

(1993) 03 MAD CK 0002

Madras High Court

Case No: Writ Petition No. 3582 of 1993

P. Selvakumar

APPELLANT

Vs

The University of
Madras

RESPONDENT

Date of Decision: March 15, 1993

Hon'ble Judges: Bakthavatsalam, J

Bench: Single Bench

Advocate: R. Ramakrishnan, for M/s. Waran and Sairam, for the Appellant; P. Jothimani,
for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Bakthavatsalam, J.

The prayer in this writ petition is as follows :

to call for the records in MP/B. Com./Spl/92/193, dated 5-1-1993 on the file of the
second respondent and issue a writ of certiorarified

mandamus quashing the same and also direct the respondents to publish the result
pertaining to the register number 7302657 of the B.Com.,

Degree Examination held in September, 1992 and pass.

The petitioner was admitted as a student in the Evening College of C. Kandaswamy
Naidu College for Men for the B.Com., Degree on 21st July,

1987. It seems that the petitioner had completed the course in May, 1990, that he
was granted a transfer certificate by the third respondent college

that at the time of completion of course the petitioner had arrears of four papers
pertaining to the first year, second year and final year of the

B.Com., Degree Examinations, that the petitioner appeared for the examinations conducted during September, 1990 and attempted to clear the papers which were in arrears at the time of completion of the course, that in the said attempt the petitioner was able to clear one of the papers, that he again appeared for the examination held in March, 1991 and cleared two more papers, out of the then remaining three. The one more paper that was to be cleared by the petitioner at that time was the paper in cost Accounting, that the petitioner attempted to clear the said paper also in the subsequent Examinations, that therefore he was a candidate for the examination held during the month of September, 1992 for the B.Com. Degree examination for writing the paper Cost Accounting, that the petitioner, was issued a hall ticket by the second respondent and the centre of the examination being C. Kandaswamy Naidu College for Men, that the examination took place on 24-9-1992, that the petitioner was expecting his results, and that on 3-12-1992 the petitioner had received a telegram issued by the second respondent, where under he was called upon to appear before a committee on examinations. discipline and students welfare on 7-12-1992 at 10.30 a.m. The petitioner alleges in the affidavit filed in support of this writ petition that when he went to the University Centenary Buildings on 7-12-1992 at 10.30 a.m., he came to know that more than fifty students who had appeared for the various Degree examinations in C. Kandaswamy Naidu College for Men were summoned to appear before the said committee, that when along with the other students he was also waiting in the corridor of the University Building, one of the University Staff members approached the waiting students with a sheet of paper wherein all the names as well as the Registration Numbers of all the students who were summoned were enlisted and he proceeded to obtain the signature of each of the students who were present there and that the petitioner has also signed the sheet at the appropriate column. It is further stated that one by one four or five students were called into an adjacent room wherein the committee was conducting the enquiry, that the petitioner and some other students were not called for the enquiry, that the petitioner failed to find out his number in the list of candidates, that while so, the petitioner was served with a memorandum, dated 5-1-1993

issued by the second respondent by which the petitioner came to know that the report of the alleged malpractice against the petitioner during the B.Com., Degree examinations resolved that he was found guilty, that the examinations taken by him in September, 1992 were cancelled and that he was debarred from appearing in any University Examination till December, 1998. It is also stated in the affidavit that even though the committee had called upon the petitioner to appear before it for an enquiry, no such enquiry was conducted in his case nor any statements were recorded from him except the signature that was obtained by the University Staff on the date of enquiry, It is further alleged that the second respondent passed the said order without any application of mind, that when a student is alleged to have adopted malpractice in an examination, a proper enquiry should be conducted and that the student should also be given sufficient opportunity to defend his case and that in the instant case the aforesaid principle of natural justice has been flouted by the said committee and no opportunity was afforded to the petitioner. The petitioner further alleges that the report which has been considered by the syndicate was not given to the petitioner nor the charges that were leveled against him were made known to him so as to enable him to rebut them, that the question of malpractice was taken up by the first respondent only after the valuation of the papers were completed under the centralised valuation scheme, and that the committee has been totally arbitrary in fixing the period of rustication especially when some of the students who appeared for the examinations along with the petitioner were debarred only for a period of three years and not six years as in his case. It is with these allegations the petitioner has come up before this Court for the aforesaid relief.

2. When the writ petition came up before me for admission. I ordered notice to Mr. Jothimani learned counsel appearing for the University Mr. P.

Jothimani, learned counsel for the University has produced before me the entire records. From the records, it is seen that 42 candidates of

B.A./B.Sc., B.Com., Degree examinations took up their examinations in C. Kandaswamy Naidu College for Men, Anna Nagar, Madras, whose

answer scripts were available in various subjects, whereas they were marked as absent in the absentee statement as well as in certain covers

containing the answer scripts of students sent by the College to the correction centre but those answer papers were found in covers received

separately by the centre, that the Principal and the teaching staff and the said 42 students were examined on 7-12-1992 and 7 more students were

examined on 16-12-1992, that all the relevant papers, viz., (1) The attendance sheet (2) Answer scripts (3) The covers in which the student were

marked absent (4) The covers in which the answer scripts of the students marked absent (5) The galley and (6). The letter from the Officer

(Camp) who reported the discrepancy of the answer scripts of some students marked absent in some covers were considered and examined by

the committee, that on a very careful examination of the oral testimonies of the Principal, the teaching staff and some students and a very careful

perusal of the records that were available, the committee found that the answer scripts for the students who were marked absent in some covers

had been despatched separately to the correction centre, that the signatures of the principal, and the seals on such covers were found forged, that

the initials of the hall invigilator has been forged on the answer scripts of these students only, that two of the students enquired have admitted and

given it in writing that they did write the examination outside the college for a fee, while the other students however maintained that they wrote the

examinations only inside the college, that forged seals were used on the covers sent separately and the signatures of the principal on the covers sent

separately and the signature of one Mr. Chandrasekaran on the answer scripts of sent under these separate covers were forged, that erasures were

made in the galley to make it appear as if the students were really present and wrote their examinations and that the answer scripts of those

students were sent separately only by an outside agency. Therefore the committee thought that it was a fit case to be reported to the police for

appropriate action and passed the impugned resolution.

3. Mr. Jothimani learned counsel submits that in the instant case the petitioner was not the only candidate who has not been given any opportunity

to represent his case since the alleged adoption of unfair means was carried out by a vast majority of examiners including the petitioner at the

particular examination centre, and it is not necessary to give an opportunity to each candidate in such cases.

4. Learned counsel appearing for the petitioner would submit that the petitioner was never informed about the nature of unfair means used by him

in the said Examination, that the first thing he came to know was the resolution passed by the respondent University cancelling his results and

debaring him from appearing for the examinations till 1998. that the petitioner is entitled to an opportunity being afforded to him to meet the case

against him of using unfair means at the examination before the respondent took action against him by cancelling his results and debaring him from

appearing at the examination till 1998, that the procedure thus adopted by the committee is violative of the principles of natural justice inasmuch as

he was given no opportunity whatsoever to defend himself and to show cause against the action contemplated against him and that further only

certain candidates were enquired for their alleged malpractice.

5. I have carefully considered the rival submissions made by the learned counsel appearing on either side. The points that arises for consideration in

the above writ petition are whether in the instant case the unfair means of mass copying was adopted or whether the petitioner alone was found

guilty for the alleged act of copying at the Examination Centre.

6. The Apex Court of the land had a similar occasion to decide a case reported in Hori Lal and Another Vs. State of U.P., The said decision the

Supreme Court held as follows;

To make such decisions depend upon a full fledged judicial enquiry would hold up the functioning of such autonomous bodies as Universities and

school Boards. The Universities and school Board; are responsible for their standards and the conduct of examinations. The essence of the

examinations is that the worth of every person is appraised without any assistance from an outside source. If at a centre the whole body of students

receive assistance and manage to secure success in the neighborhood of 100% when others at other centres are successful only at an average of

50% it is obvious that the University or the Board must do something in the manner, It is not possible to hold a detailed quasi judicial inquiry with a

right to its alumni to plead the lend evidence, etc., before the results are withheld or the examinations cancelled. If there is sufficient material on which it can be demonstrated that the University was right in its conclusion that the examinations ought to be cancelled then academic standards require that the university's appreciation of the problem must be respected. It would not do for the Court to say that you should have examined all the candidates or even their representatives with a view to ascertaining whether they had received assistance or not. To do this would encourage indiscipline if not also perjury.

In *Controller of Examinations, etc., v. G.S. Sunder & another* 1992-4-Judgments Today (S.C.) 264 has been held as it follows:

one thing must be put beyond doubt, in matters of enforcement of discipline this Court must be very slow in interference After all, the authorities in charge of education whose duty it is to conduct examinations fairly and properly, know best and how to deal with situations of this character. One cannot import line principles of law and weigh the same in golden scales, in the present system of education, the system of examinations is the best suited to assess the progress of the student so long as they are fairly conducted. Interference by court in every case may lead to unhappy results making the system of examination a farce For instance, we cannot but strongly condemn copying in the examination which has grown into canker of mass copying. Such unhealthy practices which are like poisonous weeds in the held of education must be rooted out in order that the innocent and the intelligent students are not affected...

7. This is not a case of any particular individual who is being charged with adoption of unfair means but of the conduct of a vast majority of the examinees at a particular centre. It is not necessary for the committee to give an opportunity to all the candidates, if the examinees as a whole were found guilty for the alleged use of unfair means. In the instant case the examination at the particular centre was vitiated by adoption of unfair means on a mass scale. It is admitted by certain. students that they indulged in malpractice. In the instant case, before the committee decided to award punishment to the candidates it came to an objective determination in certain facts with regard to the alleged use of unfair means in the particular

examination centre and then only passed the resolution impugned in this writ petition. Applying the ratio laid down in the above said decisions, I am of the opinion that this writ petition has to fail. In so far as the contention raised by the learned counsel appearing for the petitioner is concerned that there was violation of the principles of natural justice since certain students were examined and enquire while certain others were not enquired with regard to the alleged malpractice, I am of the view it is enough if some students are examined on the facts of this case. With regard to the other contention raised by the learned counsel appearing for the petitioner that while certain other students were debarred from writing their examinations for a period of three years and some of them including the petitioner were debarred from writing the University Examinations for a period of six years, I am of the view that this question has to be left open to the University for its sympathetic consideration. Accordingly, the University shall pass appropriate orders within a period of three months from to-day with regard to the rustication period whether the petitioner has to be debarred for a period of three years or six years from writing his University Examinations. With the above observation, this writ petition shall stand dismissed. No costs.