



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

% Date of Decision: 23.04.2025

+ **W.P.(C) 5549/2018**

ADITI CHATTERJEE

.....Petitioner

Through: Mr. Soutik Banerjee and Ms. Devika
Tulsiani, Advocates.

versus

JAWAHARLAL NEHRU
UNIVERSITY AND ORS.

.....Respondents

Through: Ms. Monica Arora, CGSC for UOI
with Mr. Subhrodeep Saha, Mr.
Prabhat Kumar, Ms. Anamika
Thakur, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The petitioner being a resident student of Jawaharlal Nehru University (JNU), has filed the present writ petition in the nature of certiorari seeking quashing of Show Cause Notice dated 23.04.2018 as well as consequent proceedings in the nature of Office Order No. 83/CP/2018 dated 14.05.2018 whereby fine of Rs.6,000/- has been imposed upon her.
2. In the petition, it is claimed that petitioner was pursuing M.A. in Russian Language and Literature and Cultural Studies at JNU after having completed B.A. (Hons.) in the said subjects at the same University from 2014-17. She was also elected as one of the five Councillors in the academic session 2016-17. Petitioner has alleged that respondent No.2 being



the Assistant Professor and Chief Proctor of the Respondent No. 1 illegally conducted raids at the women's hostels against which petitioner and other students raised their protests. It is alleged that the said raids amounted to intrusion of privacy in the women's hostel. Notably, the incident took place in the evening of 10.10.2017. Petitioner claimed that while she alongwith other students was present at *Sabarmati Dabha*, Associate Dean Prof. *Buddha Singh* alongwith some students came at the spot and not only passed uncharitable remarks but also pushed her. Petitioner claims to have filed an FIR regarding the said incident. Petitioner claims that the said incident also led to inquiry being conducted by Chief Proctor resulting in issuance of the Show Cause Notice and passing of the impugned order. It is contended that in the inquiry proceedings, neither the copy of the complaint nor any supporting material in the form of statements recorded were provided to the petitioner. Furthermore, no opportunity was afforded to the petitioner to ask questions to such witnesses. It is submitted that the whole procedure being contrary to the principle of natural justice is not sustainable either under any law or under the 'Rules of Discipline & Proper Conduct of Students of JNU' (hereafter, 'the Rules').

3. *Per contra*, respondents, on the other hand, would contend that a complaint dated 11.10.2017, was received from one *Rohit Kumar* with the allegations of physical assault, manhandling and verbal abuse. In the said complaint, accusations were made against the present petitioner due to which notices were issued to the petitioner and other students named in the complaint and the proceedings were carried out by the Chief Proctor. In the said proceedings, a report was called from Chief Security Office and statements of security guards were also recorded. The petitioner appeared in



the said proceedings on 07.11.2017 and admitted to shouting slogans against Associate Dean Prof. *Buddha Singh*. On verification of the complaint, a Show Cause Notice was issued to the petitioner on 23.04.2018 asking her as to why disciplinary action be not initiated against her. Finding petitioner's reply to the Show Cause Notice to be unsatisfactory, the impugned order was passed.

4. Learned counsel for the respondents while referring to the Rules, submits that respondents have framed the Rules under Section 5(10) of the JNU Act, 1956 read with Section 32(1) of the Statutes of the University. Petitioner's conduct falls under Rule (x) in the Category II wherein fine upto Rs.20,000/- can be imposed.

5. From the above submissions and reading of the facts narrated in the petition as well as records of the proceedings produced by the respondent, it appears that the incident occurred in the evening of 10.10.2017. The petitioner claims that she has filed a criminal case resulting into registration of the FIR however, in the present writ petition she confines to the challenge made in the impugned order vide which fine of Rs.6,000/- has been imposed on her. The proceedings were initiated on the complaint of one *Rohit Kumar* who alleged that in the evening of 10.10.2017 there was confrontation between Associate Dean Prof. *Buddha Singh* and about 100 students. He attempted to intervene and in the process was manhandled and abused. In the proceedings before Chief Proctor, Associate Dean Prof. *Buddha Singh* never appeared. Though in his complaint, the complainant/*Rohit Kumar* had subsequently alleged of being slapped, however the said aspect was not stated in so many terms in the proceedings held on 02.11.2017. In the said proceedings, three security guards namely



Mr. *Ramesh Panwar*, Mr. *Sandeep Kumar* and Mr. *Abhishek Kumar* were examined. Mr. *Sandeep Kumar* stated that he reached the Sabarmati Dhaba at 6.20 pm but found nothing. He stated that there was no confrontation amongst the students. Mr. *Abhishek Kumar*, who claimed to have reached at the spot at 6.30 pm, stated that some students were shouting slogans. Mr. *Ramesh Panwar* only stated of getting a phone call about some incident at Sabarmati Dhaba. He also did not witness anything.

6. Petitioner, in response to the Show Cause Notice, sought copies of the complaint and other material in support of the allegations. It is the conceded case of the respondents that no document was even provided and the petitioner was allowed to read the complaint for the first time on 07.11.2017 when she appeared before Chief Proctor. On a perusal of the proceedings dated 07.11.2017 the same reflects that the petitioner denied the allegations and rather stated that it was Associate Dean Prof. Buddha Singh who made uncharitable remarks. The students present there including the petitioner only shouted slogans.

7. A reading of the records produced by the respondents further reveal that the petitioner, on the same day i.e., 07.11.2017, made a complaint for not being provided with a copy of the complaint against her or any statement. It was rather a counter blast to the criminal complaint lodged by the petitioner about the incident. Despite the fact that Associate Dean Prof. *Buddha Singh* never appeared in the proceedings held before Chief Proctor, a Show Cause Notice dated 23.04.2018 was issued asking the petitioner to explain the allegations of verbal abuse against her as well as of physical assault and manhandling the complainant. The petitioner vide her reply dated 01.05.2018 responded to the same. She claimed that prior to the



incident, the acts of Associate Dean Prof. *Buddha Singh* were complained to Chairperson of Delhi Commission for Women on 12.10.2017. Even the other students have carried out protests against hostel raids on 12.10.2017. An FIR 640/2017 under Sections 354/323/509 IPC also came to be registered at P.S. Vasant Kunj (North) on petitioner's complaint. She also complained of not being provided with copy of the complaint or any supporting material to effectively answer the Show Cause Notice. The one-man inquiry committee under the Chief Proctor recorded the statements of the complainant and the security guard personnel on 02.11.2017. The notice issued to the petitioner only states that a complaint has been received from *Rohit Kumar* with respect to incident dated 10.10.2017. The notices were not accompanied by copy of the complaint. Neither the report from the Chief Security Office or the statements of security personnel were provided to the petitioner either during the inquiry committee proceedings or at the time of issuance of Show Cause Notice. The Rules relied upon by the respondents also stipulate that inquiry is to be conducted after following due procedure and providing an opportunity to student charged for the offence to defend himself. The relevant Rule is extracted hereinbelow: -

5. *General*

1) *No punishment shall ordinarily be imposed on a student unless he/she is found guilty of the offence for which he/she has been charged by a proctorial or any other inquiry after following the normal procedure and providing due opportunity to the student charged for offence to defend himself.*

8. The use of the term 'due opportunity' in the rules necessitates that the enquiry is in conformity with the principles of natural justice. '*Audi alteram partem*' is one of the fundamental principles of natural justice laying down



that no one should be condemned unheard. Every person is entitled to a fair hearing before any decision affecting their rights or interest is made. A reasonable opportunity must be afforded to the accused person to prepare their defence. Different facets of a due opportunity include a clear and proper notice, disclosure of the evidence brought against the accused person, and being given reasonable time to prepare their defence. *Audi alteram partem*, in essence, enforces the fundamental right to equality as enshrined in Article 14 of the Constitution of India. It is trite law that the rule is applicable to administrative orders as well, unless specifically excluded by any rule. Reference in this regard may be made to the Constitutional Bench decision of Supreme Court in Delhi Transport Corpn. v. D.T.C. Mazdoor Congress¹ wherein it was held as under:-

202. ...It is now well settled that the 'audi alteram partem' rule which in essence, enforces the equality clause in Article 14 of the Constitution is applicable not only to quasi-judicial orders but to administrative orders affecting prejudicially the party-in-question unless the application of the rule has been expressly excluded by the Act or Regulation or Rule which is not the case here. Rules of natural justice do not supplant but supplement the Rules and Regulations. Moreover, the Rule of Law which permeates our Constitution demands that it has to be observed both substantially and procedurally...

9. When it comes to judicial review of administrative actions, the Court does not sit in appeal and cannot replace the decision of the administrative authorities by its own decision. Interference in an administrative decision is called for when the decision is an outcome of an unfair procedure. Some of the grounds mandating judicial review are illegality, irrationality and procedural impropriety.

¹ 1991 Supp (1) SCC 600



10. A Co-ordinate Bench of this Court in Flora Gupta v. Jawahar Lal Nehru University,² in a case involving the respondent no.1 University, held that the non-supply of documents or material which formed the basis of the allegation, as well as not providing the copies of the statements of the witnesses and denying an opportunity to examine such witnesses was an irrational procedure without any basis in law. It was held as under:

“72. The enquiry committee did not give any notice to the petitioner as to what is the basis of the allegation made against her. No documents or material was supply to her on the basis of which it was prima facie inferred that she had access to examination paper before the examination. The one-man committee has followed its own procedure which is not based on any statue or ordinance of respondent no. 1. He issued notice to some of the witnesses to have talk with them. The alleged talk was reduced into writing and has been treated as the statements on the basis of which the one-man enquiry committee inferred that the allegation against the petitioner was made out. The copies of alleged ‘talk’ between the one-man committee and witnesses were not given to the petitioner. Petitioner was also not allowed to ‘talk’ to such witnesses whose statements became the basis of alleged fact-finding committee. Consequently, the petitioner had no opportunity to ask questions from such witnesses in order to impeach whatsoever had been stated by them. After recording the statement of such persons as detailed hereinabove, the one-man committee did not ask petitioner to give her version or to adduce evidence in support of her defense. The petitioner has made a specific allegation that respondent no. 2 did all this to accommodate his favorite persons which allegation has not been denied by respondent no. 2 by filing her affidavit. The whole procedure adopted by one-man committee is whimsical and without any basis and is not sustainable under law or based on any statue or ordinance of the University.”

² 2012 SCC OnLine Del 3449



11. This judgement was challenged in a Letters Patent Appeal in the case of Jawahar Lal Nehru University v. Flora Gupta,³ wherein while upholding the decision of learned single Judge it was held that the adopted procedure was unfair. The relevant portions are extracted below: -

“15. It is evident that what weighed with the learned Single judge, while setting aside the impugned order, was that the writ petitioner was not afforded any opportunity. From the earliest point of time, she kept insisting that the confession recorded was the result of intimidation and not of her choice. She was neither summoned for any properly instituted inquiry, nor was allowed to cross examine witnesses. The one man committee's procedure was contrary to all canons of fairness; besides, the impugned judgment has listed several glaring procedural irregularities which beset its hearings. In the backdrop of these findings, the learned Single Judge concluded — taking into consideration the length of time when the penal order was operative, that the Appellant-University should allow the writ petitioner to proceed, after admitting her to the Ph.D course.

16. After carefully considering all the circumstances, this Court is of the opinion that the larger ends of justice would be best served if the directions and findings in the impugned judgment are left undisturbed. The petitioner was inflicted with an adverse order, without a semblance of fairness; that order has remained operative for the larger part it was to be in force — i.e. more than four out of five years. No serious infirmities in the conclusions drawn or the application of law are discernable in the impugned judgment. For these reasons, this court declines to entertain the appeal; it is accordingly dismissed, without any order as to costs.”

12. In the present case, it is evident that the principle of *audi alteram partem* has not been adhered to. The notice not being accompanied by a copy of the complaint, petitioner not being provided with the Chief Security Office report or the statements of security personnel had the effect of

³ 2012 SCC OnLine Del 5722



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denying her a reasonable opportunity to prepare her defence and assailing the charges which had been levelled against her. The petitioner was allowed to see the complaint for the first time on 07.11.2017 when she appeared before Chief Proctor, which again highlights the unfairness of the procedure adopted by the Respondents.

13. In view of the above, after considering the facts and circumstances of this case and the prevailing position in law, this Court comes to the conclusion that the show cause notice dated 23.04.2018 and the Office Order No. 83/CP/2018 dated 14.05.2018 and all consequential proceedings are in violation of principles of natural justice and are hereby quashed and set aside.

14. The petition is disposed of in the above terms.

MANOJ KUMAR OHRI
(JUDGE)

APRIL 23, 2025/ga