FULL BENCH

Before Bal Raj Tuli, S. S. Sandhawalia, and Manmohan Singh Gujral, JJ.

VIJEY SINGH LAMBA,—*Petitioner*

versus

THE PANJAB UNIVERSITY, CHANDIGARH,—*Respondent.*

C.W. 5948 of 1974.

March 31, 1975.

Panjab University Calendar (1973) *Volume II Chapter II—Regulations* 31 *and* 32.1—*Standing Committee appointed by the Syndicate of the University for considering the cases of alleged mis-conduct and use of unfair means in examination—Fixation of quorum for the work of the Committee by the Syndicate—Whether invalid—Consideration of the case of alleged mis-conduct and use of unfair means—Whether has to be by all the members of the Committee.*

Held (Per majority Tuli and Gujral JJ) (Sandhawalia, J. contra) that Regulations 31 and 32.1 contained in chapter II of the Panjab University Calendar 1973 Volume II have statutory force having been framed by the Senate of the Panjab University in consultation with the Government. They cannot be altered and modified in any manner by the Syndicate in which vests the executive Government of the University. Regulation 31 authorises the Syndicate to appoint a Standing Committee to deal with the cases of alleged mis-conduct and use of unfair means in connection with the examination and this Committee is to have jurisdiction to decide the matters during the academic year for which the Standing Committee is appointed. The decision of the Committee so appointed with regard to the alleged mis-conduct and use of unfair means in connection with examinations, when the Committee is unanimous is final, but even if there is one dissent, the matter would be referred to Vice Chancellor, who would decide the matter himself or refer it to the Syndicate. Although a statute or rules can validly provide for quorum even in respect of tribunals exercising quasi-judicial functions, yet in the absence of a clear legal basis, the tribunal exercising quasi-judicial functions have to keep the basic principles of joint work and responsibility in view, while exercising their powers. Having regard to the provisions contained in Regulation 32.1 any decision or resolution of the Syndicate appointing a quorum for the Standing Committee would run counter to this regulation and would in a way be destructive of the very object for which authority is conferred on a single member of the Standing Committee to take the matter out of the jurisdiction of the Standing Committee and reserve it for the decision either of the Vice Chancellor or of the Syndicate as the former may deem fit. The manner in which regulation 32.1 has been framed leaves no doubt that the consideration of the question

of students misconduct and the use of unfair means in examination by them has been placed at a high pedestal as it vitally affects their entire career and future. By providing that whatever be the strength of the Committee and whatever be the view of the majority even if some member feels that the allegations have not been established beyond doubt, the matter will have to be finally decided by the Vice Chancellor or by the Syndicate, if the former deems fit, the intention of the rule-making authority clearly is to afford full protection to the student and to offer safeguard against any error of judgment on the part of the members of the Standing Committee or the existence of bias in any one of them. In this view of the matter, there is no escape from the conclusion that the consideration of the case of a student against whom there are allegations of misconduct or of use of unfair means in an examination has to be by all the members of the Standing Committee and not by some of them and that any decision of the Syndicate to the contrary is violative of the letter and spirit of Regulation 32.1. The decision of the majority of the Standing Committee is not final and valid because the Regulation, as it stands, is clearly indicative of the intention of the rule making authority that the matter is to be considered by all the members. The regulation clearly negatives the fixation of quorum and makes it encumbent that the decision must be taken by full Committee.

Held, (Per Sandhawalia J-Contra) that there is no incompatibility between Regulation 32.1 and the prescription of a quorum by the Syndicate. Once it is held that the fixation of a quorum for a quasi judicial body is legal then it is inevitable and indeed inherent in the situation that a provision be made as to how the matter is to be decided on a difference between its members. Familiar modes of resolving such a difference are either that the decision would be that of the majority: or that in case the members are equally divided, it may be placed for decision before third member; or that in the absence of unanimity it may be left to the adjudication of a higher authority, which again may either be a single person or a body of persons. The methodology of resolving a conflict of opinion is entirely a matter of procedure qua a domestic Tribunal performing quasi judicial functions. Regulation 32.1 is such a provision. It would be reading too much into such a procedural provision that it prohibits the perfectly legal exercise of the prescription of a quorum for the Standing Committee or that it enjoins that each of its members shall necessarily sit and function together in a body. If the intent of the Senate was that the whole of the Standing Committee must necessarily function as a body, then there was no difficulty in providing for the same in express and plain language. Obviously no such provision has been made and that fact indeed would negative any presumed or inferential intent to this effect. Hence the consideration of a case of alleged mis-conduct and use of unfair means in an examination need not be by all the members of the Standing Committee.

Vijey Singh Lamba *v.* The Panjab University, Chandigarh,
(Gujral, J.)

Petition under Articles 226 and 227 of the Constitution of India praying that a writ in the nature of Certiorari, Mandamus *or any other appropriate writ, order or direction be issued quashing the impugned order dated 3rd August, 1974 contained in Annexure P-3 and further praying that service of five days prior notice on the respondent as required by the High Court Rules and Orders be dispensed with.*

B. S. Bindra, G. C. Garg and Vijay K. Jindal, Advocates *for the petitioners.*

R. S. Mongia, Advocate *for the respondent.*

JUDGMENT

GUJRAL, J.—This judgment will dispose of Civil Writ Petitions Nos. 5948, 6115, 6736, 6779, and 6780 of 1974, as the spinal issue that arises for decision in these petitions is common to all. In all these petitions, the respondents are the Panjab University, Chandigarh, and its Vice-Chancellor excepting Civil Writ Petition No. 6736 of 1974, where the second respondent is the Principal, Medical College, Patiala.

2. In Civil Writ Petition No. 6115 of 1974 the petitioner, Kashmir Singh Sandhu, appeared for the B.Ed. examination held by the Panjab University in April, 1974, and when the result of the examination was declared, the petitioner's result was withheld and by letter dated the 19th July, 1974, he was informed that an inquiry for the violation of Regulation 7 of the Panjab University Calendar 1973, Volume II, would be held as there were allegations of the petitioner having copied from a common or identical source in the subject of Educational Psychology including Elementary Statistics. As an annexure to this letter was enclosed a copy of the report of the Head Examiner wherein it was mentioned that in solving question No. 10 the petitioner had copied the answer from some other paper. In response to the notice, Annexure P1, the petitioner appeared before the Deputy Registrar on the 5th August, 1974, and there he was asked to reply to a questionaire which he accordingly did, denying the allegation that his answers tallied with those of the other candidates who had also been called to answer the charge. It appears that the explanation offered by the petitioner did not satisfy the authorities and he was required to appear before the Standing Committee which he did on the 19th August,

1974, when his statement was recorded. At this meeting only two members of the Standing Committee were present, namely, Shri Jagjit Singh and Shri Chopra. On the basis of the inquiry held by the Standing Committee, the petitioner was disqualified for two years under Regulation 7 of the Panjab University Calendar 1973, Volume II (Annexure P5). It is this order of the Panjab University that has been challenged in this writ petition as being without jurisdiction.

(3) Miss Anjana Bagga in Civil Writ Petition No. 6736 of 1974 had appeared in the Pre-Medical examination held in April, 1974, at the examination centre located at Guru Gobind Singh College for Women, Chandigarh, and though initially she was declared successful, she received a letter in September, 1974, from the Registrar, Panjab University, containing the allegation that she had violated regulations 14(iii) and 19 of the Panjab University Calendar. She was required to show cause why action be not taken against her and why the declaration of her result be not quashed. In obedience to this letter, the petitioner appeared before the Registrar and answered a questionnaire which was given to her. She subsequently appeared before the Standing Committee, dealing with the cases of the use of unfair means, on the 23rd September, 1974. The inquiry against the petitioner was conducted on various dates, and ultimately on the 12th October, 1974, the statement of the petitioner was recorded by the Standing Committee. On this date the statements of some other witnesses were also recorded and finally the Standing Committee by its order of even date decided to disqualify the petitioner for a period of four years under Regulation 14(iii) and for a period of three years under Regulation 19 of the Panjab University Calendar 1973. On the date this order was passed only two members of the Standing Committee were present, namely, Shri Narinder Singh and Shri Jagjit Singh. On the basis of the order passed by the Standing Committee, the petitioner's result was quashed and her name was struck off the rolls of the college, which led to the filing of the present petition.

(4) Balwant Singh petitioner in Civil Writ Petition No. 6779 of 1974 had appeared for the B.Ed. examination of the Panjab University held in April at the examination centre located at the Khalsa College of Education, Muktsar, and like Kashmir Singh he was also informed by letter dated the 19th July, 1974, that an inquiry would be held against him for copying from a common or identical source in the subject of Educational Psychology including statistics II. He

also appeared before the Deputy Registrar on the 5th August, 1974, and answered the questionnaire and was ultimately summoned to appear before the Standing Committee on the 19th August, 1974. The Standing Committee after recording the statement of the petitioner and finding his explanation unsatisfactory disqualified him for a period of two years by order dated the 19th August, 1974, Exhibit P.5. The order in this case was the same as was passed in the case of Kashmir Singh Sandhu. The meeting of the Standing Committee on this occasion was attended only by two members, namely, Shri Jagjit Singh and Shri G. L. Chopra.

(5) The facts stated in the petition of Gurdarshan Singh (Civil Writ Petition No. 6780 of 1974) are also the same as in the case of Kashmir Singh and Balwant Singh, as he had also appeared for the B.Ed. examination at the centre located in the Khalsa College of Education, Muktsar, and had been informed by letter dated the 19th July, 1974, that an inquiry in regard to copying from a common or identical source in the subject of Educational Psychology including Statistics II was to be held. He appeared before the Deputy Registrar on the 5th August, 1974, when his statement was recorded and subsequently an order disqualifying him for a period of two years was passed by the Standing Committee. This meeting of the Standing Committee was only attended by Shri Jagjit Singh and Shri Chopra and the decision was taken in the absence of the third member.

(6) Vijay Singh in Civil Writ Petition No. 5948 of 1974 had appeared for the Pre-University examination held in April, 1974, and on the 18th April, 1974, he took his Chemistry paper at Rohtak centre No. 6. On the 9th July, 1974, the petitioner received a letter from the Deputy Registrar, Panjab University, asking him to appear before him on the 20th July, 1974. He was informed that the petitioner had violated Regulation 5 of the Panjab University Calendar Volume II (1973), as he was in possession of incriminating material. When he appeared before the Deputy Registrar at Chandigarh, he was made to answer a questionnaire. Subsequently the petitioner was asked to appear before the Standing Committee, which he did on the 3rd August, 1974, and offered his explanation in respect of the allegations made against him. Being not convinced with the petitioner's explanation, the Standing Committee, by order dated the 23rd August, 1974, decided to disqualify the petitioner for a period of two years. On the date the decision to disqualify the petitioner was taken by the Standing Committee appointed to

deal with the cases of the use of unfair means, only two members, namely, Shri Ajmer Singh and Shri G. L. Chopra attended the meeting and took the decision, Annexure P.3.

(7) It may be mentioned at this stage that, besides posing a challenge to the jurisdiction of the Standing Committee to pass the impugned orders, the petitioners have also made serious efforts to bring material on the record to show that the orders were erroneous in law or were based on malice. It is, however, not necessary to examine these aspects, as the principal and in fact the only argument raised before us was that the order of the Standing Committee was without jurisdiction inasmuch as all the members of the Standing Committee had not participated in the meetings in which the decision to disqualify the petitioners had been taken. The facts necessary for the decision of this question are not in dispute, as it has not been challenged on behalf of the respondents that the decision in all these cases was taken by only two members of the Standing Committee. It is also worthy of notice that at the time of motion hearing the correctness of the decision of this Court in Civil Writ No. 3516 of 1972 rendered on the 30th March, 1973, was assailed and as a doubt was cast on the ratio of this decision, the petitions were admitted to hearing by a Full Bench. It is in this manner that these writ petitions have come up before us.

(8) Panjab University, Chandigarh, was set up through the East Punjab Ordinance, 1947, which was later replaced by the Punjab University Act, 1947, hereinafter called the Act. In view of section 8 of the Act, the supreme authority of the University vests in the Senate consisting of the Chancellor, the Vice Chancellor, ex-officio Fellows and ordinary Fellows. Sub-section (2) of section 11 further provides that the Senate shall have the entire management of, and superintendence over the affairs, concerns and property of the University and shall provide for that management, and exercise that superintendence in accordance with the statutes, rules and regulations for the time being in force. Section 20 of the Act provides that "the Executive Government of the University shall be vested in the Syndicate which shall consist of the Vice-Chancellor as Chairman; the Director of Public Instruction, Punjab, the Director of Education, Himachal Pradesh; the Director of Public Instruction, Haryana; and the Director of Public Instruction, Chandigarh, and not less than twelve or more than fifteen Ex-officio or ordinary Fellows elected by the Faculties in such manner and for such period as may be prescribed by the respondents". Sub-section (4) of section 20 further states that the Syndicate may delegate any of its

executive functions to the Vice-Chancellor or to the Sub-Committees appointed from amongst the members of the Syndicate or to a Committee appointed by it which may include persons who are not members of the Syndicate or to any other authority prescribed by regulations. Section 31 of the Act then provides for the framing of the regulations and states that the Senate, with the sanction of the Government, may, from time to time, make regulations consistent with this Act to provide for all matters relating to the University. In sub-section (2) of section 31 some of the matters are enumerated regarding which regulations can be made and these include the appointment of examiners and the duties and powers of examiners in relation to the examinations of the University, the residence and conduct of students, and the procedure to be followed at meetings of the Senate, Syndicate and Faculties and the quorum of members to be required for the transaction of business. Under this power the Senate has framed regulations in consultation with the Government and these include regulations dealing with the use of unfair means. These regulations are contained in Chapter II of the Panjab University Calendar, 1973, Volume II. For the purpose of decision of these petitions, we are mainly concerned with regulations 31 and 32.1 of this chapter which for facility of reference have been set down below.

> "31. The Syndicate shall appoint annually a Standing Committee to deal with cases of the alleged misconduct and use of unfair means in connection with examinations.
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> 32.1. When the Committee is unanimous, its decision shall be final except as provided in 32.2. If the Committee is not unanimous the matter shall be referred to the Vice Chancellor, who shall either decide the matter himself or refer it to the Syndicate for decision."

(9) In a meeting of the Syndicate held on the 17th August, 1971, a reference emanating from the office to fix quorum for the meeting of the Standing Committee appointed by the Syndicate annually to deal with the cases of alleged misconduct and use of unfair means in connection with the examinations, was considered and it was resolved that two members shall form the quorum of the Standing Committee appointed under regulation 31 at page 15 of the Panjab University Calendar, 1973, Volume II. In view of this resolution, the various decisions to disqualify the petitioners were taken at different meetings of the Standing Committee even though only two members were present.

(10) Basing himself on the latter part of Regulation 32.1., which provides that when the decision of the Standing Committee is not unanimous, the matter is to be referred to the Vice-Chancellor, who may either decide it himself or refer it to the Syndicate for decision, the learned counsel for the petitioners has vehemently urged that no quorum could be fixed for the meeting of the Standing Committee and that the resolution dated the 17th August, 1971, of the Syndicate fixing such a quorum was *ultra vires* the Regulations. Continuing the argument, it is urged that the decisions taken by two members of the Standing Committee were no decisions of the Standing Committee in terms of Regulation 32.1 and consequently had no legal effect.

(11) On the basis of *Movve Veeraya* v. *State of Andhra Pradesh* (1) and *G. T. Venkataswami Reddy* v. *Regional Transport Authority, Bangalore, and another* (2) it was contended on behalf of the respondents that even in respect of bodies exercising quasi-judicial functions quorum could be prescribed and a decision taken by members forming the quorum was valid. The view that a statute or rules could validly provide for quorum even in respect of tribunals exercising quasi-judicial functions may not be open to challenge, but on the other hand, it appears to be equally well settled that in the absence of a clear legal basis the tribunals exercising quasi-judicial functions have to keep the basic principles of joint work and responsibility in view while exercising their powers. The ratio of the decision of the Supreme Court in *The United Commercial Bank Ltd.* v. *Their workmen* (3), provides a clear guidance for the acceptance of this view. While dealing with the case of tribunals under the Industrial Disputes Act, it was observed as follows:—

> "In respect of a Tribunal when the services of a member other than the Chairman have ceased to be available, the rest by themselves have no right to act as the Tribunal, without the Government reconstituting the Tribunal as a Tribunal of the remaining members.
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> Proceeding with the adjudication, in the absence of one undermines the basic principles of the joint work and responsibility of the Tribunal and of all its members to make the award and all their awards are without jurisdiction and void."

(1) A.I.R. 1960 A.P. 268.
(2) A.I.R. 1966 Mysore 55.
(3) A.I.R. 1951 S.C. 230.

(12) The legal position having been clearly examined, the stage is now set for proceeding to consider the exact import and scope of Regulations 31 to 32.1 contained in Chapter II of the Panjab University Calendar 1973, Volume II. As observed earlier, these Regulations have statutory force, having been framed by the Senate in consultation with the Government and it would also consequently follow that they cannot be altered and modified in any manner by the Syndicate in which vests the executive government of the University. Regulation 31 authorises the Syndicate to appoint a Standing Committee to deal with the cases of the alleged misconduct and use of unfair means in connection with examinations and this Committee is to have jurisdiction to decide the matters during the academic year for which the Standing Committee is appointed. The decision of the Committee so appointed with regard to the alleged misconduct and use of unfair means in connection with examinations, when the Committee is unanimous, would be final, but even if there is one dissent, the matter would be referred to the Vice-Chancellor, who would decide the matter himself or refer it to the Syndicate. Having regard to this aspect of regulation 32.1, (it can be plausibly argued that) any decision or resolution of the Syndicate appointing a quorum for the Standing Committee would run counter to this regulation and would in a way be destructive of the very object for which authority was conferred on a single member of the Standing Committee to take the matter out of the jurisdiction of the Standing Committee and reserve it for the decision either of the Vice-Chancellor or of the Syndicate as the former may deem fit. The manner in which regulation 32.1 has been framed leaves no doubt that the consideration of the question of students' misconduct and the use of unfair means in examination by them has been placed at a high pedestal as it vitaily affects their entire career and future. By providing that whatever be the strength of the Committee and whatever be the views of the majority, even if one member feels that the allegations have not been established beyond doubt, the matter will have to be finally decided by the Vice-Chancellor or by the Syndicate if the former deems fit, the intention of the rule-making authority clearly was to afford full protection to the students and to offer safeguard against any error of judgment on the part of the members of the Standing Committee or the existence of bias in any one of them. In this view of the matter, there is no escape from the conclusion that the consideration of the case of a student against whom there are allegations of misconduct or of use of unfair means in an examination, has to be by all the members of the Standing Committee and not by

some of them and that any decision of the Syndicate to the contrary would be violative of the letter and spirit of Regulation 32.1. The matter would have been different had the decision of the majority of the Standing Committee been final, but the regulation, as it stands, is clearly indicative of the intention of the rule-making authority that the matter has to be considered by all the members.

(13) It would be appropriate at this stage to examine decisions of this Court in *Narinder Singh* v. *Guru Nanak University and others* (4) and *Miss Manjinder Kaur* v. The *Panjab University, Chandigarh,* (5) and the decision of the Supreme Court in *Ishwar Chandra* v. *Satyanarain and others* (6) on which the latter decision of this Court is based. So far as *Narinder Singh's case* is concerned, it fully supports the view that the decision of the Standing Committee, in order to be binding and valid, has to be of all the members and not of some of the members. In *Miss Manjinder Kaur's* case, however, the contrary view was taken and it was held that the decision of the Standing Committee could not be attacked on the ground that the matter was considered by two out of three members and not by all. It was further observed in this case that even if the Syndicate had not fixed a quorum for the Standing Committee, the decision of the majority would have been binding and valid. In arriving at this conclusion, support was sought from the decision of the Supreme Court in *Ishwar Chandra's case.* The stage has consequently arrived to examine what exactly was the ratio of this decision.

(14) The appointment of the Vice-Chancellor of the Saugar University was to be made by the Chancellor under section 13 of the University of Saugar Act, 1946. Selection was to be made from a panel of not less than three persons recommended by the Committee consisting of three persons appointed in the manner laid down in sub-section (2) of section 13. Under the above provision a Committee was duly constituted and a meeting was fixed for the 4th April, 1970, on which date one of the members was unable to attend the meeting. In his absence the other two members submitted a panel of names from which the Chancellor selected the petitioner, Ishwar Chandra, as the Vice-Chancellor. Subsequently the University of Saugar Act was amended by ordinances and the new Chancellor proceeded to examine whether the appointment of

(4) C.W. No. 240 of 1972 decided on 14th February, 1972.

(5) C.W. No. 3516 of 1972, decided on 30th March, 1973.

(6) A.I.R. 1972 S.C. 1812.

the petitioner was valid or not. On coming to the conclusion that the recommendation of the Committee of two members out of three was not in accordance with section 13 of the University of Saugar Act, he cancelled the appointment and directed the submission of a fresh panel. In these circumstances, the question whether a decision by two out of three members of the Committee was valid or not came to be considered by the Supreme Court and it was held that the meeting attended by two out of three members was legal, because sufficient notice had been given to all the three members. It was further observed as follows:—

> "Proceedings of the Committee constituted for selecting a panel of names for the appointment of the Vice-Chancellor are not illegal if for some reason, one of its three members cannot attend its meeting.
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> In the absence of any rule or regulation or any other provision for fixing the quorum, the presence of the majority of the members would constitute a valid meeting."

The facts of *Ishwar Chandra's* case would reveal that the Committee was only a recommending body and was not performing any quasi-judicial functions. Its decision was of an administrative nature and from the ratio of this decision it cannot be concluded that a valid decision could be taken by some of the members of a Committee which was to perform quasi-judicial functions. Leaving this apart, it was also clarified in this case that the decision of the majority would only be binding if there was no rule or regulation to the contrary. In the present case, regulation 32.1 at page 15 of the Panjab University Calendar 1973, Volume II, would be such a provision, as it clearly negatives the fixation of a quorum and makes it incumbent that the decision must be taken by the full Committee. In a way, this regulation fixes the quorum at the number of members originally appointed. In this view of the matter, we find that the decision in *Miss Manjinder Kaur's* case proceeds on an erroneous premises and has not viewed the provision contained in regulation 32.1 from a direct perspective. That decision is overruled.

(15) For the reasons indicated above, I find that the orders passed against the petitioners disqualifying them were not valid as they had not been passed by all the members of the Standing Committee. The petitions are consequently accepted and the impugned orders are quashed, leaving the parties to bear their own costs.

TULI, J.—I agree.

SANDHAWALIA, J.—(16) It is with deep deference that I feel compelled to record an opinion contrary to that of my learned brother Gujral, J., with whom Tuli, J., agrees. But for the fact that the decision of the primary issue in this case is fraught with larger ramifications, I would not have pressed my doubts to the point of positive dissent.

(17) To maintain the homogenity of this judgment it suffices to advert briefly to the undisputed facts, to which, however, a full and detailed reference has already been made by Gujral J. All the petitioners in this set of writ petitions were detected in the use of unfair means by the Supervisory Staff in different examinations held by the respondent—Panjab University. In response to the notices issued to them the petitioners appeared before the Deputy Registrar and were asked to reply to a detailed questionnaire. This they accordingly did and denied the allegations of having used unfair means in the examination. The explanation offered by them having been duly considered and found unsatisfactory their cases were referred to the Standing Committee constituted by the University to deal with all cases of misconduct and use of unfair means in connection with the University examination. This Standing Committee consisted of Shri G. L. Chopra, a retired Judge of this High Court, Shri Jagjit Singh, the Registrar of the University, and Shri Ajmer Singh, Advocate, a former Minister of the Punjab State. By a resolution adopted by the Syndicate it stood prescribed that two members shall form the requisite quorum for the Standing Committee. The petitioners appeared before this Committee which accordingly was attended by two of its members. Their statements were recorded by the Committee and thereafter a full enquiry was conducted by it into their respective cases. In all these cases the same two members, who originally were seized of the respective cases, participated in the proceedings throughout and came to a unanimous conclusion that each of the petitioners was in fact guilty of the use of unfair means and, therefore, imposed the penalty of disqualification upon the petitioners for varying periods of time. It is virtually the common case that there has been no infraction whatsoever of any of the procedural provisions or of the rules of natural justice. No objection was taken at any stage before the Standing Committee that it was not properly constituted.

(18) The solitary ground of attack on behalf of the petitioners is that the impugned orders of the Standing Committee were without jurisdiction inasmuch as all the three members of the Standing

Committee had not participated in the meetings in which the decision to disqualify the petitioners had been taken. As this issue was covered against the petitioners by a Division Bench judgment of this Court, these cases were admitted to, and have been placed for decision, before, the Full Bench.

(19) The learned counsel for the petitioners opened the argument with the rather tall stance that the very provision of a quorum for any quasi-judicial body was inherently illegal and, therefore, the resolution (Exhibit R. 1/1 to the return) providing that two members of the Standing Committee could function as such was on the face of it invalid. However, he was immediately confronted with the various statutory provisions which in terms provide or allow the prescription of a quorum for judicial and quasi-judicial bodies and in particular to section 13(1) of the Sikh Gurdwaras Act, Sections 5(4) and 6(3) of the Industrial Disputes Act, 1947, and Section 44(2) of the Motor Vehicles Act, 1939. Be it said to the credit of the learned counsel that when faced with the abovesaid statutory provisions and the relevant decision thereunder (to which a reference is unnecessary), he immediately lowered his sights and frankly and fully conceded that the provision of a quorum even in a judicial or quasi-judicial Tribunal was perfectly legitimate and was not assailable on that bare ground alone. I, therefore, proceed on the admitted assumption in this case that the prescription of a quorum of two by the Syndicate for the Standing Committee is by itself perfectly legal and unassailable.

(20) Once that is so, the core of the issue in this case and indeed the only one that survives is, whether Regulation 32.1 of the Panjab University Calendar 1973, presents an unsurmountable hurdle in the way of providing a quorum for the Standing Committee appointed by the Syndicate itself.

(21) To adequately appreciate the controversy, it is first necessary to set down the relevant provisions of the Panjab University Calendar :—

> "31. The Syndicate shall appoint annually a Standing Committee to deal with cases of the alleged misconduct and use of unfair means in connection with examinations.
>
> 32.1. When the Committee is unanimous, its decision shall be final except as provided in 32.2. If the Committee is not

unanimous the matter shall be referred to the Vice-Chancellor, who shall either decide the matter himself or refer it to the Syndicate for decision."

(22) As the point at issue in this case is directly covered by a Division Bench judgment of this Court, it has necessarily to be examined first in that light. However, to clear the ground, a reference must first be made to the decision in *Narinder Singh* v. *Guru Nanak University, Amritsar, and others* (4) which has been referred to by my learned brother Gujral J. to suggest that there was any conflict of opinion in this Court. A reference of the record of this case would show that the respondent in that case was the Guru Nanak University, Amritsar. Though appearance was put in on behalf of the University, the case was not contested on their behalf and indeed no written statement even to the writ petition was filed. The admitted position was that the Syndicate of the Guru Nanak University, Amritsar, had not prescribed any quorum for its Standing Committee nor passed any resolution to that effect. It was in this context that the learned counsel for the respondent-University conceded the petitioner's case and this is noticed by the Bench as follows :—

"On behalf of the University it is admitted that only two of the members heard the case and that according to the regulation the case should have been heard by the Standing Committee.

In view of the above, therefore, we hold that the proceedings before the two members of the Standing Committee and the subsequent report of the Registrar and the decision of the Vice-Chancellor are all vitiated and are not in accordance with law and are without jurisdiction."

(23) It is evident from the above, that the crux of the matter here, namely, the prescription of a quorum by a resolution of the Syndicate was wholly non-existent in the abovesaid case; the respondent-University did not contest the issue and did not even file a written statement: and as is evident from the judgment itself the decision was arrived at *ex-concessionis*. Therefore, the ratio, if any, *in Narinder Singh's case* (4), is not even remotely a warrant for the proposition that Regulation 32.1 or the previous analogous provisions thereto could be a bar to the prescription of a quorum for the Standing Committee.

(24) Indeed this Court has had occasion to deal with a spate of writ petitions directed against the decisions of the Standing Committee in unfair means cases. Regulation 32.1 and previous analogous provisions have been in force for a considerable time by now. I am unaware of any decision of this Court (and none was brought to our notice either during the course of argument) in which the existence of this provision has been relied upon to invalidate the decision of the Standing Committee. Indeed the stream of precedent has been consistent on this point within this Court. Particular reference in this connection may first be made to *Bharat Indu* v. *The Panjab University and another* (7) in which Regulation 19, which is the identical and the predecessor provision of the present regulation 32.1, was noticed by the Bench. The case for the petitioner was forcefully and cogently presented on behalf of the petitioner and the specific argument was in terms noticed by the Bench in these terms:—

> "The entire process, so argues Shri Tuli, should have been gone through in the presence of all the members of the Standing Committee assembled together so that they should be able to form an opinion about the demeanour of witnesses and also of the petitioner for the purpose of coming to a satisfactory decision on the point in controversy. Shri Tuli's argument in short is that the Standing Committee should proceed in much the same way as a Court does or at least as an arbitrator does."

In an elaborately considered judgment, Dua. J., speaking for the Bench specifically rejected the above-said contention.

(25) The case that directly and squarely covers the only issue here is the Division Bench judgment of this Court in *Miss Manjinder Kaur* v. *The Panjab University* (5). The identical and the only point raised before the Bench was answered against the petitioner and in favour of the respondent-University. I am respectfully in agreement with that view and indeed I am unable to find any flaw in the reasoning or the ratio thereof.

(26) With great respect to my learned brother Gujral J. I am unable to find that the decision in *Miss Manjinder Kaur's case* proceeds on any erroneous assumption. The Bench therein had

(7) I.L.R. (1967)2 Pb. & Hr. 198.

relied on *Ishwar Chandra* v. *Satanarain Sinha and others* (6) and in my opinion rightly. It is unnecessary to recount the facts and it suffices to mention that the Committee constituted therein was a statutory one as provided for in terms by sub-sections (2) and (3) of section 13 of the University of Saugar Act, 1946. It was a high powered Committee consisting of three members, that is, a retired Chief Justice of the Madhya Pradesh High Court, a sitting Judge of the same Court and a retired Judge of the Allahabad High Court. The duties and functions of the Committee were of patent significance in so far as the Vice-Chancellor of the University could be appointed only from the panel submitted by this Committee. No quorum was prescribed for this Committee but nevertheless only two members had attended the meeting in issue. The Madhya Pradesh High Court dismissed the writ petition *in limine* but their Lordships of the Supreme Court in appeal reversed the judgment and concluded—

> "* * *. It is also not denied that the meeting held by two of the three members of the 4th April, 1970, was legal because sufficient notice was given to all the three members. If for one reason or the other one of them could not attend, that does not make the meeting of others illegal. In such circumstances, where there is no rule or regulation or any other provision for fixing the quorum, the presence of the majority of the members would constitute it a valid meeting and matters considered thereat cannot be held to be invalid."

The proposition appeared so self-evident to their Lordships that they stated that it was unnecessary to refer to any decision on the subject. It deserves reiteration that the above-said decision was arrived at in the absence of any provision whatsoever regarding the quorum whereas in the present case there is an express resolution of the competent authority fixing the quorum and the matter is, therefore, even on a firmer footing. It must be borne in mind that the distinction between administrative or quasi-judicial functions or those involving civil consequences is considerably blurred in view of the decision in *State of Orissa* v. *Dr. (Miss) Binapani Dei and others* (8). Their Lordships nowhere in *Ishwar Chandra's case* have drawn any distinction on any such tenuous ground. The ratio of this case, therefore, is directly attracted and the Division Bench in *Manjinder Kaur's case* was hence right in relying thereon.

(8) A.I.R. 1967 S.C. 1269.

(27) I must also notice that the learned counsel for the petitioners was either unable to or was sorely remiss in not laying any serious challenge to the correctness of the view expressed in *Manjinder Kaur's case.* No attempt was made before us to assail its reasoning or to distinguish the said case as also the Supreme Court judgment upon which it had rested. It is in this context that with considerable humility and diffidence I cannot help lamenting a tendency to lightly overrule the considered previous decision of this Court. In innumerable cases which come up for decision before us, two views are easily possible but simply because one considers that a view taken by the Court in the earlier case was not the better view is hardly adequate justification for overruling a previous unanimous decision. Many people arrange their affairs on the faith of the correctness of the view taken by this Court as in the present case the Universities have done by constituting the Standing Committees and providing a quorum therefor. It could not even remotely be pointed out to us that the earlier view in *Manjinder Kaur's case* was patently wrong or unreasonable or that it was productive of public hardship or inconvenience. Indeed, as I would later attempt to show, the contrary view is likely to lead to such results. One must hearken to the recent warning sounded by Khanna J. in *Maganlal Chhagganlal (P) Ltd.* v. *Municipal Corporation of Greater Bombay and others* (9) when his Lordship quoted with approval the following observations of Cardozo J.—

> "I think adherence to precedent should be the rule and not the exception. I have already had occasion to dwell upon some of the considerations that sustain it. To these I may add that the labour of judges would be increased almost to the breaking point if every past decision could be reopened in every case, and one could not lay one's own course of bricks on the secure foundation of the courses laid down by others who had gone before him. * * * The situation would, however, be intolerable if the weekly changes in the composition of the Court, were accompanied by changes in its rulings. In such circumstances there is nothing to do except to stand by the errors of our brethren of the week before, whether we relish them or not."

(9) A.I.R. 1974 S.C. 200.

(28) Precedent apart, I am otherwise unable to see incompatibility between Regulation 32.1 and the prescription of a quorum by the Syndicate. Once it is held that the fixation of a quorum for a quasi-judicial body is legal then it is inevitable and indeed inherent in the situation that a provision be made as to how the matter is to be decided on a difference between its members. Familiar modes of resolving such a difference come to mind, e.g., that the decision would be that of the majority; or that in case the members are equally divided, it may be placed for decision before a third member; or that in the absence of unanimity it may be left to the adjudication of a higher authority which again may either be a single person or a body of persons. By way of analogy, I may refer to Section 13 of the Sikh Gurdwara Act, which provides for the various modes of resolving a difference of opinion between the members of a strictly judicial Tribunal in the following terms:—

> "13(1) No proceeding shall be taken by a tribunal unless at least two members are present, provided that notices and summonses may be issued by the president or a member nominated by the president for this purpose.
>
> (2) In case of a difference of opinion between the members of a tribunal, the opinion of the majority shall prevail; provided that if only two members are present of whom one is the president, and if they are not in agreement, the opinion of the president shall prevail, and if the president be not present, and the two remaining members are not agreed, the question in dispute shall be kept pending until the next meeting of the tribunal at which the president is present; the opinion of the majority, or of the president when only two members are present, shall be deemed to be the opinion of the tribunal."

It is evident that the methodology of resolving a conflict of opinion is entirely a matter of procedure *qua* a domestic Tribunal performing quasi-judicial functions. Regulation 32.1. is such a provision To my mind, it would be reading too much into such a procedural provision, that it prohibits the perfectly legal exercise of the prescription of a quorum for the Standing Committee or that it enjoins that each of its members shall necessarily sit and function together in a body. My learned brother Gujral, J., holds that the matter would be different had the decision of the majority in the Standing Committee been final. Now it is manifest that if the quorum of

two is legal, no question of a decision by majority would arise in case of a difference of opinion amongst the two members. Another mode of resolving such a difference would have to be provided for. With great respect, I am unable to see why if Regulation 32.1 had merely provided that the matter should be decided by majority, then the impugned resolution would be valid but if it provides another procedure (for resolving the conflict), then the same resolution would be tainted with invalidity.

(29) It was argued before us that the third member of the Standing Committee, if present, may have taken a contrary view or even persuaded the other two members to arrive at a different decision. This may well be so, though it is equally possible that the third member may have unreservedly agreed with the other two, or having some doubts may not have pressed them to the point of dissent. There is no manner of doubt that the presence or absence of one or other members of a quasi-judicial, legislative or administrative body may make a difference one way or the other in its ultimate decision. But this contingency is basic and inherent in every body, for which a quorum has been prescribed. It may well be remembered that august bodies, like the Parliament of India and the Legislatures of the States, making momentous decisions, also function on the prescription of a quorum. Once it is held, as it has been that the provision of a quorum even in a quasi-judicial Committee, is valid in the eye of law, then it is inapt to draw a distinction between the member or members who validly function in place of the total number thereof. Indeed the legal result of a valid prescription of quorum is that the presence of the minimum number becomes in fact the Committee itself. To put it tersely the quorum is the Committee. Therefore, to draw any finical distinction as to what would be the result, if one or other members of the Committee had either chosen to attend or not, is to travel in the realm of surmise and conjecture rather than that of solid existing fact.

(30) The case on behalf of the petitioners is now sought to be rested on the presumed or inferential intent of the rule making body supposedly flowing from Regulation 32.1. If the intent of the Senate was that the whole of the Standing Committee must necessarily function as a body, then there was no difficulty in providing for the same in express and plain language. Obviously no such provision has been made and that fact indeed would negative

any presumed or inferential intent to this effect. Again I am extremely doubtful whether the doctrine of intent in the context of Parliament and Legislatures may validly or usefully be imported in regard to the interpretation of the University Regulations which by and large merely lay down the guidelines. Assuming for the sake of argument that the issue of intent is relevant then the mode and manner of the framing of these Regulations may well be usefully referred to. The relevant provisions are in Chapter II(A) (i) of the Panjab University Calendar, 1973. Regulation 23.1 provides that the Syndicate shall appoint annually a Regulations Committee which will examine the proposals for the framing of or amendments to the regulations and these shall be then submitted to the Syndicate through this Committee. This Regulations Committee is also a consultative body for the Vice-Chancellor, Syndicate or the Senate on the issues of legal interpretation of the regulations or the rules. Regulation 24 then prescribes that the Syndicate shall consider the amendments and the draft regulations as recommended by the Regulation Committee and make such alterations as it considers fit and then submit them to the Senate It is these draft regulations as recommended by the Syndicate, which the Senate considers and then adopts with such alterations as it deems fit, subject to the approval of the Government, and after the sanction thereof, they are published in the Government Gazette. The above-said provisions would indeed show that all proposals for the framing, alterations or amendments of the statutes emanate from and are primarily formulated by the Syndicate of the University. Regulation 31 has expressly left the matter of appointment of the annual Standing Committee to the Syndicate and it is not in dispute that the Standing Committee was appointed by the Syndicate. It is the same Syndicate which has made the provision for the quorum of this Standing Committee. In this context, therefore, to say that the intent of the Senate was at variance with the Syndicate or *vice versa* seems hardly tenable.

(31) Since the prescription of a quorum for the Standing Committee is sought to be negatived on the ground of its supposed incompatibility with regulation 32.1, the issue necessarily arises, therefore, as to the very nature and effect of these statutes. Are all the University regulations framed by the Senate, or the rules framed by the Syndicate, law or statute in its generic terms ? Or are they merely guidelines equivalent to by-laws intended for the internal management and regulation of the University ? I desist from elaborating the issue because, in this Court, the matter is

concluded by a decision of the Division Bench in *Jaswinder Singh Toor* v. *The Punjab Agricultural University* (10) with these observations:—

> "* * * . By no stretch of imagination, these regulations, called 'Statutes' though made under the powers given to the University under section 26 or 29 of the Act, would get the status of statutory rules (which are promulgated by the State or the Central Government by virtue of the delegated legislation) or otherwise, would become part of the Act."

Once it is held authoritatively, as above, then the question or regulations overriding or nullifying a valid resolution of the Syndicate cannot, in terms, arise. On this ancillary ground also, the contention on behalf of the petitioner must be rejected. Indeed I am unable to see under which provision or by which doctrine a resolution duly and validly passed is to be struck down and an autonomous body, like the University, prevented from regulating matters which fall within its internal management.

(32) The fixation of quorum for the Standing Committee was done way back in August, 1971. This Committee was constituted under regulation 31 and there is no dispute that it consisted of three members. The petitioners were aware, and in any case ought, in the eye of law, to have been aware that all the members of the Standing Committee had not attended the meeting when they appeared before it. It is, however, the common case that no objection whatsoever was taken at any stage regarding the alleged improper constitution of the Committee. Not only that, the petitioners appeared before the said Committee, participated in its proceedings and invited a decision on the issue from the same. Having acquiesced in the jurisdiction by participation without objection and seeking a decision in terms therefrom, they cannot now be allowed to both approbate and reprobate. It is settled law that a litigant who sits on the fence and participates in the proceedings of a tribunal without objection cannot, later on, question its decision if it happens to be unfavourable to his case. This was so held authoritatively by their Lordships in the well known case of *Messrs Panna Lal Brinjraj and others* v. *Union of India* and

(10) 1972 S.L.R. 198.

others (11). The view has been consistently followed by the final Court and necessarily, by all other High Courts. It was elaborated and forcefully reiterated by Mr. Justice Hegde in *G. T. Venkataswami Reddy* v. *Regional Transport Authority, Bangalore and another* (2) wherein particular reference was made to a previous decision of that Court in *C. R. Gowda* v. *Mysore Revenue Appellate Tribunal* (12).

(33) It is evident that the highest that can be said for the petitioners is, that two views are possible on the issue of the prescription of a quorum for the Standing Committee in conjunction with regulation 32.1. Leaving my own humble opinion apart, it deserves recollection that two distinguished Judges of this Court have subscribed to the other view in *Manjinder Kaur's case* (*supra*) which has held the field and which is now sought to be overruled. It is in this context that the argument *ab inconvenienti* has to be considered in adopting one or the other of the two constructions. With greatest respect to my learned brethren, I am inclined to the view that the construction they are choosing to prefer (by overriding the previous view) is likely to lead to uncalled for public expense, inconvenience and unnecessary hardship.

(34) It deserves recollection that in the case of *Board of High School and Intermediate Education, U.P.* v. *Ghanshyam Das Gupta and others* (13) their Lordships, for the first time, imported the rules of natural justice in the matter of disqualification entailed by use of unfair means by examinees. It was in consonance with this decision that the Universities have created quasi-judicial bodies to expeditiously deal with the rampant use of unfair means and the resultant disqualification which it must ordinarily entail. Since this deals with the educational career of students, the expeditious disposal of these matters must necessarily be the dominant purpose of all procedure and rules in this context. The anomalous results which must flow from holding that each and every member of the Standing Committee must always attend throughout each proceeding in every unfair means case, appear to be self-evident. To highlight this, it may be noticed that the number of members of the Standing Committee is not fixed and it is possible that the Syndicate may constitute a Standing Committee

(11) A.I.R. 1957 S.C. 397.

(12) A.I.R. 1965 Mysore 41.

(13) A.I.R. 1962 S.C. 1110.

of five or seven members (and perhaps some Universities have constituted larger Standing Committees already). Would it then be said that all the five or seven members must sit together like a regular Full Bench of a Court of law to hear and decide each unfair means case ? Would it be even possible or practicable to do so ? Even in a Committee of three, as in the present case, if one of the members of the Standing Committee was taken ill or otherwise becomes unable to attend for some time, the whole proceedings, must, in all the existing cases be stalled and the other members of the Committee debarred from functioning or deciding the cases by themselves ? It has been stated at the bar that apart from the Registrar, who is an *ex officio* member of the Standing Committee, the other two are invariably independent and distinguished persons who are invited to participate and decide these matters. These members are not whole-time employees of the University, but merely draw an allowance or an honorarium for attending the meeting. The result would then be that each one of such members once appointed for the year would be hence debarred from absenting himself for any period of time because in the absence of even one member, the Standing Committee would be virtually rendered nugatory during the period of his absence. Identical situations would arise in the case of illness, failure to attend a particular meeting for one or the other reasons of each one of the members. As far back as 1966, a Division Bench noticed in *Bharat Indu's case* (supra) that the respondent Panjab University was faced with a problem of deciding nearly 5,000 unfair means cases annually. That number has, perhaps, only arisen in the intervening decade, and is it possible that the Universities would be able to cope effectively with all the unfair means cases which arise if the construction now being advocated is to be followed in its strict letter and spirit ? It has then to be remembered that this view would have the effect of nullifying all previous decisions of the Standing Committee in the earlier unfair means cases decided by a quorum of two. This was so done by relying on the unanimous judgment of a Division Bench of this Court in *Miss Manjinder Kaur's case* (supra). A veritable pandora's box of ills would, therefore, be opened and the whole back-log of these cases would have to be re-decided by the Standing Committee functioning as a body throughout. It is, therefore, worth considering whether it is desirable, in the alternative, to take so strict and technical a view which would hamstring the working and procedure of these domestic tribunals and which, may indeed defeat the very purpose

of their being so constituted. To my mind, the view contrary to *Miss Manjinder Kaur's case* (supra) would effectuate no purpose except, perhaps, that of unwittingly hampering attempts of the Universities to cope with the distressing rise in rampant use of unfair means in their examinations.

(35) My learned brother Gujral, J., has sought to seek some support from the decision in *The United Commercial Bank Ltd.* v. *Their Workmen* (3). In that case, a narrowly divided Court (by a majority of four to three) set aside an award made by an Industrial Tribunal. The very peculiar facts and circumstances of this case do not require to be recounted here. It suffices to mention that the salient feature of the provision of a quorum was totally non-existent in the case of an Industrial Tribunal under section 7 of the Act. Indeed the observations of their Lordships in this case would tend to show by way of analogy that in the presence of a provision for quorum, no infirmity may have been found in the award. Section 5(4) and Section 6(3) of the Industrial Disputes Act in terms provided for the prescription of a quorum for the Board of Conciliation and the Court of Enquiry constituted under the Act. In this context Chief Justice Kania speaking for the majority had this to say—

> "Confining our attention to the aspect of absence of members at the sitting of the different bodies and what results follow therefrom, it is clear that under section 5(4) when a member of a Board of Conciliation is absent or there is vacancy, the Board is permitted to act, notwithstanding such absence, provided there is the prescribed quorum. Such quorum is fixed by the rules framed under the Act.
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> * * * *
>
> * * *. In the same way and in the same terms, provision is made in respect of the Court of Inquiry in Section 6(3). The provisions as regards the Tribunal are found in Section 7. No other section deals with the establishment of the Tribunal. * * *
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> * * * *
>
> It is significant that there is no provision corresponding to Section 5(4) or 6(3) in Section 7. Section 15 of the Act provides that when an industrial dispute has been referred to a tribunal for ajudication, it shall hold its proceedings expeditiously, and as soon as practicable and at

> the conclusion thereof submit its award to the appropriate Government. It is thus clear and indeed it is not disputed that the tribunal as a body should sit together and the award has to be the result of the joint deliberations of all members of the tribunal acting in a joint capacity."

It is manifest from the above, that the salient point of distinction noticed by their Lordships was the absence of any provision for a quorum as regards a Tribunal constituted under section 7 of the Industrial Disputes Act. The ratio of this case, therefore, appears to be entirely wide of the mark as regards the issue in the present case where admittedly a specific provision for the quorum of the Standing Committee has indeed been made. Gujral, J., in his judgment has himself assumed and accepted the legality of such a provision as regards a quasi-judicial Tribunal and once that is so, with great respect, I am unable to see how the *United Commercial Bank Ltd.'s* case can be of any aid. Equally it may be noticed that in the present cases, the same two members who took seizin of each individual case, attended the proceedings throughout and have unanimously decided the same. Therefore, it is hardly tenable to say that the principle of joint work and responsibility in a Tribunal (if at all applicable in cases where a quorum is prescribed) has been, in any way, violated.

(36) Even after the statute, the principle and the relevant precedents have been examined, it appears to me that in the ultimate analysis, the issue is one of approach. Indeed the larger question that looms is whether the quasi-judicial domestic Tribunals of an autonomous body are to be put into the strait-jacket of legal formalism? Whether such Tribunals are to be clothed with the full-dress trappings of a Court of Law? To my mind, the answer must be clearly in the negative. It was to negative such an approach that Dua J., speaking for the Bench, in the specific case of the Standing Committee of this University in *Bharat Indu's case,* observed :—

> "* * *. Once it is held, as I have done, that the analogy of trial in ordinary Courts is misleading and this basic holding is kept clearly in view, considerable misunderstanding and confusion of thought would be avoided. Decisions dealing with the Courts and with the arbitrators also lose much of their persuasive value. This would also

take away considerable cogency from the petitioner's argument that all the members of the Standing Committee must necessarily perform all functions by meeting together and that right of cross-examining witnesses is inviolable and fundamental to the validity of all quasi-judicial proceedings."

Even *in Ghanshayam Das Gupta's case* (13) (supra), their Lordships had pointed out that—

"* * *. There is no doubt that many of the powers of the Committee under Chapter VI are of administrative nature; but where quasi-judicial duties are entrusted to an administrative body like this it becomes a quasi-judicial body for performing these duties and it can prescribe its own procedure so long as the principles of natural justice are followed and adequate opportunity of presenting his case is given to the examinee."

(37) As I had earlier occasion to point out, a prescribed method for the resolving of a conflict in the Standing Committee, like the present Regulation 32.1, is essentially a matter of procedure and as observed by their Lordships, these Tribunals are and must be allowed to be the masters of their own procedures. In a later judgment reported as *The Board of High School and Inter-Mediate Education U.P.* v. *Bagleshwar Prasad and others* (14) Gajendragadkar J. (as his Lordship then was) speaking for the Bench elaborated the matter and observed:—

"* * *. This problem which educational institutions have to face from time to time is a serious problem and unless there is justification to do so, Courts should be slow to interfere with the decisions of domestic Tribunals appointed by educational bodies like the Universities.

* * * * *

Enquiries held by domestic Tribunals in such cases must, no doubt, be fair and students against whom charges are framed must be given adequate opportunities to defend themselves, and in holding such enquiries, the Tribunal, must scrupulously follow rules of natural justice; but it would, we think, not be reasonable to import into these

(14) (1963) 3 S.C.R. 767.

enquiries all considerations which govern criminal trials in ordinary courts of law."

(38) Ingrained, as we are, in the traditions of formal proceedings, our minds which are conditioned by the historical existence of Courts of law, naturally tend to impose the same conditions of formal procedure on domestic Tribunals which in fact exercise limited quasi-judicial functions. However, a warning against this predilection for formal Court procedure has been forcefully voiced by Bhagwati J., in *Maganlal Chhaggan Lal's case* (supra). In this context a reference to two celebrated decisions suffices. In *University of Ceylon* v. *Fernando* (15) the grouse of the examinee was that the evidence of various witnesses, who appeared before a Committee of Enquiry, was taken in his absence and further that this evidence was not taken entirely before all the three members of the Committee of Enquiry and these circumstances were a violation of an elementary principle of justice. The Privy Council negatived these contentions and in fact reversed the judgment of the Supreme Court of Ceylon, which had held to the contrary. In the well-known case of the *Local Government Board* v. *Arlidge* (16) the Board had disposed of an appeal under section 39 of the Housing and Town Planning Act, 1909. Undoubtedly in doing so, it exercised quasi-judicial functions. In this context the House of Lords whilst allowing the appeal observed (Lord Shaw of Dunfermline):—

"* * *. The judgments of the majority of the Court below appears to me, if I may say so with respect, to be dominated by the idea that the analogy of judicial methods or procedure should apply to departmental action. Judicial methods may, in many points of administration, be entirely unsuitable, and produce delays, expense, and public and private injury. * * *

* * * *.

* * *. My Lords, when a central administrative board deals with an appeal from a local authority, it must do its best to act justly, and to reach just ends by just means. If a statute prescribes the means, it must employ them. If

(15) (1960) 1 All. E.R. 631.
(16) (1915) A.C. 120.

it is left without express guidance, it must still act honestly and by honest means. In regard to these certain ways and methods of judicial procedure may very likely be imitated; and lawyer-like methods may find special favour from lawyers. But that the judiciary should presume to impose its own methods on administrative or executive officers is a usurpation. And the assumption that the methods of natural justice are exnecessitate those of Courts of justice is wholly unfounded. This is expressly applicable to steps of procedure or forms of pleading."

(39) For the afore-mention reasons, I hold that the solitary contention raised on behalf of the petitioners is without merit and must be rejected. The writ petitions should stand dismissed.

ORDER OF THE COURT

(40) It is held that the orders passed against the petitioners disqualifying them were not valid as they had not been passed by all the members of the Standing Committee. The Civil Writ Petitions Nos. 5948, 6115, 6736, 6779 and 6780 of 1974 are consequently accepted and the impugned orders are quashed leaving the parties to bear their own costs.

K.S.K.

FULL BENCH

Before R. S. Narula, C.J., P. C. Jain and M. R. Sharma, JJ.

SANT SINGH, ETC.,—*Petitioners.*

versus

THE STATE OF PUNJAB, ETC.,—*Respondents.*

C.W. No. 368 of 1973.

April 7, 1975.

Punjab Gram Panchayats Act (IV of 1953)—Sections 4, 5 and 13-0—Notification declaring Sabha area of a Gram Sabha under sections 4 and 5 issued—Mistaken description in the notification of the Tehsil in which the Gram Sabha is situate—Whether affects the validity of the election of the Gram Panchayat of such Gram Sabha.