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**Sudeep Kumar Vs. Vikram University, Ujjaln and anr.**

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**SooperKanoon Citation** : sooperkanoon.com/498380

**Court** : Madhya Pradesh

**Decided On :** Aug-16-1989

**Reported in** : AIR1990MP110

**Judge** : V.D. Gyani and ;A.G. Qureshi, JJ.

**Acts** : Constitution of India - Article 226

**Appeal No.** : M.P. No. 1351 of 1988

**Appellant** : Sudeep Kumar

**Respondent** : Vikram University, Ujjaln and anr.

**Advocate for Def.** : L.P. Bhargave, Adv.

**Advocate for Pet/Ap.** : K.C. Gangrade, Adv.

**Disposition** : Petition allowed

**Judgement** :

**V.D. Gyani, J.**

1. Essential facts are not in dispute. The petitioner was a student of LL.B. Final in three year-Degree course of Sandipani Law College, Ujjain, affiliated to the Vikram University. He appeared at the LL.B. Final examination, held in the month of March-April, 1988, and he passed the same in First division, so much so that the

had joined LL.M. (Previous) as well.

2. The petitioner was served with a show-cause notice (Annexure-P/1) by respondent No. 1, for his alleged misbehaviour on 24(27?)-4-1988 during examination. He submitted his reply, Annexure-P/3, on 22-8-1968. The petitioner has also filed a character Certificate, Annexure-P/6, issued by the Principal Law College and also a Certificate (Annexure-P/5) dated 29-8-1988, by the Principal stating that no student during his presence in the college from 7.00 a.m. to 10.00 a.m. on 27-4-1988 had misbehaved with any Invigilator, nor any complaint submitted to him by any Invigilator.

3. The University by its order dated 13-10-1988 (Annexure-P/8) informed the petitioner that the Screening Committee had on consideration of his reply found him guilty of using unfair means at the examination and cancelled the petitioner's result, of having passed LL.B. Final in First Class. It is this order, which has been challenged by the petitioner in this petition.

4. The respondent University has placed on record a copy of the report of the Unfair-Means Committee, Annexure-R/1, and its decision, Annexure-R/2, and it has been contended on the basis of this report and the decision that the petitioner's examination result was cancelled for not obeying the direction of the Senior Superintendent, University Examination of Sandipani Law College, Centre. The misbehaviour alleged against the petitioner is that he did not sit at the appointed place, thus rendering himself liable to punishment under the Rules framed by the University.

5. Learned counsel for the petitioner strenuously urged that the University action is ex-facie illegal in as much as it is based on a report of the screening Committee, which considered some incident dated 29-4-1988, while the petitioner as per show-causs notice, Annexure-P/1, was called upon to show cause regarding an incident which took place on 27-4-1988. He has been punished for an incident of alleged misbehaviour taking place on 29-4-1988, for which he was never called upon to show cause, nor afforded any opportunity of hearing.

6. Shri Bhargava, learned counsel for theUniversity on the other hand submitted that the change of date is not material, nor has it caused any prejudice to the petitioner in putting forth his defence before the University authorities. He also fervently appealed that with a view to maintain academic discipline and purity of University Examinations, no interference is called for with the action taken by the University.

7. So far as academic discipline and maintenance of standards of University Examination system is concerned, we fully agree with the learned counsel. The purity of examination system must be maintained and any one who flouts or disobeys the authorities, the in-charge of Examination Centres, would do so at pains of punishment in accordance with law. Ordinarily, Courts do not interfere in such matters unless there is some gross violation of statutory Rules or principles of natural justice, resulting in miscarriage of justice.

8. The inherent infirmity which has crept in, is not that simple as the learned counsel for the University puts it. According to the show-cause notice, Annexure-P/1, the petitioner disobeying the intructions of the Centre Superintendent, sat at a place other than his appointed seat and it was on 27-4-1988, as Notice, Annexure-P/1. The material relied upon by the University is pertaining to some alleged mibehaviour committed on 29-4-1988, for which the petitioner was never called upon to explain his conduct. The punishment imposed is cancellation of his result.

9. The University authorities could well have corrected the mistake about date, at the stage of inquiry itself, apprised the petitioner of the mistake in date which had crept in the show-cause notice. He could have been called upon to submit his explanation in the light of the corrected date. Admittedly nothing of the sort was done. The prejudice caused is writ large in the whole action. The petitioner is punished for an act allegedly committed on a particular date, of which he was never apprised. Just see the severity of punishment -- Cancellation of the result itself. It is such severtity of punishment, which calls for a greater degree of care and circumspection inthe administrative action.

10. In view of the foregoing discussion, the petition deserved to be allowed. It is accordingly allowed. The cancellation order, Annexure-P/8, is quashed. The

petitioner by order dated 28-11-1988 was allowed to keep his term for LL.M. That order is also made absolute. Parties to bear their own costs.

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