

Punjab University, Chandigarh vs Vijay Singh Lamba Etc. Etc on 15 April, 1976

Equivalent citations: 1976 AIR 1441, 1976 SCR 67, AIR 1976 SUPREME COURT 1441

Author: Y.V. Chandrachud

Bench: Y.V. Chandrachud, V.R. Krishnaiyer, N.L. Untwalia

PETITIONER:
PUNJAB UNIVERSITY, CHANDIGARH

Vs.

RESPONDENT:
VIJAY SINGH LAMBA ETC. ETC.

DATE OF JUDGMENT 15/04/1976

BENCH:
CHANDRACHUD, Y.V.
BENCH:
CHANDRACHUD, Y.V.
KRISHNAIYER, V.R.
UNTWALIA, N.L.

CITATION:
1976 AIR 1441 1976 SCR 67
1976 SCC (3) 344

ACT:

Quorum-Fixing a quorum of 2 members in a committee of 3, does not warrant all the three must be present for validity of any action of the committee -Punjab University Calendar, 1973, Vol. II-Regulations 31 and 32.1- Interpretation of.

HEADNOTE:

Regulations 31 and 32.1 of the Punjab University Calendar, 1973, Volume II are as under:

"31. The Syndicate shall appoint annually a standing committee to deal with cases of the alleged misconduct and use of unfair means in connection with examinations;

32.1. When the committee is unanimous, its

decision shall be final except as provided in S.32.2. If the Committee is not unanimous, the matter shall be referred to the Vice-Chancellor who shall either decide the matter himself or refer it to the Syndicate for decision".

By virtue of the powers vested in the syndicate, the Punjab University appointed a standing committee under Regulation 31 consisting of a retired high court judge, an Advocate who was formerly a minister of State of Punjab & the Registrar of the University. It also resolved, by its Resolution dated 17th August 1971, that two members shall form the quorum for the meetings of the standing committee appointed under Regulation 31. For adopting unfair practices in the examination, respondents were disqualified by the Committee, in all the sittings of which, only two out of the three members were present. The respondents contended by their writ petitions that the decisions of the Standing Committee were without jurisdiction in as much as all the three members of the Standing Committee had not taken part in the meetings in which the decisions to disqualify them were taken. By a majority of 2 to 1, the High Court set aside the decisions taking the view that despite the circumstance that two members of the committee formed the quorum, the impugned decisions were vitiated by the fact that only 2 and not all the 3 members of the committee participated in the proceedings.

Allowing the appeals by certificate, the Court,

^

HELD: (1) The Constitution of the Standing Committee is indisputably within the powers of the Syndicate under Regulation 31. The Syndicate which had the power to appoint the Standing Committee had the incidental power to fix the quorum for the meetings of the Standing Committee. 'Quorum' denotes the minimum number of members of any body of persons whose presence is necessary in order to enable that body to transact its business validly so that its acts may be lawful. It is wholly inappropriate to draw on the Constitution of judicial tribunals as a parallel. In the instant case, the syndicate by nominating 3 persons to be members of the Standing Committee, but by resolving that 2 of them would validly constitute the standing committee, did no more than provide that though the Standing Committee may be composed of 3 persons, any 2 of them could validly and effectively transact the business of and on behalf of the Committee. [70 E-F, 71-A-C]

(ii) By the quorum, a minimum number of members of the committee must be present in order that its proceedings may be lawful, but that does not mean that more than the minimum are denied an opportunity to participate in the deliberations and the decision of the committee. There is no

68

warrant for the hypothesis that had the third member attended the meetings he would have dissented from the

decision of the 2 other members so as to necessitate a reference to the Vice Chancellor under Regulation 32.1. [71 F-G 72-AB]

(iii) When Regulation 32.1 speaks of the committee being unanimous, it refers to the unanimity of the members who for the time being are sitting on the committee and who, by forming the quorum can validly and lawfully discharge the functions of the Committee. The fixation of quorum neither makes Regulation 32.1 a dead letter nor does it affect its application or utility. The fixation of quorum by the Syndicate violates neither the letter nor the spirit of that Regulation. [72 C-D, E, F]

(iv) Regulation 32.1 is aimed at conferring finality on decisions of the committee if they are unanimous and at leaving the validity and priority of a dissenting decision to the judgment of the Vice-Chancellor who can deal with the matter himself or refer it to the decision of the Syndicate. Regulation 32.1 does not even remotely attempt to fix the quorum. That is not its purpose, and it sounds strange that the Regulation, by a circuitous method, should fix the quorum at the full complement of members. Quorums are seldom so fixed and were it intended that the entire committee must decide every case, Regulation 31 could appropriately have said so. [72 G-H, 73 A]

It is quite true that judicial consistency is not the highest state of legal bliss. Law must grow, it cannot afford to be static and therefore, judges ought to employ an intelligent technique in the use of precedents. But the language of the Regulations called for no review of established precedents. Nor indeed is there any fear of unfairness if only 2 members decided the cases of students accused of adopting unfair practices in the examinations. In such cases, it is so much better that the law is certain. [73 C-D, E]

Bharat Indu v. The Punjab University & Anr. ILR [1967] 2 Punjab & Haryana 198; Miss Manjinder Kaur v. The Punjab University (Civil Writ No. 3516/72 dt. 30-3-1973 decided by the Punjab High Court (approved)).

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 1121- 1125 of 1975.

From the Judgment and Order dated the 31st March 1975 of the Punjab and Haryana High Court in Civil Writ Petition Nos. 5948, 6115, 6736, 6779 and 6780 of 1974.

Hardev Singh and R. S. Sodhi for the Appellant. S. K. Bagga and (Mrs.) S. Bagga for Sole Respondent in CA 1121 R-1 in CAs. 1122-1125/75.

The Judgment of the Court was delivered by CHANDRACHUD, J.-These appeals arise out of a decision rendered by a Full Bench of the Punjab High Court in various writ petitions filed by the students of the Punjab University, who were disqualified for adopting unfair practices in the examinations. Most of them had copied from a common source. By a majority of 2 to 1, the High Court by its Judgment dated March 31, 1975 set aside the decisions of a Committee appointed to inquire into the charges against the erring students. The judgment of the majority rests solely on the view that despite the circumstance that two members of the Committee formed the quorum the impugned decisions were vitiated by the fact that only 2 and not all the 3 members of the Committee participated in the proceedings. Aggrieved by the majority judgment of the High Court, the Punjab University, Chandigarh, has filed these appeals by a certificate granted by the High Court on the ground that the appeals involve a substantial question of law of general importance which requires to be determined by this Court.

The respondents to these appeals were detected in the use of unfair means by the supervisory staff at different examinations held by the Punjab University. The Deputy Registrar of the University issued notices to the respondents calling upon them to submit their replies to a questionnaire. Respondents denied having used unfair means in the examinations but their explanation having been found to be unsatisfactory, the charges were referred for inquiry and decision to the Standing Committee which was appointed to deal with cases of misconduct and use of unfair means at the University examinations.

The Standing Committee consisted of Shri G. L. Chopra, a retired Judge of the High Court, Shri Ajmer Singh, an advocate who was formerly a Minister of the Punjab Government, and Shri Jagjit Singh, the Registrar of the University. The Standing Committee was appointed by the Syndicate of the University under Regulation 31 of the Punjab University Calender, 1973, Volume II. In a meeting dated August 17, 1971 the Syndicate passed a Resolution that two members shall form the quorum for the meetings of the Standing Committee appointed under Regulation 31. In everyone of the meetings, only two out of the three members of the Standing Committee were present.

Respondents appeared before the Standing Committee which, on a consideration of their statements came to the unanimous conclusion that the respondents had adopted unfair means in the examinations. By the impugned decisions they were disqualified for varying terms. It is not alleged that the Standing Committee had committed breach of any of the procedural provisions or of the rules of natural justice. We may also mention in passing that none of the respondents took any objection during the inquiry that it was not competent to only two members of the Standing Committee to inquire into the charges. Before the High Court also, the sole ground on which the decisions of the Standing Committee were challenged was that the decisions were without jurisdiction inasmuch as all the three members of the Standing Committee had not taken part in the meetings in which the decision to disqualify the respondents was taken.

The Punjab University, Chandigarh, was set up under the East Punjab Ordinance 1947, which was later replaced by the Punjab University Act, 1947. By section 8 of the Act the supreme authority of the University vests in the Senate consisting of the Chancellor, the Vice-Chancellor, ex- officio Fellows and Ordinary Fellows. Section 1 1(2) of the Act provides inter alia that the Senate shall

exercise its powers in accordance with the statutes, rules and regulations for the time being in force. Section 20 of the Act provides that the Executive Government of the University shall vest in the Syndicate consisting of the Vice-Chancellor as Chairman, the Directors of Public Instruction Punjab, Haryana and Chandigarh, the Director of Education, Himachal Pradesh, and not less than 12 or more than 15 ex-officio or ordinary Fellows elected by various Faculties. Section 31(1) of the Act provides for the framing of Regulations and states that the Senate, with the sanction of the Government, may from time to time make regulations consistent with the Act for providing for all matters relating to the University. Section 31 (2) enumerates matters regarding which regulations can be made and they include the conduct of students, the procedure to be followed at meetings of the Senate, Syndicate and Faculties and the quorum of members to be required for the transaction of business. Acting under the power conferred by section 31, the Senate of the Punjab University framed regulations in consultation with the Government, which include regulations relating to the use of unfair means in examinations. These regulations are contained in Chapter II of the Punjab University Calendar, 1973, Volume II.

The decision of these appeals turns on the construction and meaning of regulations 31 and 32.1 of Chapter II which read thus:-

"31. The Syndicate shall appoint annually a Standing Committee to deal with cases of the alleged misconduct and use of unfair means in connection with examination;

32.1. When the Committee is unanimous, its decision shall be final except as provided in 32.2. If the Committee is not unanimous the matter shall be referred to the Vice-Chancellor who shall either decide the matter himself or refer it to the Syndicate for decision".

The constitution of the Standing Committee is indisputably within the powers of the Syndicate under Regulation 31. No exception can therefore be taken to the appointment of the Standing Committee by the Syndicate and indeed no objection was at any stage taken in that behalf. Equally clear seems to us the position that the Syndicate which had the power to appoint the Standing Committee had the incidental power to fix the quorum for the meetings of the Standing Committee. 'Quorum' denotes the minimum number of members of any body of persons whose presence is necessary in order to enable that body to transact its business validly so that its acts may be lawful. It is generally left to committees themselves to fix the quorum for their meetings and perhaps, if the Syndicate had not fixed the quorum it might have been competent to the Standing Committee itself to devise its day-to-day procedure including the fixation of quorum But that is going one step ahead, for here the quorum was fixed not by the Standing Committee but by the Syndicate itself which appointed the Standing Committee and which indubitably had the right to appoint the Committee-under Regulation 31. We are unable to see any valid reason for which the fixation of quorum for the meetings of a Committee appointed by the Syndicate can be said to be beyond the powers of the Syndicate. It is wholly inappropriate in this connection to draw on the constitution of judicial tribunals as a parallel because, if by law such a tribunal must consist of 3 members there is no jurisdiction in the tribunal to fix a smaller quorum for its sittings. A court is not a committee and if by law any matter is required to be heard, say by a bench of three Judges, there is no power in

those three Judges to resolve that only two of them will form a quorum. In fact, quorum is fixed for meetings of committees and not for the sittings of courts. In the instant case the Syndicate had the right to fix the number of persons who would constitute the Standing Committee and by fixing the quorum at 2, it did no more than provide that though the Standing Committee may be composed of 3 persons, any 2 of them could validly and effectively transact the business of and on behalf of the committee. Putting the matter a little differently, the Syndicate nominated 3 persons to be members of the Standing Committee but resolved that any 2 of them would validly constitute the Standing Committee for the time being to dispose of any business which comes before it.

Great reliance was placed by the respondents both in the High Court and before us on Regulation 32.1 which we have set out above, in support of the contention that the decision of the Standing Committee was without jurisdiction since all the members of the Committee had not participated in the various decisions. By Regulation 32.1, if the Standing Committee is unanimous in its decision, the decision is final except as provided in Regulation 32.2; if the committee is not unanimous, the matter has to be referred to the Vice-Chancellor who can either decide the matter himself or refer it to the Syndicate for its decision. It is urged on behalf of the respondents that the possible dissent of the 3rd member, were he present, would have necessitated a reference to the Vice-Chancellor who might not agree with the majority opinion, which shows that no sanctity can attach to a decision rendered by less than the whole body of 3 members of the Standing Committee. This argument is purely hypothetical and besides, it overlooks that the fixation of quorum for the meetings of a committee does not preclude all the members of the committee from attending the meetings. By the quorum, a minimum number of the committee must be present in order that its proceedings may be lawful but that does not mean that more than the minimum are denied an opportunity to participate in the deliberations and the decisions of the committee. Whenever a committee is scheduled to meet, due notice of the meetings has to go to all the members of the committee and it is left to each individual member whether or not to attend a particular meeting. Every member has thus the choice and the opportunity to attend every meeting of the committee. If any member considers the matter which is to be discussed or determined in a particular meeting as of such importance that he must make his voice heard and cast his vote, it is open to him and indeed he is entitled to attend the meeting and make his presence felt. Though a faint attempt was made in these appeals for the first time to suggest that the notice of the meetings of the Standing Committee was not served on all the 3 members of the committee we are satisfied that such a notice was in fact given and someone or the other of the 3 members chose to remain absent at the meetings of the Standing Committee. There is, therefore, no warrant for the hypothesis that had the third member attended the meetings he would have dissented from the decision of the 2 other members so as to necessitate a reference to the Vice-Chancellor under Regulation 32.1.

Apart from this consideration, we are unable to agree that anything contained in Regulation 32.1 can affect the power of the Syndicate to fix the quorum for the meetings of the Standing Committee. If the quorum consists of 2 members, any 2 out of the 3 members can perform the functions of the Standing Committee, though the committee may be composed of 3 members. When Regulation 32.1 speaks of the committee being unanimous, it refers to the unanimity of the members who for the time being are sitting as the committee and who, by forming the quorum can validly and lawfully discharge the functions of the committee and transact all business on behalf of the committee. If

only 2 members out of the 3 who compose the Standing Committee have participated in the business of any particular meeting, the question to ask under Regulation 32.1 is whether there is unanimity amongst those two members. If they are unanimous their decision is final. If they differ, the matter has to be referred to the Vice-Chancellor. Thus, the fixation of quorum neither makes Regulation 32.1 a dead letter nor does it affect its application or utility. With respect, we are unable to appreciate the reasoning of the majority that "The manner in which Regulation 32.1 has been framed leaves no doubt that the consideration of the question of students' misconduct and the use of unfair means in examination by them has been placed at a high pedestal" and that therefore "there is no escape from the conclusion that the consideration of the case of a student against whom there are allegations of misconduct or of use unfair means in an examination, has to be by all the members of the Standing Committee and not by some of them and that any decision of the Syndicate to the contrary would be violative of the letter and spirit of Regulation 32.1." The fixation of quorum by the Syndicate violates neither the letter nor the spirit of that Regulation.

The majority Judges were therefore in error in holding that Regulation 32.1 "clearly negatives the fixation of a quorum and makes it incumbent that the decision must be taken by the full Committee" for the reason that "In a way, this regulation fixes the quorum at the number of members originally appointed". The learned Judges read far more into Regulation 32.1 than there is in it and we see no warrant for construing that regulation as fixing the quorum at the number of members originally appointed to the committee. Regulation 32.1 is aimed at conferring finally on decision of the committee if they are unanimous and at leaving the validity and propriety of a dissenting decision to the judgment of the Vice-Chancellor who can deal with the matter himself or refer it to the decision of the Syndicate. Regulation 32.1 does not even remotely attempt to fix the quorum. That is not its purpose, and it sounds strange that the Regulation, by a circuitous method, should fix the quorum at the full complement of members. Quorums are seldom so fixed and were it intended that the entire committee must decide every case, Regulation 31 could appropriately have said so.

We share the deep concern voiced in the dissenting opinion of Sandhawalia J. that there was no justification for ignoring the stream of precedents which had consistently recognised the validity of decisions taken by 2 members of the Standing Committee. In *Bharat Indu v. The Punjab University* and another⁽¹⁾, Regulation 19 which was the precursor of and was identical with Regulation 32.1 came before the Punjab High Court. By a closely considered judgment, Dua J. who spoke for the Bench specifically rejected the argument accepted by the two learned Judges in the instant case. In *Miss Manjinder Kaur v. The Punjab University* (Civil Writ No. 3516 of 1972, decided on March 30, 1973), the same contention was repeated on behalf of the students and once again it was considered and rejected. It is quite true that judicial consistency is not the highest state of legal bliss. Law must grow, it cannot afford to be static and therefore Judges ought to employ an intelligent technique in the use of precedents. Precedents, as observed by Lord Macmillan, should be "stepping stones and not halting places".⁽²⁾ But, Justice Cardozo's caution should not go unheeded that the weekly change in the composition of the court ought not to be accompanied by changes in its rulings. The language of the Regulations called for no review of established precedents. Nor indeed is there any fear of unfairness if only 2 members decided the cases of students accused of adopting unfair practices in the examinations. In such cases it is so much better that the law is certain.

In the result we allow the appeals, set aside the decision of the majority and uphold that of the minority Judge. The writ petitions filed by the respondents will consequently stand dismissed but there will be no order as to costs.

S.R.

Appeal allowed.