

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CWP-9540-2022

Date of decision : 29.05.2023

Navjosh Singh Atwal

... Petitioner

Versus

State of Punjab and others

... Respondents

***CORAM: HON'BLE MR.JUSTICE VIKAS BAHL***Present: Mr.Ramandeep Singh, Advocate  
for the petitioner.Mr.Karan Puggal, DAG, Punjab  
for respondent no.1.Mr.Sumeet Jain, Advocate  
for respondents no.2 and 3.**VIKAS BAHL, J.(ORAL)**

1. This is a civil writ petition under Articles 226/227 of the Constitution of India for issuance of a writ, order or direction in the nature of certiorari for quashing the order dated 30.03.2022 (Annexure P-8) passed by the Registrar, Chandigarh University, vide which the petitioner who is a student of final semester (10<sup>th</sup> semester) of B.A. LL.B. at the respondent university has been rusticated.

2. Learned counsel for the petitioner has submitted that the petitioner had lost his father in the year 2009 and is a meritorious student having CGPA of 8.81 averaging over 9 out of 10 semesters of B.A. LL.B. course and had been participating in various academic/ extra curricular

30.03.2023, the petitioner has been rusticated without providing any opportunity of hearing to the petitioner or his representative to explain his position. It is further submitted that Section 26 of the Chandigarh University Act, 2012 (Annexure P-9) empowers the governing body to make ordinances from time to time and as per Clause (viii) of Section 26 sub section (3), the said ordinances could govern/ provide for taking disciplinary action against the students of the University. It is further submitted that in exercise of the said powers under Section 26, the governing body has issued ordinances which are provided in the Calender of the University and specific reference has been made by learned counsel for the petitioner to Chapter VI of Volume II of the said calender. Learned counsel for the petitioner has referred to Clause 2 and 3 of the said Chapter VI contained in Volume II to highlight the fact that before rusticating a student, an enquiry is required to be conducted and adequate and reasonable opportunity is required to be given to the student concerned to explain his/her position and further reference has been made to Clause 3 to show that once the order of rustication has been passed, then the same is to be reported to the Registrar of the University by Dean Academic Affairs without delay and the same is to be accompanied by a certificate signed by Dean Academic Affairs that the student has been given adequate / reasonable opportunity to explain his/her position before the order is passed. It is submitted that conjoint reading of the said two clauses makes it mandatory for the authorities to grant an opportunity of hearing to the petitioner before passing any order of rustication and the same has not been done in the present case and on the said ground alone, the impugned order deserves to be set aside. Learned counsel for the petitioner has further

submitted that as per Clause 7, maximum period of rustication is one academic year and the petitioner has already been rusticated for more than one year. It is stated that mere registration of an FIR should not be construed that the petitioner has been convicted for the said offence.

3. Learned counsel for respondents no.2 and 3 has submitted that as far as Clause 7 is concerned, the said clause requires that the student may rejoin the classes with the permission of Dean Academic Affairs. It is further submitted that no application has been moved by the petitioner before the Dean Academic Affairs till date and no order has been passed on the same and thus, the plea with respect to Clause 7 of the Ordinances (Annexure P-10) cannot be considered at this stage. It is stated that as far as opportunity of hearing is concerned, the authorities would provide hearing to the petitioner in accordance with Clause 2 and 3 of Chapter VI of Volume II of the Calender (Annexure P-10).

4. This Court has heard learned counsel for the parties and has perused the paper book.

5. It is not in dispute that the order of rustication dated 30.03.2022 (Annexure P-8) has been passed without providing an opportunity of hearing to the petitioner. Section 26 of the Chandigarh University Act, 2012 empowers the governing body to make ordinances and as per Clause (viii) of Section 26 sub section (3) (page 96 of the paper book), the said ordinances could also be with respect to taking disciplinary action against the students of the University. In exercise of the said power under Section 26, the governing body has issued ordinances including the ordinance contained in Chapter VI of Volume II of the Calender annexed as Annexure P-6. Clause 2 and 3 of the said Chapter VI is reproduced hereinbelow:-

*“2. Before rustivating or expelling a student an enquiry shall be held and adequate and reasonable opportunity shall be given to the student concerned to explain her/his position and complete record of the case shall be maintained.*

*3. Each case of order of rustication or expulsion shall be reported to the Registrar of the University by the Dean Academic Affairs concerned without delay after the order has been passed by him and it shall be accompanied by a certificate signed by the Dean Academic Affairs to the effect that the student had been given adequate and reasonable opportunity to explain her/his position before the order was passed.”*

A perusal of the said clauses would show that before rustivating or expelling a student an enquiry is required to be conducted in which adequate and reasonable opportunity is to be given to the students to explain his/her position. Further reading of clause 3 would show that granting adequate and reasonable opportunity to the student to explain his/her position is mandatory before passing of the order. The applicability of said provisions is not disputed before this Court. Thus, since no adequate or reasonable opportunity of hearing has been granted to the petitioner, the order dated 30.03.2022 deserves to be set aside on the said ground alone. With respect to the arguments of learned counsel for the petitioner to the effect that as per clause 7, rustication could have only been for one academic year and the said academic year has already lapsed, it is suffice to say that since no plea has been raised before the Dean Academic Affairs on the said aspect and the Dean Academic Affairs has not considered the said aspect and has not passed an order on the same, thus, the plea cannot be considered at this stage, leaving it open to the petitioner to raise the said plea and all other pleas which are available to him in case any fresh proceeding is initiated by the authorities.

6. Keeping in view the above said facts and circumstances, the

present petition is partly allowed and the order dated 30.03.2022 is set

aside. Liberty is granted to respondents no.2 and 3 to take up fresh proceeding, in accordance with law. In case any such proceeding is initiated, it would be open to the petitioner to raise all the pleas available to him, which would be considered in accordance with law.

(VIKAS BAHL)  
JUDGE

May 29, 2023  
*Davinder Kumar*

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|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |