

Controller of Examinations and Others

Vs

G. S. Sunder and Another

Civil Appeal No. 2593 of 1992 (Arising out of SLP (C) No. 1833 of 1992)

(S. Mohan, A. M. Ahmadi JJ)

17.07.1992

ORDER

1. Leave granted.

2. The first respondent was a student of B. E. Degree pursuing his study in the Engineering College, respondent 2.

3. On December 14, 1989 the Principal of the second respondent-College brought to the notice of the Madurai Kamaraj University (the Controller of Examinations) certain malpractices committed by students in the Examinations. These malpractices affected innocent and intelligent students. Inter alia the Principal subsequently referred to the case of the first respondent who interchanged his roll number 533276 with that of the another student (K. R. Gandhi) whose roll number was 533275. It was stated that during the academic years 1986-87 to 1989-90 in regard to semester examinations III and IV, V and VI, the first respondent and the said Gandhi used to be seated one behind other in the examination hall. In view of good academic record of said Gandhi who used to answer better than the first respondent, he was systematically interchanging his roll number with that of Gandhi on the answer books in some of the subject in all the four semester examinations. This results in first respondent passing all the examinations concerned with goods marks in those subjects whenever the roll number was interchanged, while at the same time Gandhi failed in those subjects concerned. However, Gandhi took supplementary examinations and secured goods marks in all those subjects in which he had failed in the main examination. Gandhi applied for revaluation of the examination papers concerned held in April 1989. It was when discovered that the roll number of the answer books was tampered with by correction of the last digit "5" into "6". On further examination of first respondent's answer books it was found that in his answer books the last which should be have been "6" had been corrected to that of digit "5". Thereupon, the matter was referred to the Syndicate Sub-Committee on Discipline of the University. The first respondent was called upon to appear before the said Sub-Committee. The matter was enquired into. Though initially the first respondent denied the knowledge of correction, at the second sitting the enquiry he gave a statement admitting the commission of malpractice. Without straight away proceeding to take action, the Principal was directed to be present before the Sub-Committee and he was also inquired.

4. On completion of enquiry the Chairman of Syndicate Sub-Committee submitted the report and recommended the following punishment :

" (a) Respondent 1 be debarred from appearing for any University examination for 3 years from the date of issue of the order and he may be permitted to appear only for the April 1994 examination;

(b) he has to appear and the pass in all the subjects pertaining to Semester III to Semester VIII following the prevailing University regulations; and

(c) he should pass all examinations to receive the Degree on or before April 1997."

5. These recommendations were approved by the University. The first respondent was served with a copy of the order dated April 4, 1991 incorporating the above punishment. That was challenged in writ petition before the learned Single Judge in the High Court of Madras. The learned Single Judge was of the view that the admission of malpractice stated to have been made by the first respondent was unbelievable. The charge itself was vague. The decision arrived at by the University authority could not stand the scrutiny of law; there was also violation of the principles of natural justice. In any event, the malpractice could not have been committed without connivance of the Examiners or Invigilators. The University was directed to take action against such persons. Accordingly, the writ petition was allowed.

6. Aggrieved by this judgment, the matter was taken up in Writ Appeal No. 1341 of 1991 to a Division Bench. The findings of the learned Single Judge were confirmed. However, it was held that the direction to take action against the authorities of University could be construed as persuasive and not mandatory. In the result, the appeal was dismissed.

7. It is under these circumstances, the special leave petition has been preferred. The learned Attorney General would submit that this was a case of the first respondent systematically indulging in malpractice in all the semesters. Therefore, it cannot be a coincidence that there has been an alteration of the roll numbers. It is a clear case of fraud interchanging the roll numbers in the answer books. As a result, the other student Gandhi failed. It is also not correct to hold that there has been a violation of the principles of natural justice. The approach of the High Court is erroneous and calls for interference.

8. Though Mr Krishnamani, learned counsel appearing for the first respondent initially wanted to argue the case on merits, later on he submitted that his client was ready and willing to take the examinations concerned in the ensuing semester, afresh. Hence, the period of debarment may be reduced. The future of the student may be safeguarded. Pending these legal proceedings, he had taken subsequent semester examinations, the results of which have been withheld. They may be declared on the basis of the respective performance.

9. The learned Attorney General is agreeable to the courses proposed by the first respondent in relation to the reduction of the period of debarment. However, he would say that the other conditions imposed in the impugned memorandum dated April 4, 1991 must remain.

10. We have given our careful consideration to the above submissions. One thing must be put beyond doubt, in matters of enforcement of discipline this Court must be very slow in interference. After all, the authorities in charge of education whose duty it is to conduct examinations fairly and properly, know best how to deal with situations of this character. One cannot import fine principles of law and weigh the same in golden scales. In the present system of education, the system of examinations is the best suited to assess the progress of the student so long as they are fairly conducted. Interference by court in every case may lead to unhappy results making the system of examination a farce. For instance, we cannot but strongly condemn copying in the examination which has grown into canker of mass copying. Such unhealthy practices which are like poisonous weeds in the field of education must be rooted out in order that the innocent and the intelligent

students are not affected. We feel that :

"The hour has come when we must clear The educational fields from poison and from fear; We must remould our standards - build them higher, And clear the air as though by cleansing fire, Weed out the damning traitors to education, Restore her to her ancient place of awe."

11. When the matter is approached from the above point of view, we find, as rightly submitted by the learned Attorney General, it is a systematic case of fraud committed by the first respondent. It cannot be a sheer coincidence that in all the semesters, namely, Semesters III to VI the first respondent secured good marks and the other student K. R. Gandhi failed. There is nothing unbelievable in the first respondent admitting his mistake and giving a statement to this effect. We also find that there is no question of violation of principles of natural justice. The first respondent knew the charges fully and he had admitted his guilt. That is why we are constrained to point out the technicalities of law should not be imported to further the cause of a student who had indulged in malpractice. Even if others are in complicity with the perpetration of fraud, that does not mean the first respondent is absolved of his guilt. Thus, we are unable to agree with the findings of the High Court which are hereby set aside.

12. We may also add that when the University wants to take action, certainly the blame cannot be laid at the doors of the University, directing action be taken against its officials. Though the observation of the learned Single Judge was diluted by the Division Bench, we consider such observations are not warranted in the circumstances of this case.

13. In view of the offer made by the learned counsel for the first respondent which has come to be accepted by the learned Attorney-General we uphold the impugned memorandum dated April 4, 1991, subject to the following modifications :

1. The period of debarment is reduced and the first respondent will be permitted to appear in the ensuing semester to be held in April 1993.
2. He shall appear and pass in all the subjects pertaining to Semesters III to VIII following the prevailing University regulations.
3. He should pass all examinations to receive the Degree on or before April 1997.
4. The Degree certificate shall not contain any endorsement as to debarment.

14. The appeal is disposed of accordingly with no order as to costs.

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