

the institution of the suit or subsequently before, of course, the settlement of issues.

(9) In view of the above discussion, the questions referred to this Division Bench are answered as follows:—

- (1) It is open to a Court having once ordered the one-fifth of the sale consideration to be deposited in cash to subsequently change that order and direct that the security for the sale consideration be furnished; and
- (2) the Court can, from time to time, in the exercise of its sound judicial discretion extend the period for deposit of cash or furnishing of security, subject to the condition that either of these things must be done before the settlement of issues.

The case will now go back to the learned Single Judge for decision on other questions raised in the second appeal. The costs in this reference will be costs in the cause.

MEHAR SINGH, C.J.—I agree.

N.K.S.

CIVIL MISCELLANEOUS

Before Prem Chand Pandit, J.

RAM RATTAN,—*Petitioner.*

versus

THE REGISTRAR, PANJAB UNIVERSITY AND ANOTHER,—*Respondents.*

Civil Writ No. 2811 of 1969.

January 5, 1970.

Panjab University Calendar 1969, Volume I and III Regulations 8—Rules 1, 2, 3 and 8—Disciplinary proceedings—Powers of Principal to expel or rusticate students for gross misconduct or indiscipline—Solitary instance of misconduct—Whether justifies expulsion or rustication—Revision of rustication order by Vice-Chancellor—Power of—Whether limited—Vice-Chancellor—Whether has the discretion to interfere on merits of the order.

Held, that a solitary instance of misconduct would ordinarily not merit summary expulsion from the institution. This depends on the nature of the misconduct in the circumstances of a particular case. A solitary instance of misconduct may in some cases be of such a grave and serious nature that it by itself may be a complete justification for the expulsion of

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a student from the institution. Where, however, a student is quite keen on his studies and he organises an abortive strike of the students under the impression that he is fighting for a demand of a just cause, it is possible that he might have gone astray on that particular occasion. One lapse of this kind on the part of the student cannot call for such a severe punishment as rustication or expulsion from College and it does not amount to gross misconduct within the meaning of this expression in rule 8 of Panjab University Calendar, 1969, Volume I. (Para 27)

Held, that it is no doubt purely within the discretion of the Vice-Chancellor to interfere with the order of the Principal rusticating a student, but that discretion has to be exercised not arbitrarily but after going through all the facts of the case which have come to his knowledge either *suo motu* or through the interested party. He has to examine all those facts and if after going through them he feels that the said order requires revision, he may bring the matter to the notice of the Syndicate, whose decision then shall be final. He has not merely to see whether the student rusticated had been afforded an adequate opportunity of explaining his position before the order of rustication was passed against him by the Principal. That is one of the things that he would examine but this interference is not limited to that extent only. (Para 29)

Petition under Articles 226/227 of the Constitution of India praying that a writ of certiorari, mandamus or any other appropriate writ, order or direction be issued quashing the order of rustication dated 11th April, 1969 passed by respondent No. 2.

P. S. DAULTA AND C. P. SAPRA, ADVOCATES, for the petitioner.

D. S. NEHRA, ADVOCATE, for respondent No. 1.

M. S. JAIN, ADVOCATE FOR ADVOCATE-GENERAL (HARYANA) for respondent No. 2.

JUDGMENT

PANDIT, J.—This is a petition under Articles 226 and 227 of the Constitution filed by Ram Rattan, challenging the order of his being involved in a case of gross misconduct, passed by Shri Banwari Lal Sharma, Principal, Government Nehru College, Jhajjar, District Rohtak, respondent No. 2, on 11th April, 1969.

(2) According to the allegations of the petitioner he was a student of B.Sc. (Hons.) Part II of the said College. He secured very high second division missing first division only by one mark in B.Sc. Part I, examination held in April 1968. After qualifying in that examination, he joined that very college for completing his Part II. There was

one Professor Ram Parkash Pruthi, who was acting as 'Burser' for checking the accounts of various funds meant for the students' welfare and which were in the custody of the Principal. There was some misunderstanding between the said Professor and the Principal. The petitioner was very good at Mathematics, a subject which was taught by Professor Pruthi. The said Professor recommended the petitioner's name for the remission of his half fee. The Principal summoned the petitioner and apprised him of his displeasure at his seeking the recommendation of Professor Pruthi. According to the petitioner, students who had secured 3rd division and were comparatively of good financial position, were granted fee concession, but he was not given such a concession. The Principal, according to the petitioner, bore a grudge against him on account of that very recommendation. On 2nd September, 1968, the petitioner's class organised one day strike. All the students absented themselves from the College on that day. The demands of the students were enlisted in a poster and they were accepted by the Principal on the next day, i.e., 3rd September, 1968, with the result that the students then attended the class. The matter was settled amicably between both the sides. Nothing happened between 3rd September, 1968, and 24th December, 1968. On the latter date, admission forms from the College were sent to the University and the Principal mentioned the petitioner's character as exemplary on the admission form. The fact showed that no allegation against the petitioner was pending on that date, which could have been the subject-matter of any disciplinary action. In the first week of March, 1969, the Principal summoned the petitioner in his office and apprised him of the former's displeasure, for the latter's leading a deputation to the Director of Public Instruction, Haryana, in support of Professor Pruthi, whom the Principal wanted to get transferred. The petitioner explained that the students did not say anything against the Principal and only requested the concerned Officer not to consider any proposal for the transfer of Professor Pruthi before the termination of the current session. Nothing happened after that date till 8th April, 1969. The petitioner was then in his village during preparatory holidays for the annual examination and was preparing for it. On 9th April, 1969, he received a communication, dated 4th March, 1969, from the Principal, according to which he was required to appear before the latter on 11th April, 1969. The petitioner did so and was surprised to find that the Principal had constituted a Committee from amongst the members of the staff, who belonged to his own faction, to take disciplinary action against the petitioner for the alleged role played by him in the strike of 2nd September, 1968. The petitioner was not given any

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opportunity to explain his conduct and he was asked to sign a paper, which on reading he found to be an order rustivating him. The petitioner requested the Principal not to punish him in that manner on the eve of the examination and that he should be given opportunity to explain his conduct. The petitioner was at a great disadvantage at that time, because only a few days were left for his examination, which was to be held on 19th April, 1969. After paying Rs. 5 as special fee and with the help of Professor Pruthi, the petitioner, however, appeared in the examination. It was finished on 7th May, 1969. He remained busy up to 2nd June, 1969, for his practical tests. In the first week of July, 1969, the result of the examination was declared, but that of the petitioner withheld. Enquiries made from the University revealed that a notification for the petitioner's expulsion was issued by the University in pursuance of the order passed by the Principal to that effect. On 14th July, 1969, the petitioner, through his guardian, approached the Vice-Chancellor of the Panjab University for the cancellation of the order, dated 11th April, 1969. The Registrar of the University sent a reply on 1st September, 1969, to the effect that the Vice-Chancellor was concerned only with the fact whether the Principal had given an opportunity to the student to explain his position. Since the said opportunity had been given to the petitioner, he accepted the recommendation made by the Principal. That led to the filing of the present writ petition in this Court on 1st November, 1969.

(3) In the return filed by the Principal, it was admitted that the petitioner had missed his 1st division only by one mark in B.Sc. Part I, examination held in April, 1968. It was, however, denied that there was any misunderstanding between the Principal and Professor Pruthi. According to the Principal, it was incorrect that the petitioner had ever met him for the remission of his half fee. The Principal had constituted a Fee Concession Committee for recommending to him the cases of poor boys and on that basis various concessions had been given in genuine cases. It was wrong to say that B.Sc. (Hons.) Part II students had organised one day strike. It was only a few students who, having been instigated by the petitioner, were absent and that too for some periods on 2nd September, 1968. It was on the basis of a poster on the wall of the College that the authorities came to know that a strike had been organised without prior notice to the Principal. It was denied that the demands of the students were ever presented to the Principal. The petitioner was called to explain his conduct

before the College Council meetings, which were held on 7th September, 1968, 27th November, 1968 and 24th December, 1968. In view of the enquiry, which was still pending against the petitioner, the Principal could not give any other indication about the latter's conduct except 'good', which was printed on the admission form itself. It was denied that no allegation against the petitioner was pending on 24th December, 1968, which could have been the subject-matter of any disciplinary action against him. The Principal had asked the petitioner and also his father through communication, dated 16th January, 1969, to meet him on 20th January, 1969. The petitioner's father did not care to meet the Principal. After that, the Principal deputed two members of the staff to get the Handwriting Expert's report for the finalisation of the case against the petitioner. After the receipt of that report, a meeting of the Staff Council was called on 27th March, 1969, and there it was decided to call the petitioner on 11th April, 1969, when he was to come to the College to collect his University roll number. It was wrong to say that the petitioner was never given any opportunity to explain his conduct or that he was asked to sign a paper at the very outset, which was found to be the rustication order. In fact, he was given full opportunity, as was evident from the proceedings of the Staff Council. On 11th April, 1969, a charge-sheet was prepared on the basis of the findings. The same was read out to the petitioner and a copy of the same was also given to him. The statement of the petitioner, his replies to the various questions and the statements of his witnesses were taken. It was only after going through all that material, including the report of the Handwriting Expert and the original poster of strike, having been partly written by the petitioner, that the Council took the impugned decision. That decision was then notified to the petitioner and his signature taken thereon.

(4) Council for both the parties are agreed that the Principal of a College can rusticate or expel a student for gross misconduct or indiscipline, but this power has to be exercised by him subject to the rules made by the Syndicate (*Vide* Regulation No. 8 in Chapter III at page 142 of Panjab University Calendar, 1969 Volume I). The said rules are given in Chapter XXXVIII at Page 272 of the Panjab University Calendar 1969 Volume III. Some of them, which are relevant for the purpose of this case, are these—

- “1. Before rustication or expelling a student, the Principal of the college concerned shall give adequate and reasonable opportunity to the student to explain his position.

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- (2) Each case of rustication or expulsion shall be reported to the Registrar of the University by the Principal of the college concerned immediately after the order has been passed by him and it shall be accompanied by a Certificate, signed by the Principal, to the effect that the student had been given adequate and reasonable opportunity to explain his position before the order was passed.
- (3) The Principal may, for reasons to be recorded, revise or review his order within 10 days of the original order. The order so passed along with reasons, shall be immediately reported to the Registrar of the University.
- (4) * * * * *
- (7) * * * * *
- (8) If the Vice-Chancellor feels that the order of a Principal rusticating or expelling a student requires revision in the light of the facts which come to his knowledge, the Vice-Chancellor may bring the matter to the notice of the Syndicate whose decision shall be final."

(5) In the present case, the Principal of the college had rusticated the petitioner for one year on account of gross misconduct and the question for determination, therefore, is whether any interference is called for in the said order.

(6) The first contention raised by the learned counsel was that adequate and reasonable opportunity, as envisaged in rule 1, quoted above, had not been given by the Principal to the petitioner to explain his position before the impugned order was passed against him. But this allegation was denied by the Principal. Let us now examine as to whether there is any merit in this contention.

(7) On 2nd September, 1968, the following poster (Annexure 'A' to the writ petition) was found pasted on the wall of the college building.

"STUDENTS UNION, JHAJJAR
LONG LIVE
STRIKE IN NEHRU COLLEGE
Accept our demands.
Remove Dictatorship

- (1) Let there be an end of autocracy '*Tana Shahi*' of Shri Kakkar (Vice-Principal of the college, who was acting as Principal on that day).

- (2) Why dispensary remains locked? How the funds amounting to Rs. 7,000 per annum are being utilized ?
- (3) Why Mr. O. P. Sharma (A Professor in the college) uses abusive language for the students and why he falsely complains against the students to the Principal ?
- (4) Let there be an end of the clerical staff's own way which is objectionable. They never behave properly.
- (5) There is no cycle stand. Let there be a cycle shed. Where is a sum of Rs. 7,000 in this regard appropriated ?
- (6) There should be an arrangement of water. Coolers may be repaired and maintained properly so that they may be used.
- (7) Why Library has been converted into Restaurant ? Why books are not issued ? There should be proper sitting arrangements. There should be made good arrangement for this.
- (8) Bank books are not available,
- (9) Why students have been suspended ? The students have been blamed for the fault of Laboratory Assistants. Why so ? Let there be an end of suspension and fines. Every department may be checked.

Leader,
Students Union Nehru College
Jhajjar.

(8) On that very day, according to the petitioner, his class, i.e., B.Sc. (Hons) Part II, organised one day strike and all the students absented themselves from the college. These demands having been accepted by the Principal and the matter amicably settled, the students attended the class the next day, i.e., 3rd September, 1968. The case of the Principal, on the other hand, however, was that no strike was organised, but only a few students, who were instigated by the petitioner, were absent on that day and that also for a few periods. It was on the basis of the poster that the authorities came to know the reason why the said students had taken that step. According to the Principal, on 7th September, 1968, a meeting of the Staff Council was held to discuss the situation arising out of "the proposed abortive strike on 2nd September, 1968, which fizzled out within a few periods and to enquire into the root causes of the fantastic and false charges.

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and unprecedented and wrong demands in the form of posters found pasted on the wall of the college building." The proceedings of that meeting are as under:—

"The Principal gave a gist of his enquiry and reaction to the false charges and wrong demands. One of the members suspected the names of two Ram Rattans, Roll Nos. 30 (Petitioner) and 31 of B.Sc. II year as the ring leaders of the abortive strike as they were fined Rs. 10 each for breaking a Physics apparatus (Sextant) in the Physics Laboratory a few days ago and later threatening the lecturer assistant (Shri Hardwari Lal) and trying to manhandle him in the laboratory. The matter was fully discussed and the council requested Shri Y. D. Sharma and Shri J. S. Kakar to enquire into the matter secretly and to find out, if possible, as to, who was at the back of this abortive strike and report their findings as early as possible for discussions in the next meeting. It was further decided to ask both Ram Rattans to appear before the Council in the next meeting."

(9) The above proceedings would show that the Staff Council was suspecting two persons, namely, the petitioner and Ram Rattan with Roll No. 31, for engineering the strike since both of them had previously been fined Rs. 10 each for breaking a Physics apparatus. Even when the petitioner had been suspected along with another namesake of his, nothing happened for more than a month and the next meeting was held on 14th October, 1968. What took place in that meeting is given below:—

"The members deputed for the purpose, gave a gist of their enquiry and said that nothing substantial could be achieved by them except a clue about the original document from which the posters were typed/cyclostyled. The members cautioned the Council that since the original document could not be achieved, the findings may be kept a closed secret for getting to the original documents at an early date.

Ram Rattan, B.Sc., Roll No. 30, was then called before the Council. When he came before the Council, the Principal enquired from him about the abortive strike on 2nd September, 1968 and questioned him whether he was not at the back of it as it was suspected from records that he

(Ram Rattan) could be considered as the ring leader of the strike. What was he to say in the matter. Ram Rattan totally denied that he had any hand in the matter and he further challenged that if it could be proved that he (Ram Rattan) had any hand in the strike, he was liable to any disciplinary action by the authorities amounting to even expulsion. One of the members (Shri J. S. Kakar) questioned him that since he and the other Ram Rattan, (Roll No. 31), were fined Rs. 10 each a few days ago, why should it not be presumed that the proposed strike was at their (both Ram Rattans) instigation. Ram Rattan kept mum. On repeating the question, Ram Rattan said that he had nothing more to say in the matter except that said earlier. He was then asked to go, after cautioning him by the Principal that if it could be proved that he (Ram Rattan) had any hand in the abortive strike, a very strict action will be taken against him.

Ram Rattan Roll No. 31, (B.Sc. II) was then called before the Council and the same questions were put to him. He showed his ignorance in the matter and said that he was ready to attend the classes while others were on strike. He pleaded innocent about the strike and said that, no doubt, he was fined Rs. 10 for the breaking of the apparatus, it was the other Ram Rattan (Roll No. 30), who threatened to beat the lecturer assistant (Shri Hardwari Lal). He further appealed that since he was a poor boy, he could not think of the strike or instigate others for the same. The Principal then cautioned him that if it could be proved that he had any hand in the abortive strike, a serious view would be taken, he would be severely dealt with. He was then asked to go. All the members then requested Shri Y. D. Sharma, to go further and get to the original document for further investigation. It was further decided to again call the two Ram Rattans before the Council in the next meeting."

It would be clear that the petitioner, when called before the Council completely denied having any hand in organising the strike and offered to be expelled if found responsible for that. Shri Y. D. Sharma had been requested to get the original document for further investigation.

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(10) Again there was another gap of about a month and 13 days in the next meeting of the Staff Council, which was held on 27th November, 1968, and this is what happened there—

“Shri J. S. Kakar, then gave a gist of his enquiry and confirmed the suspicion that Ram Rattan Roll No. 30, had definitely a hand in the abortive strike and since Shri Y. D. Sharma was not present in the meeting due to his illness and so on leave, the original document could not be got by that time. Shri J. S. Kakar said that the original document was seen and would be got by Shri Y. D. Sharma as and when he recovers from illness.

Ram Rattan, Roll No. 30 (TDC II) was then asked to appear before the Council which he did. The Principal then told Ram Rattan that the enquiry of certain members of the Council showed that he (Ram Rattan) had a hand in the abortive strike and it would be in his (Ram Rattan's) own interest to tell the truth. The Principal further said that a soft view would be taken in the matter if he told the truth. At first, Ram Rattan, kept quiet for some time and then said that he did not do any thing and that he wanted a proof of the blame imposed on him by the Principal. The Principal, on the suggestion of the members then asked Ram Rattan (Roll No. 30) to bring his father/guardian to meet the Principal by the 10th of December, 1968, so that his father may be told about the facts of his case. Ram Rattan, promised to bring his father on the 10th of December, 1968. He was then asked to go.

Later the other Ram Rattan (Roll No. 31) was called to appear before the Council. He again showed his ignorance in the matter and put blame on Ram Rattan (Roll No. 30), who was dragging him unnecessarily and then told a story that Ram Rattan (Roll No. 30) was guilty of abusing a postal clerk on duty and later on manhandling him when he was going home and later, when caught, Ram Rattan, (Roll No. 30) apologised in writing, but wrote his (Roll No. 32) name and Roll No. wrong instead of his own and thus police tried to harass him (Roll No. 31) unnecessarily. The Principal confirmed these facts and said that a case against Ram Rattan (Roll No. 30) did come to him for

comments through the police and Ram Rattan would have been prosecuted, but for the intervention of some influential persons. The Principal requested to enquire from the Post-master, Jhajjar, about the case and see if this could help us in finding the clue about the strike. Ram Rattan was then asked to go. The meeting then came to close with a request to Shri Y. D. Sharma (in absentia) and Shri J. S. Kakar to get to the original document and clue at an early date for discussion in the next meeting."

(11) It is not understandable as to why the original document, which was seen, was not brought in the above meeting. If Professor Sharma was ill and was on leave, surely Professor Kakar could have brought the document before the Staff Council. It could then have been put to the petitioner, who was called before the meeting and he could have been asked as to whether it was in his handwriting or not.

(12) It further appears that efforts were being made to persuade the petitioner to confess his guilt on an understanding that if he did so, he would be dealt with leniently. The petitioner, however, persisted in denying the charges levelled against him and wanted proof of the blame being put on him. Thereupon, the Principal asked the petitioner to bring his father also with him on 10th December, 1968, presumably thinking that the Staff Council would be able to persuade the father to prevail upon his son to admit his hand in the strike. According to the proceedings, the petitioner promised to bring his father on 10th December, 1968. No proceedings of the 10th December, 1968, had been placed before the Court. Nothing happened for another about one month and the next meeting took place on 24th December, 1968. The following are the proceedings of that meeting:—

"Shri Y. D. Sharma and Shri J. S. Kakar, presented the original documents along with a paper borrowed from Sub-Post Master, Jhajjar, which was an apology letter from Shri Ram Rattan, under reference, to the Sub-Post Master, Jhajjar. Shri Y. D. Sharma, and Shri J. S. Kakar, said that both the original documents about the posters regarding strike and the letter of apology were of the same hand which showed the main hand of Ram Rattan (Roll No. 30), in the abortive strike. Shri Y. D. Sharma, then narrated the difficulties which he had to overcome to get

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the original documents from a person (name not mentioned) whom he gave assurance in writing that he will not be dragged in the matter as the other party threatened him for dire consequences. All the members (after going through the document) were of the express opinion that at least Ram Rattan, Roll No. 30, was definitely one of the main members instigating the strike. They said that if Ram Rattan, even then acknowledged his guilt and told the true facts, a soft view should be taken, but if he, on the other hand told otherwise, a serious view should be taken.

Ram Rattan, (Roll No. 30), was then asked to appear before the College Council along with his father/guardian. Ram Rattan, appeared before the Council, but not his father. Ram Rattan, said that his father could not come as he was at Delhi. When Principal asked him why did he not bring his father to meet him (the Principal) before, Ram Rattan kept quiet. The Principal then charged him as ring leader and asked him to defend himself as all the proofs and documents were with the Council. Ram Rattan, flared up at this and used unparliamentary language, but was soon advised to see reasons and tell the truth which he denied. He, on the suggestion of the Council, was again asked to bring his father/guardian by the 10th of January, 1969, to meet the Principal, failing which, the Principal was authorised to take suitable action against the boy."

(13) It is significant to mention that when the original documents were with the Staff Council on 24th December, 1968, and the Members of the Council were definitely of the opinion that at least the petitioner was guilty of instigating the strike, because both the poster and the apology letter were in his own handwriting, why did they not put those documents to the petitioner for either admitting or denying whether the same were written by him or not? This was the material on the basis of which the impugned action was taken against him. It was only when he had denied that the said two documents were not in his handwriting that there would have been the necessity of sending them to some handwriting expert. If the documents were really in his hand, as the Members of the Staff Council were of the view, it would have been extremely difficult for

the petitioner to deny that they were not so. It is also not clear as to why they were expecting the petitioner's father to be present on 24th December, 1968, when he had not been asked to come on that date. Again, according to the Principal, all the proofs and documents against the petitioner were with the Staff Council. If that was so, why could not the petitioner be charge-sheeted on that very day, especially when he was said to have flared up and used unparliamentary language when he was charged to be a ring leader? Another thing that was noteworthy was that instead of provisionally withholding the admission form of the petitioner, the same was sent to the University after his conduct had been termed as 'good'. It was not suggested by the counsel appearing for the respondents that under the rules, the admission forms could not be provisionally withheld or that the said forms could not subsequently be sent to the University even after paying some late fee.

(14) After the meeting of 24th December, 1968, there was again a gap of about three months, because the next meeting took place on 27th March, 1969. The Principal has tried to explain this long delay by mentioning—

“Ram Rattan did not bring his father by the 10th of January, 1969. A registered letter was sent to Ram Rattan's father on 16th January, 1969, requesting him to meet the Principal by 20th of January, 1969, in connection with the indulgence of his son in gross-misconduct. His father did not care to come.

Shri Y. D. Sharma was then entrusted the work of getting handwriting expert's report. Shri Y. D. Sharma, tried to meet the handwriting expert at Sampla (Rohtak) but could not do so, being out of station. Shri Y. D. Sharma and Shri J. S. Kakar were asked to go to Delhi for getting the case expedited. They got the handwriting expert's report and handed over the same to the Principal on 24th March, 1969.”

(15) It is surprising why three months should be taken for getting the opinion of the handwriting expert. As I said before, the necessity of getting the handwriting expert's opinion would have been obviated if the two documents had been shown to the petitioner and he had been asked to admit or deny whether the same were in his handwriting. This long delay creates a reasonable doubt

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in one's mind that what the petitioner had alleged in the petition was correct. According to the petitioner till the meeting of 24th December, 1968, there was no allegation against him which could have been the subject-matter of any disciplinary action. It was in the first week of March, 1969, that the petitioner was summoned by the Principal and was apprised of the latter's displeasure at the former's leading a deputation to the Director of Public Instruction in favour of Professor Pruthi, whom the Principal wanted to get transferred. Even though the petitioner had explained to the Principal that nothing was said against him to the Director of Public Instruction, who had merely been requested not to transfer Professor Pruthi before the termination of the current session, still, according to the petitioner, the Principal bore a grudge against him on that account and that explains why nothing was done against the petitioner till 27th March, 1969. Soon after the Principal came to know of the petitioner's leading a deputation, he thought of getting the report of the handwriting expert and then proceeding against the petitioner.

(16) On 27th March, 1969, the proceedings of the meeting regarding the petitioner were as under:—

“The case of Ram Rattan was discussed and decided that the student be asked to appear again before the council when he comes to collect his roll number for the University roll number, viz., on the 11th April, 1969, for final decision.”

(17) One thing is significant that even on 27th March, 1969, the petitioner was not asked to come earlier than 11th April, 1969. On that date, the roll number had to be given to the petitioner. The members of the Staff Council knew that the petitioner would be under a handicap and he would be pressurised to confess his guilt. If he was not given the roll number, he would not be able to sit in the examination and would thus lose one year.

(18) On 11th April, 1969, a charge-sheet was prepared against the petitioner and the same was read out to him before the Staff Council and after a copy of the same was handed over to him, he was asked to defend himself as he had already been given enough time. The report of the handwriting expert was also read out to the petitioner and he was asked if he had to say anything about it. At this, according to the proceedings of that date the petitioner “gave his replies to various questions of the charge-sheet showing his wavering mind, because in the middle of his statement, he wanted some time to

reconsider his statement already given. He was allowed half an hour for which period staff council meeting was adjourned. After half an hour Ram Rattan gave another statement which contradicted his previous statement and replies (His statement and replies written on a separate paper are attached herewith). His statement/replies as given in the attached paper along with his signatures are pasted in the minute-book. (This very register) of the staff council meetings. Ram Rattan then mentioned the name of one Ram Singh B.Sc. II year student, who wrote the demand in the original poster which were later on re-written by somebody else whose name he did not tell (even on asking repeatedly). In the written demands Ram Singh was alleged (by Ram Rattan) to have got serial No. 3 of the demands inserted by Ram Rattan. Ram Singh, then was called (through peon) before the council in the presence of Ram Rattan and his statement was recorded. In his statement Ram Singh contradicted the statement of Ram Rattan. Ram Rattan could not on cross-examination substantiate his charge against Ram Singh. Ram Rattan, then cited Ranjit Singh, B.Sc., II year, Roll No. 208, as his witness. Ranjit Singh's statement was also recorded (His statement attached in this minute-book for ready reference) but the witness also could not say as to whether Ram Singh had written on the original hand written document or not. The charge against Ram Singh could not, therefore, be substantiated and so he was left by the Staff Council. Both Ram Singh and Ram Rattan were then asked to go and wait for the decision. The Council members expressed their views freely. All of them were of the opinion that Ram Rattan was definitely guilty of instigating the students for the abortive strike and that he had written the original document with his hand from which the posters were typed/cyclostyled. All of them expressed the same view that Ram Rattan should be rusticated for at least one year from 11th April, 1969."

(19) It is noteworthy that on 11th April, 1969, the petitioner was not given adequate and reasonable opportunity to explain his position and reply to the charge-sheet. If the Members of the Staff Council could wait for such a long period to finalise the case against the petitioner, they should have given him some reasonable time to explain his position, especially when this was the last hearing when final action was going to be taken against him. The petitioner would on that day naturally be in such a frame of mind that he would not like to annoy the Members of the Staff Council, because he knew if he did that, he would have to lose one year. He would like to be on their right side by adopting any means which might please them. He would also be in a confused state of mind, because his examination

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was quite near and faced with the charge-sheet, he obviously got perplexed when he thought of the consequences that might flow from his displeasing the Members of the Staff Council. This would be amply clear from the following statement made by him before the Staff Council meeting on 11th April, 1969—

“The charge-sheet was read out to the student before the council. The boy Ram Rattan Roll No. 30, B.Sc., II year, confessed that he instigated the students to go on strike in favour of certain demands. He further said that he met the Principal and submitted demands on behalf of students as representative although not authorised in writing by the students. He indicated the number of students at first in favour of demands as 100, 200, 300, 400, then said 400 students asked him to meet the Principal.

He confessed that he called a meeting of 400 students at his residence. He further said that the date of presentation of demand to the Principal is not known. It might be 2/3 days before the strike date. He claimed that the Principal assured him that the demand will be met and no receipt of the demand was taken. No peon was there outside the Principal's office.

He gave a notice to Mr. Kakar, as the Principal was on leave on the 2nd of September, 1968. This notice was in regard to the remission of the fine and note of the demands. He gave threat that if the fine was not remitted, they will go on strike and according to the boy's statement, Mr. Kakar was alleged to have told that he has seen students unity. Mr. Kakar refuted this charge.

According to his statement, B.Sc. III year students were already on strike on the 2nd of September, 1968.

Staff Council adjourns for half an hour.

Later on he himself contradicted his above statement saying that he wanted to retrace the above story and said.

He did not actually meet the Principal for demand. He also apologised and wished to be excused about his deplorable tone at the start. He said the number of students was not 400 but just a few Ram Singh was

one of them who was writing the demands in the original poster. Later on it was got written by somebody else whose name he did not tell. Later on Ram Singh TDC II year student got serial No. 3 written by me in green ink as an addition. He says he has no knowledge of other persons except students who were a party to this scheme of staging a strike, printing of hand written demands, etc.

In the first statement which I said as wrong was not made at the instance of anybody else. It was of my own thinking for which I deeply regret. I was mentally disturbed due to the proximity of the examination",

"Translation of Hindi statement made in his own handwriting by Shri Ram Rattan.

Respected Principal Sahib, and Professor Sahib, I confess my guilt which I committed on account of lack of common sense. I am very sorry. I request you to excuse me for this mistake. It is a question of career."

(20) In view of what I have said above, I hold that there is substance in the first contention raised by the learned counsel that the Principal did not give adequate and reasonable opportunity to the petitioner to explain his position before the order of rustication was passed against him.

(21) The second contention of the learned counsel was that the petitioner had virtually been deprived of filing a revision against the order of his rustication before the Principal within 10 days, as envisaged in rule 3 given in Chapter XXXVIII at page 272 of the Panjab University Calendar 1969, Volume III, already quoted above. The argument raised was that the rustication order was passed on 11th April, 1969, and the said revision had to be filed within 10 days therefrom, i.e., on or before 21st April, 1969. The annual examination had to commence on 19th April, 1969. The petitioner was naturally anxious to get permission to sit in that examination and also make preparation for it rather than think of filing a revision before the Principal.

(22) There is merit in this submission as well. At the time when the impugned order of rustication was passed, the petitioner was more anxious to seek permission to sit in the examination and

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utilise every minute for the same. He would obviously not be thinking of filing a revision, because in that state of mind he might have considered that remedy a sheer waste of time, as it was not certain that he might get any relief by following that course. He would rather adopt the first course, which would have proved more beneficial to him than follow the procedure, the result of which was very uncertain.

(23) The third contention of the learned counsel was that the impugned order had been passed by the Principal because of extraneous considerations and not on merits. The said order was, therefore, *mala fide* and liable to be quashed on that score.

(24) The petitioner's class organised one day strike on 2nd September, 1968. According to the Principal, it was only a few students who were absent and that too for some periods. The students attended the class on 3rd September, 1968. Nothing happened between 3rd September, 1968 and 24th December, 1968. On the latter date, admission forms from the College were sent to the University and the petitioner's admission form was also sent after the Principal had mentioned his conduct as "good". In the first week of March, 1969, the Principal called the petitioner in his office and told him that he was greatly displeased at the latter's leading a deputation to the Director of Public Instruction, Haryana, in support of Professor Pruthi, whom the former wanted to get transferred. The petitioner explained to the Principal that the students had not said anything against him and had only requested the officer concerned not to consider any proposal for the transfer of Professor Pruthi before the termination of the current session. The Principal, according to the petitioner, still bore a grudge against him on that account and that is why nothing was done against him till 27th March, 1969. Soon after the Principal came to know that the petitioner had led a deputation to the Director of Public Instruction in favour of Professor Pruthi, he thought of getting the report of the handwriting expert and then proceeding against the petitioner. On 9th April, 1969, the petitioner, who was in his village during preparatory holidays, received a letter, dated 4th April, 1969 from the Principal, according to which he was required to appear before the latter on 11th April, 1969. The petitioner did so and on that date, the impugned order was passed against him. All this created a reasonable doubt in

one's mind that the allegation made by the petitioner that the order of rustication against him was passed by the Principal for extraneous considerations, was correct. The impugned order had not been made because of grave misconduct on the part of the petitioner in having engineered a strike in the College, as alleged by the Principal.

(25) The fourth submission of the learned counsel was that even on the facts found in the instant case, it could not be said that the petitioner was guilty of gross misconduct which could call for such a severe punishment of his being rusticated from the College.

(26) According to the return filed by the Principal, it was wrong to say that B.Sc. (Hons.) Part II students had organised a one day strike. It was only a few students, who having been instigated by the petitioner, were absent and that too for a few periods on 2nd September, 1968. It was on the basis of a poster on the wall of the College that the authorities came to know that a strike had been organised without prior notice to the Principal. Even according to the proceedings of the meeting of the Staff Council, dated 11th April, 1969, the strike instigated by the petitioner was only "abortive". When according to the Principal and the Staff Council, there was, in fact, no strike, then an incident of that kind should better have been ignored. In any case, the petitioner should not have been awarded such a severe penalty. He should have been administered a warning not to indulge in such like activities in future. This action was uncalled for all the more when one took into consideration the academic career of the petitioner. If he was not pursuing his studies honestly and was only engaged in creating trouble, then a different course of action should have been taken. The Principal has admitted in his return that the petitioner had missed his first division only by one mark in B.Sc. Part I examination held in April, 1968. That did show that the petitioner was quite keen on his studies and it was possible that he might have been led astray on that particular occasion. This apart, the demands made by the students in the poster (Annexure 'A' to the writ petition), referred to above, which led to the strike, could also not be termed as very unreasonable or improper. According to the petitioner, those demands were accepted by the Principal on the 3rd September, 1968, with the result that the students then attended the classes and the matter was settled amicably between both the sides. The case of the Principal on the other hand was that the said demands were never presented to him.

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But according to him also, it was on the basis of the poster on the wall of the College that the authorities came to know that a strike had been organised. Assuming for the sake of argument that the petitioner was rightly or wrongly under the impression that he was fighting for a just cause and the Principal was holding the view that the petitioner was creating indiscipline by inciting the students to go on strike, one lapse of this kind on the part of the petitioner could not call for such a severe punishment and could not amount to gross misconduct within the meaning of this expression in rule 8 at page 142 of the Panjab University Calendar, 1969, Volume I.

(27) The view that I have taken finds support in a decision given by Mehar Singh, J., in *Sadhu Ram-Hardwari Lal v. Principal, Rajindra College, Bhatinda and another* (1), where it was observed—

“The authority of the head of an educational institution to expel a scholar is not unfettered or uncontrolled but it is subject to the limitations (a) that he is not to exercise his power of expulsion arbitrarily and on grounds that are not reasonable and (b) that a solitary instance of misconduct would ordinarily not merit summary expulsion from the institution. This second condition should depend upon the nature of the misconduct in the circumstances of a particular case because a solitary instance of misconduct may be of such a grave and serious nature that it by itself may be a complete justification for the expulsion of a scholar from the institution.

Held, on the facts of the case that the Principal was not justified in expelling the petitioner on the solitary instance of misconduct; assuming that the petitioner wrote the letter to a girl student, the Principal did not act in a reasonable manner but rather acted contrary to the principles of natural justice on condemning the petitioner unheard. In thus dealing with the case and ordering expulsion of the petitioner the Principal not having acted on reasonable grounds did exceed his authority to expel the petitioner. In this view the order of expulsion of the petitioner was liable to be quashed by the issue of a writ of *certiorari*.

(1) A.I.R. 1954 Pepsu 151.

Where the petitioner had a right to continue as a scholar in the college and he could only be expelled on reasonable grounds, once that right of his under the law is affected by a decision of the Principal about his misconduct there is a presumption that the authority vested in the Principal to affect such right of the petitioner must be exercised quasi-judicially."

(28) The fifth and the last contention of the learned counsel was that the petitioner had been deprived of the right of his case being re-examined by the Vice-Chancellor of the Panjab University on account of the latter's misinterpreting rule 8 mentioned in Chapter XXXVIII of Panjab University Calendar, 1969, Volume III, quoted above. The Vice-Chancellor was erroneously of the view that under rule 8 all that had to be seen was that the person rusticated had been afforded a full and clear opportunity of explaining his position before the order of rustication was passed against him by the Principal of the College. If that was done, the Vice-Chancellor did not interfere with the order of the Principal under the said rule (*vide* Annexure 'D' to the writ petition).

Rule 8 says—

"If the Vice-Chancellor feels that the order of a Principal rusticating or expelling a student requires revision in the light of the facts which come to his knowledge, the Vice-Chancellor may bring the matter to the notice of the Syndicate whose decision shall be final".

(29) A plain reading of the said rule will show that the powers of the Vice-Chancellor are not limited in the manner suggested by the Vice-Chancellor, as was apparent from Annexure 'D' to the writ petition. It is true that it is purely within the discretion of the Vice-Chancellor to interfere with the order of the Principal rusticating the student, but that discretion has to be exercised not arbitrarily but after going through all the facts of the case which have come to his knowledge either *suo motu* or through the interested party. He will examine all those facts and if after going through them he feels that the said order requires revision, he may bring the matter to the notice of the Syndicate, whose decision then shall be final. He has not merely to see whether the student rusticated had been afforded an adequate opportunity of explaining his position before the order of rustication was passed against him

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by the Principal. That is one of the things that he would examine. But his interference is not limited to that extent only. If after examining the entire case, he comes to the conclusion that an order of rustication was not called for in the circumstances of a particular case or that the action attributed to the student did not amount to gross misconduct or indiscipline within the meaning of rule 8 at page 142 of the Panjab University Calendar, 1969, Volume I, he could bring the matter to the notice of the Syndicate saying that the impugned order of the Principal required revision. Under rule 8 of Volume I, the Principal of a College was authorised to rusticate or expel a student for gross misconduct or indiscipline, but the power had to be exercised by him subject to the rules made by the Senate, and those rules were given in Chapter XXXVIII of Volume III. The powers of a Principal in this respect are, therefore, not unlimited and he was bound by the rules framed by the Senate in that behalf and it was under those very rules that the Vice-Chancellor had been given the power of revising the order of the Principal. In the instant case, therefore, the Vice-Chancellor had erroneously held that he could interfere with the impugned order only if he was convinced that adequate opportunity had not been given to the petitioner before the said order was passed against him by the Principal. By adopting this course, the petitioner had been deprived of his right of getting his entire case re-examined by the Vice-Chancellor.

(30) In view of what I have said above, this writ petition succeeds and the impugned order is quashed. There will, however, be no order as to costs.

N. K. S.

CIVIL MISCELLANEOUS

Before Bal Raj Tuli, J.

JAGDISH LAL NARANG,—Petitioner

versus

THE ASSESSING AUTHORITY, KARNAL AND ANOTHER,—Respondents.

Civil Writ No. 3374 of 1968.

January 21, 1970.

Punjab General Sales Tax Act (XLVI of 1948)—Section 2(e), Schedule 'B' entry No. 18—Constitution of India (1950)—Article 366(12)—“Goods”—Definition of—Whether includes animals, birds, livestock and live poultry—Sale of ‘meat on hoofs’—Whether exempt from sales-tax.