

CIVIL MISCELLANEOUS

Before Tek Chand, J.

JASWANT SINGH VIRK,—*Petitioner.*

versus

REGISTRAR, PUNJAB UNIVERSITY AND ANOTHER,—*Respondents.*

Civil Writ No. 1481 of 1967

August 29, 1967.

Panjab University Act (VII of 1941)—Ss. 5 and 31(2)(m)—Panjab University Calendar, Volume I, Chapter IX, part (e)—Power to expel a student from the University—Whether vests in the Board of Control—Disciplinary action against students—Whether to be interfered by Courts.

Held, that it is provided in the Panjab University Calendar, Chapter II, dealing with the regulations under sections 5 and 31(2)(m) of the Panjab University Act that the Dean of the University Instruction shall have power to expel a student from the University, if he is satisfied that the offence was of a serious nature. It is also provided that the Board of Control shall also have the power to exclude students from the course and to exercise disciplinary control over the students. There is no merit in the argument that the jurisdiction vested in the Dean of University Instruction only and none in the Board. The power to exclude students from the course also vests in the Board.

Held, that the right of a person to attend a college or a University is subject to the condition that he complies with the scholastic and disciplinary requirements. The courts will not interfere in the absence of an abuse of such discretion or violation of the legal provisions. Such institutions have discretionary power to regulate the discipline of the students in accordance with the rules and regulations made by them but subject to restrictions imposed by law. The power of suspension and expulsion of students or the right to refuse to permit further attendance is an attribute of Government educational institutions. There is implied, in this relationship, a condition that the student will obey and conform to the cardinal rules of Government and will not be guilty of such misconduct, as might be subversive of the discipline of the institution or such as would show him to be unfit morally to be continued as a member thereof.

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Petition under Articles 226/227 of the Constitution of India, praying that a writ of certiorari, mandamus or any other writ, order or direction be issued setting aside the impugned decision dated 29th June, 1967.

J. S. MAVI ADVOCATE, for the Petitioner.

H. R. SODHI AND N. K. SODHI, ADVOCATES, for the Respondents.

ORDER

TEK CHAND, J.—This is a petition under Articles 226/227 of the Constitution of India praying for issuance of a writ of *certiorari* or *mandamus* or any other writ as may be deemed fit quashing the order, dated 29th of June, 1967 (Annexure A). The petitioner had joined Geography Department of the Panjab University in the year 1966 in the M.A. Class which was two years' course, from 1966-68. He appeared in the examination in Geography held for M.A., Part I and was declared successful. As he was alleged to have been involved in "gross violation of hostel rules and serious indiscipline in Panjab University Hostel No. 5 (for boys) on the night of 17th May, 1967", he was informed that the Board of Control in Geography at its meeting held on 29th of June, 1967, had decided to exclude him from the M.A. Geography course for the academic year, 1967-68. In his petition, Jaswant Singh Virk, petitioner, stated, that there was a complaint against him, that a woman and a male guest had stayed in his room No. 2/25 in the University Hostel No. 5 without his having taken prior permission of the Hostel Warden. He was liable to expulsion from the hostel "if the default is repeated frequently" and also liable to be "fined heavily". He stated that the Warden of the Hostel had not punished him, as the failure to obtain his permission was only formal. His complaint is that the Board of Control in Geography at its meeting held on 29th June, 1967, decided to exclude him from the M.A. Geography course for the academic year 1967-68 for violation of above rule, and, therefore, he was restrained from attending regular classes in M.A., Part II Geography. The petitioner has assailed the decision of the Board of Control in Geography by this petition as according to his contention, it was without jurisdiction and against the principles of natural justice and equity.

His main contention is that the Board of Control had no jurisdiction under any regulation to exclude any student on any extraneous reasons not pertaining to the affairs of the department. It

was next contended by him, that he was never found guilty of "gross violation of hostel rules and serious indiscipline". In the alternative, he maintained, that even if he was so found, the Vice-Chancellor had the power under Chapter IX, Part (e) of Volume I of the Panjab University Calendar to debar him from appearing in the next University examination on the recommendation of the warden concerned and this power could not be exercised by any authority other than the Vice-Chancellor. He next contended that under sections 5 and 31(2)(m) of the Panjab University Act, 1947, and the regulations framed thereunder, the students of a particular department were placed under the control and discipline of the University Department concerned but only so far as their conduct in the department was concerned. There, the Dean of University Instruction had the power to expel a student from the University if he was satisfied that the offence was of "a serious nature". If he was guilty of a lesser offence, then alone, the Board of Control could exclude him from the course. Thus, it was contended that the powers of the Board of Control were impliedly barred in case of "serious misconduct by a student inside and outside the department of the University concerned". It was also urged that there was no evidence whatsoever before the Board of Control to come to the conclusion that the petitioner ever committed "gross violation of hostel rules and serious indiscipline in the University Hostel No. 5". It was further submitted, that the Board of Control had gravely erred and violated the principles of natural justice in not affording any opportunity to the petitioner, which they were bound to give, to meet the charge of indiscipline.

A para by para reply in the form of an affidavit was filed by respondent No. 2, Dr. Gurdev Singh, Professor and Head of the Department of Geography and Chairman of Board of Control in Geography. Two preliminary objections were raised :

Firstly that the petitioner had no legal right to claim admission to any particular course in the University or to continue in such a course, particularly, when he had disentitled himself for admission on account of serious misconduct. The question of admission to any course of study was internal matter of the University and not justiciable;

Secondly, the petitioner had deliberately suppressed material writ merited dismissal.
facts within his knowledge and on that ground alone, the

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On the facts, it was stated that the Board of Control in Geography at its meeting held on 29th June, 1967, had decided to exclude the petitioner along with two others, Surendra Nath Vasudeva and a girl student in M.A. Part II Geography course on account of their gross misconduct, indiscipline and violation of hostel rules. Information to this effect had been communicated by registered letter addressed to the petitioner, and also to the other two on 5th of July, 1967. Regarding the actual facts leading to the decision, it was stated that the petitioner had deliberately suppressed the true facts. A girl student living in the University Hostel No. 2 in the University Campus, and another student Surendra Nath Vasudeva, who resided in the University Hostel No. 3 in the same Campus had gone to Hostel No. 5 at late hours on the night between 17th and 18th of May, 1967 with the intention of spending a night together in a room in the hostel to which they had the key. The petitioner on coming to know of their intention went to them and persuaded them to use his room instead, as they thereby might avoid trouble. They agreed. He left them in his room bolting it from outside. Sometime later he returned and compelled Vasudeva to leave his room, and after that, the petitioner molested the girl. It was alleged that an enquiry was held at which the statements were recorded and it was found that the petitioner had misconducted himself. The girl was not a *bona fide* guest and she and Vasudeva had come for an immoral purpose. The statements of the persons concerned were recorded and the petitioner as also Vasudeva and the girl having been found guilty of misconduct, were ordered to be excluded from M.A. Part II course for the year 1967-68. The petitioner was aware of the enquiry and he had furnished his explanation in writing. In fact, there were two explanations by him, one addressed to the Warden, Hostel No. 5, undated, but which was forwarded to the Dean of Students Welfare on 26th May, 1967. In this explanation, he said that Vasudeva and the girl had appealed to him for help, and he escorted them to his own room, where they slept for the night and he had gone to sleep in another room. Early in the morning, he went to his room and at Vasudeva's request, he was asked to see the girl safely to her hostel. In his second statement, dated 9th of June, 1967, addressed to the Chief Warden of the Hostel, which is similar, he admitted : "I have grossly violated the hostel rule". In palliation, he said, that the circumstances were such and they were in such a condition that he had to give protection to them. Both these statements have been seen by the counsel for the petitioner who concedes that they were made by his client, the petitioner. But his contention

is that the explanation was not addressed to the Chairman, Board of Control. The fact, however, is that respondent No. 2 was the Chairman of the Board of Control, Professor and Head of the Department of Geography and also the Chief Warden on the date of the incident. It is stated in his affidavit that enquiry was made, statements of persons concerned in the incident were recorded and it was decided by the Board of Control to exclude the girl as also the other student Surendra Nath Vasudeva and the petitioner from the M.A. Geography course for the academic year, 1967-68 on account of their involvement in gross violation of hostel rules. There is, therefore, force in the contention of the respondent that the petitioner had deliberately suppressed material facts which were within his knowledge. It is also clear that an opportunity was granted to him which he had availed and had made two statements referred to above.

My attention has been drawn to the Panjab University Calendar, Chapter II, dealing within the regulations under sections 5 and 31(2) (m) of the Act. It is provided that the Dean of University Instruction shall have power to expel a student from the University, if he is satisfied that the offence was of a serious nature. It is also provided that the Board of Control shall also have power to exclude students from the course and to exercise disciplinary control over the students. There is no merit in the argument that the jurisdiction vested in the Dean of University Instruction only and none in the Board. It may be mentioned that the Dean has the power to expel a student from the University. This is, however, not a case of expulsion. The power to exclude students from the course, vests in the Board, which has been exercised in this case, after affording an opportunity to the petitioner, to meet the charge, and to furnish his explanation. The petitioner's counsel drew my attention to Chapter IX(V) of the Calendar which deals with conduct and discipline of students. Rule 2 provides, that a student reported by the Principal of his college or by a Proctor appointed by the University to be guilty of serious indiscipline or serious violation of any of the proctorial rules, may be debarred by the Vice-Chancellor from appearing in the next University examination. From this, it does not follow that the Board of Control could not exercise the power to exclude students from the course. The power of the Vice-Chancellor is exercisable when a student is reported by the Principal of his college. The petitioner is not a student of any college affiliated to the University but attends M.A. Classes in Geography

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conducted by the Department of Geography. Under Chapter II(14), the Dean of University Instruction is empowered to make arrangement for the residence, and to supervise discipline of students, studying in the various University Teaching Departments at Chandigarh. From this provision, it cannot be concluded that in disciplinary matters, the sole authority is the Dean and not the Board of Control.

The petitioner's counsel has not been able to show any case against the University, that the petitioner had been denied something to which he was entitled as a matter of right, under the University Act or the statutes, ordinances, regulations or rules, etc., framed by the University Authorities or that penal action has been taken against him contrary to principles of natural justice. No statutory jurisdiction has been over-stepped. The learned counsel for the petitioner has drawn my attention to a Single Bench decision in *Romesh Chander v. the Vice-Chancellor of Panjab University* (1), which is distinguishable on the facts. The enquiry which has been made in this case was sufficient and within the jurisdiction of the Board of Control, and opportunity was given to the petitioner who had admitted the impropriety of his conduct and had said "I have grossly violated the hostel rule". The enquiry in the instant case is not vitiated by any circumstances mentioned in that decision. For similar reasons, the Full Bench decision of this court in *Ramesh Kapur v. The Panjab University and another* (2), is inapplicable. The decisions of this court relied upon for the petitioner in *Yash Pal v. Panjab University* (3), are distinguishable on facts and have no bearing to the circumstances of this case. The case reported in *Kewal Krishen Bansal v. The Panjab University* (4), is of no assistance being a case decided on different facts and circumstances. On the other side, it was held in *Ramesh Chandra Chaube v. Principal, Bipin Behari Intermediate College, Jhansi* (5), that High Court would not interfere in a case where the student was refused admission in college on ground of indiscipline. It was held by the Division Bench that there was no guarantee in the Constitution that if a student was studying in any institution, then he had a right to continue his

(1) 1964 Current Law Jour. (Pb.) 373.

(2) I.L.R. (1964) 2 Punj. 955=1964 Current Law Jour. (Pb.) 560.

(3) 1965 Current Law Jour. (Pb.) 191.

(4) 1967 Current Law Jour. (Pb.) 271.

(5) A.I.R. 1953 All. 90.

education in that particular institution even though he might not be acceptable to the authorities of that institution. The action of the Principal in that case was not hit by Article 29(2) of the Constitution and the High Court would not interfere under Article 226 with the action taken by the Head of an Educational Institution. My attention was also drawn to a Single Bench decision in *Mukand Madhav Singh v. Agra University and another* (6), where it was held that Universities were educational and autonomous bodies and the provisions had been made for their working, so that, there might be the least interference from outside; and the High Court would be reluctant to interfere with the administrative and disciplinary matters, unless it thought that there had been a blatant deviation from any provision of law. It was further observed that unless the order affected any fundamental right of a person, it was not necessary in every case, to give an opportunity to the person affected by the order of the authority to explain his conduct, particularly in cases where an order had been passed by an authority for the purpose of maintaining the discipline of an institution. Article 29(2) relied upon for the petitioner has no applicability whatsoever. It provides:

“No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.”

The petitioner who had been excluded from M.A. Geography course was found guilty of gross violation of hostel rules and cannot invoke, against a charge of contravention of discipline, the provisions of Article 29(2).

The right of a person to attend a college or a University is subject to the condition that he complies with the scholastic and disciplinary requirements. The courts will not interfere in the absence of an abuse of such discretion or violation of the legal provisions. Such institutions have discretionary power to regulate the discipline of the students in accordance with the rules and regulations made by them but subject to restrictions imposed by law. The power of suspension and expulsion of students or the

(6) A.I.R. 1961 All. 301.

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right to refuse to permit further attendance is an attribute of Government educational institutions. There is implied, in this relationship, a condition, that the student will obey and conform to the cardinal rules of Government and will not be guilty of such misconduct, as might be subversive of the discipline of the institution or such as would show him to be unfit morally to be continued as a member thereof.

In view of what has been stated, the petition is devoid of merit. It is, therefore, dismissed but there will be no order as to costs.

K. S. K.

