

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.24002 OF 2023

Between:

Ravula Rohith

... Petitioner

And

The State of Telangana & others

... Respondents

JUDGMENT PRONOUNCED ON: 29.11.2023

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

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> Head Note:

! Counsel for the Petitioner	:	Mr.Mohd. Azhar
^ Counsel for Respondent No.1	:	G.P. for Education
^ Counsel for Respondent No.2	:	G.P. for Forest
^ Counsel for Respondent No.3	:	G.P.for Services-I

? Cases Referred:

- (1) (2013) 15 SCC 570
- (2) (2020) 10 SCC 670
- (3) (2009) 12 SCC 40

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 24002 OF 2023****ORDER :**

Heard Mr Mohd. Azhar, learned Counsel appearing on behalf of the petitioner, learned Government Pleader for Education appearing on behalf of the 1st respondent, learned Government Pleader for Forest appearing on behalf of the 2nd respondent and the learned Government Pleader for Services-I.

2. This Writ Petition is filed to issue a Writ of Mandamus declaring the actions of the respondent No. 3, in rustivating the petitioner by issuing rustication notice vide Rc. No. 166/2019/A4(i) dated 14.07.2023 until further orders from Ph.d Forestry (Department: Siviculture and Agro forestry) without calling for any explanation or show cause as illegal, arbitrary, unjust, excessive, against principles of natural justice, violative of articles 14, 21 of constitution of India and consequently set aside/quash the rustication notice vide Rc. No. 166/2019/A4(i) dated 14.07.2023 and direct the respondent No.3 to allow the petitioner to appear in the Ph.D (Forestry) course.

3. The case of the Petitioner as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present Writ Petition in brief, are as follows:

a) The petitioner is a Ph.D student and got enrolled in the 3rd respondent college in the Department of Silviculture and Agro forestry vide Admission No. MFP 22-04. After joining in the college, the petitioner was framed in an unrelated crime No. 95/2023 before the PS CCS DD SIT as Accused No. 81 based on the confession of some other accused and his vague allegation that the petitioner has allegedly helped him in cracking answers for AEE & DAO Examination conducted by TSPSC through Chatgpt and hence the petitioner was arrested and remanded to judicial custody from 13.07.2023 to 27.07.2023.

b) While the petitioner was in judicial remand, the 3rd respondent college on 14.07.2023 issued a notice vide Rc. No.166/2019/A4 (i) stating that the petitioner is being rusticated from the college for the offence committed in connection with the TSPSC paper leakage and malpractice; and arrest by the Special Investigation team probing the TSPSC exam question paper leak on 12.07.2023. The disciplinary committee of the

college in its meeting on 14.07.2023 after detailed deliberations has recommended to rusticate the petitioner from the FCRI till further orders. Aggrieved by the same, W.P No. 21995 of 2023 and the same has been withdrawn and this court vide orders dated 28.08.2023 was pleased to grant liberty to file a new writ petition in accordance with law.

c) While things stood so, on 23.08.2023 a circular was issued by the Controller of Examinations and the 3rd respondent directing the students to collect their hall ticket for the exams to be conducted from 29.08.2023 to 02.09.2023 and the petitioner's hall ticket was not issued citing the impugned rustication. However, the petitioner through e-mail dated 23.08.2023 has requested the 3rd respondent to allow the petitioner to appear for the examinations while the rustication is pending further orders, but there was no response for the same. Aggrieved by the same the petitioner filed W.P No. 23626 of 2023.

d) Moreover, no opportunity was provided to the petitioner to present his explanation and directly a draconian rustication is issued by citing that the petitioner was involved in the TSPSC paper leak and malpractice while the petitioner himself had

never appeared for TSPSC AEE & DAO Exam, much alone be involved in the malpractice.

e) As per the Regulations of the Post Graduate Courses which are applicable to the petitioner, no such action either under 10.3.7 was taken or even as per 10.3.8 no action was initiated by the respondents. Aggrieved by the impugned rustication notice vide Rc.No.166/2019/A4(i) dated 14.07.2023 of the respondent No.3, the petitioner has filed the present writ petition.

4. Counter Affidavit filed by the Respondent No. 3 in brief is as under:

a) The 3rd respondent college is affiliated to Sri Konda Laxman Telangana State Horticulture University, Mulugu and the Regulations issued by the Sri Konda Laxman Telangana State Horticulture University, Mulugu are followed by the 3rd Respondent college.

b) The Special Investigation Team probing the TSPSC exam question papers leak has arrested the petitioner on 12.07.2023 and a FIR has been registered in FIR No.95 of 2023, dated 13.07.2023. The Disciplinary Committee of the 3rd respondent

college consisting of four senior faculty members in its meeting on 14.07.2023 has recommended to rusticate the petitioner because of his misconduct exhibited in the form of TSPSC paper leakage and malpractice and consequent arrest by the Special Investigation Team the exam question papers leak on 12.07.2023 in accordance with the Regulation 11 of Post Graduate Regulations of Sri Konda Laxman Telangana State Horticulture University, Mulugu. Hence, the petitioner has been rusticated from the 3rd respondent college vide Rc.No. 166/2019/A4(i), dated 14.07.2023.

c) Moreover, providing an opportunity to the petitioner at the time of issuance of initial notice of rustication doesn't arise as rustication is an initial process and he is not terminated from the respondent college. The petitioner will be provided with an opportunity during further inquiry before taking final disciplinary action. Furthermore, the disciplinary committee was satisfied in taking decision as the petitioner was already arrested in connection with TSPSC paper leakage.

d) This court in W.P No. 23626 of 2023 vide orders dated 29.08.2023, directed the 3rd respondent to permit the petitioner to appear in the Ph.D. Forestry Final Theory (I Year I Semester

Regular) examinations and the results may not be declared until further orders of this Court. Likewise, the petitioner was permitted to appear for examinations from 30.08.2023.

e) Furthermore, in the remand report of FIR No.95 of 2023, dated 13.07.2023 of CSS DD SIT, Department of police, the petitioner has confessed that on invitation of Poola Ravi Kishore, the petitioner along with Thallapally Saideep went to the house of Poola Ravi Kishore and stated that Poola Ravi Kishore requested to assist in the forthcoming AEE exam to answer their students for which he would pay Rs.2 lakhs. Further the petitioner stated that he, Thallapally Saideep, Ch.Manikanta and Malothu Ganesh and the petitioner went to Moosarambagh on 22.01.2023 and cracked the question paper, wherein Poola Ravi Kishore gave him Rs.2 Lakhs and the same was shared equally. Hence, the Writ Petition is devoid of merits and is liable to be dismissed.

PERUSED THE RECORD :

5. The order impugned dated 14.07.2023 vide Rc.No.166/2019/A4(i) of the Dean Forest College and Research Institute, Mulugu – the 3rd respondent herein, reads as under:

"Rc.No.166/2019/A4(i) NOTICE DATED:-14.07.2023

Sub : FCRI, Mulugu – 2022 Phd.(Forestry) Batch –
Misconduct of students – Imposing of penalty –
Rustication orders – issued – Reg.

Ref : 1. Letter from Administrative Officer dated:
12.07.2023.
2. Minutes of the Disciplinary Committee, FCRI
dated: 14.07.2023.

* * *

This is to notify you that you are being rusticated from the Forest College & Research Institute, Mulugu, Siddipet District for the offence committed in connection with the TSPSC paper leakage and malpractice; and arrest by the Special Investigation Team probing the TSPSC exam question papers leak on 12.07.2023. This type of misconduct by the student is intolerable. But you have left us no choice for excuse with your behaviour and is not acceptable, and against the FCRI rules and regulations.

The Disciplinary Committee of this College in its meeting on 14.07.2023 after detailed deliberations has recommended to rusticate you from the FCRI till further orders.

Hence, you are rusticated from the FCRI till further orders.

Sd/-
Dean
Forest College & Research
Institute, Mulugu."

6. Counter affidavit filed by the 3rd respondent, in particular, the relevant paras 2 (v), 8 (i) (iii) and (iv), reads as under:

2(v) It is respectfully submitted that providing an opportunity to Sri.Ravula Rohith, S/o Thirupathi at the time of issuance of initial notice of rustication doesn't arise, as rustication is an initial process and he is not terminated from FCRI. The opportunity to Sri.Ravula Rohith, S/o Thirupathi will be provided during further inquiry before taking final disciplinary action. Furthermore, the disciplinary committee was satisfied in taking decision as Sri.Ravula Rohith, S/o Thirupathi was already arrested in connection with Telangana State Public Service Commission paper leakage case. Hence, in order to maintain the morale of the students in the Institution he was rusticated.

8(i) Forest College and Research Institute, Mulugu is affiliated to Sri Konda Laxman Telangana State Horticulture University, Mulugu and the Regulations issued by the Sri Konda Laxman Telangana State Horticulture University, Mulugu are followed by the Forest College and Research Institute, Mulugu. The other Rules and Regulations issued by the competent authority are being followed, in case the same are not issued by the Sri Konda Laxman Telangana State Horticulture University, Mulugu.

8(iii) Sri.Ravula Rohith, S/o Thirupathi has been Remanded u/s 167 of Cr.PC.1973 (Procedure when the investigation

cannot be completed within 24 hours) in the Court of the Hon'ble of XII Additional Chief Metropolitan Magistrate Hyderabad at Namapally. It is further respectfully submitted that Forest College and Research Institute, Mulugu also imparting coaching to the students of Forest College and Research Institute, Mulugu for appearing in competitive exams and students qualified in many examinations including clearing of Telangana State Public Service Commission Group I preliminary examinations, which is cancelled due to several reasons. Hence, the rustication orders have issued to avert damage of reputation of the Forest College and Research Institute, Mulugu and also to prevent spoiling of the academic and residential environment on the campus, as all the courses are residential, and also to sustain the interest of the Students in appearing the competitive and academic examinations.

It is respectfully submitted that providing an opportunity to Sri.Ravula Rohith, S/o Thirupathi at the time of issuance of initial notice of rustication doesn't arise, as it is an initial notice of rustication and inquiry is pending. The opportunity to Sri.Ravula Rohith, S/o Thirupathi will be provided during further inquiry and taking final disciplinary action. The argument of Sri.Ravula Rohith, S/o Thirupathi that the act of indiscipline of students attract punishments like a warning, a fine, expulsion from hostel, and suspension from attending classes for a period of not exceeding a month is incorrect and not applicable for this case.

8(iv) The Disciplinary Committee of the Forest College and Research Institute, Mulugu consisting of four faculty members in its meeting on 14.07.2023 has recommended to rusticate Sri.Ravula Rohith, S/o Thirupathi because of his misconduct exhibited in the form of Telangana State Public Service Commission paper leakage and malpractice and consequent arrest by the Special Investigation Team probing the Telangana State Public Service Commission exam question papers leak on 12.07.2023, in accordance with the Regulation 11 of Post-Graduate Regulations of Sri Konda Laxman Telangana State Horticulture University, Mulugu. Hence, Sri.Ravula Rohith, S/o Thirupathi has been rusticated from the Forest College and Research Institute, Mulugu vide Dean FCRI Rc.No. 166/2019/A4, dated 14.07.2023.

7. Regulation No.11 of Post Graduate Courses of Konda Laxman Telangana State Horticulture University, Mulugu, reads as under:

"11.Unfair means in examinations: A M.Sc./Ph.D. student found using unfair means in the examinations shall be withdrawn from the university."

DISCUSSION AND CONCLUSION:

8. Learned counsel appearing on behalf of the petitioner contends that a bare perusal of regulation No.11 of Post

Graduate Courses of Konda Laxman Telangana State Horticulture University, Mulugu, indicates that the said Regulation No.11 could be applied if the M.Sc./Ph.D., student is found using unfair means in the examinations and the said student shall be withdrawn from the University. Admittedly, in the present case the petitioner did not involve in any unfair means in examinations conducted in the university and this Regulation No.11 has no application in so far as issuing the impugned orders dated 14.07.2023, as contended in the counter affidavit filed by the 3rd respondent at para No.8(iv). The learned counsel for the petitioner further contends that 10.3.7 and 10.3.8 of the FCRI PG Regulations 2020 governing the Post Graduate studies leading to the award of the Master of Science in Forestry which are extracted below need to be followed in the present case.

10.3.7: The Dean shall enquire into the act of indiscipline of the student(s) and shall take immediate action such as administering a warning, fine, expulsion from the hostel and suspension from attending the classes for a period not exceeding a month.

10.3.8: Further in serious cases of disciplinary action, a committee shall be constituted by the Dean of the College within 3 senior most faculty members of the college, the action shall be

initiated based on the recommendations of committee by the Dean and communicated to the University."

9. This Court opines that the order impugned has been passed without giving any opportunity to the petitioner unilaterally and the counter affidavit filed by respondent No.3, at para 8(iv) refers to Regulation No.11 of Post Graduate Courses of Konda Laxman Telangana State Horticulture University, Mulugu as being invoked in passing the Impugned Order, which in fact has no application in so far as the issue involved in the present case is concerned. A bare perusal of the order impugned dated 14.07.2023 vide R.C.No.166/2019/A4(i) passed by the 3rd respondent indicates that the petitioner has been rusticated from the Forest College and Research Institute till further orders. A bare perusal of the order impugned dated 14.07.2023 also indicates the Minutes of the Disciplinary Committee, FCRI dated 14.07.2023, as on record on the date of passing of the impugned order by the 3rd respondent on 14.07.2023 itself and it is also evident that no explanation of whatsoever nature had been called for from the petitioner nor any reasonable

opportunity of hearing was provided to the petitioner and the order impugned dated 14.07.2023 had been passed by the 3rd respondent unilaterally contending that the petitioner was involved in TSPSC paper leakage and malpractice. It is also concluded in the impugned proceedings of the 3rd respondent in Rc.No.166/2019/A4(i) dated 14.07.2023 that the type of misconduct by the petitioner is intolerable. This Court opines that the 3rd respondent proceeded in the matter prejudging the issue at the threshold itself in a biased manner even before conducting due enquiry in accordance to rules in force hastily, hurriedly, irrationally, and unilaterally.

10. It is the specific case of the petitioner that the petitioner did not appear for TSPSC, AEE & DAO examination nor had been involved in the alleged malpractice and further that on a false confession of other accused, the petitioner's name was included.

11. This Court opines that the order impugned dated 14.07.2023 passed by the 3rd respondent indicates that the Disciplinary Committee of the College in its meeting on 14.07.2023 after detailed deliberations has recommended to rusticate the petitioner from the Forest College and Research

Institute till further orders and the counter affidavit filed by the 3rd respondent indicates that the impugned rustication orders Rc.No.166/2019/A4(i) dated 14.07.2023 imposed upon the petitioner are more in the form of punishment and it is contended by the 3rd respondent that the impugned rustication orders had been issued to avert damage of reputation of the Forest College and Research Institute Mulugu and also to prevent spoiling of the academic and residential environment on the campus as all the courses are residential and also to sustain the interest of the student in appearing for the competitive and academic examinations. A bare perusal of the averments of the counter affidavit filed by the 3rd respondent in particular, para 2 (v) also indicates that unilaterally it has been decided by the 3rd respondent that at the time of issuance of initial notice of rustication, the petitioner need not be provided with any opportunity and that opportunity would be provided to the petitioner during further enquiry before taking final disciplinary action. This Court opines that the Regulation No.11 does not apply to the facts of the present case and the students pursuing their studies cannot be rusticated under the pretext of enquiry for long period.

12. This Court also takes note of the fact that Regulation No.10.3.7 and 10.3.8 had not been followed in the present case and the judgment relied upon by the learned Government Pleader for Services, reported in 2002 (6) ALD 720 in between "R.SESHAGIRI RAO AND OTHERS v. UNIVERSITY OF HYDERABAD AND ANOTHER" dated 11.11.2002 has no application to the facts of the case.

13. This Court opines that an individual's Right to liberty includes an individual's personal right to pursue his or her course of study. The Apex Court in the Judgment reported in (2013) 15 SCC 570 in "SUMIT MEHTA v. STATE OF N.C.T OF DELHI", at para 13 observed as under:

"The law presumes an accused to be innocent till his guilt is proved. As a presumably innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution."

14. The Full Bench of Apex Court in Judgment dated 08.10.2020 reported in (2020) 10 SCC 670 in "ANKITA KAILASH KHANDELWAL AND OTHERS v. STATE OF MAHARASHTRA AND OTHERS" at para 24 (b) observed as under:

"If the law presumes an accused to be innocent till his guilt is proved, the Appellants as presumably innocent persons, are entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution and are entitled to pursue their course of study so long as exercise of said right does not hamper smooth conduct and progress of the prosecution."

15. The Apex Court in the judgment reported in (2009) 12 SCC 40 in "Umanath Pandey & Others vs. State of Uttar Pradesh & Another", in particular, at paras 10 and 11 observed as under :

Para 10 : The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as *audi alteram partem* rule. **It says that no one should be condemned unheard. Notice is the best limb of this principle. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly**

vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way into the "Magna Carta". The classic exposition of Sir Edward Coke of natural justice requires to "vacate, interrogate and adjudicate". In the celebrated case of Cooper v. Wandsworth Board of Works the principle was thus stated: (ER p. 420).

"Even God himself did not pass sentence upon Adam before he was called upon to make his defence. 'Adam' (says God), 'where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat?' Since then the principle has been chiselled, honed and refined, enriching its content. Judicial treatment has added light and luminosity to the concept, like polishing of a diamond.

Para 11: "Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice".

16. This Court opines that it is well established that even when there is no specific provision in a statute or rules made thereunder for showing cause against action proposed to be taken against an individual, which affects the right of that individual, the duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the Authority, which has the power to take punitive or damaging action. It is further settled law now, that although there are no positive words in the statute which stipulate that the party shall be heard, yet the Justice of the common law will supply the omission of the Legislature. The principle of *audi alteram partem* which mandates that no one shall be condemned unheard, is part of the rules of natural justice. Thus the soul of Natural Justice, it has been said, is only "fair play in action".

This Court is of the firm opinion that "where a public office has power to deprive a person of his liberty or his property, the general principle is that it can be done only after providing an opportunity of being heard and of making representation on his own behalf".

17. This Court opines that the petitioner is only accused and he had not been found guilty of the allegations levelled against him. This Court is of the firm opinion that Rusticating a student unilaterally without issuing notice to the petitioner till further orders based upon a preliminary report of special investigation team probing the TSPSC exam question papers leak on 12.07.2023 is an arbitrary exercise of power by the respondents herein in view of the fact as borne on record that so far the guilt of the petitioner has not been decided or established by any competent Judicial forum and in the absence of the same the 3rd respondent ought not have issued the impugned rustication order in R.C.No.166/2019/A4(i) dated 14.07.2023 unilaterally in clear violation of principles of natural justice without providing an opportunity of personal hearing to the petitioner concluding and prejudging unilaterally that the conduct of the petitioner is intolerable under Regulation 11 of Post Graduate Regulation of Sri Konda Laxman Telangana State Horticulture University, Mulugu as contended in the counter affidavit filed by the 3rd respondent which has in

fact no application at all to the issue involved in the present writ petition.

18. Taking into consideration the aforesaid facts and circumstances, and duly considering the view taken by the Apex Court in its Judgment reported in (2013) 15 SCC 570 in "SUMIT MEHTA v. STATE OF N.C.T OF DELHI" and Full Bench of Apex Court in Judgment dated 08.10.2020 reported in (2020) 10 SCC 670 in "ANKITA KAILASH KHANDELWAL AND OTHERS v. STATE OF MAHARASHTRA AND OTHERS" and also Judgment of the Apex Court in "UMA NATH PANDEY v. STATE OF U.P. (referred to and extracted above), the writ petition is allowed setting aside the Impugned Notice in Rc.No.166/2019/A4(i) dated 14.07.2023 issued by the 3rd respondent. It is however observed that it is open to the respondents to proceed afresh in the matter if the respondents intend to do so duly following the principles of natural justice by providing reasonable opportunity to the petitioner which includes an opportunity of providing personal hearing as well adhering strictly to the procedural guidelines and regulations i.e., "THE FCRI P.G. Regulations 2020

governing the Post Graduate studies leading to the Award of the Master of Science in Forestry. However, there shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

SUREPALLI NANDA, J

Date: 29.11.2023

Note :L.R. Copy to be marked.
(B/o) *Yvkr.*