
(2011) 02 DEL CK 0135

In the Delhi High Court

Case No : Writ Petition (C) No. 496 of 2011

Venu Gopal

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 01-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0135

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Abhimanue Shrestha, for the Appellant; Mohinder J.S. Rupal, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The writ petition challenges the notice dated 21st January, 2011 issued to the Petitioner to vacate the room No. 75 in his possession at Jubilee Hall Hostel (JHH), University of Delhi. The petition came up before this Court first on 25th January, 2011 when this Court had suggested amicable settlement. The counsel for the Respondent University had taken time to obtain instructions. The Petitioner was also directed to appear in person.

2. The Petitioner is stated to be present in the Court. However, the counsel for the Respondent University states that he has instructions that owing to the past conduct of the Petitioner, no amicable settlement is possible and he has instructions to oppose the petition. The Respondent University is stated to have also furnished an advance copy of its counter affidavit to the counsel for the Petitioner. The counter affidavit is handed over in the Court and is taken on record.

3. The counsel for the Petitioner states that the Petitioner is leaving for out of station and would be returning only on 7th March, 2011. He states that time of about one week thereafter be granted for preparing and filing the rejoinder. However, he insists that in the meanwhile the dispossession of the Petitioner

from the Hostel room be stayed.

4. The counsel for the Respondent University opposes stay of dispossession with such a long adjournment.

5. In the circumstances, it has been made clear to the counsel for the Petitioner that either the long adjournment sought shall be granted without any interim order or he should argue the matter.

6. The counsels have been heard.

7. The case in the writ petition is, that the Petitioner was a student of B.A. (Hon.) Mathematics in Zakir Hussain College affiliated to the Respondent University in the years 2000 to 2003; that he did his M.A. in Mathematics, again from Zakir Hussain College between the years 2003-2005; that from September, 2005 to June, 2007 he taught initially as Guest Lecturer and subsequently as ad-hoc Lecturer in Zakir Hussain College; that in February, 2008 he was enrolled for Ph.D. programme in the Department of Mathematics, University of Delhi and was admitted to the JHH in May, 2008; that he was elected as the President of the Jubilee Hall Student Union for the term 2008-2009 and during which time he brought to the fore the financial irregularities committed by the Provost and other officers of the said Hostel; that the present Provost of the Hostel (impleaded as Respondent No. 4) and the then Proctor understood the same as personal vendetta by the Petitioner against them and became inimical towards the Petitioner; that the Petitioner even after ceasing to be the President of the Student Union continued to highlight the illegalities committed by the Provost (Respondent No. 4); that the Respondent No. 4 ultimately got registered on 27th February, 2010 from one Tilak Raj claiming to be the Section Officer of JHH a false FIR against the Petitioner; that owing thereto the Petitioner was also denied the UGC Fellowship for which he was being then considered; that on 26th December, 2010 the Respondent No. 4 entered into a physical and verbal altercation with the Petitioner and report whereof was lodged by the Petitioner with the Proctor of the University; that on 7th January, 2011 the Petitioner made complaints against the Respondent No. 4 to the Chairman of the Managing Committee of the Hostel; that a notice dated 7th January, 2011 was served on the Petitioner to appear before the Enquiry Committee but without informing as to why the Committee had been constituted; that on 17th January, 2011 he was served with another notice requiring him to appear in the meeting of Enquiry Committee scheduled for 19th January, 2011; that he so appeared and answered the questions and supplied all the documents and co-operated with the Enquiry Committee; that on 20th January, 2011 he made another representation to the Proctor of the University against the Provost; that on 21st January, 2011, he was served with the notice (supra) of expulsion from the Respondent University, asking him to vacate the room within 48 hours.

8. Averring the said notice to be illegal and without holding any enquiry and without giving any opportunity to the Petitioner of being heard, this writ petition

has been filed for quashing of the said notice and for direction to hold an independent enquiry.

9. The Petitioner is now 29 years of age. He has admittedly lectured in a College affiliated to the University for three years. Being of the view that scarce Hostel accommodation is meant for freshers from out of town and new in the city and not for such grown up men, suggestion was made to the Petitioner to vacate the Hostel. However as aforesaid, no amicable settlement has been possible. The counsels were as such at the outset asked as to what are the Rules of eligibility for occupation of such Hostels. The counsel for the Petitioner has handed over a photocopy of Handbook of Information and Rules for the year 2007-2008. The same in "Rules of Eligibility" inter alia provides that the applicant should not have completed five years of stay in Delhi University Hostel System. It was enquired from the counsel for the Petitioner as to where the Petitioner was residing during his graduation and post graduation in Zakir Hussain College and thereafter. The counsel initially answered that the Petitioner was residing in the Hostel of the said College. It was put to the counsel for the Petitioner that the Petitioner had thus exhausted five years of stay in the Delhi University Hostel System and how he was eligible for admission to the JHH. The counsel then under instructions from the Petitioner states that the Petitioner did not stay in the Zakir Hussain College Hostel for all the five years of his graduation and post graduation but for some time only.

10. It is also the case of the University in the counter affidavit and borne out from the documents annexed thereto and handed over during the course of hearing and taken on record that the Petitioner even during his lectureship was residing in another Hostel of the University viz. Mansarovar Hostel, from 1st February, 2004 to 31st July, 2006 i.e. also during the time when he was working as a full time ad-hoc Lecturer in Zakir Hussain College with full pay and allowances including HRA of `6480/- per month; it is pleaded that the Petitioner while staying in Mansarovar Hostel of the University illegally withdrew HRA of `32,400/- and had thereby abused the Hostel facility meant for post graduate students.

11. It was enquired from the counsel for the Petitioner as to how the Petitioner continued in the Hostel while teaching. The counsel states that the Petitioner had then registered himself for post graduation in Library Sciences.

12. I am afraid the aforesaid does show that the Petitioner has been misusing the Hostel facility being the cheapest accommodation available in the city, by enrolling in some course or the other. Such grown up working men ought to fend for themselves and cannot claim Hostel facility.

13. From the documents, I also find that as far back as on 26th November, 2008 a show cause notice was given by the then Provost of JHH to the Petitioner on the ground of the Petitioner having suppressed / concealed his residence in Mansarovar Hostel. The counsel for the Respondent University has during the

course of hearing handed over a photocopy of the prescribed application form filled up by the Petitioner for admission to JHH and which contains a column requiring the applicant to disclose as to whether he has been a resident of Delhi University or any other University Institution Hostel and to furnish "No Dues Certificate" from such Hostel. The Petitioner, in the said form did not disclose his residence in the Hostel of Zakir Hussain College or in Mansarovar Hostel. The Petitioner submitted a reply dated 28th November, 2008 to the show cause notice (supra) in which he admitted residence in Mansarovar Hostel but claimed that he had resided there as a bona fide resident from 1st February, 2004 to 31st July, 2005 and had thereafter resided in Hostel as a Guest Resident and in the Provost Quota till 31st July, 2006. As to concealment, he stated that since he had applied for admission into JHH in a haste, due to paucity of time he failed to notify his stay in Mansarovar Hostel.

14. The Respondent University has also handed over a photocopy of letters dated 26th November, 2008 and 27th November, 2008 of the Warden of the Mansarovar Hostel to the effect that the Petitioner was a big trouble maker in Mansarovar Hostel also.

15. It is further the case of the Respondent University that, memo dated 2nd February, 2009 for breaking open the lock of the Computer Room in the Hostel, memo dated 15th April, 2010 for disrupting the Governing Body Meeting, memo dated 1st / 2nd December, 2010 for assaulting canteen employees and vandalizing the canteen, memo dated 17th December, 2010 for using abusive language in front of the Warden and Resident Tutor, memo dated 27th December, 2010 again of using abusive language, were issued to the Petitioner. It is the case of the Respondent University that in the circumstances, disciplinary enquiry proceedings were initiated against the Petitioner by the Managing Committee of JHH by the Proctor and an Enquiry Committee consisting of Professor Vinay Gupta (Chairman), Dr. S.K. Khurana, Dy. Proctor and Dr. Om Pal Singh, Dy. Proctor was constituted with the following charges:

1) Concealment of fact about his previous stay in Mansarovar Hostel in the admission application form of Jubilee Hall and non-submission of character certificate from previous Hostel.

2) Broken the lock of Computer Room on 2nd February, 2009 about 10:30 A.M. without permission of Hall administration.

3) Assaulted Mr. Tilak Raj employee of Jubilee Hall on 25th February, 2010. FIR has already been registered with Maurice Nagar Police Station and currently Mr. Venu Gopal (Room No. 75) is on bail. Case is pending in the Hon'ble Court Memorandum.

4) Pressurized the admission committee for session 2009-2010 regarding the admission of Mr. Vijay Gobind Singh.

5) Created obstacle / disturbance in the MC Meeting on 31st March, 2010.

6) Passing vulgar comments and creation of hostile situation during the admission committee meeting held on 29th November, 2010.

7) Involvement in ransacking and breaking the tables and chairs in the canteen on 29th November, 2010 around 10:30 P.M. (complaint by canteen contractor of JH).

8) Interruption in the office work on 16th December, 2010.

9) Assaulting and misbehaving the Provost on 25th December, 2010 at about 3:00 A.M. in the night."

16. It is further the case of the Respondent University that on 19th January, 2011 the aforesaid Enquiry Committee summoned besides the Petitioner, the provost along with the resident tutor of the Respondent University and the PHD supervisor of the Petitioner. In this regard, it may also be stated that it is a term of admission in JHH that a student of Ph.D. course is required to submit a certificate from the Head of the Department and the Professor concerned every six months that he is actively engaged in research work and that his work is satisfactory. It is the case of the University that no such certificate has been furnished by the Petitioner since his admission and the residence of the Petitioner in the Hostel is liable to be terminated on this ground alone. The Ph.D. supervisor of the Petitioner did not appear owing to ill health but the statement of the Provost of the Petitioner was recorded. The Enquiry Committee submitted an Interim Report to the Proctor of the University recommending immediate expulsion of the Petitioner in order to maintain law and order and smooth functioning of JHH. The Petitioner in his statement before the Enquiry Committee also accepted concealment of fact regarding his previous stay in Mansarovar Hostel and apologized for the same. The Enquiry Committee found the Petitioner involved in misconduct and to be a habitual trouble maker inspite of warnings; it was also felt that since a criminal case was pending against the Petitioner and the Petitioner was on bail, his continuance in the Hostel was not conducive for the environment of the Hostel. Accordingly, notice dated 21st January, 2011 impugned in this petition was issued to the Petitioner.

17. The counsel for the Respondent University relies on Damoh Panna Sagar Rural Regional Bank and Another Vs. Munna Lal Jain, to contend that this Court in writ jurisdiction is only concerned with the decision making process and not the decision of the authorities such as the Respondent University. Reliance is also placed on the judgment dated 11th January, 2011 of this Bench in W.P.(C) No. 590/2010 titled Sh. Chitrasen Gautam v. Jawaharlal Nehru University to buttress the argument that the Petitioner has concealed the factum of notices / memos having been issued to him and the reply submitted and hearing given to him and the petition is liable to be dismissed on this ground alone. Reliance is also placed on the judgment dated 7th October, 2010 of the Division Bench of this Court in L.P.A. No. 535/2008 titled University of Delhi v. Harpal Singh Sangwan where the act of the student of entering the room of the Head of the Department without

permission and when the Head of the Department was presiding over a meeting of a Committee was held to constitute misconduct sufficient for debarring the student for five years. It is argued that the conduct of the Petitioner here is much more grave.

Reliance is also placed on the Handbook of Information and Rules of JHH for the year 2010-2011 under Clause 11.4 whereof all the union activities are under the control of the Provost through the Resident Tutor.

18. Per contra, the counsel for the Petitioner has invited attention to the complaints which the Petitioner in the past has been lodging against the authorities of the Hostel to contend that the entire action against the Petitioner is mala fide and motivated. The counsel has repeatedly urged that the Petitioner is not in need of the Hostel but cannot allow the charges against him to stand. However when asked to vacate the Hostel, the Petitioner states that he will vacate the same only on the condition of the charges being dropped against him. The counsel for the Respondent University is not agreeable to the same. He has rather shown from the documents annexed to the counter affidavit that the expulsion of the Petitioner has been approved by the Dean of the Respondent University also. It is thus contended that the allegations of mala fide are without any basis, a higher authority having considered the matter.

19. As far as the contention of the counsel for the Petitioner of the charges against the Petitioner is concerned, it may be noted that the enquiry is still underway. No final finding on the charges has been returned till now. The Enquiry Committee has only submitted an Interim Report. Thus the said argument of the counsel for the Petitioner is without any basis. The only question with which this Court is concerned at the present moment is whether there is any scope of interference in the order of expulsion of the Petitioner on the basis of interim report of the Enquiry Committee.

20. Though the Petitioner in the writ petition has referred to the hearing granted to him but an attempt was made to portray as if the same had nothing to do with the notice dated 21st January, 2011 of expulsion. It is the express case of the Petitioner that the same was issued without show cause notice and hearing. The said case set up by the Petitioner is undoubtedly falsified. The Petitioner is found to have been issued show cause notice at least qua one of the charges as far back as in November, 2008 and qua other charges vide memos issued from time to time. Though no rejoinder has been filed but from the documents handed over the service of the said memos is sufficiently borne out since the Petitioner has filed replies thereto also. Thus the Petitioner to that extent is definitely guilty of concealment. The Petitioner concealed from this Court show cause notices and the memos issued to him in the context of and preceding the notice of expulsion. The Petitioner has approached this Court in a writ jurisdiction and having found to have not made a clean breast of affairs, is liable to be non suited forthwith.

21. I am otherwise gravely perturbed by the Petitioner having gained admission

to JHH by concealment. The Petitioner is an old hand in the University having not only studied in it but also having taught in college affiliated to the University. It is quite obvious that the intent of the Petitioner was to continue availing of the cheap accommodation by hook or by crook. When the admission form expressly provides for information to be furnished of occupation of other Hostels of the University, the question of the Petitioner not providing the said information owing to haste does not arise. The Petitioner was aware that if details were furnished, the same would make him ineligible for admission. The counsel for the Petitioner upon being confronted with the same has repeatedly argued that under the rules the Petitioner once admitted is entitled to continue in JHH for 61/2 years, while he has stayed for only about 21/2 years. While that is so, but the Petitioner, if prior to admission in JHH had availed of Hostel facility for five years, he was not eligible for admission. Similarly, the counsel has argued that there are Hostels for Lecturers and Ph.D. students also. However, the Petitioner did not take admission in the Hostel in the capacity as a Lecturer. On the contrary the Petitioner is found to have, while drawing HRA from one arm of the University availed Hostel facility provided by another arm. The Petitioner cannot be permitted to continue so befooling the authorities. I find the Petitioner disentitled from any relief on this ground also.

22. The University and specially those in whom the maintenance of discipline in the Hostels is entrusted are required to deal with the matter of discipline with a stern hand. Their decision should not be lightly interfered with by this Court. It is they who have to maintain discipline and the Court by granting stay of their orders in a routine manner cannot undermine their authority and which may result in encouraging other mischief makers amongst students. Though the Petitioner has averred mala fides owing to complaints having lodged by him against the Respondent No. 4 but I find that the Enquiry Committee was constituted of other independent persons. The counsel for the Petitioner of course argues that they are subordinate or colleagues of the Respondent No. 4. However, no merit is found in the said argument. The decision of the Enquiry Committee and of the Proctor has been approved by the Dean also. Reference may be made to the recent dicta of the Division Bench of this Court in *Pranshu S Raghuvansh Vs. Indraprastha Institute of Information Technology*, .

23. Moreover, as aforesaid, the Petitioner is a grown up man and his counsel in any case has argued that he is not in need of Hostel. He is using the Hostel only to bargain for dropping of charges against him. The Petitioner is of age and capable of fending for himself and does not require the protective umbrella of the Hostel. No prejudice will be suffered by him if vacates the Hostel.

24. No merit is found in the petition, the same is dismissed. The matter having been considered though finally but at the preliminary stage, I refrain from imposing any costs.