

(1989) 09 CAL CK 0048
Calcutta High Court
Case No: C.O. No. 7576 (W) of 1989

Miss Chitra Das and
Others

APPELLANT

Vs

University of Calcutta
and Others

RESPONDENT

Date of Decision: Sept. 28, 1989

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (1990) 2 CALLT 28

Hon'ble Judges: Susanta Chatterji, J

Bench: Single Bench

Advocate: Saktinath Mukherjee, Mr. Ranabir Mahapatra and Mr. S.R. Dasgupta, for the Appellant; Joyanta Mitra and Mrs. Chameli Mazumdar, for the Respondent

Final Decision: Allowed

Judgement

S. Chatterji, J.

The present writ petition has been filed by a number of students of Calcutta University who appeared in the Final LL.B. Examination of the year 1987 praying inter alia for issuance of a Writ of Mandamus commanding the respondents Calcutta University Authority to publish the petitioners' result of the Final Law Examination of the year 1987 (held in 1988) taking cognizance of the Labour Law (Paper V) of the said Examination and the performance of the petitioners in the said paper V and for other consequential reliefs by quashing all steps, orders and directions taken or issued by the Final Examination in Law, 1987 by the petitioners and/or from taking any steps to debar from appearing in the future exam of the said University. Similar other petitions have been filed. It is asserted that since the right to relief arising out of the same acts or transactions, or a series of the acts of the said transaction, exist in respect of the cases of the petitioners and common question of law and fact arise and all of them may be heard by this Court and may be disposed of by a common

judgment. The learned Counsel appearing for both sides have agreed on this point and have suggested that the matter may heard comprehensively by this Court by permitting the University Authorities to file affidavits in order to controvert allegations and to place on record on material documents and relevant facts for effective adjudication of the matter in dispute.

2. It is stated that on October 11, 1988 the petitioners appeared in the Final LL.B, Examination for Paper V in different rooms of Ashutosh Building of the said University. The Examinations were held in Room No. 25, 27 and 30 of the said building. According to the petitioners they completed their respective answer papers and duly submitted to the respective Invigilator concerned on duty in the respective rooms well within the scheduled hour. The hour of the examination was scheduled from 16.00 A.M. to 1.00 P.M. It is alleged that sometime in January 1989, each petitioner received a letter dated December 19, 1988 from the Secretary, Board of Discipline, University of Calcutta accompanied by a large sheet bearing the same date and signed by the said Secretary, Board of Discipline. Accorded to each charge-sheet, each petitioner was charged by the Secretary, Board of Discipline for committing breach of discipline at the Final Law. Examination for 1987 and particulars mentioned therein were as follows:

That in contravention of the rules of the examination you did not submit answer script in Labour Law-Paper-V to the Invigilator concerned and later submitted the same after the scheduled hour in a "fradu1ent manner."

The said letter dated December 19, 1980 from the Secretary, Board of Discipline, University of Calcutta which was accompanied by a charge-sheet sought to inform the petitioners that the meeting of the Sub-Committee of the Board of Discipline, constituted to investigate the cases of breach of discipline at the Final Law Examination would be held in the room of the Deputy Inspector of Colleges, Centenary Budding, 5th Floor on January 16, 1989 at 2.30 P.M. to investigate their respective cases regarding reports against them that they committed breach of discipline at the aforesaid examination. Each petitioner was also directed by each such letter, to appear before the said Sub-Committee on the date and at the hour and place mentioned. They furnished separately explanations of the respective conduct. It is further stated that in each such letter, the candidate was asked to appear before the Sub-Committee as directed, failing which it would be presumed that the candidate concerned had nothing to say in his/her defence and his/her case would be decided exparte without any further reference to him/her.

3. It is further alleged that having received the said letters accompanied by the said charge-sheet each petitioner appeared before the said Sub-Committee and furnished explanation in voting and by denying the charge as baseless. The allegations made on the charge-sheet were denied. Each petitioner, however, appeared before the Sub-Committee on January 16, 1989 in response to the respective letter dated December 19, 1988 written by the Secretary, Board of

Discipline and each candidate drew the attention of the Sub-Committee to the non-disclosure in the respective charge-sheet as to the facts and circumstances constituting the "fraudulent manner" of submitting the respective answer scripts. It is specifically asserted that each of the petitioners was told during the hearing before the Sub-Committee that since he/ she has denied the charge and that was all and that the Sub-Committee would hear nothing more. The writ petitioners have further alleged that neither on January 16, 1989 nor on any subsequent date, any decision, far less a reasoned one, of the said Sub-Committee was communicated to the petitioner. It was only when the result of the Final Law Examination of 1987 (held in 1988) was declared and published on March 20, 1989, the result against the Roll Numbers of the petitioners indicated that they have been "reported against". It is placed on record that such act of the respondent University Authority and the penal measure have affected the academic career of the petitioners and by collecting the marksheets of the Final Law Examination later on the petitioners have found that they have by and large secured fair marks in other five law papers but no marks have at all been considered in respect of paper V (Labour Law) and there is an endorsement to the effect-

Paper V not taken cognizance of; Vide Letter No. BD/1832/RA/Law (Pre, Int, and Final) /87 dated 13.4.1989.

4. The petitioners claimed that out of deep concern for their future academic career they had addressed a letter separately on May 16, 1989 to the respondent No. 2 Controller of Examinations by challenging the decision of the University Authorities.

5. Stating all these facts in details that the Board of Discipline and for the Sub-Committee is/are quasi-judicial authority while discharging of their legal duties ought to have followed the principles of natural justice as done in the instant case. The petitioners have thus come to this writ Court seeking reliefs on the grounds that the petitioners fully complied with the rules of discipline relating to the Final Examination in Law 1987 of the University of Calcutta and that in the absence of any information whatsoever from the University Authorities and particularly the Board of Discipline, regarding the particulars of the allegation against them, the petitioners were deprived of their opportunity of understanding the case against them and meeting the same and to defend it in accordance with law. It is their specific case that they were denied a reasonable, adequate, and effective opportunity to advance their defence and to rebut and challenge the information and materials on which the allegation against them was found. The petitioners have also canvassed that the penal measure of non-publication and holding of the petitioners' result is arbitrary, unreasonable and unjust. The impugned decision of the University Authorities according to them, violates the principles of natural justice, since there is no information about particulars of the allegations on which adverse decision was taken against the petitioners and also they had no opportunity of any kind whatsoever of knowing the case against them and for defending it.

Having placed on record Calcutta University Act, 1979 and the Statutes and Regulations relevant thereto, it is submitted that the Rules framed thereunder are not inconsistent with the principles of natural justice and the case of the petitioners has been dealt with in a manner unknown in law and the result is prejudicial to the interest of the petitioners affecting their academic career.

6. The writ petitions are contested by the University Authorities by filing an affidavit-in-opposition sworn by the Registrar of the Calcutta University. It is disclosed therein that the petitioners did not submit their answer papers to the respective Invigilators on duty. On the contrary, the answer scripts of the petitioners were neither submitted to the Invigilator nor within the schedule hour. Those answer scripts were collected by the Officer-in-Charge of Asutosh Building after 20 minutes of the schedule hour. The petitioners have violated Rule 4 of the Rules of the Guidance of the Candidate, by not duly submitting the answer scripts to the proper Officers concerned and as such they committed breach of discipline. The report of the Officer-in-Charge who in course of discharging his official duties submitted the said report proves the aforesaid fact besides the petitioners were adequately informed of the charades and particularly it has been placed on record that concept of reasonable opportunity assumes primacy where penal action is imposed on any individual. In the instant case, around 150 students were charged of breach of discipline and reported against. They cannot come before this Court seeking reliefs as done in the instant case. It is further disclosed that the petitioners were communicated in their respective mark-sheets of the Final LL.B. Examination itself, the result of the enquiry. It is amply clear by the endorsement that "Paper No. V be not taken cognizance of Vide Letter No. BD/1832/RA/Law (Pre-inter and final)/87 dated 13.4.89" that the University Authority has taken penal action on the concerned students, pursuant to the aforesaid proceeding. The specific case of the University Authority is that principles of natural justice have been substantially complied with in the instant case, inasmuch as the petitioners were informed the charges leveled against them and they were given reasonable opportunity of being and/or defending themselves against the charges. There were materials for and against before the Sub-Committee and the Sub-Committee relied upon the report of the unbiased officer and reasonably came to a finding. Pursuant to the finding of the Sub-Committee, the Board of Discipline and the University of Calcutta resolved the decision of not taking cognizance of the answer scripts which were submitted to the University not by the Invigilator but by the Officer-in-Charge of the concerned Examination Hall.

7. Mr. Saktinath Mukherjee, learned Advocate appearing with Mr. Ranabir Mahapatra has argued with force that in the present case there is alleged violation of Rule 4 of the Rules for the Guidance of the candidates incorporated, on the reverse of the Admit Card. The attention of the Court has been drawn to the Rule 4 in details and it was submitted that regard being had to the materials on record that it cannot be concluded that the petitioners have violated the said Rule in any

manner whatsoever. Mr. Mukherjee has also submitted that it is the case of not "mass copying" where the compliance of the principles of natural justice will be deemed to be an impossibility. He has drawn the attention of the Court to the fact that if a Disciplinary Committee has been formed and each candidate has been charge-sheeted and an enquiry and/or investigation is proceeded with, then there is no escape from complying with the principles of natural justice. It no longer remains in the domain that the principles of natural justice cannot be extended as it is an "impossibility". The main thrust of the argument of the learned Advocate for the petitioners, is when a disciplinary action is taken against a student for adopting an unfair means the authority acts quasi-judicially and its result will have serious consequence. In support of their argument that they have referred to the cases reported in AIR 1966 SC, 1110 and AIR 1972 SC, 1039 . They have also submitted that the affected examinees must be adequately informed of the cause as to what he has to meet. He has to be applied with a copy of the report, if any. The attention of the Court has also been drawn to paragraph Nos. 5 and 9 of the decision reported in [Prem Parkash Kaluniya Vs. The Punjab University and Others](#), They have also indicated that when adjudicating-body is going to rely on any material evidence or document, it must be disclosed.... reference was made to AIR 1961 SC, 1623 . Much reliance was placed in the cases reported in [Subhas Chandra Paul Vs. University of Calcutta and Others](#),, [Ram Narayan Keshori and Others Vs. University of Calcutta and Others](#), wherefrom it will appear that it is not a case where disclosures of fact are neither practical nor desirable. They have strongly submitted that in the instant case, the examinees challenged their guilt. The authority must state reasons when they are found guilty. It follows from their duty on fairly and reasonably unless reasons are given, otherwise it will be open to the judicial scrutiny. They have referred to the cases reported in [Mahabir Prasad Santosh Kumar Vs. State of Uttar Pradesh and Others](#),, [Travancore Rayon Ltd. Vs. Union of India \(UOI\)](#),. The attention of the Court has been drawn by arguing that the decision should be based on some materials which may be demonstrated. There cannot be any adverse decision affecting a person unless there are materials to support it. It must be based on some evidence or material.

8. Mr. Joyanta Mitra, learned Counsel appearing with Mrs. Chameli Mazumder for the Calcutta University very fairly produced the materials before this Court as to the proceedings before the Disciplinary Committee. According to him, the Disciplinary Committee recommended deduction of 10% marks of each candidate for the aforesaid paper No. V. The recommendation of the Disciplinary Committee was not however, accepted by the Syndicate and the entire paper was cancelled. According to him, the petitioners cannot maintain the writ petition. The attention of the Court has been drawn to a case reported in AIR 1966 SC, 876 (Board of High School and Intermediate Education, U.P. Allahabad and Anr. vs. Bagleshwar Prasad and Anr). In the said Decision the Supreme Court discussed about the scope of the petition under Article 226 of the Constitution of India vis-a-vis Order by quasi-judicial tribunal

based on no evidence,- High Court will interfere-Enquiry Committee of University cancelling the examination result of student-nature of evidence-duty of High Court in writ petition-Educational Institution.

9. Mr. Mitra has also drawn the attention of the Court reported in [Prem Parkash Kaluniya Vs. The Punjab University and Others](#), It was found there that whether an examinee has copied at the examination is a matter of the Standing Committee of the University to decide. The conclusion reached on evidence cannot be re-examined by the Court except on certain very limited grounds. Further he has drawn the attention of the [Peerzada Ahmad Saleem Khan Vs. Vice-Chancellor, Aligarh Muslim University, Aligarh](#), the Division Bench of the Allahabad High Court found that where a student had been charge-sheeted on the basis of the reports of a number of teachers in respect of various incidents enumerated in the charge-sheet, there would be nothing to show that those teachers who as members of Disciplinary Committee took a decision on the reports of the other teachers were in any way biased against the student when there were materials before them on the evaluation of which they found that the charges against the student had been made out. There was nothing to establish that the decision-makers stood to gain or lose personally as a result of the decision, when it was not proved that the disqualification of such decision-makers was founded upon the existence of real likelihood of bias. The work of the University had to be carried out in accordance with the Act, Statutes and Ordinances. Under the statutes, the teachers constituted the Disciplinary Committee and were empowered to take a decision in respect of the complaints made against the student. A teacher of the University cannot be kept in the category of an employer. In case of a teacher, there is a strong presumption of an unbiased and honest decision coming from him. Another decision was also cited reported in [Rajiv Ratna Shukla and Another Vs. University of Allahabad and Others](#), in support of their case.

10. Having heard the learned Lawyers appearing for the respective parties at length and after going through the materials on record, it appears that each petitioner was served with a letter dated 19.12.88 to appear before the Sub-Committee of the Board of Discipline constituted to investigate the cases of breach of discipline at the Final Law examination, 1987 to be held in the room of the Deputy Inspector of Colleges, Centenary Building, 5th Floor, Calcutta on 16.1.82 at 2.30 P.M. For proper appreciation of the said letter is set down hereinbelow.

He/She is hereby informed that a meeting of the Sub-Committee of the Board of Discipline, constituted to investigate the cases of breach of discipline at the Final Law Examination, 1987 will be held in the room of the Deputy Inspector of Colleges, Centenary Building, 5th Floor, Calcutta University, on the 16.1.1982 at 2.30 P.M. to investigate his/her case regarding a report against him/her that he/she committed breach of discipline at the aforesaid examination,

He/She is hereby directed to appear before the said Sub-Committee on the date and at the hour and place mentioned above and furnish an explanation of his/her conduct.

A charge-sheet is annexed herewith.

If he/she does not appear before the Sub-Committee as directed, it will be presumed that he/she has nothing to say in him/her defence and his/her case will be decided exparte without any further reference to him/her.

11. A copy of the charge-sheet which was enclosed thereto is also set down hereinbelow.

... You are hereby charged with for committing breach of discipline at the Final Law Examination, 1987.

PARTICULARS

That in contravention of the rules of the examination you did not submit the answer script in Labour Law, Paper V to the Invigilator concerned and later submitted the same after the scheduled hours in a fraudulent manner.

12. Looking to the rule for Rules for the Guidance of the candidates incorporated on the reverse of the Admit Card, it appears that no candidate will be allowed to leave the Examination Hall until an hour has elapsed from the time when the papers are given out. It is further apparent that except hereinafter provided, no candidate will be allowed to re-enter the Examination Hall during the hours of examination after once leaving it, nor to leave the Hall without going up he/her answer paper. It is further envisaged that a candidate may, with the special permission of the Officer-in-Charge, leave the Examination Hall temporary for a necessary purpose but only under the surveillance of a trustworthy person to be deputed by the Officer-in-Charge in his behalf and under proper safeguards to render recourse to unfair practices impossible. It is also provided that a candidate having completed his/her answer paper must hand it over even if blank, to an invigilator before leaving the Examination Hall. The answer paper must on no account be left on the desk. No candidate will be allowed to remain in the Examination Hall after the close of the examination, except to allow his/her answer-paper to be collected by the Invigilator.

13. In the charge sheet as stated, hereinabove, there is allegations of committing breach of the said Rule. Admittedly, a Disciplinary Committee has been framed to investigate the cases. The said Disciplinary Committee must be construed to act in a quasi-Judicial way. Each candidate has been separately asked to file explanation. Each candidate has been independently asked to appear before the Disciplinary Committee for the purpose of investigation. Each candidate has filed explanation and denying the allegations. At the hearing, each candidate is alleged to have denied the charges levelled against him/her. Before this Court, only document filed

by the University regarding the investigation is as follows :

Cases of candidates of the Final LL.B. Examination, 1987 who did not submit the answer-scripts to the Invigilator/s concerned and later submitted the same after the scheduled hour of completion of the examination the relevant paper were considered, and the Committee recommends deduction of 10 (ten) marks from the marks secured by a candidate in the paper concerned.

Similar resolution for similar cases of Pre-Law and Inter-Law Examinations, 1987 be adopted.

Sd/-	Sd/-	Sd/-	Sd/-
Illegible	Illegible	Illegible	Illegible
3.3.89	3.3.89	3.3.89	3.3.89

A xerox copy of the document has been kept on the record as filed on behalf of the respondent University Authorities. It was submitted that the recommendation for deduction of 10 marks from the marks secured by a candidate in the paper concerned as made by the Disciplinary Committee was not accepted by the Syndicate and a decision has been taken by the Syndicate for not taking cognizance of the marks in the said paper at all and to endorse "reported against" in the mark-sheet of the candidate.

14. With great anxieties, this Court had enquired a number of times as to whether there is any report of the Invigilator concerned from the Examination Halls where the candidates appeared in the LL.B. Examination in Paper V. This Court further enquired as to recording of any evidence by the Disciplinary Committee as to the report of the Invigilator or Officer-in-Charge of the Examination Hall. This Court tried to ascertain as to how the Disciplinary Committee investigated the cases or as to whether the Disciplinary Committee relied upon my evidence whatsoever. Mr. Mitra, the Learned Counsel appearing for the respondents has very frankly and fairly submitted that besides the chit of paper where the recommendation has been made by the Disciplinary Committee very casually and in an informal manner, there is nothing to show and indicate that the Disciplinary Committee has at all applied its mind to investigate the case. From the record quoted above, this Court does not find that the Disciplinary Committee had at all considered the explanation and denial made by each candidate during the investigation. The records also do not indicate that the members of the Disciplinary Committee applied their mind to even find that the petitioners are guilty of the charges levelled against them. Even the submissions made by the petitioners at the time of hearing have not been recorded. There is no minute of the proceeding whatsoever. There is no whisper that the Disciplinary Committee has considered any material or any evidence whatsoever. It is not also available whether there is any observation that an opportunity has been given to

each candidate to defend his or her case or any report or any material has been made available to the petitioners to defend the cases. Unfortunately, in a most cavalier fashion and in a most casual way, the Disciplinary Committee has made the recommendation for deduction of 10 marks in respect of the cases all candidates of Final LL.B. Examination 1987 who did not submit the answer-scripts to the invigilator concerned and who were alleged to have submitted the same later after the scheduled hours of the completion of the examination of the relevant paper. It appears that as if the cases as made were considered and there was conclusion to recommend the deduction of the 10 marks from each candidate in respect of the paper concerned. No quasi-judicial authority or any Disciplinary Authority of any nature is permitted to act in such a way without assigning any reason. Modern Jurisprudence is of the clear view that any authority, howsoever high it is, may not be permitted to take care of any decision arbitrarily, whimsically and capriciously without assigning any reason. True it is that the writ Court is not sitting in appeal upon each and every decision of any authority and in particular a statutory authority like University but the writ Court will have to examine the decision making process. This has elaborately observed in a recent judgement of the Supreme Court reported in [State of Uttar Pradesh and Others Vs. Maharaja Dharmander Prasad Singh and Others](#), In the instant case, this Court has the occasion to examine the decision-making process by the Disciplinary Committee and this Court fails to appreciate that the decision of the Disciplinary Committee to deduct 10 marks from each paper is without any reason and without any application of mind and without any consideration as to whether the candidates are guilty individually or they are susceptible to suffer penalty. The impugned decision taken by the Disciplinary Committee appears to be without any merit and it causes a civil consequence in the life and academic career of the students, involved in the instant case.

15. Curiously enough the said recommendation was referred to Syndicate and the Syndicate without applying its mind has taken a sweeping decision to cancel the paper concerned and to pass a direction for not taking cognizance of the said marks in publishing the result of the candidates concerned. Nothing has been produced before this Hon"ble Court that the Syndicate has taken any independent decision, giving reasons. True it is that the Syndicate is not bound by the recommendation of the Disciplinary Committee. The Syndicate is free to pass any penalty according to its own wisdom by agreeing with the recommendation of the Disciplinary Committee or disagreeing with it. But while disagreeing with the view of the Disciplinary Committee, the Syndicate will have to apply its mind to find whether the candidates are at all guilty and whether the punishment is at all permissible in law and/or the quantum of punishment is justified or otherwise. In the instant case, the Disciplinary Committee has not concluded that the petitioners are guilty of the charge levelled against them and the Syndicate proceeded as if the offence of the candidates has been proved before the disciplinary Committee. It has gone a step forward to cancel the paper in its entirety without considering the materials on record, the facts of the

cases and without appreciating the impact and consequences thereof. The Disciplinary Committee has clearly failed to perform its part in conducting investigation and the Syndicate has blindly accepted in which is not permissible in law.

16. Looking to the decision reported in AIR 1966 S.C., 876 (supra) as cited by Mr. Mitra on behalf of the University Authorities, it appears therefrom that in dealing with the writ petitions against the orders of the Universities or Education Boards, canceling the examination results of candidates who were declared to have been passed, it is necessary to bear in mind that Educational Institutions like the Universities or the Boards set up Enquiry Committee to deal with the problem posed by the adoption of unfair means by candidates and normally it is within the jurisdiction of such domestic Tribunals to decide all relevant questions in the light of the evidence adduced before them. In the matter of adoption of unfair means direct evidence may sometimes be available but cases may arise where direct evidence is not available and the question will have to be considered in the light of probabilities and circumstantial evidence. This problem which all educational institutions have to face from time to time is a serious problem and unless there is a justification to do so. Courts should be slow to interfere with the decisions of domestic tribunals appointed by a Educational Bodies like the Universities. In dealing with the validity of the impugned orders there passed by the University under Article 226, the High Court is not sitting in appeal over the decision in question, its jurisdiction is limited and though it is true that if the impugned order is not supported by any evidence at all, the High Court would be justified to quash that order but the conclusion that the impugned order is not supported by any evidence must be reached after considering the question as to whether probabilities and circumstantial evidence do not justify the said conclusion. Being aware of the aspect of jurisdiction of the Court exercising the power under Article 226 of the Constitution of India and the limitations indicated above, this Court with greater anxieties asked the University Authority to satisfy the Court as to whether the Disciplinary Committee at all considered any evidence or any probability or any circumstantial evidence in any manner whatsoever. This Court observes with grave concerned that in the instant case, the Disciplinary Committee has not considered any evidence, be circumstantial or otherwise more has considered any probability by discussing the report of the Invigilator or the officer-in-charge of the Examination Hall and the denial of the petitioners in any manner whatsoever. It appears to this Court that the Disciplinary Committee has not considered the gravity of the situation with the investigation, and its impact upon the academic career and the life of a candidate. Any result thereof causes civil consequences in the life of the respective candidates. By way of taking disciplinary measures in a general term the Disciplinary Committee as if recommended for deduction of 10 marks. The Syndicate has gone a step further by taking a sweeping decision to cancel the result of the paper concerned or not to take any cognizance of the marks obtained by the candidates paper concerned.

It has to be remembered that whenever any Disciplinary Committee has been constituted, it has to perform its duties by complying with the principles of natural justice. Under no circumstances the compliance of natural justice can be dispensed unless there is a case of impossibility. This aspect of the matter has been considered in [Rajiv Ratna Shukla and Another Vs. University of Allahabad and Others](#). The Division Bench of the Allahabad High Court found what could be considered mass copying cannot be laid down with mathematical precision. It has to vary and has to be decided on circumstances. It may be copying by a vast majority or on a massive scale or in such large proportion that it was not possible to check it. Where there was the report of the flying squad that no effective checking was done at the gates of examination centres and not only large number of notes and books were found outside the examination hall but they had seen notes and books lying in every room on their arrival, the fact that only few examinees were detected on checking would be immaterial and it could be found that the conduct of examination in general was not fair and the atmosphere was such that holding of fair and proper examination stood ruled out. It was further held that as regards demand for enquiry and violation of principles of natural justice such as to say that on academic disciplinary proceedings exception is made where proceedings are specifically far or it is impossible to hold enquiry. Cases of mass copying resulting in cancellation of the examination fall in this exception. But it is very nature indicates that no enquiry could have been made. The concept of reasonable opportunity assumes primacy where penal action is proposed to individual. Direction to hold re-examination cannot be put in that category. It was not like of what happened in Gorakhpur University where examination is not treated as ineffective or vitiated.

17. Admittedly, the present case is not a case of mass copying. It is not a case that it is impossible to hold any enquiry. It is not the case that no penal action is proposed to be individual. On the contrary, in the present case a separate and independent letter has been signed to each candidate annexing a charge sheet and to enable him or her to appear before the disciplinary Committee to refuse the charges where the investigation is proposed. Since the University Authorities have decided to hold an investigation and for such performance a Disciplinary Committee has been constituted that said Committee has to function according to law and has to function by extending the principles of natural justice to persons against whom the penal action is proposed. Since each and every candidate has been asked to file an explanation there is no question of taking any sweeping decision. Nothing has been given to the candidates to look to the "report against" them or to allow them opportunity to defend cases. There is absolute violation of the principles of natural justice as it appears before this Court. There is not only violation of the principles of natural justice, the Disciplinary Committee itself has committed a grave error in not investigating the case in the proper manner nor even applied its mind to 2nd whether the candidates are guilty at all or not. Since a decision has been taken which appears to be absolutely arbitrary in nature, it cannot be sustained. Such a

decision is the basis of the decision of the Syndicate for not taking cognizance of the marks obtained by the candidates. Any decision based upon another decision which is absolutely illegal, loses its force and become inoperative and invalid.

18. Certainly, this Court cannot give any indulgence to any person who has committed any malpractice or who has committed any act of breach of discipline to obtain the reliefs in a writ Court. Far less, no indulgence should be given to any examinee to get the benefit by committing any act of breach of the Rules of the University, but it is also to be remembered at the same time that if an allegation be made the same has got to be proved by some evidences and even by probabilities and circumstantial evidences. The Authority concerned has come to the conclusion in the manner as required under law. Where the conclusion has been made in a casual manner affecting the right, career and life of a student, the Court cannot remain as a mute observer.

19. Regard being had to the materials on record, this Court finds that the case is made out by the petitioners, has merit of its own. There is much substance in the contention of the writ petitioners and the interference of the writ Court is required.

20. For the foregoing reasons, the writ petitions are allowed and the decision of the University Authority for not taking cognizance of the marks in Paper V of the Final LL.B. Examination in 1987 (held in 1988) is quashed. Let a Writ of Mandamus be issued commanding the respondent authorities to publish the result of the petitioners of the Final LL.B, Examination of 1987 (held in 1988) taking cognizance of the marks obtained in Paper-V and let a Writ of Certiorari be issued quashing all orders, decisions and steps taken by the Calcutta University Authority to withhold the result of the petitioners of LL.B. Final Law examination in 1987 (held in 1988) by not taking cognizance of the marks obtained by them in Paper-V. This order will not, however, prevent the respondent University Authority to proceed any disciplinary action against the examinee/examinees concerned individually by complying with the principle of natural Justice and by opportunity to the person concerned to defend his/her case in accordance with Law.

There will be no order as to costs. This order will govern (1) Sanjib Kr. Bhattacharjee.