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

+ **W.P.(C) 4649/2023 & CM APPL 17922/2023**

Date of Decision: 27.04.2023

IN THE MATTER OF:

LOKESH CHUGH
PH.D. SCHOLAR,
DEPARTMENT OF ANTHROPOLOGY,
FACULTY OF SCIENCE, UNIVERSITY
OF DELHI,
R/O 135-A, OLD GUPTA COLONY,
NEAR KALYAN VIHAR,
NEW DELHI - 11009

..... PETITIONER

Through: Mr. Kapil Sibal, Senior Advocate
alongwith Mr. Naman Joshi, Mr. Varun Chopra,
Ms. Chimni, Ms. Ritika Vohra, Mr. Gumeet, Mr.
Mukul Kalhari & Mr. Saharsh Saxena, Advocates.

Versus

UNIVERSITY OF DELHI
THROUGH MR. YOGESH SINGH
VICE - CHANCELLOR,
MAIN CAMPUS, UNIVERSITY OF DELHI
NEW DELHI- 110007

ALSO AT:

UNIVERSITY OF DELHI
THROUGH ITS STANDING COUNSEL
CHAMBER 212 A, BLOCK III,
LAWYERS CHAMBERS,
HIGH COURT OF DELHI
DELHI – 110003

..... RESPONDENT NO. 1

MR. VIKAS GUPTA
OFFICE OF REGISTRAR,
UNIVERSITY OF DELHI,
MAIN CAMPUS, UNIVERSITY OF DELHI NEW
DELHI- 110007

..... RESPONDENT NO. 2

PROF. RAJNI ABBI
OFFICE OF PROCTOR
UNIVERSITY OF DELHI,
MAIN CAMPUS, UNIVERSITY OF DELHI NEW
DELHI- 110007 RESPONDENT NO. 3

PROF. S M PATNAIK
HEAD, DEPARTMENT OF ANTHROPOLOGY,
FACULTY OF SCIENCE,
UNIVERSITY OF DELHI,
MAIN CAMPUS, UNIVERSITY OF DELHI NEW
DELHI- 110007 RESPONDENT NO. 4

Through: Mr. R.Venkatramani, Senior Advocate
(Attorney General) alongwith Mr. Mohinder J.S.
Rupal and Mr. Hardik Rupal, Advocates for
University of Delhi

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Article 226 of the Constitution of India against the impugned Memorandum dated 10.03.2023 passed by the respondent-University, whereby, the petitioner has been debarred from taking any University/College/Departmental examination for a period of one year.
2. Learned Senior Counsel appearing on behalf of the petitioner submits that the impugned order is in violation of the principles of natural justice, inasmuch as the impugned order does not record any reason, much less sufficient reasons for debarring the petitioner for a period of one year. He states that the petitioner has taken a categorical stand that on 27.01.2023,

there was a protest organised by few students at the Faculty of Arts, (Main Campus), University of Delhi and during this protest, allegedly, a banned BBC documentary was screened for public viewing. However, at the relevant time, neither was the petitioner present at the protest site, nor did he facilitated/participated in the screening in any manner.

3. The submissions put forth by learned Senior Counsel for the petitioner is that in the absence of the petitioner being part of screening of the banned documentary, no action should have been taken against him. In any case, if the respondent was of the view that the petitioner in any manner had participated in screening of the banned documentary, an adequate opportunity of hearing ought to have been extended to him.

4. The submissions made by learned Senior Counsel for the petitioner are strongly opposed by learned Attorney General who states that the petitioner has not approached this court with clean hands. Learned Attorney General, while taking this court through the response dated 20.02.2023 of the petitioner to the Show Cause Notice given by the University states that the stand taken by the petitioner in his response dated 20.02.2023 is contradictory to his own statement which he has made before the media personnel, regarding his presence at the time of screening of the BBC documentary. Learned Attorney General also states that the disciplinary authority had conducted an inquiry into the matter and the petitioner was afforded an opportunity of hearing. The petitioner appeared before the disciplinary authority. He also states that once the disciplinary authority heard the petitioner and Show Cause Notice was given to him, no further opportunity is necessary under the facts of the present case. He also states that when the petitioner admitted before the media personnel that he was

present in the campus, consequently, no further opportunity is necessary. He has read over the transcription of video clips of the petitioner's press statement in addition to the response to the Show Cause Notice submitted by him.

5. Learned counsel for the respondent-University has placed reliance on a decision of this court in the case of *Dr. Ashok K. Mittal v. University of Delhi*.¹

6. The aforesaid contentions are contradicted by learned Senior Counsel for the petitioner in his rejoinder submissions. He states that if the impugned order is perused, the same only records that the petitioner allegedly participated in the screening of the banned BBC documentary on 27.01.2023 at 4:00 p.m. in front of Gate No. 4, Faculty of Arts (Opposite Conference Centre), University of Delhi and hence, unless the respondents are able to satisfy or record a categorical finding that the petitioner's presence was explicitly noted at 4:00 p.m. on 27.01.2023, no action can be taken against him. He also states that if the Show Cause Notice dated 16.02.2023 is perused, the same would indicate that a general statement was made therein that the petitioner was involved in the disturbance of law and order in the University on 27.01.2023 outside the Faculty of Arts, University of Delhi during the screening of the banned BBC documentary. According to him, the impugned order goes beyond the scope of the Show Cause Notice and the same has been passed without recording any reason, therefore, the reasons cannot be supplemented by way of filing additional affidavits or the documents in the court proceedings.

¹ 1995 SCC OnLine Del 722

7. Learned Senior Counsel for the petitioner has placed reliance on a decision of the Hon'ble Supreme Court in the case of *Mohinder Singh Gill v. Chief Election Commissioner*².

8. I have heard learned counsel for the parties and perused the material available on record.

9. The impugned Memorandum dated 10.03.2023 reads as under:-

"Whereas here was a Notice dated 22.04.2022 issued by the Proctor, University of Delhi for information of all concerned about mandatory requirement of prior intimation of any gathering/protest/demonstration anywhere in the University, alongwith submission of details of the organizers atleast 24 hours in advance;

And whereas there was a ban on showing of the BBC documentary by the Govt. of India, which was taken cognizance by the Proctor, University of Delhi;

And whereas Shri Lokesh Chugh, Ph.D Scholar. Department of Anthropology University of Delhi had participated in the showing of the banned BBC documentary on 27.01.2023 at 4:00 PM in front of Gate No. 4, Faculty of Arts (Opposite Conference Centre) University of Delhi;

And whereas the act of participation in showing of the banned BBC documentary is an act of indiscipline on the part of Shri Lokesh Chugh, Ph.D Scholar, Department of Anthropology, University of Delhi, in accordance with Ordinance XV-B of the Ordinances of the University;

And whereas the Disciplinary Authority constituted a Committee vide Notification No.R0/2023/R-4355 dated 28.01.2023 to specifically look into the incident which took place on 27.01.2023.

And whereas on the basis of the recommendations of the Committee, the Disciplinary Authority taking cognizance of the above indiscipline exhibited by Shri Lokesh Chugh decided to

² 1978 (1) SCC 405

impose penalty of debarring him from taking any University or College or Departmental Examination or Examinations for one year in accordance with Clause 4 (e) of Ordinance XV-B of the Ordinances of the University.

Now therefore Shri Lokesh Chugh is here by debarred from taking any University or College or Departmental Examination or Examinations or one year from the date of issue of this Memorandum.

This is issued with the approval of the Competent Authority”.

10. A careful perusal of the impugned order would indicate that according to the respondent-University there was already a notice dated 22.04.2022 issued by the Proctor, University of Delhi for information of all concerned about the mandatory requirement of prior intimation of any gathering/protest /demonstration anywhere in the University alongwith submission of details of the organizers atleast 24 hours in advance. This further goes to show that according to the University there was a ban on broadcast of the BBC documentary which was taken cognizance of by the Proctor University of Delhi. The University in the impugned order also records that the petitioner had participated in the showing of the ban BBC documentary on 27.01.2023 at 4:00 p.m. in front of Gate No. 4, Faculty of Arts (Opposite Conference Centre), University of Delhi. The University goes on to state that there was a Committee constituted in terms of Notification dated 28.01.2023 to specifically look into the incident which took place on 27.01.2023 and on the basis of the recommendations of the Committee, the disciplinary authority took cognizance of the indiscipline exhibited by the petitioner and decided to impose the impugned penalty. The act of the petitioner was, therefore, found to be an act of indiscipline and accordingly in accordance with Ordinance

XV-B of the Ordinances of the University, the impugned action has been taken.

11. If the contents of the Show Cause Notice issued to the petitioner dated 16.02.2023 are perused, it indicates that the petitioner was called upon to explain his conduct of being allegedly involved in the disturbance of law and order in the University on 27.01.2023 outside the Faculty of Arts, University of Delhi during the screening of the BBC documentary. For the sake of clarity, the Show Cause Notice dated 16.02.2023 is reproduced as under:-

“ MEMORANDUM

“It is reported that you were involved in the disturbance of Law and Order in the University on 27.01.2023 outside Faculty of Arts, University of Delhi during the screening of BBC documentary.

You are requested to give a reply (within three working days) as to why action should not be taken against you by the University

You are further requested to meet the Proctor on 20.02.2023 at 01:00 PM sharp in the Proctor's Office, Conference Centre, University of Delhi, Delhi-110007”.

12. It would also be appropriate to consider the response to the Show Cause Notice given by the petitioner on 20.02.2023 which states that he is a Ph.D. Scholar and he was handling media for a student organisation. He was called by media personnel to give a media byte on the BBC documentary and he was in a live debate with one media personnel. The reply goes on to state that neither was he detained by the police nor does his name find place in the FIR as he was not present at the protest. As per his reply, the petitioner took a stand that he always had utmost respect for the decorum to be maintained in the University and he also requested for a favourable consideration of his explanation dated 20.02.2023.

13. The response filed by the petitioner dated 20.02.2023 reads as under:-

*“Lokesh Chugh,
S/o Mr. Vinod Krishna Chugh
Ph. No. – 999938330
20/02/2023*

*To,
Proctor,
University of Delhi*

I am a Ph. D. scholar, I am also handling media for NSUI, I was called by the media person to give media byte on BBC documentary, I was in a live debate with Akshit Dhahiya on various channels. I was not even detained by Delhi police nor taken to custody neither my name is in FIR, because I was not there at the protest, giving my opinion in front of media on the behalf of my party is not a crime. I always respect the decorum of my university ,therefore I request you to please submit this letter my answer to the letter I have received on 16th Feb 2023.

*Thanking you,
Yours truly, ”*

14. This court has also considered the report of the Committee on the incident of 27.01.2023. The paragraph Nos. 5 to 12 of the said report dated 03.03.2023 read as under:-

“5. The committee also sought information from Faculty of Law, Department of Hindi, School of Social Science and Colleges- Kirori Mal Ramjas, Mirada House, Hindu & Satyawati to verify correct credentials of the students. The committee also called the identified students for hearing them in the Proctor office.

6. After discussions and deliberations about the incident and violent behavior of the gathering, the committee recommended that future action and deterrent measures to be adopted so that such .incidence should not be repeated in future.

7. *On perusal of the evidences, the Committee observed that a boy named Lokesh Chugh, Research Scholar from the Department of Anthropology was issuing instructions to the students and led the agitation on 27.01.2023.*

8. *The Committee also recommended issuing memorandums to the students giving three days' time to show cause as to why disciplinary action should not be taken against them and to call the students for interrogation in the Proctor office before taking disciplinary action against them according to the University Rules.*

9. *It was also decided by the Committee to issue letters to the parents of these students apprising of the activities of their wards. Most of the parents of such students neither replied nor came to the Proctor office except 03 parents responded that (1) he has warned his son, kindly stop the proceedings against him (2) his son was not involve in the action accused against him (3) sorry for involvement of his son in protest, kindly forgive his son. The details of communications and 'replies are detailed in Annexure-A.*

10. *The Committee after following the due process, recommended firstly, that two students namely Lokesh Chugh, research scholar of Anthropology Department and Ravinder Singh S/o Sh. Kuldeep Singh of the Department of Philosophy (M.A Previous) be expelled from the University for involvement and inciting of other students.*

11. *Further, six students namely Ashutosh Singh S/o Sh. Phool Singh, Satyawati College, Ajil K. Binu S/o Sh. Binu, Satyawati College, Divon Augustine S/o Augustine, Hindu College, Mishab Bin Hamja E S/o Sh. Hamja- Elanchori, Ramjas College, Mohd. 'Ashif S/o Sh. Ibrahim, School of Social Sciences and Neelima V.P. D/o Sh. I.V. Vinod, Miranda House may be expelled for at least three months.*

12. *The Committee recommended that the report be sent to the University to take necessary action”.*

15. It is also indicated that the Disciplinary Committee called upon the petitioner during the course of inquiry. He did appear on 20.02.2023 and his presence is marked in the Minutes of the Meeting dated 20.02.2023 which reinforces the fact that the petitioner appeared before the Disciplinary Committee and he explained his conduct, as argued on his behalf. The Minutes of the Meeting dated 20.02.2023 read as under:-

“MINUTES

A meeting of the Committee constituted vide notification No. R0/2023/R-4355 dated 28th January, 2023 to enforce discipline and maintain law & order in the University was held on 20.02.2023 at 03:00 PM in the Proctor's Office, Conference Centre. The following were present :

- 1. Prof. Rajni Abbi, Proctor, Chairperson*
- 2. Prof. Ajay Kumar Singh, Department of Commerce*
- 3. Prof. Manoj Kumar Singh, Joint Proctor*
- 4. Prof. Sonjoy Roy, Department of Social Work*
- 5. Prof. Rama, Principal, Hansraj College*
- 6. Prof. Dinesh Khattar, Principal, Kirori Mal College*

In continuation of the last meeting was held on 30.01.2023, the committee has called students for hearing on 20.02.2023 at 01:00 PM in the Proctor's Office. The following students came for clarification namely :

- 1. Sahid Mon. C S/o Shoukkathali. C, 1st Yr, Law Centre-I*
- 2. Lokesh Chugh, Research Scholar, Department of Anthropology*
- 3. Sneha Shaji D/o K.A. Shaji, Hindu College*
- 4. M Luqman O.P. S/o Umar, 3rd Year, BA(H), Pol. Sc., Hindu College*

On the basis of facts and evidences, the committee recommended for disciplinary action to be taken against the following students involved in the incident of 27th January, 2023.

1. The following two students should be expelled from the University as they were involved in organizing and inciting other students :

(a) Lokesh Chugh, Research Scholar, Department of Anthropology

(b) Ravinder Singh S/o Kuldeep Singh, Department of Law/Philosophy

2. The following six students should. be expelled for atleast three months:

(a) Ashutosh Sigh S/o Phool Singh, Satyawati College

(b) Ajil K. Binu S/o Binu, Satyawati College

(c) Divon Augustine S/o Augustine, Hingu College

(d) Mishab Bin Hamja E S/o Hamja Elanchori, Ramjas College

(e) Mohd. Ashif S/o Ibrahim, School of Social Science

(f) Neelima V.P. D/o Vinod, Miranda House"

16. A bare reading of the Minutes of the Meeting dated 20.02.2023 does not, in any way, provide any information about the clarification submitted by the petitioner and the finding thereon by the Committee. The same has clearly not been dealt with. It is also to be noted that if the report of the Committee is perused, it only records the conclusion without considering the stand of the petitioner.

17. So far as the Show Cause Notice dated 16.02.2023 given to the petitioner is concerned, the same has been duly replied to, by him. Even in the impugned order, there is no consideration of the submission made by the petitioner.

18. A perusal of the impugned order dated 10.03.2023, as has been reproduced in the preceding paragraphs, indicates the occurrence of certain events on respective dates. As to whether the petitioner was present at the time of screening of the banned BBC documentary or not, the same is not

reflected from a reading of the impugned order. The petitioner has not been specifically called upon to explain the allegations which form part of the impugned order.

19. The reasons behind any decision are necessary to be assigned by the administrative authorities. The Hon'ble Supreme Court in the case of *Kranti Associates Private Limited and Another v. Masood Ahmed Khan and Others*³ has emphasised the significance of reasons. Paragraph No. 47 of the said decision reads as under:-

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

³ (2010) 9 SCC 496

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37].)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

20. From a perusal of the facts of the present case, specifically the impugned order, this court finds that the same has been passed without affording a proper opportunity of hearing to the petitioner or considering his explanation, as was submitted by him in terms of his response dated 20.02.2023. It is for this reason, this court is unable to sustain the impugned Memorandum dated 10.03.2023, therefore, the same is set aside and the admission of the petitioner is restored.

21. At this stage, learned Attorney General on behalf of the University states that the liberty be given to the University to proceed against the petitioner after extending the appropriate opportunity of hearing.

22. Needless to state that if the University intends to take any action against the petitioner, the same can only proceed strictly, in accordance with law and after due observance of the principles of natural justice. Since the impugned notice has been set aside on the ground of violation of the principles of natural justice, therefore, the University would be at liberty to act accordingly, if so advised.

23. With the aforesaid observations, the petition stands disposed of alongwith the pending application.

PURUSHAINDRA KUMAR KAURAV, J

APRIL 27, 2023/p'ma