



HIRA NATH MISHRA V. PRINCIPAL, RAJENDRA MEDICAL COLLEGE (1973)- BALANCE IN PRIVACY AND PROCEDURE UNDER AUDI ALTERAM PARTEM

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INTRODUCTION

This case of Hira Nath Mishra v. Principal, Rajendra Medical College, is one of the landmark cases of administrative law. This case deals with the administrative action taken by the Rajendra Medical College. The issue that was involved here was primarily about the fairness and validity of the administrative action that was taken against certain students of the college.

The facts of the case are as follows:

- Some boy students of Rajendra Medical College who stayed in the hostel which was in the college itself, were seen seated on the boundary wall of the girls' hostel of the same college on the night between 10th and 11th June 1972.
- After some time, they jumped inside the girls' hostel compound, trespassing and wandering inside the hostel compound partially nude. They even tried to pull a girl's hand from her window. Five boys, among them, climbed through the pipeline to the girls' hostel terrace, where some girls were studying.
- Girls, after seeing those boys, started raising an alarm, because of which the boys ran away from there. The girls recognised four boys out of five. 38 girls then filed a complaint against these boys on the 14th of June 1972 to the principal of the college.
- An enquiry committee was formed, consisting of three staff members, to enquire into the complaint. The boys were asked to present themselves in front of the committee on 15th June 1972. According to those boys, they never trespassed or misbehaved in the girls' hostel, and instead, they were in their respective rooms in the boys' hostel at that time.

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- All proper due care was taken during the enquiry; the principal left the room, and committee members were there calling those boys one by one to ask them regarding the complaint filed against them. The identity of those girls was not disclosed, keeping in mind the future safety of those girls.
- Before enquiring with the boys, the committee called 10 girls who were part of the complaint to record their statements in writing, and they also discovered that those girls could recognise the four boys by name very easily. However, the statement given by those girls was not recorded in front of those boys because of the safety of the girls, thinking that it might risk the safety of those witnesses.
- After doing the enquiry and because of the lack of evidence in support of the statement given by those boys, the college committee concluded that the four boys were part of the misconduct done and deserve proper punishment for the same, recommending that the boys should be barred from the college and hostel for 2 calendar years.

The case mainly deals with the Administrative Law and the doctrine of Natural Justice; the procedural norms of the administrative procedure were also discussed. The ambit of principles of Natural Justice was in question here. *The Goonda Act*¹ was discussed in the judgment where enquiry and cross-examination of evidence and witnesses were done in the absence of the other party, when the procedure of examination of evidence and cross-examination of witnesses was questioned by the students of Rajendra Medical College in the court of law. The Goonda Act was referred by the Supreme Court for justifying the procedure of the college committee, as the Goonda Act also supports the procedure of cross-examination and enquiry of witnesses in the absence of the Goondas, which is similar to the issue presented in this case.

BACKGROUND

After the proper investigation and enquiry, the college committee decided to debar the students from the college as well as from the hostel for two calendar years. The order was passed on 24th June 1972 by the college authority. Later, a Writ petition was filed in the Patna High Court by those three boys for quashing the order which was passed by the college. The Patna High Court dismissed the writ petition on 21st November 1972. A special leave appeal was filed by those students in the Supreme Court.

¹ Goondas Act, 1946

The Supreme Court dismissed the appeal, stating that the action taken by the college committee had not violated the doctrine of Natural Justice by maintaining the secrecy of witnesses and conducting cross-examination in the absence of those boys. Henceforth, the enquiry method of the college committee was said to be justified.

ANALYSIS

In this case, the main issues were the procedure of examination of witnesses and the violation of principles of Natural Justice. The students of Rajendra Medical College who were expelled stated that the procedure followed by the college committee was improper, and principles of natural justice were not followed by the college, as the committee did not disclose the identity of the witnesses and did not give them a chance to cross-examine those witnesses. The procedural fairness and arbitrariness were questioned in the court of law. However, the court decided that, by not disclosing the identity of the witnesses and not giving them the evidence report, the college authority had not violated any principles of natural justice or any other laws as such. As protecting the girls who were witnesses to this case was the responsibility of the Rajendra Medical College, and it was difficult for the college authorities to protect them everywhere, outside the college, therefore, disclosing the names of those girls involved was at risk from those boys. This decision of the college authority was taken in good faith to protect those girls, and according to the court, as per the circumstances, the principles of natural justice were not violated.

It was further said that the procedure adopted by the college authority was valid, and cross-examination in the sensitive cases can be denied. The principles of natural justice cannot be taken into “the Strait jacket of rigid formula”, as the application of these principles depends on various factors. Therefore, the requirement of this doctrine was fulfilled here in this case. The report was made available to the learned judges of the High Court of Patna, and it was allowed to have a look at the report; however, their counsel refused to do so. The only question was about the identity and not about the incident that took place in the report. Just to leave no chance, the committee mixed the pictures of the appellants with the pictures of the other twenty boys and asked the girls to recognise them. The girls very clearly took out the pictures and names of the boys who were present that night in the girls’ hostel. Even when they enquired from the appellants about the incident that was reported, the only thing that all of them said was that they were not in the girls’ hostel that late at night; instead, they were all present in their own hostel. However, they didn’t have any proof or witness to support their statement.

Considering all the circumstances, the committee came to their decision, which was said to be a valid decision by following all the principles of natural justice.

The Supreme Court in this matter referred to cases like *Board of Education v. Rice*.² where the education board was said to have a duty of acting in good faith and listening to both sides of the case. It was also said that the board is not bound to examine a witness, but has to give a fair and equal chance to both parties to present themselves. Even in the case of *Russell v. Duke of Norfolk*³ it was laid that the requirement of the doctrine of natural justice should be according to the circumstances of it, but whatever the procedure is, the opportunity of presenting themselves should be provided to both sides. More precisely in the case of *Byrne v. Kinematograph Renters Society Ltd.*⁴ the three requirements of natural justice were stated:

- Nature of the accusation should be known to the accused.
- He/she should be provided with a fair and equal opportunity to present his/her case.
- Tribunal should act in good faith.

CONCLUSION

In this case, the doctrine of natural justice and the procedure of examining witnesses were discussed in a wider manner. The Rajendra Medical College expelled the students for misconduct and trespass, which was later challenged in the Patna High Court and the Supreme Court as well. However, both the courts supported the decision of the college authority. The violation of natural justice was denied by the Supreme Court by providing a wider ambit to the circumstances and scope of the usage of three principles of natural justice, i.e., “Audi alteram partem”, “Nemo iudex in causa sua”, and “speaking Orders or Reasoned Decision”. By stating that this doctrine of natural justice cannot be used in a rigid formula, the scope of usage and application of the doctrine has expanded. The concept of natural justice has become more flexible. In the administrative action, such as the act of a college authority, they also need to adopt the doctrine of natural justice in some manner.

The procedure of cross-examination in sensitive cases can be denied and can be conducted as per the circumstances and conditions of the case. This case has been laid down in many other cases later on as precedents to use the doctrine of natural justice and the procedure of cross-

² Board of Education v. Rice (1911) AC 179

³ Russell v. Duke of Norfolk (1949)1 All ER 109

⁴ Byrne v. Kinematograph Renters Society Ltd (1958) 2 All ER 579

examination in sensitive cases for the protection of the party. This case has become one of the landmark cases of administrative law, in terms of the administrative action and the application of the doctrine of natural justice in administrative action.