Ram Chander Roy vs University Of Allahabad And Ors. on 27 July, 1955

Equivalent citations: AIR1956ALL40, AIR 1956 ALLAHABAD 46

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Bench: V. Bhargava

JUDGMENT

V. Bhargava, J.

1. Ram Chander Roy, who was a student of the Allahabad University, has filed this petition under Article 226 of -the Constitution, praying for the issue of a writ of 'certiorari' quashing the proceedings before the Enquiry Committee and their report and the order of the petitioner's rustication dated 30-3-1955, and, further, a writ of 'mandamus' against opposite parties Nos. 1 to 3, the University of Allahabad, the Chancellor of the University of Allahabad, and Shri A. C. Banerji, Vice-Chancellor of the University of Allahabad, directing them to treat the petitioner as a student of the Allahabad University and to allow him to appear in the examinations which were to take place soon after the date on which the petition was presented.

2. The petitioner was an ex-student of M.Com. (Final) and LL. B. (Previous) classes in the year 1954-55. The last convocation of the Allahabad University for the year 1954-55 was held on 3-3-1955, in the University compound at about 4 P.M. it was presided over by Shri K. M. Munshi, the Chancellor of the University, and the convocation address was delivered by Shri Sri Prakash Governor of Madras. The convocation was originally scheduled to take place in November, 1904, but was postponed because the University Union had passed a resolution of boycotting the Chancellor when he attended the convocation.

It is not necessary to mention the reasons why the University Union came to that decision. It is, however, alleged on behalf of the petitioner that, amongst the University students, two groups came into existence -- one group was against the Chancellor and wanted him to be boycotted whereas the other group was opposed to that policy. On 3-3-1955, according to the petitioner, when the Chancellor came to participate in the convocation, slogans were shouted to demonstrate against him which naturally annoyed the Chancellor and Vice-Chan-cellor of the University.

The students, who had decided to boycott the Chancellor, were shouting slogans in the University Union building and, there they were attacked by the other differing group of students. Thereafter" the Vice-Chancellor, on 4-3-1955, appointed an Enquiry Committee consisting of himself and opposite parties Nos. 4 to 7 to enquire into this incident. The reference to the Enquiry Committee

was limited to the demonstration staged, against the Chancellor and it did not include the alleged attack in the University Union building by one party of students on the other.

After the appointment of the Committee, the petitioner received a notice dated 4-3-1955, asking him to appear at 5 P. M. on 7-3-1955, before the Enquiry Committee. The petitioner appeared and, according to him, he denied having taken part in the attempt to disturb the convocation at the con-vocation' 'pandal' or having shouted any slogans there. The Enquiry Committee thereafter recorded evidence of a number of witnesses and then notices were issued to some students who were permitted to cross-examine the witnesses. No such notice was sent to the petitioner and he was given no opportunity to cross-examine the witnesses.

Thereafter, on 3-4-1955, the petitioner received an order dated 30-3-1955 from the Vice-Chancellor, intimating to him that he had been rusticated from the University of Allahabad for four years. It was in these circumstances that the petitioner moved this petition on various grounds mentioned in the petition. Shri S. C. Khare, learned counsel for the petitioner, arguing the petition before us, however, confined himself to only four points, which we shall deal with.

3. The first point urged by Shri Khare was that the statute, conferring powers on the Vice-Chancellor to award punishment for maintenance of discipline, was void and 'ultra vires' the Constitution as it violated the principles of Article 14 of the Constitution. Under the Allahabad University Act, 1921, Section 12, Sub-section (5), the Vice-Chancellor has been made responsible for the discipline of the University in accordance with the Act, the statutes and the ordinances. The relevant statute is given in Chap. XXII at page 204 of the Calendar of the Allahabad University for the year 1952-53 and is as follows:

> "The Vice-Chancellor shall be responsible for maintaining discipline in the University and he shall have all powers necessary for the purpose."

The contention of learned counsel was that, though powers had been conferred by the statute on the Vice-Chancellor, those powers were expressed in very wide and indefinite terms and were capable of being exercised in such a manner as to luring about discrimination not permissible under Article 14 of the Constitution. It was urged that no criterion was laid down for determining when action was needed for maintaining discipline, or, even to determine the scope of the word 'discipline'.

It was further urged that the nature and extent of the punishment that could be awarded by the Vice-Chancellor was not indicated at all and no limitations were placed on his power of awarding any type of punishment that he desired to do. In fact, learned counsel urged that the language of the statute could permit the Vice-Chancellor, if he so desired, to direct that a student, who has been found responsible for an act of indiscipline, be shot dead. On these grounds, he challenged the validity of the powers conferred on the Vice-Chancellor in this behalf.

4. There are two reasons why we consider that it is not possible to accept the contention of learned counsel : Firstly, we do not think that, where enabling power is conferred on any particular officer or dignitary, it is necessary to place limitations on that power, or, to indicate how that power is to be

exercised. In -- 'Ebranim Vazir Mavat v. State of Bombay', AIR 1954. SC 229 (A), the validity of Ss, 3 and 7 of the Influx from Pakistan (Control) Act (Act No. 23 of 1949) was considered by their Lordships of the Supreme Court.

Section 3 of the Act was held to be valid while Section 7 was held to be void. Section 3 prohibited the entry into Indian Union from any place in Pakistan, whether directly or indirectly, of any person unless he was in possession of a permit, or, unless he satisfied one of the other two conditions laid down in that section. The power of granting a permit was vested in the executive authorities. No principles were laid down by which the grant of permits by the executive authorities could be regulated.

The executive authorities could grant permits in cases which they considered appropriate and could refuse permits in other cases where they found it inappropriate to grant a permit. Their Lordships of the Supreme Court still held Section 3 to be valid and it was Section 7 which was held to be void on the ground that it amounted to an unreasonable restriction of the fundamental right guaranteed under Article 19 of the Constitution. The argument, relating -to discrimination under Article 14 of the Constitution which could be brought about at the time of granting or refusing permits, was not considered to be a ground for holding Section 3 to be void.

Similarly, in -- 'Dwarka Prasad Laxmi Narain v. State of Uttar Pradesh', AIR 1954 SC 224 (B), their Lordships of the Supreme Court considered the validity of various provisions of the U. P. Coal Control Order, 1953. Their Lordships first dealt with the validity of Clause 3(1) of the U. P. Coal Control Order, 1953, which laid down :

> "No person shall stock, sell, store for sale or utilise coal for burning bricks or shall otherwise dispose of coal in this State except under a licence in Form 'A' or 'B' granted under this Order..."

This was held to be a general provision and as such unexceptional. No criterion was laid down to regulate the power of granting licences by the licensing authority and the licensing authority was given discretion without any limitation to grant licences in appropriate cases and to refuse licences in cases where, in its opinion, licences should not be granted. The provision of Clause 4(3) of the U. P. Coal Control Order, which permitted cancellation of a licence granted under that Order at the discretion of the licensing authority without any indication of any principles on which the licence was to be cancelled, was held to be void as imposing an unreasonable restriction upon the freedom of trade and business guaranteed under Article 19(1)(g) of the Constitution and has not been protected by Clause (6) of that Article.

It will thus be seen that the delegated authority of passing orders conferred on the executive or individual officers without placing limitations on their powers has been held to be void only in cases where a fundamental right granted under Article 19 of the Constitution was violated and the powers were so exercised as to place unreasonable restrictions on it; it was not held to be void in cases where the powers had been granted in such a manner that no question of the violation of fundamental rights granted by Article 19 of the Constitution could arise under any provision of law

giving authority to the executive.

In the case before us, there is no question of fundamental, rights guaranteed under Article 19 of the Constitution being violated by any order of the Vice-Chancellor passed under the statute permitting him to award punishments for the purpose of maintaining discipline.

Learned counsel for the petitioner, in support of his arguments on this point, relied on certain observations of their Lordships of the Supreme Court in -- "Saghir Ahmad v. State of U. P., AIR 1954 SC 728 (C), where they had occasion to deal with the objection taken on behalf of the petitioners that the U. P. State Road Transport Act (U. P. Act No 2 of 1951) had given an unguided and unfettered power to the State in the transport business and thereby allowed it to discriminate between one citizen and another. No rules have been laid down to regulate the choice of the State Government in such cases. Dealing with Section 3 of the Act, their Lordships said :

> "Section 3 of the Act authorises the State Government to declare that the road transport service in general or on particular routes should be run and operated by the State Government exclusively or by the State Government in conjunction with railway or partly by the State Government and partly by others in accordance with the provisions of the Act. The whole question is how is the last part of the section to be implemented and carried out? If the State can choose any and every person it likes for the purpose of being associated with the transport service and there are no rules to guide its discretion, plainly the provision would offend against Article 14 of the Constitution."

Learned counsel laid emphasis on this last principle which was laid down by their Lordships of the Supreme Court. This observation must be read in the whole context of the case before their Lordships. In that case, the effect of the order of the State, choosing any person it liked and not choosing another person it did not like for the puipose of being associated in the transport service, was that thereafter different laws became applicable to those persons.

A person, who was not chosen, continued to be governed by the provisions of the Motor Vehicles Act whereas another person, who was chosen, was to be governed by the provisions of the U. P. State Road Transport Act (U. P. Act No. II of 1951). This exercise of choice by the State Government without any rules for guidance for exercise of its discretion would thus have clearly brought about inequality before the law among persons similarly situated unless choice was reasonably exercised and it was for this reason that their Lordships made observations relied upon by learned counsel for the petitioner.

There is no such circumstance relating to the provision of law that is being challenged before us. According to the statute impugned in this case, the Vice-Chancellor is given the discretion to take action for maintenance of discipline and he has been given the discretion to choose the nature and magnitude of the punishment to be awarded. He has to exercise this discretion in all cases of discipline and against every student in exactly the same manner and, consequently, no question arises of any inequality before the law being brought about by exercise of such discretion.

5. Further, there is an alternative aspect in which this point may be dealt with. Learned counsel's contention that the Act or the statute should have defined the scope of the word 'discipline' has not impressed us at all. What is discipline is well known and, obviously, it was quite unnecessary for the legislature to define this word jin the Act or the statute. When Acts or statutes are framed, words of the language, in which they are framed, have to be used and it is not possible to give precise definition for every word and make the Act or statute self-contained.

In fact, if attempt was made to define every word in the Act or statute, the words used in the definition would again have to be defined and this would result in absurdity. What is discipline in the university can very well be understood if the object of its establishment and the principles of its working are properly understood. The Vice-Chancellor has been made responsible for maintaining discipline and it is clear that he can always appreciate when a question of discipline has arisen and when it has not.

It is also true that no specific limitations have been placed on the nature and extent of the punishment which can be awarded by him but, in our opinion, it cannot be said that this power is entirely unfettered and vague and there is no indication by the legislature of the manner in which and the extent to which the power is to be exercised. It is to be noticed that the statute, which confers powers on the Vice-Chancellor, first makes him responsible for maintaining discipline and then grants to him only such powers as may be necessary for that purpose.

The powers are to be exercised for maintain-ing discipline to the extent necessary for achieving that object. This is itself a sufficient limita-tion on the powers of the Vice-Chancellor and we do not think that it was necessary to indicate tlie various forms of punishment which can be awarded by him while exercising those powers. The example cited by learned counsel that the Vice-Chancellor could have got a student shot dead has obviously to be ignored as the grant of these powers cannot justify Vice-Chancellor's actions which would amount to an offence under the Indian Penal Code.

A student, who enrols himself in an university t6 receive education, places himself under disciplinary powers of the Vice-Chancellor and the Vice-Chancellor can obviously award every kind of punishment that would be appropriate for the purpose of maintaining discipline. No punishment has ever been awarded which may be a penal offence under the laws of the country. In disciplinary matters, punishments can be of numerous types and, obviously, the legislature could not, in detail, enumerate all of them.

The choice of the appropriate punishment had to be left to the Vice-Chancellor and it was sufficient that the statute placed a limitation that the punishment should be necessary for the purpose of maintaining discipline. The necessity of maintaining discipline in the university is not only a condition preliminary to the exercise of the power by the Vice-Chancellor but also governs the actual exercise of that power in the matter of the nature of the punishment to be awarded as well as the extent of that punishment.

That such a limitation placed by the legislature governs the actual exercise of the power is illustrated by a decision of their Lordships of the Supreme Court in -- 'Hari Shankar Bagla v. State of Madhya

Pradesh', AIR 1954 SC 465 (D). In that case, their Lordships considered the validity of Section 3, Essential Supplies (Temporary Powers) Act, 1946, and of Clause 3, Cotton Textiles (Control of Movement) Order, 1948. It was held by their Lordships :

> "The Legislature cannot delegate its function of laying down legislative policy in respect of a measure and its formulation as a rule of conduct. The Legislature must declare the policy of the law and the legal principles which are to control any given cases and must provide a standard to guide the officials or the body in power to execute the law. The essential legislative function consists in the determination or choice of the legislative policy and of formally enacting that policy into a binding rule of conduct."

Dealing with that case, their Lordships went on to hold :

> "In the present case the Legislature has laid down such a principle and that principle is the maintenance or increase in supply of essential commodities and of securing equitable distribution and availability at fair prices. The principle is clear and offers sufficient guidance to the Central Government in exercising its powers under Section 3."

Their Lordships further held:

> "The preamble and the body of the sections sufficiently formulate the legislative policy and the ambit and character of the Act is such that the details of that policy can only be worked out by delegating them to a subordinate authority within the framework of that policy."

Under Section 3, Essential Supplies (Temporary Powers) Act, 1946, orders could be passed by the Government for the purpose of and to the extent necessary for maintaining supplies and services essential to the community and this principle was considered to be a sufficient declaration of the policy regulating the conduct of the Government in passing the orders under that provision of law. The statute impugned before us , similarly lays down that the powers of the Vice-Chancellor are to be exercised, when it is necessary so to do, for the purpose of maintaining discipline and the powers are confined to the extent that might be necessary for that purpose.

There are thus clear limitations on the powers of the Vice-Chancellor and he has to exercise his powers within the framework of this policy and the limitations laid in the statute itself. We are, therefore, not impressed with the arguments that the statute confers an unlimited and unfettered powers on the Vice-Chancellor which is void as violating any of the provisions of the Constitution.

6. The second point urged by learned counsel was that no opportunity had been granted to the petitioner to cross-examine the witnesses, on the basis of whose evidence the Enquiry Committee made a report against him and the Vice-Chance 11 or was satisfied and passed the order of his rustication. Firstly, we are not convinced that, in a case where a head of an educational institution

takes disciplinary proceedings, it is necessary that he must give an opportunity to the student to cross-examine the witnesses who may be examined by him in order to satisfy himself that an occasion had arisen for taking disciplinary action against him.

In matters of discipline, the head of an educational institution does not act as a judicial or quasi-judicial tribunal. The disciplinary authority vested in any officer or the head of an institution is a power which is absolutely necessary for and ancillary to the exercise of administrative functions in that capacity. Our attention has been drawn in this connection to the case of 'Ex parte, Fry', 1954-2 All ER 118 (E). Lord Goddard C. J., held as follows:

> "It seems to me impossible to say, where a chief officer of a force which is Governed by discipline, as is a fire brigade, is exercising disciplinary authority over a member of the force, that he is acting either judicially or quasi-judicially, it seems to me that he is no more acting judicially or quasi-judicially than a schoolmaster who is exercising disciplinary powers over his pupils."

It is to be noticed that Lord Goddard, in citing the example of a schoolmaster exercising disciplinary powers over his pupils, mentioned that the power of the schoolmaster over his pupils cannot possibly be a judicial or quasi-judicial power. Consequently, when disciplinary proceedings were being taken against the petitioner, he could not claim any right that the proceedings should be taken only after the procedure necessary for the exercise of judicial or quasi-judicial powers had been gone through unless there was any such provision in law granting a right to the petitioner to claim that that procedure should be adopted.

We are also not convinced that there is any principle of natural justice under which a person sought to be dealt with in disciplinary proceedings can claim that he must be dealt, with by the procedure applicable to judicial or quasi-judicial proceedings. There is the further circumstance that, in this case, the petitioner's own admissions before the Enquiry Committee made it unnecessary that he should be given any opportunity to cross-examine the witnesses.

In fact, it appears that opportunity to cross-examine the witnesses was given only to those students whose defence before the Enquiry Committee made it advisable that the evidence against them should be properly tested by cross-examination. The petitioner has himself admitted and, in fact, made a grievance of the fact that the Enquiry Committee had confined itself solely to the enquiry about the disturbance and indiscipline that had taken place in the convocation pandal of the Allahabad University.

The Petitioner wanted the scope of the enquiry to be enlarged so as to include the incident which according to the petitioner, took place in the University Union building hut the Enquiry Committee did not agree to it. When the petitioner appeared before the Enquiry Committee, he knew that the enquiry was confined to the incident in the convocation 'pandal' and certain questions were put to him before the Enquiry Committee. The questions and the answers given by the petitioner have been reproduced in the counter-affidavit filed on behalf of the opposite parties.

In addition learned counsel for the opposite parties showed to us the full record of the questions and answers given by the petitioner before the Enquiry Committee. We are satisfied from these documents that the petitioner had admitted that he had shouted slogans in the convocation 'pandal'. He first admitted that the slogaas. "Munshi go back" and "Murderer Munshi go back" were shouted by him, but, later, he resiled from this position and said that it was under some confusion that he admitted that he had shouted the second slogan.

This statement was given by him in answer to the question whether those slogans were shouted by him in the convocation 'pandal'. When giving the answer, he did not state that he did not shout any slogans at all in the 'pandal'. He only said that he had said in confusion that he had shouted the second slogan. He was also asked whether he was one of the students' shouting slogans at the time when the Chancellor was reading something at the time of the convocation.

It was suggested that the slogan, that had been shouted, was "Munshi, do not read" or some similar slogan. According to the counter-affidavit as well as the record of the statement of the petitioner made by the Enquiry Committee, the petitioner first stated that he had shouted those slogans though, later on, when he was asked to sign his statement, he scored out that answer from the record. In the rejoinder affidavit filed before us, the petitioner has tried to make out that his admission that he had shouted slogans was confined to the shouting of slogans in the University Union building and not in the convocation 'pandal' at all.

In view of the position that we have just examined, we cannot accept this contention o the petitioner and must hold that he had admitted than he had shouted slogans in the convocation 'pandal'. This admission was an admission of an act of indiscipline and, in such circumstances, there was hardly any question of further enquiry against him by recording evidence or giving him an opportunity of cross-examining the witnesses.

It appears that the enquiry had to be continued as other students who had not made such admissions were also involved and when witnesses were examined, they mentioned the name of the petitioner also because he was one of those who had taken part in those acts of indiscipline. The mere fact that the witnesses mentioned him could not confer any right on the petitioner to cross-examine them after his own admissions even if the procedure applicable to a judicial or quasi-judicial tribunal had been adopted by the Enquiry Committee.

7. The third point urged by learned counsel was that the power of taking action for maintaining discipline had been conferred on the Vice-Chancellor and his order in the case of the petitioner was void inasmuch as in the enquiry he had associated himself with certain other persons who formed the Enquiry Committee, on the basis of the recommendations of which the order of rustication of the petitioner was passed.

It is true that the power had been conferred on the Vice-Chancellor and it had to be exercised by him by exercising his own discretion but it appears that this is exactly what the Vice-Chan-cellor in this case did. A copy of the order passed by the Vice-Chancellor forms an annexure to the affidavit filed by the petitioner and it shows that the Vice-Chancellor gave his best consideration to the report of

the Enquiry Committee which had been constituted by him and thereupon decided to accept the recommendations of the Committee.

After coming to this decision, he passed the order of rustication of the petitioner which is impugned by this petition. The order, which was finally passed, was, therefore, passed on the basis of the exercise of his discretion by the Vice-Chancellor himself and was not the result of any automatic carrying out of the recommendations of the Enquiry Committee. In exercising discretion, the Vice-Chancellor had the report of the Enquiry Committee before him as the material on the basis of which he could form his opinion.

The consideration of such material for the exercise of his discretion by the Vice-Chancellor was not prohibited by any law and his order does not become invalid simply because he took the report of the Enquiry Committee into consideration. For this proposition, we are supported by a decision of a Full Bench of this Court in -- 'Basti Sugar Mills Co. Ltd. v. State of Uttar Pradesh', AIR 1954 All 53S (F) and of a Division Bench of this Court in -- 'Jagannath Prasad v: State of U. P.', AIR 1954 All 629 (G). The order of the Vice-Chancellor based on the consideration of the Enquiry Committee report is, therefore, a valid order having been passed in exercise of his discretion in the matter.

8. The last point urged by learned counsel was that, on the view that the exercise of powers by the Vice-Chancellor is governed by the principles laid down in the statute and that it must be for the purpose of maintaining discipline and must be exercised only to the extent necessary for maintaining discipline, this Court should scrutinise the order passed by the Vice-Chancellor and examine whether the punishment awarded to the petitioner was appropriate for the act of indiscipline committed by the petitioner.

The statute gives the discretion to the Vice-Chancellor to determine the nature of the punishment to be awarded and the severity of that punishment. This Court cannot exercise the function of an appellate court or of a supervisory body for the purpose of scrutinising the appropriateness of the order passed by the Vice-Chancellor. Further, this Court has always held that, in matters of discipline of educational institutions, it will not exercise its powers under Article 226 of the Constitution unless some legal right of a student has been violated.

We might refer to two Division Bench decisions of this Court in -- 'Bamesh Chandra Chaube v. Bipin Behari', AIR 1953 All 90 (II), and --'Sudarshan Lal v. Dean of the Faculty of Science, University of Allahabad', AIR 1953 All 194 (I); No case is, therefore, made out on behalf of the petitioner for issue of any writ against the opposite parties.

9. The petition fails and is dismissed but we make no orders as to costs.