

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

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Date of Decision: 28.10.2013

+ WP(C) No.6772 of 2013 & CM Nos.14690-91
MOHD. MONISH

..... Petitioner

Through: Mr. Alamgir, Adv.

versus

JAMIA MILLIA ISLAMIA & ORS

..... Respondent

Through: Ms. Manpreet Kaur for Ms. Jaya
Goyal, Adv.

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (Oral)

The petitioner before this Court was a student of B.A. Course of the respondent university – Jamia Millia Islamia. On receipt of a complaint that the petitioner was harassing a girl student of the university, a show-cause notice dated 8.5.2013 was issued to the petitioner, referring to the aforesaid complaint and asking him to submit his explanation on or before 4 pm on 10.5.2013. The petitioner responded to the aforesaid show-cause notice vide his reply dated 10.5.2013, stating therein that as they were together in the class of History from where he started notice of her and approached her. She, however, gave a neutral reply and, therefore, he again approached her. He denied having harassed her, teased her and threatened to kill her.

The petitioner was given personal hearing in a meeting held of the Disciplinary Committee held on 26.7.2013. The aforesaid Committee taking a serious view of the involvement of the petitioner in the case of eve-teasing

and considering the oral submissions as well as written submissions at length recommended to the Vice-Chancellor of the University to expel him from the University. The Vice-Chancellor in exercise of the powers conferred upon him by Statute 31, expelled the petitioner from the university and also imposed complete ban on his entering the university. The petitioner vide his letter dated 29.8.2013, sought review of the aforesaid order whereby he was expelled from the university and was banned from entering its campus. The request was reiterated vide subsequent letter dated 30.8.2013. The university, however, has not reviewed the order passed by the Vice-Chancellor. Being aggrieved, the petitioner is before this Court seeking the following reliefs:

- (i) certiorari for quashing the office order dated 31.07.2013 bearing number F.No.21/PO/JMI/2013, issued by respondent no.3;
- (ii) mandamus directing and commanding the respondents to allow the petitioner to attend and continue his classes in B.A. (Hons) Economics – 1st year.

3. It is an admitted position that a show-cause notice was given to the petitioner before the decision was taken to expel him from the university and ban his entry to its campus. The petitioner submitted a reply which was duly considered by the Disciplinary Committee of the university. The petitioner was given oral hearing and this is acknowledged in his communication sent to the university including the letter dated 29.8.2013. Therefore, the principles of natural justice were duly complied before taking the impugned decision.

4. The learned counsel for the petitioner referring to a decision of this Court in Akhlaque Ahmad Khan versus Jamia Millia Islamia [W.P(C) No.1687/2008, decided on 14.9.2010] relied upon the Statute 31 and 14 of the University, which, as reproduced in the aforesaid judgment read as under:

**“31. MAINTENANCE OF DISCIPLINE AMONG
STUDENTS OF THE UNIVERSITY:**

(1) All powers relating to discipline and disciplinary action in relation to students shall vest in the Shaikh-ul-Jamia (Vice-Chancellor).

(2) The Shaikh-ul-Jamia (Vice-Chancellor) may delegate all or any of his powers as he deems proper to any officer as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action in the interest of maintaining discipline as may seem to him appropriate, the Shaikh-ul-Jamia (Vice-Chancellor) may, in the exercise of his powers, by order, direct that any student or students be expelled or rusticated, for a specified period or be not admitted to a course or courses of study in a Department or an Institution of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University or a Department or an Institution for one or more years, or that the results of the student or students concerned in the examination of examinations in which he or they have appeared be cancelled.”

16. Ordinance 14 titled “Students Discipline” provides: “4. Students found guilty of breach of discipline shall be liable to such punishment, as prescribed below:

(1) Fine;

(2) Campus Ban

(3) Expulsion; and

(4) Rustication.

However, no such punishment shall be imposed on a erring student unless he is given a fair chance to defend himself. This shall not preclude the Shaikhul-Jamia (Vice-Chancellor) from suspending an erring student during the pendency of disciplinary proceedings against him. 5. All powers relating to discipline & disciplinary action in relation to the student shall vest in the Shaikhul-Jamia (Vice-Chancellor). However the Shaikhul-Jamia (Vice-Chancellor) may delegate all or any of his powers as he deems proper to the proctor or to the discipline committee as the case may be or any functionary of the

University. 6. Powers relating to discipline/misconduct shall be regulated by Statute 31 read with Section 30 of JMI Act, 1988. 7. (i) Without prejudice to Section 30 of JMI Act 1988 as also Statute 31, There shall be a Discipline Committee comprising of the following members (1) The Shaikhul Jamia (Vice-Chancellor)-(Chairman); (2) The Naib Shaikhul Jamia (Pro-Vice-Chancellor); (3) The Dean Students' Welfare; (4) The Provosts; (5) The Deans of the Faculties; (6) The Warden, who shall be invited, when the matter concerning his/her Hostel/Kitchen is required to be placed before the Committee for consideration; and (7) The Proctor (Member/Secretary)."

5. As noted in the aforesaid decision, the statute empowers the Vice-Chancellor to rusticate a student for a specified period and not forever. To this extent, there can be no dispute with the contention raised by the learned counsel for the petitioner as the Ordinance itself refers to expulsion or rustication for a specified period. Considering that the Vice-Chancellor has expelled the petitioner for an indefinite period, the order passed by him needs to be modified so as to limit the expulsion to a specified period. The impugned order dated 31.7.2013 passed by the Vice-Chancellor of the University is, therefore, modified by restricting the period of expulsion and ban on entering the university campus to a period of three (3) years from the date on which the impugned order was passed.

6. The learned counsel for the petitioner submits that as noted in para 18 of the aforesaid judgment and relied upon by the learned counsel for the petitioner, there is a provision for appeal to the Executive Council against the decision of the Vice-Chancellor and for a reference of the remaining dispute, to the Tribunal of Arbitration. If that is so, nothing prevented the petitioner from filing an appeal before the Executive Council and, thereafter, invoking the arbitration provision before filing this writ petition. However, the impugned order cannot be set aside merely on account of availability of the

remedy of appeal and arbitration, which the petitioner could possibly have invoked if he so desires.

7. The learned counsel for the petitioner lastly submits that the petitioner is a young boy, who never committed such an act of indiscipline before the incident in question took place and, therefore, a lenient view in the matter may be taken. Considering the entire facts and circumstances of the case, the period of expulsion for three years in my view would be eminently justified.

The writ petition stands disposed of in terms of this order.

There shall be no orders as to costs.

OCTOBER 28, 2013/*rd*

V.K. JAIN, J.