

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**W.P. No. 5010 of 2023**

Between:

P.Abhilash and others

... Petitioners

And

P.V.Narasimha Rao Telangana
Veterinary University and others

... Respondents

JUDGMENT PRONOUNCED ON: 11.09.2023

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
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 5010 of 2023**

% 11.09.2023

Between:

P.Abhilash and others

..... Petitioners

And

\$ P.V.Narasimha Rao Telangana
Veterinary University and others

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioners : Mr P.V.L.Bhanu Prakash

^ Standing counsel for Respondents: Mr A.Venkataramana

? Cases Referred:

1. (2010) 1 SCC 126
2. (2009) 12 SCC 40
3. (2021) 6 SCC 771
4. (2013) 15 SCC 570
5. (2020) 10 SCC 670

HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 5010 of 2023****ORDER:**

Heard Sri P.V.L.Bhanu Prakash, learned counsel appearing for the Petitioners and Sri A.Venkataramana, learned standing counsel appearing for the Respondents.

2. This Writ Petition is filed praying to issue a Writ of Mandamus by declaring the memo No. 3195/Acad.VI/2022 dated 29.11.2022 issued by the 3rd respondent herein in expelling the petitioners from all hostels and college vehicles permanently with effect from 01/11/2022 and rustication from institution for one year with effect from 01.11.2022, as arbitrary, illegal, bad in law, violative of Article 14, 19 and 21 of the Constitution and consequently set aside the memo No. 3195/Acad.VI/2022 dated 29.11.2022 issued by the 3rd respondent, further direct the respondents to permit the petitioners to appear for internal examination to be held from 22.02.2023 for the professional year 2022-23.

3. The case of the Petitioners, in brief, is as follows:

a) Petitioner nos. 1, 3, 4 and 8 are studying their II year and the petitioner nos. 2, 5, 6 and 7 are studying their IV-year Bachelor of Veterinary Science and Animal Husbandry degree in the 4th respondent college. All the petitioners herein along with other students were placed under suspension by an order dated 29.10.2022 for a period of 2 weeks on the allegations of ragging the 1st year students. Basing on the complaint dated 26.10.2022 alleged to have been given by the warden of Hostel-A U/G hostel to the 3rd respondent alleging that students of II Year and IV year ragged the 25 professional 1st year students on Diwali day. The 3rd respondent by memo No. 2688/Acad VI/2022 dated 27.10.2022 constituted preliminary enquiry committee to make initial inquiry and submit its report by 29.10.2022. The 3rd respondent constituted a preliminary enquiry committee in which the Warden of the Hostel-A U/G, Professor of Parasitology Department, Professor of Life Stock Anatomy Department are the members.

b) The 3rd respondent acted upon the complaint given by the Warden of the Hostel-A U/G hostel and still he is made as part of the committee constituted for conducting preliminary

enquiry. A complainant himself can never be part of the preliminary enquiry committee, as such the constitution of the committee and the enquiry conducted is illegal, bad in law, violative of principles of natural justice. The said committee summoned all the petitioners herein along with other students and made them to admit the guilt forcefully threatening them that he will be permanently rusticated from the college.

c) Basing on the forced admissions given by all of the petitioners, the preliminary committee alleged to have submitted its report dated 29.10.2022. In the said preliminary committee report it is alleged that certain students of II and IV year were identified and were immediately expelled from hostel and academics for a period of 3 weeks.

d) The 3rd respondent through its letter dated 12.11.2022 intimated the preliminary enquiry report to the 1st respondent herein for further directions. Basing on the said enquiry report dated 15.11.2022 submitted by the 1st Respondent committee, the 3rd respondent by impugned proceedings dated 29.11.2022, expelled the petitioners herein from all hostels and college vehicles permanently with effect from

01.11.2022 and also rusticated from institution for one-year w.e.f. 01.11.2022.

e) Furthermore, one of the Preliminary Enquiry committee members viz., Sri. Rajanna, Viz., Professor of Life Stock Anatomy has been transferred to Warangal Veterinary College, as such without forming new committee, the enquiry was completed and the report is alleged to have been completed. The 3rd respondent herein before taking the decision for imposing of harsh punishment of rusticating the students from the college/ institution for a period of one year, ought to have given them an opportunity by providing them the copy of the report to prove their innocence. In the Enquiry report, they refer to several statements given by witnesses including the hostel staff, security, bus drivers, concerned student advisors, written, circumstantial and substantial evidences, confession statements, held that the petitioners along with other students have committed the offence of ragging.

f) Moreover, the 3rd respondent in its impugned order dated 29.11.2022 referred to various documents alleged to have been gathered during the inquiry and, had passed the

impugned order. The complainant viz, Warden of hostel - A U/G is made part of the Preliminary Enquiry Committee and also in the second committee which conducted detailed enquiry and submitted its report dated 15.11.2022.

g) The respondent college issued memo dated 30.11.2022 with revised academic calendar for professional year 2022-23. The First Internal Examinations are scheduled to be conducted from 22.02.2023 to 01.03.2023. In view of the impugned order passed by the 3rd respondent the petitioners are unable to appear for the said examinations and the impugned order is arbitrary, illegal, bad in law and violative of Article 14, 19 and 21 of the Constitution of India. Hence, this Writ Petition.

4. Counter Affidavit filed by the Respondent Nos. 1, 2 & 3 is as under:

a) The petitioners were expelled from all hostels and college vehicles permanently with effect from 01.11.2022 and rustication from institution for one year with effect from 01.11.2022 through Memo.No.3195/Acad. VI/2022, dated 29.11.2022 since they were involved in ragging the first-year students. On receipt of information of ragging incident from

the Hostel Warden, a preliminary enquiry committee was constituted and the committee interacted with the first-year students and 2nd and 4th year professional students of BVSc & AH course who were residing in the Hostel and reported certain Seniors of 2nd and 4th year student as guilty and they were immediately expelled from hostel and academics as per the gravity of offence for 3 weeks pending a detailed enquiry through D.O.Lr. No.2769/Acad V1/2022, dated 12.11.2022 by the Associate Dean.

b) The committee conducted a detailed enquiry procuring all evidences (written, circumstantial and substantial) besides confessions and statements from all students along with Hostel staff, Security, Bus drivers and concerned student Advisors etc. and guilty students were classified into three categories viz., Category-I, Senior boarders who committed Serious ragging offences; Category-II – Senior boarders Who were involved in objectionable ragging and Category-III - Senior boarders who committed minor ragging offences. Based on the report of the enquiry committee and as per the guidelines issued by the UGC Regulations Clause 9.1 (b) the category-I boarders were expelled from all Hostels and

college vehicles permanently w.e.f. 01.11.2022 and rustication from institution for ONE-year w.e.f. 01.11.2022; the category-II boarders were awarded the punishment of suspension from academics for one month from 01.11.2022 and expelled from all Hostels and college vehicles permanently w.e.f. 01.11.2022. The category-III boarders were awarded punishment of suspension from academics for one-month w.e.f. 01.11.2022 and expelled from all hostels and college vehicles for 6 months w.e.f. 01.11.2022.

c) As per UGC Regulations under Clause 9(1)(c), an appeal against the order of punishment by the Anti-Ragging Committee shall lie with the Vice-Chancellor of the University. Though there is provision to appeal against the orders before the Vice-Chancellor of the University, the petitioners have straight away approached this Court.

d) The Warden is the primary officer in the hierarchy of officials. The statement of the petitioner that the petitioners along with other students were suspended for a period of 2 weeks is not correct. They were expelled from hostels and academics for 3 weeks as per the gravity of offence, pending detailed enquiry, through the order dated 29.10.2022.

e) The Vice-chancellor of the respondent University has received an e-mail from a friend of a first-year student regarding incidents of ragging in the Hostel-A. Later he also received a phone call from the parents of one of the first-year student regarding ragging incident. Some of the victims have dropped information in grievance box available at Hostel regarding ragging. Based on the above information, the Vice-Chancellor has instructed the Associate Dean, College of Veterinary Science, Rajendranagar who is the chief warden of the hostels attached to the College to conduct a preliminary enquiry on the issue.

f) The Associate Dean has conducted a preliminary enquiry by duly constituting an enquiry committee wherein the Warden Hostel-A is the convener. The position of warden is an honorary position. The senior professors will be nominated as Wardens of hostels for a tenure of one year on rotation basis. The warden has not made any complaint to the chief warden or the higher authorities. There is no violation of principles of natural justice as the Warden is not the complainant. It is pertinent to mention here that in the hierarchy of Hostel Administration the Warden is the first level

officer and therefore the Warden was made as convener of the enquiry committee.

g) In the preliminary enquiry some of the seniors were found guilty and hence a detailed enquiry was conducted to identify all the senior students who ragged the first-year students and the committee has recorded the statements of all the first-year student as well as senior students who were involved in ragging.

h) The petitioner does not know the name of their Hostel Warden and department to which he belongs. The name of the Warden Hostel-A at the time of the occurring Ragging incident was Dr.N. Rajendranath, Professor of Veterinary Anatomy but not Dr.N. Rajanna, Professor of Live Stock Production Management.

i) The enquiry committee consists of five Senior Professors namely (1) Dr.M.Udaya Kumar, Professor of Veterinary Parasitology as Chairman; (2) Dr. M. Srinivas Reddy, Professor of Veterinary & Animal Husbandry Extension Education as member; (3) Dr.N. Rajendranath, Professor of Veterinary Anatomy as member; (4) Dr.A. Vijay Kumar, Assistant Professor of Veterinary Public Health & Epidemiology

as member and (5) Dr.K. Venataramana, Professor of Veterinary Gynecology and Obstetrics and Warden Hostel-A as Convener of the committee and all the committee members were present during the entire process of enquiry and submitted the report.

j) The first internal examinations scheduled from 22.02.2023 to 01.03.2023 belong to 3rd year students whereas the petitioners belong to 2nd and 4th year and none of the petitioners are eligible to appear for the said examinations since none of the petitioners belong to the 3rd Professional year of BVSc & AH course. Hence, the Writ Petition is without merits and is liable to be dismissed.

PERUSED THE RECORD :

5. Counter affidavit filed on behalf of Respondents

No.1, 2 and 3, in particular, Paras 3, 6 and 8, read as under:

" 3. The averments made in paragraph 2 of the affidavit are denied. It is respectfully submitted that the petitioners were expelled from all hostels and college vehicles permanently with effect from 01.11.2022 and rustication from institution for one year with effect from 01.11.2022 through Memo No 3195/Acad.VI/2022, dated 29.11.2022 since they were involved in ragging

the first year students. On receipt of information of ragging incident from the Hostel Warden, a preliminary enquiry committee was constituted and the committee interacted with the first years students and 2 and 4th professional year students of BVSC & AH course who were residing in the Hostel and reported certain Seniors of 2nd and 4th year student as guilty and they were immediately expelled from hostel and academics as per the gravity of offence for 3 weeks pending a detailed enquiry through D.O.Lr No 2769/Acad W2022 dated 12.11.2022 by the Associate Dean. The committee conducted a detailed enquiry procuring all evidences (written, circumstantial and substantial) besides confessions and statements from all students along with Hostel staff, Security. Bus drivers and concerned student Advisors etc and guilty students were classified into three categories viz., Category- Senior boarders who committed Serious ragging offences Category-II Senior boarders who were involved in objectionable ragging and Category-II-Senior boarders who committed minor ragging offences. Based on the report of the enquiry committee and as per the guidelines issued by the UGC Regulators Clause 9.1 (b) the category I boarders were expelled from all Hostels and college vehicles permanently w.e.f. 01.11.2022 and rustication from institution for ONE year w.e.f. 01.11.2022: the category II boarders were awarded the punishment of suspension from academics for one month from 01.11.2022 and

expelled from all Hostels and college vehicles permanently w.e.f. 01.11.2002 The category III boarders were awarded punishment of suspension from academics for one month w.e.f. 1.11.2022 and expelled from all hostels and college vehicles for 6 months w.e.f. 1.11.2022.

6. The averments made in para 4 of the affidavit are denied. It is respectfully submitted that the Hon'ble Vice-chancellor of the respondent University has received an e-mail from a friend of a first year student regarding incidents of ragging in the Hostel A. Later he was also received a phone call from the parent of one of the first year student regarding ragging incident. Some of the victims have dropped information in grievance box available at Hostel regarding ragging. Based on the above information, the Vice- Chancellor has instructed the Associate Dean, College of Veterinary Science Rajendranagar who is the chief warden of the hostels attached to the College to conduct a preliminary enquiry on the subject issue. The Associate Dean has conducted a preliminary enquiry duly constituting an enquiry committee wherein the Warden Hostel-A is the convener. The warden of a hostel is not a full time officer like in other Social Welfare / SC / ST welfare hostels. The position of warden is a honorary position. The senior professors will be nominated as Wardens of hostels for a tenure of one year on rotation basis. The caretaker who is looking after the needs of students is

available from morning to evening and he will inform all the issues to the warden. The warden will visit the hostels frequently. The warden has not made any complaint to the chief warden or the higher authorities. There is no violation of principles of natural justice as the Warden has not the complainant. It is pertinent to mention here that in the hierarchy of Hostel Administration the Warden is the first level officer and therefore the Warden was made as convener of the enquiry committee. In the preliminary enquiry some of the seniors found guilty and hence a detailed enquiry was conducted to identify all the senior students who ragged the first year students and the committee has recorded the statements of all the first year students as well as senior students who were involved in ragging.

8. In reply to the averments made in para 6 are denied. The petitioner does not know the name of their Hostel Warden and department to which he belongs. The name of the Warden Hostel-A at the time of the occurring Ragging incident was Dr.N. Rajendranath, Professor of Veterinary Anatomy but not Dr.N.Rajanna, Professor of Live Stock Production Management. As submitted at para 5 above, on completion of the term of honorary position of Hostel Warden, Dr.N.Rajendranath, Professor of Veterinary Anatomy was relieved from the additional responsibilities of Hostel-A Dr.K.Venkataramana, Professor of Veterinary Gynaecology and Obstetrics has and taken charge of the honorary position. The

petitioner has put baseless and wrong information before the Hon'ble Court to waste the valuable time of this court. The enquiry committee consists of five Senior Professors namely (1) Dr.M.Udaya Kumar, Professor of Veterinary Parasitology as Chairman; (2) Dr.M.Srinivas Reddy, Professor of Veterinary & Animal Husbandry Extension Education as member; (3) Dr.N.Rajendranath, Professor of Veterinary Anatomy as member; (4) Dr.A. Vijay Kumar, Assistant Professor of Veterinary Public Health & Epidemiology as member and (5) Dr.K. Venataramana, Professor of Veterinary Gynaecology and Obstetrics and Warden Hostel A as Convener of the committee and all the committee members were present during the entire process of enquiry and submitted the report. All the boarders of Hostel-A including the petitioners were given ample opportunity to prove their innocence. The enquiry committee has recorded the statements of first year students who were ragged by senior boarders of 2nd and 4th professional year and also the student advisors staff of the hostel and security person and also the bus Driver in which they were travelled every day from Hostel to College and back."

6. UGC Regulations, Clause 9.1 (a) and (b), reads as under:

“9.1 The institution shall punish a student found guilty of ragging after following the procedure and in the manner prescribed herein under:

9.1 (a)

The Anti-Ragging Committee of the Institution shall take an appropriate decision, in regard to punishment or otherwise, depending on the facts of each incident of ragging and nature and gravity of the incident of ragging established in the recommendations of the Anti-Ragging Squad.

9.1 (b) (vi & viii)

b) The Anti-Ragging Committee may, depending on the nature and gravity of the guilt established by the Anti-Ragging Squad, award, to those found guilty, one or more of the following punishments, namely;

- i. Suspension from attending classes and academic privileges.
- ii. Withholding/ withdrawing scholarship/ fellowship and other benefits.
- iii. Debarring from appearing in any test/ examination or other evaluation process.
- iv. Withholding results.
- v. Debarring from representing the institution in any regional, national or international meet, tournament, youth festival, etc.
- vi. Suspension/ expulsion from the hostel.
- vii. Cancellation of admission.
- viii. Rustication from the institution for period ranging from one to four semesters.
- ix. Expulsion from the institution and consequent debarring from admission to any other institution for a specified period. Provided that where the persons committing or abetting the act of ragging are not identified, the institution shall resort to collective punishment.

DISCUSSION AND CONCLUSION:

DISCUSSION :

7. Petitioners are students, who are pursuing their Bachelor of Veterinary Science and Animal Husbandry Degree in the 4th Respondent College. Vide impugned proceedings dated 29.11.2022 vide Memo No.3195/Acad.VI/2022, issued by the 3rd Respondent action had been initiated and action taken expelling the Petitioners herein from all hostel and college vehicles permanently w.e.f. 01.011.2022 and also rusticated from the Institution for one year w.e.f. 01.11.2022, against the Petitioners individually, referring to UGC Regulations reference 6 Clause 9.1(b) (i and vi), 9.1(b) (vi & viii). Aggrieved by the same the Petitioners approached the Court by filing the present writ petition.

8. The main grounds of challenge putforth by the Petitioners against the order impugned dated 29.11.2022 are as under :

- i. That the order impugned is without notice to the Petitioners and in clear violation of principles of natural justice.

- ii. The specific plea of the Petitioners is that the Warden Hostel-A U/G Hostel i.e., Dr. N.Rajendranath who gave the complaint is made as part of the committee constituted for conducting preliminary inquiry and that a complainant himself can never be part of the preliminary inquiry committee.
- iii. Based on the inquiry report submitted by the Preliminary Enquiry Committee the order impugned has been passed against the Petitioners herein on 29.11.2022 and the Petitioners herein are unaware of the contents of the inquiry committee since no copy had been supplied to the Petitioners herein and therefore the Petitioners had been denied an opportunity to peruse the same to take necessary steps to prove Petitioners innocence.
- iv. The Petitioners were not provided with an opportunity of hearing nor they had been provided an opportunity to submit their explanation and the Petitioners had been declared guilty vide the impugned proceedings of the 3rd Respondent.
- v. The Petitioners writ petition needs to be allowed and the Petitioners have to be permitted to appear for their exams.
- vi. Inquiry has been done in a haphazard manner. Petitioners prayed that the writ petition has to

be allowed as prayed for on the above said grounds.

9. Counter filed on behalf of Respondents No.1, 2 and 3 at para 3 it is specifically stated that on receipt of information of ragging incident from the Hostel Warden the preliminary inquiry committee was constituted and the committee interacted with the students and thereafter, the committee conducted a detailed inquiry and submitted its report and based on the inquiry committee report as per the guidelines issued by the UGC Regulations Clause 9.1(b) (i), (vi) and (viii) minimum punishment has been imposed to the students. There was no illegality in dealing with the Petitioners and in fact minimum punishment had been imposed upon the Petitioners since ragging is a serious issue.

10. The Counsel appearing on behalf of the Respondents placed reliance on the judgments of the Apex Court, dated 10.11.2017 in Uttarkand Transport Corporation & Others vs. Sukhveer Singh, in particular, paras 4 and 8 there under and also paras 47 and 48 of

the Apex Court judgment in Haryana Financial Corporation vs. Kailash Chandra Ahuja, dated 08.07.2008 and laid emphasis on the point that failure to supply enquiry report does not vitiate the enquiry proceeding unless it is proved by the Petitioner that non-supply of report of the enquiry officer has resulted in prejudice or miscarriage of justice.

11. The counsel for the Respondent contends that the writ petition needs to be dismissed since the Petitioners have alternative remedy of Appeal as per UGC Regulations, Clause 9(i)(c) against the order of punishment by the Anti Ragging Committee to the Vice Chancellor of the University.

CONCLUSION :

12. A bare perusal of the order impugned infact the very first line indicates that it is the Warden of Hostel-A who submitted a letter dated 26.10.2022 to the Associate Dean stating that 25 first year professional student boarders were ragged in the recent time by senior boarders i.e., from II and IV years and it is at the

instance of the said Warden of Hostel-A that proceedings were initiated against the Petitioners and a preliminary enquiry committee was constituted to make initial inquiry and submit a report by 29.10.2022.

13. A bare perusal of the proceedings dated 27.10.2022 of the 3rd Respondent vide Memo No.2688/Acad.vi/2022 clearly indicates Dr.N.Rajendranath, Professor of Veterinary Anatomy and University Head Department of VAN as one of the member of the 5-member committee which is a preliminary committee constituted by the Associate Dean. Though in the counter affidavit filed by Respondents No.1, 2 and 3, at para 6 a specific plea is taken that the Associate Dean has conducted a preliminary inquiry duly constituting an inquiry committee wherein the Warden Hostel-A is the Convenor, it is however specifically contended in the said para No.6 of the counter affidavit that the Warden has not made any complaint to the Chief Warden or the higher authorities, this plea of the Respondents No.1, 2 and 3 is contradictory to what is stated in the very first

5 lines of the order impugned dated 29.11.2022 passed by the 3rd Respondent herein vide Memo No.3195/Acad vi/2022, dated 29.11.2022. This Court opines that complainant himself cannot be a part of the adjudicating authority and the same is not permissible in law.

14. A bare perusal of the order impugned also indicates that admittedly the Petitioners had not been put on notice at any point of time and the inquiry had been conducted by the preliminary enquiry committee with its findings adverse to the Petitioners and the order impugned had been passed awarding punishment of suspension from academics for one month with effect from 01.11.2022 and petitioners are expelled from all hostels and college vehicles for 6 months with effect from 01.11.2022 and the category two boarders were awarded punishment of suspension from academics for one month from 01.11.2022 and expelled from all hostels and college vehicles permanently with effect from 01.11.2022 and category one boarders were expelled from all hostels and college vehicles

permanents with effect from 01.11.2022 and rustication from Institution for one year with effect from 01.11.2022.

15. A bare perusal of Clause 6.4.1 of UGC Regulations on curbing the menace of ragging in Higher Educational Institutions, 2009, indicates as under :

6.4. Setting up of Committees and their functions:

6.4.1 : The Anti-Ragging Committee : The Anti-Ragging Committee shall be headed by the Head of the Institution and shall consist of representatives of faculty members, parents, students belonging to the freshers' category as well as seniors and non-teaching staff. It shall monitor the anti-ragging activities in the institution, consider the recommendations of the Anti-Ragging Squad and take appropriate decisions, including spelling out suitable punishments to those found guilty.

16. The Apex Court in the judgment reported in (2010) 1 SCC 126 in *Satwati Deswal vs. State of Haryana & Others* in its judgment dated 06.11.2009

dealing with reasonable opportunity at para 5 observed as under :

Para 5 : In our view, the High Court had fallen in grave error in rejecting the writ petition on the aforesaid ground. First, such an order of termination was passed without issuing any show-cause notice to the appellant and without initiating any disciplinary proceedings by the authorities and without affording any opportunity of hearing. It is well settled that a writ petition can be held to be maintainable even if an alternative remedy is available to an aggrieved party where the court or **the tribunal lacks inherent jurisdiction or for enforcement of a fundamental right; or if there had been a violation of a principle of natural justice; or where vires of the Act were in question.**

“

17. 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".

18. The Apex Court in a judgment dated 20.04.2021, reported in (2021) 6 SCC 771 in M/s. Radhakrishnan Industries vs. State of Himachal Pradesh referring to Whirlpool Corporation vs. Registrar of Trade Marks (reported in 1998 (8) SCC 1) at para 27 observed as under :

"The principles of law which emerge are that

27.1 The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

27.2 The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

27.3 Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

27.4 An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

27.5 When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

27.6 In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

19. In the present case this Court opines that 27.1, 27.3 (a) (b) (c) (referred to and extracted of the above Apex Court judgment) are attracted and hence the present writ petition is maintainable and the plea of availability of alternative remedy is unsustainable.

20. The Apex Court in the judgment reported in (2013) 15 SCC 570 in Sumit Mehta vs. State of N.C.T. of Delhi at para 13 it is 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.

21. The Full Bench of Apex Court in Judgment dated 08.10.2020 reported in (2020) 10 SCC 670 in Ankita

Kailash Khandelwal and Ors., vs. State of Maharashtra and Others at para 24 (b) it is observed as under :

As noticed by this Court in Sumit Mehta, 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.

22. This Court opines that the judgments relied upon by the Counsel for the Respondent do not apply to the facts of the case and taking into consideration the following facts and reasons listed below the writ petition is allowed as prayed for:

- (i) On perusal of record in the present case this Court opines that Regulation 6.4.1 of the UGC Regulations on curbing the menace of ragging in Higher Educational Institutions, 2009, had not been followed at all.**
- (ii) On perusal of record it is evident that the complainant i.e., Warden of the Hostel-A U/G Hostel is the member of the 5-Member Anti Ragging Preliminary Enquiry**

Committee which is not permissible under law.

- (iii) On perusal of record and also the counter affidavit and the order impugned dt. 29.11.2022 of the 3rd Respondent herein, it is evident that the Petitioners had not been put on notice nor had been provided with a reasonable opportunity of hearing.**
- (iv) A bare perusal of the UGC Regulations 9 on curbing the menace of Ragging in Higher Educational Institutions, 2009 which deals with administrative action in the event of ragging and the Clauses there under in particular 9.1 (a) & (b) clearly indicate that the recommendations of the Anti Ragging Squad play pivotal role in establishing the nature and gravity of the incident of ragging and also in deciding the award of punishments, in the present case admittedly as borne on record the very anti ragging committee itself constituted vide Proceedings dated 27.10.2022 vide Memo No.2688/Acad.VI/2022, is contrary to Regulation 6.3 of UGC Regulations on curbing the menace of Ragging in Higher Educational Institutions, 2009 and hence the entire**

proceedings initiated against the Petitioners stand vitiated.

- (v) In view of the law laid down by the Apex Court and the observations made there under referred to, discussed and extracted above.

23. Taking into consideration the above said facts and circumstances of the case and the law laid down by the Apex Court, in the various judgments, i.e. (1) judgment dated 06.11. 2009 reported in (2010) 1 SCC 126 in *Satwati Deswal vs. State of Haryana & Others* (2) judgment dated 16.03.2009 reported in (2009) 12 SCC 40 in *Umanath Pandey & Others vs. State of Uttar Pradesh & Another* (3) judgment dated 20.04.2021, reported in (2021) 6 SCC 771 in *M/s. Radhakrishan Industries vs. State of Himachal Pradesh* referring to *Whirlpool Corporation vs. Registrar of Trade Marks*, reported in 1998 (8) SCC (1), (4) judgment reported in (2013) 15 SCC 570 in *Sumit Mehta vs. State of N.C.T. of Delhi* (5) Judgment dated 08.10.2020 reported in (2020) 10 SCC 670 in *Ankita Kailash Khandelwal and Ors., vs. State of Maharashtra and Others* (referred to and discussed above) the Writ Petition is allowed as

prayed for and the Memo No.3195/Acad.VI/2022, dt. 29.11.2022, issued by the 3rd Respondent is set aside and the Respondents are directed to forthwith permit the Petitioners to appear for all the examinations scheduled for the professional year 2022-23.

Miscellaneous petitions, if any, pending shall stand closed. However, there shall be no order as to costs.

SUREPALLI NANDA, J

Date: 11.09.2023

Note: L.R.Copy to be marked.
b/o kvrm