CHAPTER III

STUDENT'S INDISCIPLINE

In the beginning law courts allowed the educational authorities to deal strictly with student's indiscipline and did not interfere much with the sacred relationship between a pupil and a teacher.[1] Moreover, the authorities taking disciplinary action against the students were considered to be performing administrative functions and they were not required to follow natural justice.[2] But this position has now changed. The present judicial trend may be examined under the following sub-headings:

(i) Misbehaviour towards students

In Hira Nath v. Rajendra Medical College,[3] the appellants were second year students of the college. They

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1. Jang Bahadur v. Principal Mohindra College, A.I.R. 1951 Pepsu 59; Keshab Chandra v. Inspector of Schools, A.I.R. 1953 All. 623.

2. Harbans Singh v. Punjab University, A.I.R. 1964 Punj. 456; Trilochan Singh v. Director, S.I.S. Institute, A.I.R. 1963 Mad. 68; Swapan Roy v. Khagendra Nath, A.I.R. 1962 Cal. 520.

3. A.I.R. 1973 S.C. 1260; see also S.K. Suri v. Principal, M.A. Mahavidyalaya, Jabalpur, A.I.R. 1973 M.P. 278 - it was a case of student molesting a lady teacher. See for contra view - Ahamad Kabir v. Principal, Medical College, A.I.R. 1967 Ker. 121.

were living in a hostel near the girls' hostel. One night they illegally entered the girls' hostel and got undressed and went to the window of one of the girls' room and caught the hand of one of the girls. Thereafter they went to the terrace but meanwhile the girls raised an alarm and the students ran back. The principal of the college set up an inquiry committee which after recording statements from both the parties expelled four students identified by the girl students. The students claimed breach of natural justice because the enquiry was held behind their back; witnesses were not examined in their presence; they had no opportunity to cross-examine the girls; and the report of the inquiry committee was not given to them. The High Court dismissed the petition on the ground that looking at the circumstances[4] there was no breach of the principles of natural justice. In appeal the Supreme Court also upheld the High Court decision. The court rejecting the strict application of principles of natural justice observed that if the strict enquiry like the one conducted in a court of law was to be followed no girls would come to give evidence due to the fear of retaliation, harassment or constant fear of molestation by the male students

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4. See contra, Ahamad Kabir v. Principal, Medical College, supra note 3.

and the miscreants would go scotfree. In this case though the court did not deny applicability of the principles of natural justice, yet it adopted a flexible approach in their actual application.

It may be noted that in the instant case a three-member inquiry committee was constituted. The committee recorded the statements of both the parties. The girls were shown twenty photographs and could identify the four students involved in the alleged incident. The committee unanimously held that the four students who were named and identified by the girls committed the act of indiscipline. The court rightly refused to allow rigid application of natural justice. In such cases the courts should not simply go with the fact that the punishment in such cases "would blast the career of a student and spoil his reputation and good name".

In another case[5] a student was suspended from the rolls of Pusa Polytechnic Institute for his alleged involvement in a stabbing incident of a fellow student in the Institute. The petitioner took a plea on the lines of Hira Nath and contended also that the action violated his fundamental right to education guaranteed in article 19 of the Constitution. In this case the Delhi High Court was satisfied that the petitioner had

5. Abhey Kumar V. K. Srinivasan, A.I.R. 1981 Del. 381.

avoided the service of the show cause notice and that there was no violation of the principles of natural justice. Justice Wad pointed out that when the students' quarrel resulted in stabbing an individual the educational authorities were justified in taking action against the petitioner in order to protect the general class of students who were more interested in their studies and also to maintain peaceful atmosphere on the campus.[6] The learned judge in his concern over the existing lawlessness in the campus even went on to say that "I do not think that for such a preventive action, the petitioner was entitled to any notice or opportunity".[7] As regards the plea of violation of fundamental right, he did not agree that any such fundamental right was covered under article 19. However, he observed that even if it was assumed that such a right existed, a student involved in violence could not be considered as a bona fide student and as such he had no such right. It may be noticed that in the present case the petitioner was not expelled but suspended from the rolls till the criminal case in the instant incident pending against him was decided.

The Supreme Court has also introduced ex post facto[8] hearing in the concept of natural justice. On this

6. Id. at 382.

7. Id. at 383.

8. Maneka Gandhi v. Union of India, A.I.R. 1978 S.C. 597.

basis some students who had committed acts of indiscipline including beating with rod, sword and cycle chain unsuccessfully claimed the application of ex post facto hearing. A notice was sought to be served on the students but they were absconding and not found in spite of search. For their acts of indiscipline they were expelled from the educational institution. The Madhya Pradesh High Court[8a] held that ex post facto hearing was to be given only when no hearing at all was given and as such it could not apply in the present case, when the authorities did try to serve a notice, and when immediate action was called for.

(ii) Act of Ragging

Students of the medical college, Calicut, were allegedly involved in the acts of ragging which included beating, masturbation, dancing naked, singing filthy songs, etc. For these acts they were suspended for varying terms. The students filed writ petitions before the High Court against this action. It was argued on behalf of the petitioners that the managing committee had no power to suspend them and that the principles of natural justice were not strictly followed. The

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8a. U.P. Singh v. Board of Governors, MACT, A.I.R. 1982 M.P. 59.

Kerala High Court[9] rejected both the arguments. It interpreted the statutory provision conferring power on the said authority to pass the order. As regards the principles of natural justice, the court pointed out that in case of act of ragging it was "not a case of individual attack by another student but a concerted or group action"; and, therefore, "the norms of natural justice", according to the court, "must be tailored to suit the requirements of the situations and the exigencies of the case".[10] As in the present case minimal requirement was observed, the court did not insist on a rigid application of the said principle.

At times the courts have quashed the order of rustication or expulsion where action was taken by the authority without giving such student an opportunity of being heard.[11]

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9. R.C. Thampan v. Medical College, Calicut, A.I.R. 1979 Ker. 171; Govt. Engg. College, Trichur v. John K. Kurian, A.I.R. 1979 Ker. 150. Where Nambiyar, C.J. said that what is said in Wade, Administrative Law, 478, (4th ed.) had application to English court only.

10. Id. at 177.

11. Surindra Pal v. Govt. Medical College, A.I.R. 1965 J. & K. 23. See also Ram Narain v. Banaras Hindu Univ., A.I.R. 1967 All. 535 as case where an individual student was harassing another student.

(iii) Misbehaviour with Educational Authority

This heading covers such cases as where students disturbed examinations, or paralysed administration of the educational institution or staged strikes or violent demonstrations, etc.

In this area the courts have not insisted upon a strict compliance of the principles of natural justice. In a case where some students abused the headmaster and other teachers and tried to manhandle them, the headmaster intimated their parents and later on expelled the students from the school. The petitioners took the plea that as the principle of natural justice was not followed the order of the headmaster should be struck down. But the Kerala High Court,[12] rejecting the argument, held that the punishment imposed in such cases could not become void for "non-observation with natural justice". The court justified its conclusion on the ground that the headmaster had to maintain discipline and order in school. It will depend upon the facts of each case as to the flexibility

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12. A. Keshavan v. D.E.O. Attingal, A.I.R. 1972 Ker. 103. Also Punjab University v. P.C. Handa, A.I.R. 1971 P. & H. 177.

in the observation of rules of natural justice by an educational institution. The court has to be satisfied that in the circumstances of the case the student against which disciplinary action had been taken was fairly treated.

The authorities of an educational institution have an inherent right to take disciplinary action against students even in the absence of explicit power conferred on them by the rules.[13] Where, however, statutory provisions provide for the mode of exercise of power, it may be necessary to follow that procedure by an educational authority.

In B.P. Puttaraju v. Bangalore University,[14] the Karnataka High Court considered two important questions, namely, the power of the Vice-Chancellor to suspend a student for indiscipline and the meaning of suspension. Under the relevant provisions of the university statutes, the Vice-Chancellor had been given all powers necessary for due maintenance of discipline in the university and in case of emergency he could take such action as he deemed necessary, and thereafter report the matter to the university body concerned. His directions in that regard were to be carried out

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13. P.M. Kurian v. Raghavan, A.I.R. 1970 Ker. 142.

14. A.I.R. 1980 Kant. 39.

by all the colleges, etc. It was held that the Vice-Chancellor had the power under these provisions to maintain discipline not only in the university but also in the constituent colleges of the university. The power of maintaining discipline included the power to suspend a student pending disciplinary enquiry against him. In this case, the Vice-Chancellor had suspended a few students and directed the heads of colleges to remove their names from the attendance register, not to allow them to attend classes and ask them to vacate the hostel forthwith. The court thought that such a sweeping order amounted to rustication of students which power was to be exercised by the syndicate of the university on the report of the Vice-Chancellor. Prohibiting them from attending classes meant that the students could suffer from shortage of attendance which would ultimately prevent them from appearing in the examination. Further, a "suspension order" did not comprehend the order to ask the students to vacate the hostel. If it is not so included in "suspension", then the question arises whether the suspension of a student has any meaning. The court seems to have gone too far in limiting the scope of suspension. One could understand that if ultimately the students were exonerated, their non-attendance of the classes might result in shortage of attendance for no fault of theirs. This situation could be made up by giving

them the benefit of attendance; and ultimately the court did pass such an order. However, the opinion suffers from ambiguity in this regard.[14a] In Sarvesh Narain v. Aligarh Muslim University, in a somewhat similar situation (the facts of the case are not clear from the opinion of the court), the Supreme Court passed an order in terms of concessions made by the university. These concessions were:

(a) A few students were to be allowed to take the examination outside the university campus;

(b) A few students were to be allowed to avail the facilities of the University at the campus on the undertaking that they would not organise or participate in any kind of agitational activities;

(c) A few students were to be allowed to be given an opportunity to appear in the examination, but after the examination they would be given transfer certificates and they would have no right to continue their studies in the Aligarh Muslim University; and

(d) A few students were allowed to appear in the examination and in case they passed the examination the court was to give further directions.

The last point in this series is: whether the quantum of punishment is subject to judicial review? The Pepsu High Court had taken the stand that the

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14a. A.I.R. 1982 S.C. 843.

quantum of punishment was subject to judicial review.[15] But later on the courts were of the view that such matters should be left to the authority which was responsible to maintain discipline of the educational institution, and the court would not go into the adequacy of punishment.[16]

Thus, in the case law relating to indiscipline the law courts have maintained a firm attitude that the temples of learning were meant for education and no violence could be tolerated. If the minimal requirement of principles of natural justice was fulfilled the court would not insist on their rigid application. Had the court adopted a liberal approach like the one taken in the examination cases it would have greatly restricted the disciplinary power of the authorities and given a licence to the acts of indiscipline.

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15. Sadhu Ram v. Rajindra Medical College, A.I.R. 1954 Pepsu 151.

16. Surindra Pal v. Govt. Medical College, Supra note 11. Also Punjab University v. P.C. Handa, supra note 12.