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Court : Allahabad

Decided On : Apr-17-1998

Reported in : 1998(2)AWC1473

Judge : D.K. Seth, J.

Appeal No. : C.M.W.P. No. 30267 of 1991

Appellant : Pankaj Srivastava

Respondent : Principal, Moti Lal Nehru Regional Engineering College, Allahabad and Another

Advocate for Pet/Ap. : C.B. Shukla, Adv.

Judgement :

D.K. Seth, J.

1. Two orders dated 19th September, 1991 and 24th September, 1991 passed by the Principal, Mott Lal Nehru Engineering College, Allahabad have been challenged in the present writ petition. By means of an interim order dated 25th October, 1991, operation of both the orders was stayed.

2. By the first order dated 19th September, 1991 being Annexure-1 to the writ petition on the alleged ground of his involvement in ragging, the petitioner was rusticated for one year and his re-admission was also directed not to be considered till the period of rustication. However, he was permitted to appear in the supplementary examination of B.E. first year class but he was directed not to enter hostel or college premises. By the second order dated 24th September, 1991, a notice was Issued in which the petitioner's name was Included at serial No. 4, whereby it was directed that petitioner will not be allowed admission until rustication period is over and that in case of further complaint, the period of rustication will be extended beyond one year.

3. It is alleged that the allegations of indiscipline not being specific and being vague, the same Cannot be sustained. It is further alleged that no enquiry was made and no charge-sheet was ever Issued to the petitioner. The said order was issued at the whims and caprice of the Principal out of malice and mala fide. He has also denied his Involvement in the ragging. He has also contended that the order is wholly illegal and without jurisdiction.

4. It is not disputed that the Principal has power to rusticate students on account of indiscipline. Ragging is surely an indiscipline. The culture of ragging has been imported from England along with English education system. But now it has attained dangerous proportion. The disease of ragging is polluting the campus atmosphere. In the name of ragging, freshers are subjected to severe psychological and physical sufferings, sometimes resulting into psychological and mental disorder and physical harms even death. It is a situation that is causing concern to educationists. The parents are afraid of sending their wards in hostel. Many of the students left their studies having failed to withstand ragging. It is, therefore, necessary that adequate steps should be taken so as to create an impression in the mind of the students that undertaking of ragging or participation in the act of ragging may jeopardise their career and end their student life. In order to contain this disease, strict discipline is to be imposed. It cannot be overlooked. But at the same time, if punishment on account of ragging is inflicted, it has to be inflicted with proper care and caution only when it is established that the student is responsible and the authority has reasons to believe that he had participated in

ragging and was responsible for the same. Such conclusion can only be arrived at after giving an opportunity of hearing and holding proper enquiry in the matter. It is not dependent on the whims and caprice of the authority concerned.

5. Thus, the contention that the authority cannot impose such a punishment on account of ragging, cannot be sustained. The authority has every power and jurisdiction to take proper steps for enforcing discipline and preventing spread of ragging and to maintain conducive atmosphere in the campus in order to restore confidence of the freshers. It is expected that the educational authorities will take proper care and caution in the matter so that the system of ragging is uprooted altogether and is prevented by all means including imposition of any kind of discipline and means and methods bestowing responsibility on the persons incharge of such hostel and senior students, if necessary by forming a committee for monitoring the relations between the freshers and seniors.

6. In the present case, it is alleged in para 10 that neither any charge-sheet was issued nor show cause notice was given nor any enquiry was held against the petitioner before inflicting the punishment. It is further mentioned in para 8 that no enquiry was held neither any notice was Issued to the petitioner. In para 7. the petitioner has denied his participation in the alleged ragging. No counter-affidavit appears to have been filed. There is no material to show as to how the authority had come to the conclusion that the petitioner was involved in ragging. Though in the order. It is pointed out that on account of ragging and some other acts of serious Indiscipline, but no particulars in respect of acts of serious Indiscipline have been mentioned. Therefore, the impugned order appears to be wholly vague and indefinite and that too without any enquiry and opportunity of hearing to the petitioner. Thus, solely on the ground that the order is vague and has been passed without adopting proper procedure, the order of rustication contained in Annexure-1 and deprivation of admission contained in Annexure-2, are liable to be quashed and the same are accordingly quashed. Let a writ of certiorari to issue. Since there was an interim order, it appears that the petitioner must have continued his study. Since the two orders have been quashed, the petitioner's result that might have been or may be declared, shall be without any stigma.

7. The writ petition thus succeeds and is allowed. No order as to costs.

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