

17.10.2016

Shri O. P. Namdeo learned counsel for the petitioner.

Shri Surendra Pillai learned counsel for respondent no.1.

Shri Praveen Namdeo learned counsel for respondent no.2.

Heard.

The petitioner has filed this petition being aggrieved by order dated 28.9.2014 passed by the respondent authorities rusticating the petitioner from Jawahar Navodaya Vidyalaya, Hatta, District Damoh.

The brief facts, leading to the filing of the present petition, are that the petitioner was a student of Class-11th studying in the respondent no.2 School. It is stated that the respondent no.3 harboured ill-will against the petitioner and, therefore, he filed false complaints against the petitioner in respect of his behaviour in school and the authority concerned, without giving any show cause notice or warning to the petitioner, directly and behind his back, took a decision to rusticate him from the school which is contrary to law and is violative of the petitioner's right to education.

The learned counsel for the petitioner submits that the petitioner is a brilliant student who has a good academic record which is evident from a perusal of the report card Annexure P-1. It is stated that the petitioner has been subjected to this kind of

victimization by the respondent no.3 only on account of the fact that he harboured ill-will against him. It is submitted that the impugned order of rustication has been passed based on a very minor incident in which the petitioner, who is residing in the hostel, was late for lunch and did not bring his plate (thali) alongwith him. It is stated that on the basis of this very small incident, the petitioner has been rusticated without giving any opportunity of hearing and, therefore, the impugned action of the respondent school be quashed.

The respondents have filed a return and have stated that the petitioner is a student of the school and was given migration in the year 2013 so that he could go and study in the Jawahar Navodaya Vidyalaya, Ghot (Gadchirolli), Maharashtra. It is stated that in the said institution the petitioner indulged in indiscipline and entered into a quarrel with an 8th class student and inflicted serious injuries upon him as a result of which the student of class 8th suffered a fracture in his hand. The respondents have brought on record documents to indicate that subsequent to the aforesaid incident, the petitioner was handed over to his father on 19.2.2013 and was asked to go away from the school at Gadchirolli. It is stated that thereafter the petitioner's father approached the respondent no.2 and requested that the petitioner be given admission in class-11th and also undertook and ensured that his child would behave properly and would maintain discipline. The

respondents have also brought on record documents to indicate that the petitioner's father gave an undertaking in writing as well as on affidavit to the effect that he shall ensure that his son, the petitioner, would maintain discipline and that in case he creates indiscipline in the school, his father shall himself withdraw the student from the school and shall obtain a Transfer Certificate. The respondents have also placed on record several documents to indicate that the petitioner as well as his father, both had given undertakings in writing to the effect that they shall abide by the guidelines and rules framed by the School and shall maintain strict discipline failing which the petitioner shall be rusticated from the school.

It was also pointed out from the record that the petitioner alongwith several other class-11th students deliberately invoked a fight and beat up class-10th students and a report in that regard was filed on 31.8.2014. The respondents have also filed a copy of a complaint filed by a student of class-7th, Ashwani Namdeo, to the effect that the petitioner used to harass the said student and would forcibly sleep with him in the hostel and inspite of several attempts and counselling, did not listen to the warden of the hostel nor did he mend his ways. The respondents have also filed documents Annexure R-8, wherein the teacher concerned had complained against the petitioner, stating that he was counselled several times but he

failed to improve. The respondents have also filed documents to indicate that the petitioner was behaving in a very indisciplined and rude manner with all the teachers and was creating indiscipline in the hostel where he was staying as well as in the school as a result of which the entire atmosphere of the school was vitiated. The respondents have also brought on record the fact that the petitioner broke open the lock leading to the terrace of the hostel and affixed his own lock which created serious security concerns in the minds of the authority concerned but inspite of several attempts at counselling, no improvement was shown by the petitioner.

It is stated that the respondents, on the basis of the aforesaid series of incidents, ultimately took a decision to rusticate the petitioner. The respondents have also filed documents to indicate that pursuant to and subsequent to rustication, the petitioner's father had already taken the Transfer Certificate on 31.9.2014 and has made arrangements for the education of the petitioner elsewhere. On the basis of the aforesaid averments, the learned counsel for the respondents submits that the petition filed by the petitioner is baseless as the petitioner had been given several opportunities to improve himself but he failed to do so and, therefore, they have issued the impugned order which cannot be found fault with.

Having heard the learned counsel for the parties, we are of the considered opinion that in view of the past history of the petitioner which has been brought on record, it is evident that the contention of the learned counsel for the petitioner that the petitioner was maintaining discipline and was a brilliant student of the institution concerned, is factually incorrect. It is also evident from a perusal of the documents filed by the respondents, that the petitioner had been removed from the institution at Gadchirolli, Maharashtra but with a view to give him another opportunity to obtain proper education and develop his career, the respondent school took him back at Damoh subject to undertaking been given by the petitioner and his father on Affidavit to the effect that the petitioner shall maintain discipline.

The documents filed by the respondents also indicate that the petitioner did not do so and, on the contrary, indulged in several incidents of indiscipline and did not show any improvement inspite of several attempts at counselling. From the documents filed by the respondents it is evident that when ultimately all attempts for improving the petitioner failed and as his presence was vitiating the entire academic atmosphere in the school, the respondent authorities took a decision to rusticate the petitioner. Documents filed by the respondents indicate that the decision to rusticate the petitioner had been taken unanimously by all the 25

members of the staff including the Principal, Vice Principal and others.

We are of the considered opinion that discipline is one of the key ingredients that a student has to learn while undertaking education in a school. It is the most important and foremost duty and obligation of an academic institution or school to inculcate, enforce and teach discipline to the students studying in it. We are of the considered opinion that if a school or an academic institution confines itself to giving academic education alone and does not teach or imbue the students with a sense of discipline, proper behaviour and the habit of obeying the teachers, then the school would grossly fail in the pious duties expected of it and that are required to be discharged by it. We are also of the opinion that in cases of such indiscipline, the school is required to, and in the present case has rightly taken action against the erring student. We are also of the opinion that in case a student indulges in indiscipline and also does not give due respect to his teachers in the school and instigates other students to indulge in indiscipline or threatens young students in the school and does not show any improvement in spite of several attempts at counselling by the staff members, he is not entitled to any indulgence by this Court in exercise of its extraordinary powers under Articles 226 and 227 of the Constitution of India, on the ground of misplaced

sympathy as that would give a very wrong message to the students.

The petition, filed by the petitioner, being meritless is, accordingly, dismissed.

(R. S. JHA)
J U D G E

(V. K. SHUKLA)
J U D G E

mms/-