

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 14.08.2013

+ W.P.(C) 5116/2013 & CM 11516/2013
YASHPAL SINGH NAGAR

..... Petitioner
Through: Mr. Pradeep Kumar Dubey, Mr. Abhigya
and Mr. A.K. Singh, Advs.

versus

JAMIA MILIA ISLAMIA & ORS.

..... Respondent
Through: Ms. Jaya Goyal and Mr. Varun Garg, Advs.

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner before this court is a fourth year student in the BDS Course of the respondent – Jamia Millia Islamia and was scheduled to appear in the final year theory examination of BDS Course from 1.6.2013 to 15.6.2013 and practical examination from 17.6.2013 and 25.6.2013. On 28.5.2013, two students namely Elham Jaidi and Israr Ali were found sitting boys Common Room and filling up some forms. A number of admission forms, loose photographs of students aspiring for admission to BDS course in Jamia Millia Islamia, ink pad etc. were found with them. Alleging that those students had admitted that with the forms were being filled on the direction of the petitioner and he had received illegal gratification from the students seeking admission to BDS Course for helping them in adopting unfair means in the entrance examination for the said course, the respondent-university issued the following show cause notice to him:

“(ii) You have also conspired with one Mr. Parvez Alam, First Year student of MBBS, Jamia Hamdard, Mukesh Kumar, 4th year, Rakesh Kumar, BDS 4th year, JMI and one Sh. Shazeb working for Royal Studio, to submit the admission form in sequence, so that the students are allotted roll numbers in sequence for committing irregularities and adopting unfair means in the coming Entrance Examination for BDS Course.

All the aforesaid acts committed by you are violative of the guidelines 11 detailed in the Prospectus of the University, Students Handbook and also of the Ordinance 14(1), 3(3,14) of Jamia Millia Islamia.

You are called upon to explain why disciplinary action should not be initiated against you for your above misconduct and illegal acts, which are unbecoming of student. You must appear before the Disciplinary Committee of the University on 7.6.2013 at 3 pm and also bring your reply in writing on the said date. In case, you fail to appear and submit your reply on the said date, it shall be presumed that you have nothing to offer in your defence.”

2. The petitioner claims to have submitted a reply to the show cause notice claiming innocence. Similar show cause notices were issued to four other students namely Rakesh Kumar, Mukesh Kumar, Ilham Zaidi and Israr Ali. Vide office order dated 13.6.2013, based on the recommendations of the Disciplinary Committee, the Vice-Chancellor of the university, expelled the five students including the petitioner from the university for a period of one year each. The said order to the extent it is relevant reads as under:

“Whereas it was noted with grave concern that five students of BDS Course namely Rakesh Kumar, 3rd year, Mukesh Kumar, 4th year, Yashpal Nagar, 4th year, Ilham Zaidi, 3rd year and Israr Ali, 2nd year were found indulging in using fraudulent means to get students admission in BDS Course. They were acting in conspiracy with Shri Parvez Alam, first year student of MBBS of Jamia Hamdard to use unfair means and irregularities during the coming Entrance Examination for BDS Course and illegal

gratification and also attempted to bribe the staff of Faculty of Dentistry. When they were caught they were caught, they confessed to the above act. Whereas a show cause notice dated 31.5.2013 was served on them to appear before the Disciplinary Committee of the university on 7.6.2013 at 3 pm.

Whereas in the meeting of Disciplinary Committee held on 7.6.2013 all the students appeared and admitted their guilt. All the aforesaid acts committed by them are unbecoming for a student and are violative of guidelines 11 detailed in the Prospectus of the University Students Handbook and of the Ordinance 14(1), 3(3,14) of Jamia Millia Islamia.

In view of the grave misconduct committed by these students, the committee unanimously order that University cannot afford any attempt, which is made to threaten or disrupt the academic and disciplinary environment of the university. With a view to maintain highest standards of discipline, fairness in examinations and quality of education, and on the recommendations of Discipline Committee, the Vice-Chancellor who is the Principal Academic and Executive Officer of the University enjoined by the Jamia Millia Islamia Act, 1988 to exercise general supervision and control over its affairs in terms of Statute 31, has expelled Rakesh Kumar, 3rd year, Mukesh Kumar 4th year, Yashpal Nagar 4th year, Ilham Zaidi 3rd year and Israr Ali, 2nd year, for a period of one year with immediate effect.”

3. Being aggrieved from the order expelling him from the university, the petitioner is before this Court seeking the following reliefs:

- a. issue a writ/order/direction in the nature of Certiorari for quashing of the office order dated 13.6.2013 bearing number 25/PO/JMI/2013 issued by respondent no.3 against the petitioner alleging indulgence in using fraudulent means to get students admitted in BDS course for illegal gratification and wrongly mentioning the admission of guilt by the petitioner and vide the said order expelled for the period of one year.
- b. Issue a writ/order/direction in the nature of mandamus, directing the respondents to declare the result of the petitioner, without pre-judice to the present petition.

- c. Direct the respondents to produce so-called investigation records and evidences/ material against the petitioner, on the basis of which the respondent has passed the impugned order.

4. The main contention of the learned counsel for the petitioner is that the (i) principles of natural justice were not followed (ii) the order passed by the Vice-Chancellor is vague and (iii) no admission of guilt was made by the petitioner.

5. As regards the contention that principles of natural justice were not followed by the university, I find no merit in the same. This is petitioner's own case that the show cause notice dated 31.5.2013 was issued to him and he had also submitted a reply to the said show cause notice on 7.6.2013. It is not in dispute that the petitioner had appeared before the Disciplinary Committee on 7.6.2013 and made his submissions. Therefore, it would not be correct to say that the principles of natural justice were not followed by the Vice Chancellor of the university before expelling the petitioner from the university. As regards the plea of the petitioner that on 7.6.2013, he was not allowed to carry his reply when he entered the meeting room for the purpose of hearing. It would be sufficient to refer to the view taken by this Court while dismissing the W.P(C) No.4731/2013 filed by Ilham Zadi, one of the students expelled along with the petitioner by passing a common order dated 13.6.2013. In the said writ petition, this court took the following view:

“6. The case of the petitioner is that he has submitted the reply to the show-cause notice, but the same was not considered by the respondents. The case of the respondents, as stated by their counsel, is that no reply to the show-cause notice was submitted by the petitioner. The impugned order dated 13.06.2013 contains no reference to the reply alleged to have been submitted by the petitioner. The copy of the reply filed with the writ petition does not bear any acknowledgement from the University. Had any such reply been actually submitted by the petitioner, he would certainly have obtained acknowledgment from the University. In case, the University refused to accept his reply, he would have written a letter to the University stating so in the letter and enclosing the reply to that letter. The petitioner had five clear days available to him between the date of

show-cause notice and the office order dated 13.06.2013 passed by the University to send a copy of the reply to the University by post. No such course of action, however, was adopted by him. In these circumstances, the plea taken by the petitioner in this regard cannot be adjudicated in a writ petition.”

6. On a perusal of the impugned order dated 13.6.2013, it cannot be said that the said order is vague. The order refers to the show cause notice as well as the broad allegations against the noticees. Even otherwise, the petitioner knew from the show cause notice dated 31.5.2013 that the allegation against him was that Ilham Zadi and Israr Ali, who were found in possession of admission forms, photographs etc. had admitted that they were filling up those forms on his directions and he had received illegal gratification from the students seeking admission to BDS Course.

7. As regards the contention that there was no material before the Disciplinary Committee which would establish the guilt attributed to the petitioner, it would be seen from the office order dated 13.6.2013 that all the noticees, which were included the petitioner before this Court, had admitted their guilt before the Disciplinary Committee on 7.6.2013. Though the petitioner has denied having admitted his guilt before the Disciplinary Committee, there is no allegation in the petition that members of the Disciplinary Committee, for one reason or the other were inimically disposed towards the petitioner. The Disciplinary Committee of the university is a multiple-member body. They could have no reason to attribute a false statement to the effect that all the students had admitted their guilt. Moreover, on receipt of the office order date 13.6.2013, the petitioner did not send any communication to the university alleging that no admission of guilt was made by him before the Disciplinary Committee on 7.6.2013 and the report of the Committee to this effect was false. In these circumstances, I am not inclined to accept the plea that no admission of guilt was actually made by the petitioner. The

admission of guilt need not necessarily be in writing and the same can be orally as well. In the absence of allegation of malafide against the members of the Disciplinary Committee, there would be no reason to disbelieve them and reject their report to this effect.

While dismissing W.P(C) No.4731/2013, this Court, *inter alia*, observed as under:

“...Primarily, it is for the University and not for the Court to decide whether the act committed by a student of the University was an act unbecoming of a student and amounted to use of unfair means and irregularities for the purpose of facilitating admission to the University. The Court cannot interfere with the decision taken by the university in this regard, unless it is shown that the decision is wholly arbitrary, irrational and capricious, bordering on perversity. That, however, is not the case here. It can hardly be disputed that such acts are bound to tarnish the image of the University besides facilitating use of unlawful means for getting admission to the University. Therefore, the decision taken by the University cannot be said to be so arbitrary, irrational or illogical as to call for interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution.”

The observations made and the view taken in the case of Ilham Zadi would equally apply to the petitioner before this Court. The writ petition is devoid of any merit and is hereby dismissed. There shall be no orders as to costs.

V.K. JAIN, J

AUGUST 14, 2013/rd