

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 10478-10498/2011

**THE SECRETARY/CORRESPONDENT,
ST. JOHN'S COLLEGE AND ANR. ETC.**

APPELLANT(S)

VERSUS

DR. S. WILSON AND ORS. ETC.

RESPONDENT(S)

WITH

**C.A. NOS.2353-2355/2017
SLP (C) NOS.31200-31201/2018**

ORDER

C.A. Nos.10478-10498/2011 & C.A. Nos.2353-2355/2017

1. The facts lie in a narrow compass. There was election dispute with respect to the Diocese elections which has effect on constitution of the School and College Management Committees. Diocese elections was held on 21.12.2007 and result was also notified on said date.

2. OS No.2898/2008 was filed for declaring that plaintiff as duly elected. The Court had initially passed an order of status quo on 30.4.2008, which was modified as one of the status quo ante prior to 21.12.2007 vide order dated 21.7.2008. The interim orders dated 30.4.2008 and 21.7.2008 were questioned by way of filing the revision petitions in the High Court of

Madras. The High Court passed the order dated 18.8.2008 to the following effect: -

“49. The person who comes to Court, must come with clean hands for seeking any relief. But, the respondent/plaintiffs have suppressed the material facts, adopted method of forum shopping and have played fraud on the Court below, apart from non-joinder of necessary parties in the suit. Playing fraud on the Court is highly condemnable, since the same is against administration of justice. As there is substantial materials available on record to show that the respondents/plaintiffs have played fraud on the Court below and obtained the order of status quo ante, they cannot be permitted to administer the institutions, pending disposal of the suit.

50. The revision petitioners in C.R.P. (PD) Nos.2527 to 2529 of 2008, the Diocese of Tirunelveli (CSI) is admittedly headed by its Bishop at Tirunelveli and he is the Chief Election Officer, as per Chapter X of the Constitution of Diocese of Tirunelveli. As such, he has produced a certified copy of the Minutes maintained by the Diocese of Tirunelveli (CSI), wherein the names of the office bearers elected have been stated. It is seen that the revision petitioners in C.R.P. (PD) Nos.2601 and 2602 of 2008 are also stated as elected office bearers of the Diocese in the said document. Though the same cannot be taken as gospel truth by this Court, I am of the view that Exhibit R-1 cannot be construed as a fabricated document and there is no substantial materials to show that the second defendant has played any fraud on the Court, hence, this Court is of the considered view to permit the Diocese of Tirunelveli, represented by its Bishop, the revision petitioner in C.R.P. (PD) Nos.2527 to 2529 of 2008 to continue the administration with the officer bearers, including the revision petitioners in C.R.P. (PD) Nos.2601 and 2602 of 2008, holding their respective posts, as per Exhibit R-1, till the disposal of the suit. Connected miscellaneous petitions are closed. No order as to costs.”

(emphasis supplied)

3. However, plaintiff taking advantage of the order of status quo ante passed by the Civil Court on 21.7.2008 and earlier order of 30.4.2008 made the appointments of certain incumbents as Lecturers on 11.8.2008. However, the orders dated 30.4.2008 and 21.7.2008 were set aside by the High Court a week later by aforesaid order. The revision was pending as on the date on which the appointments had been made on 11.8.2008. Surprisingly, the appointments were got approved by the University on 12.8.2008 in undue haste. The termination order was passed by the newly elected Committee on 17.11.2008 after interim order had been vacated. It

is not in dispute that the Civil Suit that was filed has ultimately been dismissed and election held on 21.11.2007, for the period it was held is not in question any more.

4. The persons who were removed as Lecturers on 17.11.2008 filed writ applications before the learned Single Judge of the Madras High Court, which was dismissed vide order dated 28.5.2009. However, in the writ appeal, the order passed by the learned Single Judge was set aside as well as the order of termination and direction has been given to grant hearing as the order was violative of principles of natural justice.

5. We have heard the learned counsel for the parties at length. The aforesaid facts are not in dispute. Admittedly, no hearing was also afforded before termination of the services. The question arises whether in the aforesaid facts and circumstances, affording an opportunity of hearing was necessary and would alter the situation. In the instant case, the appointments had been made by the incumbents who had no right to hold the office, taking advantage of the interim order of maintenance of status quo ante passed on 21.7.2008, the appointments were made and that order was set aside on 18.8.2008, within a month of its grant. The appointments were clearly made in undue haste taking undue advantage of the interim order. They were admittedly made by an incumbent who was not, in fact,

elected in the election that was held on 21.12.2007. Moreover, once interim order of status quo ante had been vacated giving a finding that it was obtained by playing fraud upon the Court, obviously, it was not open to them to order the appointments of the lecturers. Be that as it may, since the suit has been finally dismissed for want of jurisdiction of the Civil Court and dispute had not been taken any further and no dispute as to elected body is pending, the elections held on 21.12.2007 attained finality.

6. It is apparent that the Lecturers having been appointed by the incumbents who were not in fact competent to appoint but they have made the appointments illegally under interim order of the Court that was ultimately vacated by the High Court with strictures upon them. No useful purpose would be served by grant of opportunity of hearing to those who were so appointed by the persons who were in fact incompetent to appoint and have taken undue advantage of the Court's order of status quo ante. The principles of natural justice cannot be put into a strait-jacket formula and that its application will depend upon the fact situation of each and every case as laid down by this Court in *K.L. Tripathi v. State Bank of India*, (1984) 1 SCC 43; *N.K. Prasada v. Govt. of India*, (2004) 6 SCC 299; *State Bank of Punjab v. Jagir Singh*, (2004) 8 SCC 129; *Karnataka SRTC v. S.G. Kotturappa*, (2005) 3 SCC 409 and *Vivekanand Sethi v. Chairman, J&K Bank Ltd.*, (2005) 5 SCC 337.

7. It is equally well settled that the principles of natural justice must not be stretched too far and in this connection, reference may be made to the decisions of this Court in *Sohan Lal Gupta v. Asha Devi Gupta*, (2003) 7 SCC 492; *Mardia Chemicals Ltd. v. Union of India*, (2004) 4 SCC 311 and *Canara Bank v. Shri Debasis Das*, (2003) 2 SCR 968. In *Hira Nath Mishra v. Rajendra Medical College, Ranchi*, (1973) 1 SCC 805, this Court held that principles of natural justice are not inflexible and may differ in different circumstances. Rules of natural justice cannot remain the same applying to all conditions. In *Chairman, Board of Mining Examination and Chief Inspector of Mines v. Ramjee*, (1977) 2 SCC 256, the Court observed that natural justice is no unruly horse, no lurking landmine, nor a judicial cure-all. The Court held:

“13. The last violation regarded as a lethal objection is that the Board did not enquire of the respondent, independently of the one done by the Regional Inspector. Assuming it to be necessary, here the respondent has, in the form of an appeal against the report of the Regional Inspector, sent his explanation to the Chairman of the Board. He has thus been heard and compliance with Regulation 26, in the circumstances, is complete. Natural justice is no unruly horse, no lurking land mine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt — that is the conscience of the matter.

14. Shri Gambhir, who appeared as amicus curiae and industriously helped the Court by citing several decisions bearing on natural justice, could not convince us to reach a contrary conclusion. It is true that in the context of Article 311 of the Constitution this Court has interpreted the quality and amplitude of the opportunity to be extended to an affected public servant. Certainly we agree with the principles expounded therein. But then we cannot look at law in the abstract or natural justice as a mere artifact. Nor can we fit into a rigid mould the concept of reasonable opportunity. Shri Gambhir cited before us the decisions in *State of Gujarat v. R.G. Teredesai*, (1969) 2 SCC 128; *Management of DTU v. B.B.L. Hajelay*, (1972) 2 SCC 744 and *Krishna Chandra Tandon v. Union of India*, (1974) 4 SCC 374; and one or two other rulings. The ratio therein hardly militates against the realism which must inform 'reasonable opportunity' or the rule against bias. If the authority which takes the final decision acts mechanically and without applying its own mind, the order may be bad, but if the decision-making body, after fair and independent consideration, reaches a conclusion which tallies with the recommendations of the subordinate authority which held the preliminary enquiry, there is no error in law. Recommendations are not binding but are merely raw material for consideration. Where there is no surrender of judgment by the Board to the recommending Regional Inspector, there is no contravention of the canons of natural justice. We agree with Shri Gambhir that the adjudicating agency must indicate in the order, at least briefly, why it takes the decision it does, unless the circumstances are so clear that the concluding or decretal part of the order speaks for itself even regarding the reasons which have led to it. It is desirable also to communicate the report of the Inquiry Officer, including that part which relates to the recommendation in the matter of punishment so that the representation of the delinquent may be pointed and meaningful.

15. These general observations must be tested on the concrete facts of each case and every minuscule violation does not spell illegality. If the totality of circumstances satisfies the Court that the party visited with adverse order has not suffered from denial of reasonable opportunity the Court will decline to be punctilious or fanatical as if the rules of natural justice were sacred scriptures."

(emphasis supplied)

8. We also take notice of fact that yet another order passed by a Division Bench of this Court on 11.12.2017 in which the State

Government/Competent Authority did not approve such appointments on the ground that they were made by the incompetent persons, we are of the considered opinion, in the facts and circumstances of these cases, that no useful purpose will be served by grant of opportunity of hearing. Appointments were clearly made in an illegal manner, hence the services were rightly terminated on 17.11.2008 after the interim order had been vacated. It will be futile to afford opportunity of hearing, in the facts and circumstances of these cases. However, the order shall be treated as an order of termination simplicitor, the finding recorded that there was some collusion of the plaintiff with the persons who had been appointed is hereby set aside. Only on the ground of incompetence the termination orders are upheld. The approval of illegal appointments made by the Competent Authority would not change the scenario and confer the legality to appointments which were illegally made. It was further conceded by the learned counsel appearing for the respondents that the only consideration for the university while approving appointments is the required qualification. Be that as it may, possessing the qualification would not change the situation as the appointments had been illegally made. Any approval made by the State Government/University will not come to the rescue of the respondents.

9. In case, there are fresh vacancies it will be open to the respondents to

apply and their cases will be considered on their own merits.

10. Thus, we set aside the orders passed by the Division Bench and restore that of the learned Single Judge. The appeals are, accordingly, allowed. However, the parties are left to bear their own costs.

SLP (C) Nos.31200-31201/2018

11. In view of the order passed in C.A. Nos.10478-10498/2011 & C.A. Nos.2353-2355/2017, these special leave petitions are disposed of.

.....J.
(Arun Mishra)

.....J.
(Vineet Saran)

New Delhi;
January 9, 2019.

ITEM NO.111

COURT NO.5

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 10478-10498/2011

THE SECRETARY/CORRESPONDENT,
ST. JOHN'S COLLEGE AND ANR. ETC.

APPELLANT(S)

VERSUS

DR. S. WILSON AND ORS. ETC.

RESPONDENT(S)

WITH

C.A. NO. 2353-2355/2017 (XII)

SLP(C) NO. 31200-31201/2018 (XII)

(FOR ADMISSION AND I.R. AND IA NO.162552/2018-CONDONATION OF DELAY IN FILING)

Date : 09-01-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE VINEET SARAN

For Appellant(s) Ms. Madhusmita Bora, AOR
Mr. Pawan Kishore Singh, Adv.

For Respondent(s) Mr. V. Prabhakar, Adv.
Ms. Jyoti Parasher, Adv.
Mr. N.J. Ram Chandar, Adv.
Mr. S. Rajappa, AOR

Mr. V. Prabhakar, Adv.
Ms. Jyoti Parasher, Adv.
Mr. N.J. Ram Chandar, Adv.
Mr. R. Chandrachud, AOR

Mr. Romy Chacko, AOR
Mr. Shakti Chand Jaidwal, Adv.
Mr. Chandan Kumar Mandal, Adv.

Mr. Naveen Raj, Adv.
Ms. Purbitaa Mitra, Adv.
Mr. K.V. Vijayakumar, AOR

Mr. J.B. Ravi, Adv.
Mr. Balaji Srinivasan, AOR

Mr. M. Yogesh Kanna, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

The Civil appeals are allowed and the special leave petitions are disposed of, in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
COURT MASTER

(JAGDISH CHANDER)
COURT MASTER

(Signed order is placed on the file)