

available on the record of the case including the papers produced in the writ petition, he is unable to prove that the respective tenant-petitioners were in self-cultivating possession of any particular area (out of the area which was with petitioner No. 9 Society) on April 15, 1953. Keeping in view the fact that this was one of the points on which the petitioners had ample opportunity to adduce evidence after the order of remand passed by the Financial Commissioner, and the fact that the petitioners have failed to prove their allegation in this behalf in spite of the said opportunity, I am unable to interfere in this case on that ground, and to allow the prayer of the learned counsel for the petitioners to afford them another opportunity of proving the relevant facts in this behalf.

(11) No other point having been argued in this case, all these thirteen writ petitions fail, and are accordingly dismissed. In the circumstances of the case, however, there is no order as to costs.

(12) The thirteen Civil Miscellaneous applications (C.Ms. Nos. 1944 to 1956 of 1968) for staying dispossession of the petitioners pending disposal of the writ petitions have become infructuous on account of the disposal of the writ petitions, and are accordingly dismissed as such without any order as to costs.

R. N. M.

CIVIL MISCELLANEOUS

Before Prem Chand Jain, J.

KIRAN KUMAR PURI,—*Petitioner.*

versus

PANJAB UNIVERSITY AND ANOTHER,—*Respondents.*

Civil Writ No. 173 of 1969

April 7, 1969.

Panjab University Calender, 1967, Vol. I, Part III—Regulation 20—Action under—Whether can be taken against a person who is not an examinee on the day of the incident but is candidate in the examination.

Held, that Regulation 20 of Panjab University Calender, 1967, Vol. I, Part III, provides that a candidate who refuses to obey the Superintendent of the examination or any other member of the Supervisory staff or changes his seat with another candidate or deliberately writes another candidate's Roll Number on his answer-book, or creates disturbances of any kind during

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the examination, or otherwise misbehaves in or around the examination hall, shall be liable to expulsion by the Superintendent. The question of obeying the Superintendent or any member of the Supervisory staff or changing of seat with another candidate, or writing of another candidate's Roll Number or creating disturbance of any kind during the examination, or misbehaviour in or around the examination hall, when read with the words "shall be liable to expulsion by the Superintendent" leads only to one conclusion that the person concerned has to be an examinee on that particular day and not a candidate for the examination. The power of expulsion can be exercised by the Superintendent only in respect of a candidate who is present in the examination hall as an examinee. The words "or otherwise misbehaves in or around the examination hall" cannot be read in isolation but have to be read along with the rest of the regulation and when read as a whole, the only irresistible conclusion that can be drawn is that Regulation 20 applies only to a person who is a candidate appearing in a particular paper and not a candidate for the examination. (Para 6)

Petition under Articles 226 and 227 of the Constitution of India praying that a writ in the nature of Certiorari, Mandamus, Quo Warranto or any Writ, Direction or Order be issued quashing the order of the Standing Committee dated 30th October, 1968 disqualifying the petitioner for a period of two years, and also praying that the University be directed to declare the result of the petitioner forthwith.

SHIL KUMAR SANWALKA, ADVOCATE, for the Petitioner.

NARINDER SINGH AND R. S. MONGIA, ADVOCATES, for the Respondents.

JUDGMENT

JAIN, J.—Kiran Kumar Puri has filed this petition under Articles 226 and 227 of the Constitution of India praying for the issuance of a writ of *certiorari* quashing the order of the Standing Committee disqualifying the petitioner for a period of two years, i.e., 1968 and 1969 (four sessions) under Regulation 20 of the Punjab University Calender, 1967, Volume I, page 111, dated 30th October, 1968 (Annexure 'C').

(2) It is alleged that the petitioner was a candidate of B.A. Part I Examination held in April, 1968 at Randhir College, Kapurthala, and his Roll Number was 4026. He appeared in the examination of Mathematics Paper 'B' on 9th May, 1968, and his next examination for Chemistry 'B' was to take place on 18th May, 1968.

(3) It is further averred that on 15th May, 1968, some students assembled outside the examination hall at 11.30 a.m. and raised

slogans and threw stones at the examination hall. The police intervened and removed those students. On 16th May, 1968, a report of the incident was sent by Shri S. D. Chakravarty, Superintendent of the examination centre, to the University, giving details of the incident and naming the petitioner alone as one of the persons who were involved in the demonstration. The petitioner was summoned by the University to answer a questionnaire in which he took the plea that he had nothing to do with the alleged demonstration and was away to Chandigarh. In support of his version two witnesses, Sarvshri, J. R. Verma and Deep Khullar, were examined in defence and a certificate of illness from Dr. Narinjan Singh, M.B.,B.S., Ex-Assistant Director of Health Services, Punjab (now practising as Private Medical Practitioner in Sector 8, Chandigarh) was also produced. After the close of the petitioner's evidence, the Standing Committee recorded the statement of the Superintendent and thereafter the petitioner was disqualified for a period of two years under Regulation 20 of the Panjab University Calendar, 1967, Volume I. It is this order of the Standing Committee, Annexure 'C' which has been challenged by way of this petition as illegal, void and contrary to the principles of natural justice.

(4) In the return filed by Shri Sujan Singh, Registrar, Panjab University, Chandigarh, material allegations made in the petition have been controverted. Shri Sahdev Chakravarti, who was the Superintendent at the examination centre, has also filed an affidavit controverting the allegations made in the petition.

(5) It was contended by Mr. Sanwalka, learned counsel appearing on behalf of the petitioner, that Regulation 20 of the Panjab University Calendar, 1967 (Volume I) did not apply to the facts of the present case and disqualification of the petitioner under this regulation was illegal. On the other hand, Mr. Narinder Singh learned counsel appearing on behalf of the University, submitted that Regulation 20 was fully applicable and the petitioner was rightly disqualified under this Regulation.

(6) After giving my thoughtful consideration to the respective contentions of the learned counsel for the parties, I am of the view that the contention of the learned counsel for the petitioner is well-founded. Regulation 20 is in the following terms:—

"20. A candidate who refuses to obey the Superintendent of the examination or any other member of the Supervisory

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staff or changes his seat with another candidate or deliberately writes another candidate's Roll Number on his answer-book or creates disturbances of any kind during the examination, or otherwise misbehaves in or around the examination hall, shall be liable to expulsion by the Superintendent, and shall be awarded any of the following punishments according to the seriousness of the offence:—

- (i) Cancellation of the answer-book of the paper concerned;
- (ii) disqualification from appearing in any University Examination which may extend to three years."

It was not contested that the petitioner had no paper on the day when the disturbance took place. The question that falls for determination on the contention of the learned counsel for the petitioner, is whether Regulation 20 applies to a person who is a candidate in the examination or only to a candidate who has got a paper on a particular day. Under this regulation it is provided that a candidate who refuses to obey the Superintendent of the examination or any other member of the Supervisory staff or changes his seat with another candidate or deliberately writes another candidate's Roll Number on his answer-book, or creates disturbances of any kind during the examination, or otherwise misbehaves in or around the examination hall, shall be liable to expulsion by the Superintendent. The question of obeying the Superintendent or any member of the Supervisory staff or changing of seat with another candidate, or writing of another candidate's Roll Number or creating disturbance of any kind during the examination, or misbehaviour in or around the examination hall, when read with the words "shall be liable to expulsion by the Superintendent" leads only to one conclusion and that is that the person concerned has to be an examinee on that particular day and not a candidate for the examination. In addition to the expulsion by the Superintendent, two other penalties depending upon the seriousness of the offence are provided, that is that his answer-book of that particular paper be cancelled or he may be disqualified from appearing in any University examination extending to three years. The power of expulsion can be exercised by the Superintendent only in respect of a candidate who is present in the examination hall as an examinee. So also the question of cancellation of a particular paper can arise in respect of a candidate who is appearing in a particular paper. A further power is given to the University to disqualify a person from

appearing in any University examination extending to three years if it arrives at a decision that the misbehaviour of the candidate was of a grave and serious nature. Great stress was laid by the learned counsel for the respondent on the words 'or otherwise misbehaves in or around the examination hall' and it was contended that from these words the only inference that could be drawn was that Regulation 20 applied to a person who was a candidate for the examination and its application was not restricted only to a person who was an examinee on a particular day. I am afraid no such inference can be drawn as these words cannot be read in isolation but have to be read along with the rest of the regulation and when read as a whole, the only irresistible conclusion that can be drawn is that Regulation 20 applies only to a person who is a candidate appearing in a particular paper and not a candidate for the examination.

(7) Reference may also be made to some other regulations under the head of 'Use of unfair means' under which this Regulation 20 comes, which further support the view I am taking. Regulation 10 describes the duties of the Superintendent or the Deputy Superintendent which they have to perform before the start of the examination. Under Regulation 11, it is provided that cases of use of unfair means in the examination, when suspected or discovered, have to be reported immediately to the Registrar. It is further provided under this regulation as to what procedure is to be followed after the detection of the use of unfair means by a candidate. Regulations 12, 13 and 14 also prescribe different procedure in different situation of use of unfair means. Not a single regulation or other relevant provision was pointed out by the learned counsel for the respondent in support of his contention. In this view of the matter I hold that Regulation 20 has no application to the facts of the present case and disqualification of the petitioner under this regulation is illegal, unjustified and not sustainable.

(8) In the view I have taken on the first contention of the learned counsel for the petitioner, I do not propose to deal with the remaining contentions of the learned counsel.

(9) For the reasons recorded above, I allow this petition and quash the impugned order of the Standing Committee disqualifying the petitioner for a period of two years under Regulation 20 of the Panjab University Calender, 1967 (Volume I), page III, dated 30th October, 1968 (Annexure 'C'). In the circumstances of the case there will be no order as to costs.

R.N.M.