1) Shri B. P. Puttaraju, Student, Dept. of Dance, Drama and Music, Prasana Kumar Block Central college. (2) Shri C. D. Shivanna, Student, Dept. of Philosophy, Jnana Bharathi Campus, Bangalore University. (3) Shri K. Shivalankaraiah, Student, Dept. of Pol. Sc., Jnana Bharathi Campus, Bangalore University. The Heads of the Departments concerned are requested to see that the names of the above students are removed from the attendance registers and they should not be allowed to attend the classes until the enquiry is completed and orders of the Syndicate are obtained. Such of the students who are the inmates of the hostel should also be directed to vacate the hostel immediately. Sd - Vice-Chancellor."

The respondents were suspended pending enquiry against the misconduct like not attending the classes regularly; causing disturbances in the classes; threatening officials with dire consequences and threatening to set fire to the buildings. The Vice-Chancellor also directed the Heads of Departments concerned to remove their names from the attendance registers; prevent them from attending classes and deny them the hostel facilities until enquiry is completed and orders of the Syndicate are obtained. Challenging the validity of the order, the students approached this Court for relief under Article 226 of the Constitution with a primary contention that the Vice-Chancellor has no power to suspend the students or to strike their names off the rolls or to deny them the hostel facilities. The learned single Judge upheld the first part of the order while quashing the second part. He conceded to the Vice-Chancellor the power to keep the erring students under suspension. He said that that power must necessarily be implied as preventive action in defence of the property of the University, security of the staff and to maintain discipline in the University. The relevant portion of his order in that behalf reads:

"A combined reading of Ss. 12 and 62 of the Act clearly demonstrates that a duty is cast on the Vice-Chancellor to maintain discipline in the constituent colleges and among the students of the University. If Legislature has not specifically empowered to take preventive action in defence of the property of the University and security of the staff, as

For his misconduct in disturbing the meeting of the Board of Appointment for selection of Examiners held on 17th Oct., 1979 and for disturbing the classes in Central College on that day and on subsequent days.

For shouting in front of the Administrative Offices on 29th Oct., 1979 and for entering the offices of Examination Branch, Finance Branch, Academic Sections, and V. C's/Registrars Offices and threatening the officials with dire consequences if they continued to work and for having threatened to set to the buildings.

In the instant case, the powers conferred by Sections 12 and 62 of the Act, become meaningless. Therefore, the power to take action as contemplated by the first part of the impugned order i.e., to hold an enquiry into the charges

leveled against the petitioners, and in that period, keep the students under suspension is a power which must necessarily be implied and conceded to the Vice-Chancellor."

After reaching this conclusion, the learned Judge, however, held that the latter portion of the order of the Vice-Chancellor was liable to be struck down. For that, he has given two reasons: First, he has stated that the second part of the impugned order has the effect of rustivating the students without (giving), an opportunity to them as require under sub-section (2) of Section 62 of the Act. Secondly he observed that the students are required to put in a minimum attendance of 60 per cent below which, even the Syndicate of the University has no power to condone. If students are removed from the rolls of the college and are prevented from attending the college, it practically amounts to denying them the attendance which by itself results in a punishment if the enquiry is lot conducted and completed within a very short time. He has thus held that the latter portion of the order must be construed as a punishment inflicted and not merely as a natural corollary to the order of suspension contained in the first part of the order.

3. It was urged by Sri Sadasiva, learned counsel for the appellants that when once the Vice-Chancellor is held to have the power to suspend the students pending enquiry into their alleged misconduct, that power must necessarily include all that is necessary and incidental for the effective execution of that power.

4. In these appeals, we are not concerned with the power conceded to the Vice-Chancellor to suspend the students pending enquiry into their misconduct. That part of the order of the, learned single Judge has not been challenged by the students. We are only concerned with the validity of the consequential order made by the Vice-Chancecellor.

We may here refer to two provisions in the Act.

"12. The powers of the Vice-Chancellor.-

(1) The Vice-Chancellor shall be the Principal executive and Academic Officer Of the University and shall exercise general control over the affairs of the University. He shall exercise all powers necessary for due maintenance of discipline in the University.

XX XX XX "

Section 62 provides:

"62. Discipline.- (i) The, final authority responsible for maintenance of discipline among the students of the University shall be the Vice-Chancellor. His directions in that behalf shall be carried out by the Heads of Colleges, hostels and other institutions.

(2) Notwithstanding anything contained in sub-section (1), the punishment of

debaring a student from examinations or rustication from a college or a hostel or an institution shall, on the report of the Vice-Chancellor, be considered and imposed by the Syndicate:

Provided that no such punishment shall be imposed without giving to the student concerned a reasonable opportunity to show cause against the action proposed to be taken against him."

So extensive power has been thus conferred on the Vice-Chancellor constituting him the principal executive over all the affairs of the University. He is the final authority for maintenance of discipline among the students. His jurisdiction in matters of internal discipline has been made exclusive, subject to the power conferred on the Syndicate on two specific matters namely, imposing punishments of debaring a student from examinations and expulsion from a college or, a hostel or an institution.

5. Education is not just filling the mind with facts and figures. The parents put their children in the University with a fond hope that they would enrich their knowledge and develop their faculties. They want that education for their children by which character is formed, a strength of mind built up and intellect expanded. It is generally accepted that intelligence is not a birthright of a few individuals. It is rarely inherited. It is on the other hand, mostly cultivated and acquired by perseverance. As Swami Vivekananda said: Complete Works of Swami Vivekananda, Vol. I, page 509, (Advaitha Ashrama).

"All knowledge is within (the) mind. Who saw knowledge in the stone, or astronomy in the star? It is all in the human being.....

Every drop has the whole of the ocean in it. That is the mind of man."

In order to develop that mind in every student, what is required is a proper academic atmosphere and timely guidance. It would be for the Vice-Chancellor and the teaching staff to maintain that atmosphere in the University and guide the students. It is for them to make the University a centre of scholarship, research and culture. It is for them to make it a focus radiating learning and wisdom and not to allow it as a battle ground with strikes and strifes. Discipline is the bedrock on which University is founded, and the Vice-Chancellor under the University Act is charged with the duty to maintain that discipline.

6. There may be a wide range of circumstances developing in the University polluting the academic atmosphere. Different considerations may have to be thought of by the Vice-Chancellor to meet such a variety of cases. There may be cases where prompt and stern action may be called for and sometimes it may be necessary to keep erring students away from the main stream till appropriate disciplinary proceedings are taken. Dealing with disciplinary matters, Professor Paul Jackson writes: Natural Justice by Paul Jackson, 2nd Edition, page 158.

"Disputes about non-academic or disciplinary matters may range from the right of a teacher to administer a swift blow to a misbehaving infant to the expulsion

of a student from a University on a charge which will ensure that he is likely ever to be admitted to the profession for which he had been training. Different considerations may, not unreasonably, be thought to apply to such a variety of cases. Circumstances may dictate the application of force before a hearing, for example to persuade two youngsters wrestling in the classroom to desist."

In *Glynn v. Keele University* (1971) 1 WLR 487, this aspect was referred to by Pennycuik, V. C. at page 494 thus:

"The context of educational societies involves a special factor which is not present in other contexts, namely the relation of tutor and pupil; that is to say the society is charged with the upbringing and supervision of the pupil under tuition, be the society a university or college, or a school. Where this relationship exists it is quite plain that on the one hand in certain circumstances the body or individual acting on behalf of the society must be regarded as acting in a quasi-judicial capacity - expulsion from the society is the obvious example. On the other hand, there is a wide range of circumstances in which the body or individual is concerned to impose penalties by way of domestic discipline. In these circumstances it seems to me that the body or individual is not acting in a quasi-judicial capacity at all but in a magisterial capacity, i.e., in the performance of the rights and duties vested in the society as to the upbringing and supervision of the members of the society. No doubt there is a moral obligation to act fairly, but this moral obligation does not, I think, lie within the purview of the Court in its control over quasi-judicial acts. Indeed, in the case of a school boy punishment the contrary could hardly be argued."

7. The question in the present case, therefore, is as to which side of the line - whether quasi-judicial or magisterial - the powers vested in the Vice-Chancellor under Sections 12 (1) and 62 of the Act fall. If the action taken is so fundamental to the position of a student in the University then we must regard the power of the Vice-Chancellor as quasi-judicial and he cannot make any order without opportunity to the student to be affected thereby. But on the other hand, if the Vice-Chancellor is enforcing internal discipline, till the Syndicate takes appropriate action against such students, then he must be exercising only magisterial powers. We have no doubt that the action of the Vice-Chancellor with which we are concerned, falls into the latter category.

8. What the Vice-Chancellor did in the instant case was, to give effect to the order of suspension as otherwise the order of sus-1 pension would be ineffective. The suspended students if permitted to attend classes and enjoy all the privileges of other students, it is as good as not keeping them under suspension. The Courts of law should always avoid an interpretation that tends to this kind of strange, results or that leads to anomalous results. The consequential directions issued by the Vice-Chancellor, in our opinion, are consistent with the power conceded to him by the learned single Judge to suspend the students pending enquiry into misconduct. Such directions are also quite necessary to effectuate the exercise of that power. The apprehension that such students would be

deprived of their attendance and the Syndicate has no power to come to their relief even if they are exonerated ultimately in the enquiry is, in our judgment, no ground to deny such power to the Vice-Chancellor. In matters of internal discipline it is needless to state that the action should be prompt and an order of suspension of a student should be limited to a reasonably short period, say not more than a week or ten days, to avoid hardship to the student. That limitation is inherent in the nature of the power itself, unless the delinquent student himself renders the continuance of an enquiry inevitable by his own laches and non-co-operation. If in the enquiry, the student is exonerated, he must be afforded, with all that is necessary to continue his education as if there was no suspension. It would be for the University authorities to advise such ways and means in that regard and remove the lacuna, if any, in the statutes.

9. In the result, while reversing that part of the order under appeal, we dismiss the writ petitions. In the circumstances of the case, we make no order as to costs.

10. Order accordingly.