

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

+ **W.P.(C) 73/2019 and CM APPL. 434/2019**

Date of Decision: 13.04.2023

IN THE MATTER OF:

SATARUPA CHAKRABORTY
D/O SHANKARDYUTI CHAKRABORTY
R/O ROOM NO. 337, GANGA HOSTEL
JNU CAMPUS
JAWAHARLAL NEHRU UNIVERSITY
NEW DELHI- 110067

..... PETITIONER

(Through: *Mr. Gaurav Bharadwaj and Ms. Himani Kaushik,*
Advocates.)

Versus

JAWAHAR LAL NEHRU UNIVERSITY RESPONDENT NO.1
THROUGH ITS REGISTRAR
NEW MEHRAULI ROAD
MUNIRKA
NEW DELHI- 110067

ASSISTANT REGISTRAR RESPONDENT NO.2
SCHOOL OF SOCIAL SCIENCE
JAWAHARLAL NEHRU UNIVERSITY
NEW MEHRAULI ROAD
MUNIRKA
NEW DELHI – 110067

(Through: *Mrs. Ginny Rautray and Mr. Navdeep Singh, Advocates.*)

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This petition under Article 226 of the Constitution of India seeks to challenge the impugned office orders dated 01.08.2018 and 03.09.2018 issued by the Chief Proctor and later approved by the Vice Chancellor, of the respondent -University respectively.

2. The learned counsel appearing on behalf of the petitioner states that the impugned action against the petitioner is in violation of the principles of natural justice, as the petitioner has not been afforded any opportunity of hearing. The impugned orders are also bereft of any reasons much less sound reason. According to him, the order of rejecting her appeal dated 03.09.2018 would not reflect any reason as to why the Vice Chancellor did not find any merit in the arguments raised by the petitioner. The learned counsel places reliance on a decision of this court dated 24.03.2023 passed in W.P.(C) 7511/2019 wherein an order passed by the same University was interfered with only on the ground of violation of the principles of natural justice.

3. The learned counsel appearing on behalf of the respondent-University while placing reliance on its counter-affidavit states that the petitioner was afforded an adequate opportunity of hearing. Three notices were given to the petitioner and when she appeared, in pursuance to one of the notices, she admitted her presence on the place of incident and she was also an office-bearer of the Students' Union of Jawaharlal Nehru University. According to him, the impugned orders are strictly in accordance with law. Since the guilt of the petitioner was established by the competent authority, therefore, the impugned action has been taken. According to him, the authorities concerned

were rather lenient in taking actions only limiting to a monetary fine. According to him, there were certain depositions recorded by the authorities, which show that the petitioner was involved in the incident in question and, therefore, the action was necessitated.

4. In rejoinder submission, the learned counsel appearing on behalf of the petitioner states that had the petitioner been put to the notice about the deposition, if any, against her, the petitioner would have taken appropriate recourse in accordance with law. According to him, no opportunity was afforded to the petitioner; therefore, any evidence taken behind her back cannot be taken into consideration. He also submits that whatever is being stated on the basis of the counter-affidavit, cannot be considered at this stage as, if the impugned order is perused, the same would not reflect any reason. He places reliance on a decision of the Hon'ble Supreme Court in the case of ***Mohinder Singh Gill v. Election Commission of India***¹ and states that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, gets validated by additional grounds later brought out.

5. I have heard the learned counsel appearing on behalf of the parties and perused the record.

6. The impugned order records the findings of the involvement of petitioner in physically stopping the installation of the CCTV camera, taking out the camera installed outside the hostel and the wiring associated with it.

¹ (1978) 1 SCC 405

It is also stated that the petitioner damaged the camera in Brahmaputra hostel on the date of the incident and the act of the petitioner was found to be under Item 3, Category II (xv), (xxv) of the Statute 32(5) of Statutes of the University. Accordingly, the petitioner has been imposed with the fine of Rs.20,666/- towards the cost of damaging of CCTV camera with a strict warning not to repeat such indiscipline activity in future. If the order of appeal approved by the Vice Chancellor is perused, the same would only indicate that the Vice Chancellor did not find any merit in the arguments advanced by the petitioner. For the sake of clarity, the impugned order dated 01.08.2018 is extracted as under:

“01 August, 2018

CPO/DPRR/JNU2018/

OFFICE ORDER NO. 155/CP/2018

In the Proctorial Enquiry, Ms Satarupa Chakraborty (Registration Number: 22403, Enrolment Number: 13/69/MS/007 and Year of Admission: 2013, an M.Phil/Ph.D student, Centre for Philosophy. School of Social Sciences) has been found to be involved in physically stopped the installation of CCTV camera, took out the camera installed outside the hostel and the wiring associated with the camera and damaging the camera in Brahmaputra Hostel on 28th March, 2017. This falls under Item 3, Category II (xv), (xxv) of the Statute 32(5) of the Statutes of the University which states that:

"Damaging or defacing, in any form, any property of the University or the property of any member of the University Community" (Category II (xv)

and

"Any other act which may be considered by the Vice-Chancellor

or any other competent authority to be an act of violation of discipline and conduct” (Category II (xxv)).

This act of Ms Satarupa Chakraborty is serious in nature, unbecoming of a student of JNU and calls for a strict disciplinary action against her. However, keeping her career prospects in mind, the Vice- Chancellor has taken a somewhat lenient view in the matter.

Ms Satarupa Chakraborty is fined Rs. 20,666/- (Rupees Twenty Thousand Six Hundred Sixty Six Only), (fine, Rs. 10,000/- cost of damaged CCTV camera, Rs. 10,666/-, (Rs. 32,000/3-10,666/-) with strict warning not to repeat such indisciplined activity in future. She is directed to deposit the fine within 10 days from the issue of this letter and show the proof thereof to this office.

This has the approval of the Vice-Chancellor.

*Sd/-
CHIEF PROCTOR”*

7. The order passed in appeal dated 03.09.2018 with the approval of the Vice Chancellor reads as under:

“CPO/PKKS/JNU/2018/

03 September, 2018

The Vice-Chancellor has carefully examined the appeal through email dated 11th August, 2018 of Ms Satarupa Chakraborty (Registration Number : 22403, Enrolment Number : 13/69/MS/007 and Year of Admission : 2013, an M.Phil/Ph.D student, Centre for Philosophy, School of Social Sciences) against the punishment given to her.

The Vice-Chancellor has found no merit in her arguments and hence her appeal stands dismissed.

In view of the above, Ms Satarupa Chakraborty is

informed that the Office Order No.155/CP/2018 dated 1st August, 2018 issued by this office stands.

*Sd/-
Chief Proctor”*

8. A bare perusal of both the orders would reveal that the explanation of the petitioner has not at all been considered. If the respondents have conducted an inquiry, they must have afforded an opportunity of hearing to the petitioner and must have recorded her explanations. In the impugned orders nothing of that sort is recorded. It is thus seen that even if the inquiry was conducted, the same would not serve any legal purpose unless proper opportunity to participate in the inquiry is afforded to the petitioner. It is the settled law that the requirement of natural justice is applicable not only to a judicial or quasi-judicial orders but also to an administrative order with civil consequences.

9. The doctrine of the natural justice is not merely a matter of procedure but of substance. Any action taken in contravention of the principles of natural justice is violative of the trinity of fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India.

10. This court considered an almost similar controversy in its decision dated 24.03.2023 in the case of **Gayatri Balu v. Jawaharlal Nehru University and Anr.**², while placing reliance on the case of **Maneka Gandhi v. Union of India and Anr.**³, **SPB and Co. v. Patel Engineering Ltd. And Anr.**⁴, it was held as under:

² 2023:DHC:2367

³ 1978 1 SCC 248

⁴ 2005 8 SCC 618

“10. It is settled law that the requirement of natural justice is applicable not only to judicial or quasi-judicial orders but also to administrative orders with civil consequences to the party in question, unless it is expressly excluded by a law which is otherwise valid. The doctrine of natural justice is not merely a matter of procedure but of substance and any action taken in contravention of natural justice is violative of the holy trinity of fundamental rights guaranteed by Articles 14, 19, and 21 of the Constitution of India.

11. In view of the aforesaid, this court holds that the impugned order is in violation of principles of natural justice. Once the Show Cause Notice was given to the petitioner, either the petitioner should have been heard or specific findings should have been recorded as to why the request for adjustment was not possible.

12. The impugned order is, therefore, set aside. Respondent No. 1- University however, would be at liberty to take a fresh decision if so necessitated after hearing the petitioner, in accordance with law.

13. Needless to state that if the respondent No. 1-University decides to take up the matter afresh, the hearing of the petitioner should take place without being influenced by the language used in the Show Cause Notice. In the event, respondent No.1-University decides to pass a fresh order after compliance of principles of natural justice, the petitioner shall co-operate in the conclusion of the enquiry and shall not seek unnecessary adjustments. This court has not expressed any opinion on the merits of the case.”

11. In view of the aforesaid, this court has no hesitation in holding that the impugned action against the petitioner is in violation of the principles of natural justice and accordingly, the order dated 01.08.2018 and 03.09.2018 are set aside. However, the University would be at liberty to take a fresh decision if so necessitated after extending the opportunity of hearing to the petitioner in accordance with law.

12. Needless to state that if any action is initiated by the respondents, the petitioner would render full cooperation in taking the action to its logical end.

13. It is seen that in terms of the order dated 08.01.2019, the petitioner has deposited a sum of Rs.20,666/- before the Registry of this court. The same was directed to be kept in an interest-bearing Fixed Deposit. Let the Registry of this court release the said amount along with the necessary interest accrued thereon to the petitioner within 15 days.

14. With the aforesaid observations, the petition stands disposed of along with pending application.

PURUSHAINDR KUMAR KAURAV, J.

APRIL 13, 2023

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