

RAJASTHAN HIGH COURT

Rajendra Chopra

Vs.

University of Rajasthan

C. W. P. No. 1239 of 2001
(Coram : 1 Shiv Kumar Sharma, J.)

23.01.2002

JUDGEMENT

Coram : 1 Shiv Kumar Sharma, J.

1. A university campus is the one place where virtues of discipline and non-violence should be written as with a sunbeam on every student's mind but now a days many indisciplined students are seen wandering in the campus who are well qualified to adopt the words of Konard Lorenz, the Nobel prize winning naturalist, I believe I have found the missing link between animals and civilized man - it is we". The facts of the instant writ petition disclose an act of high degree indiscipline of a student leader who allegedly gave a slap on the face of the Principal of his College.

2. As per facts averred in the writ petition, the petitioner while studying as a regular student in Second Year, Faculty of Arts, in *Rajasthan College Jaipur* was elected as President of the Union in the year 2000-2001. As a student leader he protested various actions of the college authorities, and because of this they were annoyed with him. The Principal of Rajasthan College lodged an FIR against the petitioner with the *Police Station Gandhi Nagar Jaipur* bearing No. 84 of 2001 for the offences under Sections 341, 504, 332 and 323 IPC, and refused to permit the petitioner to appear in the examination.

3. The petitioner filed writ petition on March 23, 2001 with the prayer that the respondents be directed to permit the petitioner to appear in the examination which was to be commenced from March 22, 2001. Learned counsel appearing for the petitioner canvassed that the petitioner was not allowed to appear in the examination on March 22, 2001 and the examination of next paper was to be held on March 28, 2001. On March 27, 2001 this Court passed an interim order directing the respondents

to provisionally allow the petitioner to appear in the remaining papers of B.A. Part II.

4. The respondents submitted reply to the writ petition with the averments that the petitioner has concealed the following relevant facts -

(i) On March 16, 2001 the respondent No. 3 Dr. R. D. Gurjar, Principal, University Rajasthan College Jaipur was called by the Vice-Chancellor to discuss the matter of shortage of attendance as per requirement of University Rules and orders of High Court. When Dr. Gurjar was sitting and having discussions in the chamber of the Vice-Chancellor at V. C. Secretariat, University Campus Jaipur, the petitioner came there and abused Dr. Gurjar in filthy language with dire consequences including physical liquidation. He also caught hold of Dr. Gurjar and gave slap on his face, Dr. Gurjar made a report in writing to the Vice-Chancellor with a copy to Chief Protector, University of Rajasthan, Jaipur to lodge an FIR with the Police and to take disciplinary action as per University Ordinance.

(ii) Looking to the gravity of the misbehaviour and misconduct, the petitioner was placed under suspension with immediate effect by the Chief Protector on March 16, 2001. Copy of the suspension order was displayed on the notice board of the University of Rajasthan and the same was also sent by registered post to the petitioner.

(iii) Vide notice dated December 12, 2000 Shri Ram Narain Chopra father of the petitioner was apprised of the fact that the attendance of the petitioner was zero till the date of the issuance of the letter. The position in regard to petitioner and other students was also displayed on the notice Board on December 30, 2000 and March 2, 2001.

5. The respondents further stated in the reply that the petitioner was not allowed to participate in the examination in view of Ordinance 88 of the University of Rajasthan Ordinance. According to the respondents the facts stated in the writ petition are totally false and incorrect and the petitioner is not entitled to invoke the extra ordinary jurisdiction of the High Court under Article 226 of the Constitution.

6. I have heard the submissions of the learned counsel appearing for the parties and carefully scanned and material on record.

7. Before proceeding further it is necessary to consider the provisions contained in Ordinance 88 that relates to indiscipline of the students. The following provisions have been laid down for dealing with cases of indiscipline by Ordinance 88 -

1. When a student has been accused guilty of serious criminal charges, grave miss-conduct, persistent negligence of work or misbehavior, the Principal of the affiliated college/Director, of University School or College or Institution/Head of University Teaching Department/Dean, University Studies in Arts/Fine Arts/Social Sciences/ Science/ Commerce/Law where he is studying/ Chief Protector will suspend a student forthwith from attending the classes. During the period of suspension the student will not be allowed to participate in any activity of the College/ University including appearing in the examinations. When the student has been suspended pending enquiry, the Warden or Chief Warden of University Hostel(s)/ Principal may suspend or remove such student from the hostel.

2. Soon after suspension, the case will be referred to the Standing Discipline Committee of the College/ University. The Chairman of the Standing Committee shall be a senior member of the teaching staff with 5 or 6 other members of staff nominated by the Principal/Vice Chancellor. The members should preferably represent all major faculties and should be such as have positive influence on the students.

The Standing Discipline Committee will meet and after due consideration recommend suitable punishment which may include fine or expulsion for a fixed period/permanent expulsion or both. The punishment will be implemented by the authority which had suspended the student.

3. If a criminal case has been registered in a Court of Law by the Police (State) the student shall be suspended immediately pending enquiry.

4. No student who has been so suspended or expelled shall be admitted to any other college/ teaching unit of the University without the permission of authority which suspended/ expelled him and no student who has been so suspended/expelled shall be admitted to any other college/teaching unit of the University within the period of his suspension/expulsion.

5. On appeal from the student the Director, College Education in the case of affiliated colleges and the Vice Chancellor in the case of the University teaching units, may review the case and after due consideration may decide to concur or enhance or reduce the punishment."

8. It is evident from sub-Clause (1) of Ordinance 88 that during the period of suspension the student will not be allowed to participate in any activity of the

College/University including appearing in the examination. Undeniably the FIR was lodged against the petitioner and he was placed under suspension therefore in view of sub-Clause (1) of Ordinance 88 the petitioner was not entitled to appear in the examination and interlocutory remedy was not available to him.

9. Their Lordships of the Supreme Court deprecated the practice of the Courts in allowing students by interim orders and when ultimately regularizing the same by taking a sympathetic view of the matter. It was propounded by their Lordships in *Guru Nanak Dev University v. Parminder Kumar Bansal*,¹ thus at page 2417 of AIR -

(Para 7)

"We are afraid that this kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does no service to any one. From the series of orders that keep coming before us in academic matters, we find that loose, ill conceived sympathy masquerades as interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline, or whatever is left of it leading to serious impasse in academic life."

10. A close look at the facts of the writ petition demonstrates that the petitioner painted such a picture before the Court that by way of sympathy he was provisionally permitted to appear in the examination. But from the reply of the respondents it appears that FIR was lodged against the petitioner because he gave slap on the face of Principal. The petitioner was placed under suspension as per Ordinance 88 and the college authorities did not allow him to appear in the examination. It also appears that till December 29 - 2000 the petitioner did not attend even a single class and his attendance was zero till that date. The petitioner willfully suppressed these material facts from this Court and thus is not entitled to any relief.

11. I find no force in the writ petition. It accordingly stands dismissed without any order as to costs. However the respondents are directed to immediately refer the matter in view of sub-Clause (2) of Ordinance 88 of the petitioner to Standing Disciplinary Committee which is expected to take decision as expeditiously as possible.

Petition dismissed.

Cases Referred.

1. (1993) 4 SCC 401: (AIR 1993 SC 2412)