Subhadran Devi and others
v.
Sunder Dass and another

Dua, J.

they started the proceedings as far back as 1959 and till 1964 this cause has not been finally adjudicated. This length of delay in such cases is likely to give rise to a feeling of frustration in the minds of suitors in so far as the administration of justice in our country goes. It is, therefore, desirable to see that such claims are finally disposed of with greater promptitude.

The occupant is given three months for vacating the premises and he should not be evicted before the expiry of three months.

B.R.T.

FULL BENCH

Before S. S. Dulat, A. N. Grover, Harbans Singh, D. K. Mahajan and H. R. Khanna, JJ.

RAMESH KAPUR,—*Appellant*

versus

THE PUNJAB UNIVERSITY AND ANOTHER,—*Respondents.*

Letters Patent Appeal No. 7 of 1964

1964

August, 31st

Constitution of India (1950)—Article 226—Candidate apprised of allegations of using unfair means in the examination and his explanation called—Thereafter University authorities collecting material and evidence against the candidate at his back—Such material and evidence not supplied to candidate nor his explanation called—Action taken by University—Whether liable to be quashed—Rules of natural justice—Whether to be complied with.

Held, that it will depend on the facts and circumstances of each case whether the rule of natural justice has been

complied with by the University authorities by affording an adequate opportunity to a candidate to present his case against the charge or allegation made against him. It may be added that if the right of a candidate to be heard is to be a reality, he must know the case which he has to meet and if he asks the University authorities to supply him with necessary details of such material or evidence on which the case against him is based, any refusal to do so will be *prima facie* violative of the rule of natural justice.

Held, that an examinee must be adequately informed of the case he has to meet and given a full opportunity of meeting it. As to what the extent and content of that information should be or ought to be would depend on the facts of each case. It is always open to the examinee to ask for more information or details with regard to the material or evidence which may be sought to be used against him and normally if he makes a request in that behalf, the University authorities, in order to inform him adequately of the case he has to meet as also to afford him proper opportunity of presenting his case, would supply him the necessary particulars or details of the evidence. This situation may arise at any stage, i.e., at the time when information is given of the charge or the allegation or even at a later stage when the examinee has already furnished the explanation. If any material is collected by the University authorities after a hearing has already taken place, it may or may not be necessary for them to communicate or disclose that material or evidence to the examinee as this will depend on a number of factors, e.g., the nature of the material collected, the prejudicial matter it contains, the use which is sought to be made of it and the courses which the proceedings take in each case. In the very nature of things no hard and fast rule can be laid down and so long as the Court is satisfied that the opportunity which was afforded to the examinee at all times and all stages was adequate and sufficient, it will not interfere with any orders prejudicial to him which may have been made by the University authorities.

Case referred by the Hon'ble Mr. Justice S. S. Dulat and the Hon'ble Mr. Justice Harbans Singh to a larger Bench on 16th April, 1964, owing to the importance of the

question of law involved in the case. The Full Bench consisting of the Hon'ble Mr. Justice S. S. Dulat, Acting Chief Justice, the Hon'ble Mr. Justice A. N. Grover, the Hon'ble Mr. Justice Harbans Singh, the Hon'ble Mr. Justice Mahajan and the Hon'ble Mr. Justice H. R. Khanna, after deciding the question of law referred, returned the case to the Division Bench on 31st August, 1964, for decision, and the case was finally decided by the Hon'ble Mr. Justice S. S. Dulat, and the Hon'ble Mr. Justice Harbans Singh, on 18th September, 1964.

Letters Patent Appeal under Clause X of the Letters Patent of the Punjab High Court against the order of the Hon'ble Mr. Justice Inder Dev Dua, dated 24th October, 1963, passed in Civil Writ No. 1332 of 1963, "Ramesh Kapur v. The Punjab University and another."

R. SACHAR, GOKAL CHAND MITTAL, R. K. CHHIBAR AND MOHINDERJIT SETHI, ADVOCATES, for the Appellant.

F. C. MITTAL AND GANGA PARSHAD JAIN, WITH J. V. GUPTA, ADVOCATES, for the Respondents.

ORDER

Grover, J.

GROVER, J.—The Bench hearing the appeal under clause 10 of the Letters Patent against a judgment of a learned Single Judge dismissing a petition under Article 226 of the Constitution of Ramesh Kapur (hereinafter to be called the candidate) challenging the order of the Punjab University disqualifying him from appearing in the II Engineering Examination for two years, has referred the following question for being answered by a Full Bench:-

"Can the University authorities be said to have complied with the rules of natural

justice if, after giving a hearing to a candidate, they collect some other material and take the material so collected into consideration in coming to a decision prejudicial to the candidate without confronting the candidate with such material and giving him an opportunity to offer such further explanation as he may have to offer ?"

The candidate was answering the second paper of the second Engineering (Part I) Examination on 17th November, 1962, when Shri Dayal Singh Rattan, a Supervisor got a report about him written by another Supervisor in English who, also, signed it presumably in token of attestation. This report, which was made at 9.30 a.m., was in these terms:—

"A piece of paper on which notes were written from which he was seen to be copying. The paper was concealed on his table beneath the answer-book. I have seen the boy copying from the paper. That paper was found at 9.30 a.m."

After recording the candidate's statement in which all that he said was that the paper had not been used for copying, the Superintendent reported the matter to the University authorities but recommended that a lenient view be taken in view of the young age of the candidate. The candidate wrote to the Registrar on 24th November, 1962, giving his own version of the incident. According to him, he had a piece of paper with him in which impor-

Ramesh Kapur
v.
The Punjab University and another

Grover, J.

tant points had been noted down from Urrays' Book which he had borrowed from some other student as the same was not easily available. He reached the examination hall just in time and in a hurry he threw down that paper near the entrance of the hall. His seat happened to be in the proximity of the entrance. The Supervisor came to him with that paper at about 9.20 a.m. and enquired whether it was his, to which he replied in the affirmative. He was in due course called before the Assistant Registrar (Conduct) and required to answer a questionnaire in which various questions appeared which had been put in accordance with the allegation against him. He gave his explanation at length on 26th December, 1962. It appears from the original records produced by the University authorities that the Supervisor, Shri Dayal Singh Rattan, answered a questionnaire about various matters relating to the case of the candidate on 2nd February, 1963. Similarly, Shri K. M. Marya, the other Supervisor, who had signed the original report made by Shri Dayal Singh in token of attestation, was asked to answer a questionnaire which he did on the same date. In the same way Dr. P. S. Lele, the Superintendent of the Examination Centre, answered a questionnaire on 2nd February, 1963. In March, 1963, the candidate was informed by the Registrar that the unfair means case pending against him had been decided and he had been disqualified under regulation 11(c) of the University Regulations. This was done as a result of the decision of the Standing Committee constituted to deal with cases of use of unfair means. The candidate appealed to the Vice-Chancellor but the appeal failed. He then wrote to the Registrar requesting him to supply the attested copies of the reports made against him by the members of the Supervisory Staff and

the relevant record. This request was declined. It is not disputed that the candidate did not at any previous stage require the University authorities to supply him with any particulars or details of the evidence which had been taken or recorded by them in connection with the alleged use of unfair means by him in the examination hall on 17th November, 1962.

It is also clear, and it has not been denied by the respondents that the statements on the questionnaires submitted to Shri Dayal Singh, Supervisor, Shri K. M. Marya, another Supervisor and Dr. Lele, the Superintendent, were recorded in the absence of the candidate and apart from the opportunity, which was afforded to him on 26th December, 1962 to answer the questionnaire, he was neither informed of the existence or contents of those statements nor called upon to furnish further explanation in order to rebut any prejudicial matter contained therein.

In *the Board of High School and Intermediate Education, U. P.* v. *Ghanshyam Das Gupta* (1), the Supreme Court has laid down the law for cases of the present type where an action has been taken prejudicial to a student or a candidate by the examining body or University authorities for misconduct such as the use of unfair means at an examination. Their Lordships stated in unequivocal terms that even though the regulations did not contain anything casting a duty on the Examination Committee to act judicially, such a duty was cast on the Committee, particularly as it had to decide objectively certain facts which

(1) 1962 PLR. 575 (S.C.)

Ramesh Kapur
v.
The Punjab University and another

Grover, J.

might seriously affect the rights and careers of examinees. The following passage is material:

> "As to the manner in which it should give an opportunity to the examinee concerned to be heard, that is a matter which can be provided by Regulations or Bye-laws, if necessary. As was pointed out in *Local Government Board* v. *Arlidge* (2), all that is required is that the other party should have an opportunity of adequately presenting his case. But what the procedure should be in detail will depend on the nature of the tribunal. There is no doubt that many of the powers of the Committee under Chapter VI are of administrative nature; but where quasi-judicial duties are entrusted to an administrative body like this it becomes a quasi-judicial body for performing these duties and it can prescribe its own procedure so long as the principles of natural justice are followed and adequate opportunity of presenting his case is given to the examinee."

While reiterating the position stated in the above case, in *Board of High School and Intermediate Education, U.P.* v. *Baghleshwar Prasad* (3), their Lordships made certain observations which may be summarised thus:—

(1) Educational institutions like the Universities, etc., have to set up Enquiry

(2) (1915) A.C. 120.
(3) 1963 All. Law Journal 676.

Committee to deal with the problem posed by the adoption of unfair means by candidates and normally it is within the jurisdiction of such domestic Tribunals to decide all relevant questions in the light of the evidence adduced before them.

(2) Unless there is justification to do so Courts should be slow to interfere with the decisions of such domestic Tribunals.

(3) In petitions under Article 226 of the Constitution relating to these matters the High Court does not sit in appeal

(4) Enquiries held by domestic Tribunals must no doubt be fair and students against whom charges are framed must be given adequate opportunities to defend themselves and in holding such enquiries, the Tribunals must scrupulously follow the rules of natural justice.

(5) It would not be reasonable to import into those enquiries all considerations which govern criminal trials in ordinary Courts of law.

Mr. Rajinder Sachar, who appears for the candidate, has laid a great deal of stress on the omission in the present case on the part of the University authorities to record evidence on which

Ramesh Kapur
v.
The Punjab University and another

Grover, J.

action was taken against the candidate in his presence and the failure to inform him of that evidence to enable him to satisfy them that the evidence was either not prejudicial to him or it ought not to be relied upon. Mr. Sachar does not, as indeed he cannot, contend that any oral hearing should necessarily have been given by the Standing Committee of the University to the candidate. He further agrees that in the absence of any provision in the University Regulations relating to the procedure governing such enquiries, all that was required was that an adequate opportunity should have been afforded to the candidate of presenting his case but he says, quite vehemently, that there was a denial of such opportunity when statements or evidence which had been taken in his absence had been used for arriving at a decision prejudicial to him without his having been even told what that evidence was. Mr. Sachar maintains that the University authorities were bound to supply the candidate with copies or details of the entire material which had been collected against him to enable him to present his case whether the candidate had made any request or requisition to that effect or not. On behalf of the respondents the position taken up is that it was not at all necessary to supply copies or particulars of evidence or material on which the charge or the allegation against the candidate was based and that the requirement of law would be satisfied if he was told simpliciter what the charge or the allegation against him was. Although at one stage it was sought to be argued by counsel for the respondents that the candidate could not, as a matter of right, ask for the copies and details of evidence which in most cases would be of a confidential nature, it was ultimately conceded quite properly and fairly that if the candidate after he had been informed of the charge or the allegation

against him had made a requisition for the supply of any information relating to the material or evidence against him, the University authorities in all fairness to him would have supplied the requisite information. It has, however, been maintained on behalf of the respondents that no hard and fast rule can be laid down in such cases and merely because in a particular case an examinee is not apprised of the evidence which has been collected after he has already given his explanation in respect of the charge preferred against him, the order would not become vitiated so long as on the whole a fair and adequate opportunity has been afforded to him for presenting his case.

In support of his argument Mr. Sachar has relied on the observations of the Supreme Court not only in cases of the present type where the impugned order has been made by an educational body like the University but also in other cases in which the requirements of the rule of natural justice came up for consideration. In *Union of India* v. *T. R. Varma* (4), which was a case under Article 311 of the Constitution, their Lordships, while referring to their decision in *New Parkash Transport Co.* v. *New Suwarna Transport Co.* (5), said—

> "Stating it broadly and without intending it to be exhaustive, it may be observed that rules of natural justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of

(4) A.I.R. 1957 S.C. 882.

(5) 1957 S.C.R. 98.

Ramesh Kapur
v.
The Punjab
University
and another

Grover, J.

the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no materials should be relied on against him without his being given an opportunity of explaining them."

In *State of Mysore* v. *Shivabasappa Shivappa Makapur* (6), which again related to a service matter, it has been observed—

"For a correct appreciation of the position, it is necessary to repeat what has often been said that tribunals exercising quasi-judicial functions are not Courts and that, therefore, they are not bound to follow the procedure prescribed for trial of actions in Courts nor are they bound by strict rules of evidence. They can, unlike courts, obtain all information material for the points under enquiry from all sources, and through all channels, without being fettered by rules and procedure which govern proceedings in Court. The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to the party against whom it is to be used and give him a fair opportunity to explain it. What is a fair opportunity must depend on the facts and circumstances of each case but where such an opportunity ha dbeen given the proceedings are not open to attack on

(6) A.I.R. 1963 S.C. 375.

the ground that the enquiry was not conducted in accordance with the procedure followed in Courts.

Venkatarama Aiyer, J., who delivered the judgment of the Court referred to the observations of Lord Loreburn in *Board of Education* v. *Rice* (7), which were later on adopted by the House of Lords in *Local Government Board* v. *Arlidge* (2), and it is significant that in *the Board of High School and Intermediate Education, U.P.* v. *Ghanshyam Das Gupta* (1), the Supreme Court made a particular mention of the last case. There is no difficulty with regard to the principles settled by these decisions and the question will be of applying them to the facts of a particular case.

Mr. Sachar's submission is two-fold. He says, firstly, that no statements could be used which were recorded in the absence of the candidate. In the second place, even if they could be used, the University authorities were bound to properly disclose the entire evidence whether called upon to do so by the candidate or not, no matter whether that evidence contained anything prejudicial to his case or not or whether it was relevant or irrelevant. In this connection he has relied on *R.* v, *Westminster Assessment Committee, Ex Parte Grosvenor House (Park Lane) Ltd* (8), and *R.* v. *Architects' Registration Tribunal* (9). In the first case, Scott, L.J., said :

"On the other hand, if, after the hearing it obtains such a report, it does seem to me inconsistent with what I can only call a sense of natural fairness that, although it may be really relevant,

(7) (1911) A.C. 179
(8) (1940) 4 All. E.R. 132
(9) (1945) 2 All. E.R. 131.

Ramesh Kapur
v.
The Punjab
University
and another

Grover, J.

> either because it supports or because it controverts the ratepayer's objection, the assessment committee should not disclose it to the ratepayer's adviser and give him a chance of dealing with it."

In the second case, it was held by the King's Bench that it was not proper for a Tribunal deciding the case of registration of an architect while acting in a quasi-judicial capacity to consider and give weight to evidence contained in documents, the contents and source of which were not divulged to the applicant. It was not sufficient that the applicant was merely asked to explain certain information contained in such documents and since he was found not to have been given a real and effective opportunity of meeting relevant allegations made against him, the decision of the Tribunal was quashed.

Now, the cases in which the rule of natural justice about *audi alteram partem* has been applied are a legion and it is wholly unnecessary to delve into a large number of them. Lord Reid, in his speech, in the latest decision of the House of Lords in *Ridge* v. *Baldwin* (10), said—

> "The principle *audi alterm partem* goes back many centuries in our law..... In modern times opinions have sometimes been expressed to the effect that natural justice is so vague as to be practically meaningless. But I would regard these as tainted by the perennial fallacy that because something cannot be cut and dried or nicely weighed or measured, therefore, it does not exist."

(10) (1964) A.C. 40.

In *Ridge's case* it was held that where a statute gives to a police watch committee the power to dismiss any constable whom it thinks is unfit for the discharge of his duties, there is an implied term that he must be given an opportunity to be heard. According to Lord Evershed, it has been said many times that the exact requirements in any case of the so-called principles of natural justice cannot be precisely defined; that they depend in each case on the facts of that case.

It is, however, necessary to seek guidance from *Local Government Board* v. *Arlidge* (2), as with respect, the principles enunciated therein have become *locus classicus* regarding cases of the present type. Section 17 of the Housing, Town Planning, etc., Act, 1909, authorised and required a local authority to make a closing order in respect of any dwelling-house if it appeared to that authority to be unfit for human habitation. The owner had a right of appeal to the Local Government Board against the closing order. It was held by the House of Lords that an appellant to the Local Government was not entitled as of right, as a condition precedent to the dismissal of his appeal, either (a) to be heard orally before the deciding officer, or (b) to see the report made by the Board's inspector upon the public local enquiry. Viscount Haldane, L.C., enunciated the following principles for deciding such appeals by tribunals exercising quasi-judicial functions:—

(1) When the duty of deciding an appeal is imposed, those whose duty it is to decide it must act judicially. They must deal with the question referred to them without bias, and they must give to each of the parties the opportunity of adequately presenting the case made.

Ramesh Kapur
v.
The Punjab
University
and another

Grover, J.

(2) The procedure of every such Tribunal need not necessarily be the same as has been prescribed for a Court of law.

(3) What that procedure is to be in detail must depend on the nature of the Tribunal. In the absence of any declaration to the contrary, it must be taken to follow the procedure which is its own and is necessary if it is to be capable of doing its work efficiently.

The Lord Chancellor agreed with the view expressed by Lord Loreburn in *Board of Education* v. *Rice* (7), that in disposing of a question which was the subject of an appeal to it, the Board of Education was under a duty to act in good faith, and to listen fairly to both sides, inasmuch as that was a duty which lay on everyone who decided anything. Lord Loreburn went on to say that he did not think the Board was bound to treat such a question as though it were a trial. The Board had no power to administer an oath and need not examine witnesses. It could obtain information in any way it thought best, always giving a fair opportunity to those who were parties in the controversy to correct or contradict any relevant statement prejudicial to their view.

The decision in *Local Government Board* v. *Arlidge* (2), relating to the extent and the content of the opportunity which should be afforded for complying with the principles of natural justice and certain other cases were discussed by the Privy Council in *University of Ceylon* v. *Fernando* (11). In that case the Vice-Chancellor of the University of Ceylon appointed a Commission of Inquiry, consisting of himself and two

(11) (1960) 1 All. E.R. 631.

others, to assist him in inquiring into certain allegations which had been made by B, a woman student, and which, if they were true were explicable only on the footing that F, a student, who was taking a University Examination, had acquired knowledge of a German passage in one of the examination papers before taking the examination. F was informed by the Vice-Chancellor in the following words of the allegation against him and was asked to attend the Commission of Inquiry which had been appointed:—

> "An allegation has been made to me in writing that you had acquired knowledge of the content of one or more of the papers set at the Final Examination of Science, Section B, Zoology, before the date of the examination."

When F attended the hearing before the Commission, it was made clear to him, so it was found by the Court, what the charge was and he was given an opportunity to state his case. When other witnesses including B gave evidence before the Commission, F was not present. F did not ask for any opportunity to be given to him to question any of those witnesses. The Commission found the allegation against F to be true and reported accordingly. He was suspended indefinitely from all University Examinations. F brought an action against the University for a declaration that the decision was null and void as the enquiry had not been conducted in accordance with the principles of natural justice. He succeeded in the Supreme Court of Colombo. On appeal the main contention raised before the Privy Council resolved itself into the question whether the enquiry had been conducted by the Commission

Ramesh Kapur
v.
The Punjab
University
and another

Grover, J.

with due regard to the rights accorded by the principles of natural justice. After referring to other cases as also *Board of Education* v. *Rice* (7) *and Local Government Board* v. *Arlidge* (2), Lord Jenkins, who delivered the judgment of the Board repelled the contention that there had been violation of the requirements of natural justice since B and the other witnesses had not been questioned in the presence of the plaintiff who consequently was not able to question them on the statements they made. In the opinion of their Lordships it was open to the Vice-Chancellor when the alleged offence was brought to his notice to obtain information about it in any way he thought best and the plaintiff had to be adequately informed of the case he had to meet and given an opportunity of meeting it. After finding in favour of the defendant University on these points, their Lordships proceeded to say at page 641—

> "But it remains to consider whether, in the course they took, the interviews must be held to have fallen short of the requirements of natural justice on the ground that the plaintiff was given no opportunity of questioning Miss Balasingham. She was the one essential witness against the plaintiff and the charge in the end resolved itself into a matter of her word against his. In their Lordships' view, this might have been a more formidable objection if the plaintiff had asked to be allowed to question Miss Balasingham and his request had been refused. But he never made any such request, although he had ample time to consider his position in the period of ten days or so between the two interviews. There is no ground for

supposing that, if the plaintiff had made such a request, it would not have been granted. It, therefore, appears to their Lordships that the only complaint which could be made against the Commission on this score was that they failed to volunteer the suggestion that the plaintiff might wish to question Miss Balasingham or in other words to tender her unasked for cross-examination by the plaintiff. Their Lordships cannot regard this omission, or *a fortiori* the like omission with respect to other witnesses, as sufficient to invalidate the proceedings of the Commission as failing to comply with the requirements of natural justice in the circumstances of the present case."

The two essential requirements, according to this decision, are that a person should have been adequately informed of the case he has to meet and he should be afforded an equally adequate opportunity of stating or presenting his case. Since it was found that these conditions had been satisfied, although certain statements had been recorded in the absence of the plaintiff and he had had no opportunity of putting any question in cross-examination to the witnesses, it was held that the requirements of natural justice had been fulfilled. The reason was indicated by their Lordships towards the conclusion of their judgment in the following words:

"The plaintiff might have fared better if the charge against him had been tried in accordance with the more meticulous procedure of a court of law, which would have included as of course the tendering of Miss Balasingham for

Ramesh Kapur
v.
The Punjab
University
and another

Grover, J.

cross-examination. But that is not the question. The question is whether, on the facts and in the circumstances of this particular case, the mode of procedure adopted by the vice-chancellor, in *bona fide* exercise of the wide discretion as to procedure reposed in him under clause 8, sufficiently complied with the requirements of natural justice. In their Lordships' opinion, it has not been shown to have fallen short of those requirements.

This brings me to the decisions of this Court relating to orders made by the University authorities against examinees. Mr. Sachar has placed a good deal of reliance on my own judgment in *Sham Sunder* v. *The Punjab University* (12), in which I discussed the decision of the Privy Council at certain length as also the observations of the Supreme Court in *The Board of High School and Intermediate Education, U.P.* v. *Ghanshyam Dass Gupta* (1). Mr. Sachar relied on what I have stated there that the rule of natural justice requires that a person should be informed not only of the accusation against him but also of any evidence which may have been taken in respect of the alleged offence in his absence because otherwise he would have no means of knowing what had been deposed against him or of the existence of the pieces of evidence which needed explanation. According to Mr. Sachar, my view clearly was that even at the stage when information is given to the examinee of the charge or the accusation against him, he should be told about the evidence taken in respect of the alleged offence in his absence, and he has commended this as being the

(12) 1963 Current L.J. 537.

correct rule because he says that unless that is done, the examinee can have no possible source of knowing what has been deposed against him or what the material is on which he may ultimately be held to be guilty. My final decision in that case rested on the omission of the examinee to ask at the time when he answered the questionnaire that he should be told what the evidence was on which the action was being taken against him. After referring to the evidence on which the Disciplinary Sub-Committee took action, I had no doubt that the opportunity which was afforded to the petitioner was ample and sufficient. My ultimate decision followed the approach which had been made to cases of this kind by the Privy Council in *University of Ceylon* v. *Fernando* (11). Mr. Sachar is right, and there can be hardly any dispute on this matter, that a person should know the accusation or the charge as also the material on which it is founded but that does not mean that the University authorities are bound initially and at all subsequent stages to supply copies or particulars of any such statements which may have been recorded or to *suo motu* inform the examinee of all the material against him which they have in their possession whether the examinee feels the necessity of asking for them or not as it can well happen in a number of cases that he may be aware of the same.

The trend in this Court undoubtedly has been, as will be seen from the cases which will be presently referred, to follow sometimes somewhat strictly the rule that unless there is justification to do so, Courts should be slow to interfere with the decisions of domestic Tribunals appointed by educational bodies like Universities. This rule, which is obviously one of practice, has received the imprimatur of the Supreme Court in *Board of High*

Ramesh Kapur
v.
The Punjab University and another

Grover, J.

School and Intermediate Education, U.P. v. *Baghleshwar Prasad* (3). In *Surrinder Kumar Bansal* v. *The Punjab University* (13), the examinee had been caught almost red-handed with a hand written chit, which was found near his table, the chit containing certain formulae which were relevant to the subject in which he was appearing. The explanation of the examinee was recorded in his own handwriting when called upon to do so by the Superintendent. It was found that the handwriting on the chit had a striking resemblance with that of the writing of the examinee in the answer-book. The petition was dismissed.

In *Karamjit Kaur* v. *The Punjab University* (Civil Writ No. 1911 of 1963) decided by Mehar Singh and H. R. Khanna, JJ., on 20th November, 1963, the examinee was asked to appear before the Deputy Registrar, Examinations, in respect of the confidential enquiry into the alleged unfair means employed by her in the Matriculation Examination in March, 1963, at Jaitu. Other students were also called against whom there were similar allegations. The examinee, *Karamjit Kaur*, replied that without sufficient time in advance it was not possible for her to write the story of English Paper 'A'. Subsequently, the University disqualified her for the years 1963 and 1964. The Bench was of the view that in the absence of any procedure prescribed by the regulations, the procedure could be devised by the educational authorities but it had to be fair and must not be violative of the principles of natural justice. Further the candidate concerned must be informed of the charge and an adequate opportunity should be given to him to defend himself. In case such an apportunity has been given to the candidate and there is some material before the prescribed

(13) 1962 P.L.R. 944

authority about the use of unfair means and that authority accepts that material and is not actuated by any hostile animus, the Court would not interfere with the decision of the aforesaid authority even if it disagrees with the conclusion of the authority. The Bench found that the allegations against the examinee were put to her and she was given an opportunity to explain them and to say what she wanted to say in her defence. After that the University authorities consulted an expert and on his report, which went against the examinee, a decision was taken against her.

Mr. Sachar has contended that the above case is a good example of ignoring the principles which have been authoritatively laid down inasmuch as the examinee was never informed about the report of the expert which was obtained behind her back and against which she had no opportunity of making any submission or rendering any explanation. On behalf of the respondents, it has been suggested that the report of the expert had been obtained by way of abundant caution for the satisfaction of the Standing Committee that the charge against the examinee was well founded, and there was no question of any prejudice having been caused to her by the report not having been disclosed to her after she had already been questioned in respect of the accusation. In *Ravinder P. Kundra* v. *The Punjab University* (Civil Writ No. 1959 of 1963) decided by I. D. Dua and H. R. Khanna, JJ., on 19th March, 1964, which was disposed of along with other writ petitions by the Division Bench, the argument of Mr. Sachar, who appeared in those cases also, was examined about the violation of the rule of natural justice. Each case was decided on its own facts and actually the petition of Narinder Kumar was allowed as on the only occasion on

Ramesh Kapur
v.
The Punjab University and another

Grover, J.

which he had been asked to explain the allegation against him when he was given a questionnaire in the office of the Deputy Registrar the ground on which he was later on disqualified had not been put to him. In *Sher Singh* v. *The Punjab University* (Civil Writ No. 1856 of 1963), decided by Mehar Singh and P. D. Sharma, JJ., on 21st April, 1964, Sher Singh had asked for quashing of the decision of the Punjab University declaring him unsuccessful in the First Professional M.B.B.S. Examination held in September, 1962. The internal examiner was Dr. Ramji Das, Professor of Anatomy in the Government Medical College at Patiala. The other three examiners were from Amritsar, Jubbalpur and Benares. There was a discrepancy between the marks shown in the result sheet sent in a particular subject and the duplicate list which had been kept by Dr. Ramji Das as internal examiner. According to the result sheet sent, he had obtained 30 marks whereas in the duplicate list the marks were 38. The Syndicate, after the matter had been considered by the Registrar and the Vice-Chancellor, resolved that the duplicate award be not accepted. The result was declared on the original award list supplied to the University. The Bench held that the examinee in that case had not been afforded any hearing and, therefore, the requirements of the rule of natural justice had not been complied with. There is another decision by a learned Single Judge in *Manmohan* v. *The Registrar, Punjab University* (Civil Writ No. 1992 of 1962) decided on 20th March, 1963, which I do not propose to discuss as the matter is stated to be the subject-matter of a Letters Patent appeal.

Thus, most of the cases, which have come up before Single and Division Benches of this Court, have been decided on their own facts and in each

case the Court while mindful and fully aware of the rule laid down by their Lordships in the *Board of High School and Intermediate Education, U.P.* v. *Ghanshyam Das Gupta* (1), has satisfied itself that the rule of natural justice about giving adequate information of the accusation and adequate opportunity of presenting the case has been followed. The cases, which are binding or authoritative, enunciate the fundamental principle that no party ought to be condemned unheard; and if his right to be heard is to be a reality, he must know in good time the case which he has to meet. But on neither branch of this principle can any particular procedure (i) by which the party is informed of the case which he has to meet or (ii) by which his evidence and arguments are "heard", be regarded as fundamental. I have virtually borrowed the language from the statement at pages 79-80 in the report of the Committee on Ministers' Powers presented by the Lord High Chancellor to the British Parliament in the year 1932. In the absence of any regulations having been framed by the University prescribing the procedure to be followed in such cases, it can certainly prescribe and follow its own procedure so long as the fundamental rule mentioned before is complied with. It may be that it will obviate a good deal of difficulty both for examinees or other persons against whom charges of misconduct are preferred and the University authorities, if a proper procedure is prescribed by appropriate regulations but so long as that is not done, in each case it will have to be determined on its facts whether the basic requirements and principles of the rule of natural justice have been satisfied and followed.

I venture to sum up the position in cases of the adequately informed of the case he has to meet and present kind in this way. An examinee must be

Ramesh Kapur
v.
The Punjab
University
and another

Grover, J.

given a full opportunity of meeting it. As to what the extent and content of that information should be or ought to be would depend on the facts of each case. It is always open to the examinee to ask for more information or details with regard to the material or evidence which may be sought to be used against him and normally if he makes a request in that behalf, the University authorities, in order to inform him adequately of the case he has to meet as also to afford him proper opportunity of presenting his case, would supply him the necessary particulars or details of the evidence. This situation may arise at any stage, i.e., at the time when information is given of the charge or the allegation or even at a later stage when the examinee has already furnished the explanation. If any material is collected by the University authorities after a hearing has already taken place, it may or may not be necessary for them to communicate or disclose that material or evidence to the examinee as this will depend on a number of factors, e.g., the nature of the material collected, the prejudicial matter it contains, the use which is sought to be made of it and the course which the proceedings take in each case. In the very nature of things no hard and fast rule can be laid down and so long as the Court is satisfied that the opportunity which was afforded to the examinee at all times and all stages was adequate and sufficient, it will not interfere with any orders prejudicial to him which may have been made by the University authorities.

As the question which has been referred cannot be answered in a rigid and pedantic fashion and only the basic principles can be stated, I would be inclined to give the following answer:—

> "It will depend on the facts and circumstances of each case whether the rule of

natural justice has been complied with by the University authorities by affording an adequate opportunity to a candidate to present his case against the charge or allegation made against him. It may be added that if the right of a candidate to be heard is to be a reality, he must know the case which he has to meet and if he asks the University authorities to supply him with necessary details of such material or evidence on which the case against him is based, any refusal to do so will be *prima facie* violative of the rule of natural justice."

S. S. DULAT, J.—I agree. S. S. Dulat, J.

HARBANS SINGH, J.—I agree. Harbans Singh, J.

D. K. MAHAJAN, J.—I agree. D. K. Mahajan, J.

H. R. KHANNA, J.—I agree. H. R. Khanna, J.

B. R. T.