

Before M. M. Punchhi and Amarjeet Chaudhary, JJ.

JASBIR SINGH AND OTHERS,—Petitioners.

versus

PANJAB UNIVERSITY AND ANOTHER,—Respondents.

Civil Writ Petition No. 5943 of 1988

July 21, 1988.

Panjab University Regulations—Regl. 29—Mass copying reports at 3 centres—Examination Reforms Committee recommending re-examination—Regulation empowering Syndicate to take such decision—Effect of recommendation of Reforms Committee—Decision by Syndicate—Opportunity of hearing—Grant of such opportunity.

Held, that the decision to order re-examination and other ancillary decisions, punitive and reformatory in character, have to be taken by the Syndicate. Recommendations for the purpose, however weighty by any other body cannot be a substitute to the decision on satisfaction of the Syndicate. It is crystal clear that the Syndicate has not made a decision and without that decision no action could be taken by the university.

(Para 5)

Writ Petition under Articles 226/227 of the Constitution of India praying that this Hon'ble Court may be pleased to order that:

- (i) *Issue a writ in the nature of certiorari or any other writ, order or direction, quashing the impugned orders Annexures P.1 and P.2;*
- (ii) *any other relief to which the petitioners are found entitled to in the facts and circumstances of the case may kindly be awarded to the petitioners;*
- (iii) *Filing of the certified copies of Annexures P.1 and P.2 may kindly be dispensed with;*
- (iv) *Issuance of prior notices to the respondents may be dispensed with, and*
- (v) *The writ petition may kindly be allowed with costs.*

It is further prayed that re-examination of the petitioners scheduled to be held on 26th July 1988, and operation of impugned orders, (P.1 and P.2) may kindly be stayed during the pendency of the writ petition.

K. S. Ahluwalia, Advocate, Ashok Bhan, Senior Advocate, with **A. K. Mittal**, Advocate, **G. K. Chatrath**, Advocate, for the *Petitioners*.

J. L. Gupta, Senior Advocate, with **T. S. Bagga**, Advocate, for the *Respondents*.

JUDGMENT

M. M. Punchhi, J. (Oral)

(1) We have before us three writ petitions Nos. 5838, 5943 and 6020 of 1988. There are 192, 18 and 55 petitioners respectively in these cases. In the first two petitions notice of motion has been issued to the respondent-University and the co-respondent and in response thereto Mr. J. L. Gupta, Senior Advocate, is here to defend the petitions. In the third one we issue notice of motion now and on the statement of Mr. J. L. Gupta treat it as completed.

(2) Broadly stated, the petitioners are examinees of Graduate classes of various semesters for the examination held in April 1988. The petitioners and other students appeared at Centres at Guru Nanak College, Ferozepur Cantt., R.S.D. College, Ferozepur City, D. M. College, Moga and J. C. D.A.V. College, Dasuya, as allotted to them. There were reports of mass copying in these Centres and the Examination Reforms Committee went into the matter. It made a recommendation on July 8, 1988 mentioned hereafter:—

“(i) that the re-examination of the candidates of the following Centres in the subjects/papers where there is an evidence of mass-copying on the basis of the reports of special examiners appointed by the University to screen their answer-books should be conducted by the University at the earliest:

1. Guru Nanak College, Ferozepur Cantt. (Centre No. 2)
2. R.S.D. College, Ferozepur City (Centres Nos. 3 and 4)
3. D. M. College, Moga (Centres No. 2 and 3)
4. J.C. D.A.V. College, Dasuya (Centre No. 1).

(ii) that the re-examination should be conducted preferably at Chandigarh.

(iii) that the spot-evaluation of the answer-books of the re-examination should be got done by the University at the earliest, their results processed and declared in the shortest possible time.

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(iv) that the candidates who are required to take this examination, be considered for provisional admission to the higher class as under:—

- (a) where the candidates have to join the next higher class within the college itself, they should be admitted provisionally by the college, subject to their passing in the re-examination and fulfilment of other eligibility conditions, if any;
- (b) the candidates who are desirous of seeking admission to B.Ed./M.A. Courses, they should be considered for admission on the basis of their B.A./B.Sc./B.Com. Part II examination result provisionally subject to the result of the re-examination. In case any of the candidates has comparable qualifications on the basis of the result of re-examination with the last candidate admitted on the basis of merit, extra seats may be sanctioned by the University to the College/Department to accommodate such candidates.

This would help the candidates in saving their one precious year of their academic career.

- (v) that in case of centres where there has been no report about mass copying and the result of certain candidates have been declared as R.L. (UMC), their cases be processed on priority basis.
- (vi) that the members of the supervisory staff appointed at the above Centres against whom there have been specific reports of conniving at with the candidates in rendering undue help to them be proceeded against as per University Rules/Regulations.

(3) The Committee further recommended that the action on these recommendations may be taken in anticipation of the approval of the Syndicate to avoid delay in conducting the re-examination.

The Committee also authorised the Vice-Chancellor to take any other measures considered necessary to implement the decision of the Committee in consultation with the Chairman of the Examinations Reforms Committee.

The Committee also desired that the decision of re-examination as also with regard to their admission to the next higher classes be also notified to the candidates through the press." (These have been taken from the copies of the minutes supplied by Mr. J. L. Gupta, Senior Advocate).

(4) The frontal attack to the measure proposed by the Examination Reforms Committee is that its proposal has been taken as a decision of the Syndicate when it is the Syndicate alone who could take a decision and that too after giving the petitioners an opportunity of being heard. Factually, it is not denied that the Syndicate till today has not taken the decision. Legally it is not disputed that under Regulation 29 it is the Syndicate who is to record satisfaction and decision after enquiry. It would be useful to reproduce here Regulation 29:—

"29. If the Syndicate is satisfied after enquiry that the integrity of a University examination has been violated at an examination centre as a consequence of wholesale unfair assistance rendered to the examinees, the Syndicate may order re-examination, besides taking action under Regulations relating to unfair means and may also abolish the examination centre for future or for a specified period."

(5) The decision to order re-examination and other ancillary decisions, punitive and reformatory in character, have to be taken by the Syndicate. Recommendations for the purpose, however weighty, by any other body cannot be a substitute to the decision on satisfaction of the Syndicate. It is crystal clear that the Syndicate has not made a decision and without that decision no action could be taken by the University.

(6) Mr. J. L. Gupta has also placed before us the views of the Vice-Chancellor of the University in writing. The Vice-Chancellor is in agreement with the solution suggested by the Examination Reforms Committee. He thinks that this solution is both fair and humane. We are not called upon to either question or endorse upon the views of the Vice-Chancellor. For our purpose it is enough that Regulation 29 has not been followed in letter and spirit.

(7) Reliance was placed by the learned counsel for the petitioners on a Single Bench decision of this Court in (*Rajesh Kumar and*

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others v. State Board of Technical Education and others (1), wherein an identical provision like Regulation 29 was interpreted to say that a hearing to the concerned students was necessary before a decision could be taken by the concerned authority. It is stated at the bar that the Letters Patent Appeal against the said decision was dismissed *in limine*. Mr. Gupta is not in a position to challenge that decision. He says that in these circumstances the syndicate would see that the petitioners get an opportunity of being heard. In the same breath he says that the examination which has been notified to be held on July 26, 1988 be allowed to go on so far as the candidates other than the petitioners are concerned, for they seem to be willing to undertake the examination. We fail to say how such a supposition can be made. It is not only the aggrieved who come to this Court for redress. Many an aggrieved submit to their fate and stay out. We have to give even handed justice, in a situation like this, to all concerned, and repetitively we say that since there is no decision of the Syndicate, there is nothing to go forward to hold the examinations. In view of the emergence of these facts there remains nothing for the petitioners to reply.

(8) Before parting with this order we like to make it clear that when the action of the respondents has been rendered otiose it logically follows that the results of the petitioners and other involved candidates have to be declared. The concern expressed by the Vice Chancellor is to the effect that no innocent person should suffer. It is a matter of balancing the two extremes. The extreme which would govern the instant case, in view of the shortage of the time involved, is that let ten guilty escape rather than one innocent suffer. This case may be a warning to safeguard the future but in our view such a purge to clear the present examinees would be necessary in the circumstances, to cleanse the system of the toxins which have entered. Even if some sub-standard student gets the benefit of this order we eventually hope that he would be caught in the net in the next examination.

(9) With these observations we allow this petition.

S.C.K.

(1) C.W.P. 8924 of 1987 decided on February 8, 1988.