

SUPPLEMENTARY VOLUME V-A

**MAJOR TRENDS
IN LAW CASES
ON EDUCATION**

Decided By

The Supreme Court of India & All High Courts

(1950—64)

VOLUME I

Prepared for The Education Commission

By The Indian Law Institute, New Delhi



सत्यमेव जयते

EDUCATION COMMISSION

University Grants Commission Building

Bahadur Shah Zafar Marg

NEW DELHI—1966

SUPPLEMENTARY VOLUME NO. V-A

MAJOR TRENDS IN LAW CASES ON EDUCATION

Decided by

The Supreme Court of India
and All High Courts
(1950-64)

Volume I

Prepared for the
Education Commission
By
The Indian Law Institute, New Delhi

Education Commission
University Grants Commission Building
Bahadur Shah Zafar Marg
New Delhi
1966

C O N T E N T S

INTRODUCTION - STUDY IN TRENDS	1-2
I. NATIONAL AND REGIONAL INTERESTS	2-10
II. PUBLIC AND PRIVATE INTERESTS	11-34
(i) Maintenance of higher academic standards.	12-14
(ii) Regulation of working conditions	14-16
(iii) Examination cases -	17-21
Regard for statutory Provision	17
Reluctance to interfere	18-20
Consciousness for examinee's career in life	20-21
(iv) Education for masses	21-24
(v) Criteria for Backwardness	24-29
(vi) Students' indiscipline cases and the Law Courts.	30-34
III. ARE EDUCATIONAL INSTITUTIONS 'INDUSTRIES'?	35-41
IV. AUTONOMY OF EDUCATIONAL INSTITUTIONS	42-56

INTRODUCTION

I have great pleasure in presenting this volume which analyses the cases relating to Education, decided by the Supreme Court of India and all the High Courts in the States and reported during the period from 1950 to 1964. The publication is being brought out in two volumes. The first contains a paper prepared by Dr. G.S. Sharma, Director, Indian Law Institute, New Delhi, which analyses the trends revealed in these cases; and the second gives a digest of the cases, arranged according to subjects.

I take this opportunity to convey the gratitude of the Education Commission to the National Council of Educational Research and Training, which provided the funds for this study, and to Shri L.S. Chandrakant, its Joint Director, who took a keen interest in the project. I would also like to place on record our gratitude to the Indian Law Institute and to Dr. G.S. Sharma, its Director, and his colleagues for undertaking this study at our request and for completing it so ably and in so short a time.

New Delhi,
1st January, 1966

J.P. Naik
Member-Secretary
Education Commission

JUDICIAL REVIEW AND EDUCATION - A

STUDY IN TRENDS

G.S. SHARMA*

Education is the only means through which a society can seek to secure active and intelligent participation of all its members in the complex processes of modern living. In developing countries like India the educational process cannot only be left to develop sporadically through free enterprise but must be a major governmental responsibility because of securing quick results. Article 45 of the Indian Constitution visualizes universal, compulsory and free education. It is, however, a persuasive provision drawing attention to government's moral responsibility but provides for no effective sanctions.

Any step towards the discharge of its moral responsibility by the State involves considerable thinking and research and of necessity has to be effectively planned and directed. Effective planning and direction envisage vast degrees of infringement upon the liberties of groups and individuals and thus call for an examination and assessment of the constitutional and other legal provisions to understand what can and what cannot be done.

* Director, Indian Law Institute, New Delhi
(Assisted in collection of cases and preparation of drafts by M/S. R.K. Raizada, A.C.C. Unni, and K. Bhagwan, Research Fellows, Indian Law Institute, New Delhi)

The purpose of this monograph is to present such an examination and assessment through the study of cases of the Supreme Court and the High Courts relating to educational matters. The following scheme has been adopted:

1. Conflict between regional and national interests.
2. Conflict between public and private interest.
3. Are educational institutions 'industries'?
4. Courts and autonomy of educational institutions.

I. National and Regional Interests

Entries¹ in Lists I and II of the Seventh Schedule of the Constitution divide spheres of action in educational matters between Central or State Governments. This division is now, however, functionally clear and the Supreme Court had occasions² to show and define when action by one Government would amount to an encroachment in the sphere of another.

Entry 11 of List II confers on State Governments power in regard to all educational matters except those which have been allotted to the Central Government under Entries 63-66 in List I. Entry 66 of List I keeps for the Central Government 'co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.'. The Gujarat University³ had prescribed

-
1. Entries 63, 64, 65 and 66 in List I, List II Entry 11.
 2. *Joshi v. Madhya Bharat*, AIR 1955 S.C.334, *State of Gujarat v. Srikrishna* AIR 1963 SC 703, *Chitralkha v. State of Mysore* AIR 1964 SC 1323.
 3. *State of Gujarat v. Sri Krishna* AIR 1963 SC 703

under the Gujarat University Act, 1949, that in place of English as medium of instruction all affiliated colleges were to adopt Hindi or Gujarati in Devnagri script. These statutes which were passed by the Senate of the University were challenged inter-alia, on the grounds that the Statutes were ultra vire the Gujarat University Act, 1949. That the State Legislation authorising change in medium of instruction was ultra-vires the Constitution in as much as question of appropriateness of medium of instruction and examination in institution for higher education is a concern of the Union Government under its power for "coordination and determination of standards." The Supreme Court held that the Statutes providing for the change in the medium were ultra vire the Gujarat University Act, 1949 as amended by S. 4 of the Act of 1961. Speaking for the Court, Justice J.C. Shah (K. Subba Rao J dissenting) expressed himself on the competence of the State Legislature to legislate on the subject matter of medium of instruction and examination. He interpreted the power to coordinate as 'not merely power to evaluate but also to harmonise or secure relationship for concerted action.'⁴

Medium of instruction is a necessary incident of power to legislate on education and falls at both places namely under entry 11 of list II and entries 63-66 of List I. On the one hand, power to legislate

⁴Ibid p. 716.

for medium of instruction, for primary and secondary education lies exclusively with the States; while on the other, entries 63-65 of List I deal with institutions of national or special importance and institutions of higher education including research, sciences, technology and vocational training of labour and therefore power to legislate in respect of medium of instruction, having regard to the width of those items, must be deemed to vest in the Union.⁵ With respect to institutions which are covered both by Entry 66 of List I and entry 11 of List II, His Lordship held:⁶

"...Power to legislate in respect of medium of instruction insofar it has a direct bearing and impact upon the legislative head of coordination and determination of standards in institutions of higher education or research and scientific and technical institutions, must also be deemed by item 66 list I to be vested in the Union".

Apprehending that the change in medium is likely to result in lowering of standards⁷ and may render

5. Ibid p. 715

6. Ibid. p. 715

7. Ibid. p. 717 "If legislation relating to imposition of an exclusive medium of instruction in a regional language or in Hindi, having regard to the absence of textbooks and journals, competent teachers and incapacity of students to understand the subjects, is likely to result in the lowering of standards, the legislation would in our judgment, necessarily fall within item 77 of List I and would be deemed to be excluded to that extent from the amplitude of the power conferred by item No. 11 of List II."

the coordination of such standards either on All India or other basis impossible or even difficult⁸ the Court observed:

"....(The) validity of State legislation would depend upon whether it prejudicially affects coordination and determination of standards, but not upon the existence of some definite union legislation directed to achieve that purpose. If there be union legislation in respect of coordination and determination of standards, that would have paramountcy over the state law by virtue of the first part of Art.254(1), even if that power be not exercised by the Union Parliament the relevant legislative entries being in the exclusive lists, a State law trenching upon the union field would still be invalid.⁹

Soon in another case¹⁰ the Supreme Court had to consider whether a State legislation prescribing a higher percentage of marks for extra-curricular activities in the matter of admission to colleges (Medical) falls within entry 11 of list II or entry 66 of List I. Justice K. Subba Rao (who had delivered a dissenting judgment in the Gujarat case, referred to the majority judgments in that case) and (after quoting from Justice J.C.Shah's judgment)¹¹ observed:

" This and similar other passages indicate that

8. Ibid p. 715-716

9. Ibid p. 715

10. Chitralakha v. State of Mysore AIR 1964 SC 132

11. Mudholkar J. dissented.

if the law made by the State by virtue of entry 11 of List II of the Seventh Schedule to the Constitution makes impossible or difficult the exercise of the legislative power of the Parliament under the entry "Coordination and the determination of standards in institutions for higher education or research and scientific and technical institutions" reserved to the union, the State law may be bad. This cannot obviously be decided on speculation and hypothetical reasoning. If the impact of the State law providing for such standards in entry 66 of List I is so heavy or devastating as to wipe out or appreciably abridge the central field, it may be struck down. But that is a question of fact to be ascertained in each case. It is not possible to hold that if a State legislature made a law prescribing a higher percentage of marks for extra-curricular activities in the matter of admission to colleges, it would be directly encroaching on the field covered by entry 66 of List I of the Seventh Schedule to the Constitution. If so, it is not disputed that the State Government would be within its rights to prescribe qualifications for admission to colleges so long as its action does not contravene any other law". 12

Referring to the financial burden and other relevant considerations borne by the Government in running the colleges, his Lordship went on to observe:

".....They cannot obviously admit all the applicants

12. Ibid. p. 1830

who have secured the marks prescribed by the University. It has necessarily to screen the applicants on some reasonable basis. The aforesaid orders of the Government only prescribed the criteria for making admissions to colleges from among students who secured the minimum qualifying marks prescribed by the University. Once it is conceded, and it is not disputed before us, that the State Government can run medical and engineering colleges, it cannot be denied the power to admit such qualified students as pass the reasonable tests laid down by it. This is a power which every private owner of a college will have, and the Government which runs its own colleges cannot be denied that power."¹³

Another State legislation which may be said to have a bearing on conflict between the national and regional interest on the subject-matter of education is the one which makes for discrimination among students on the basis of their places of residence.

Ordinarily a citizen coming from one part of the country is free to join an educational institution in any other part of the country at par with the local students. The Constitution itself prohibits discrimination on the basis of place of birth (as also on the basis of caste, sex or religion).¹⁴.

However, some state prescriptions envisaged a discrimination either by imposing capitation fee on

13. Ibid p. 1830

14. Article 15(1)

students whose domicile happened to fall outside the State,¹⁵ or by making reservation or allotting quotas of seats in educational institutions on certain regional basis.¹⁵

The Supreme Court¹⁷ distinguished between the place of birth and place of domicile and also between citizenship and domicile, and held that the classification based on 'place of domicile' is not hit by Art.15(1) as it only prohibits discrimination based on place of birth. Venkatarama Ayyar J. who delivered the judgment for the majority judges (Jagannadhadas J. dissented), took into consideration money which a State has to spend on colleges run by it and observed:

"... (I) s it unreasonable that it (State) should so order the educational system that the advantage of it would to some extent at least ensure for the benefit of the State? A concession given to the residence of the State in the matter of fees is obviously calculated to serve that end, as presumably some of them might, after passing out of the college, settle down as doctors and serve the needs of the locality." ¹⁸ His Lordship called the basis of the classification 'quite a legitimate and laudable objective for a State to encourage education within its borders.'¹⁹

¹⁵ Rustom v. State of Madhya Bharat AIR 1954 M.B.119.
Joshi, D.P. v. Madhya Bharat, AIR 1955 S.C.334

¹⁶ Joseph Thomas v. Kerala AIR 1958 Ker.33, Jacob Mathew v. State of Kerala, AIR 1964 Ker.39. State of Kerala v. R. Jacob Mathew AIR 1964 Ker 316.

¹⁷ Joshi, D.P. v. Madhya Bharat, AIR 1955, S.C.334

¹⁸ Ibid at p.340

¹⁹ Ibid at p.340

Classification among students of the same State but coming from its different parts for admission in its various colleges, on the basis of geographical or historical reasons connected with the backwardness of the area, has been upheld by the law courts.²⁰ The High Court, however, has held invalid and unconstitutional the discrimination founded on place of domicile but not based on any scientific or reasonable grounds.²¹

Thus, the attitude of the Law Court with respect to educational matters involving national or regional interests may be summed up as follows:

1. The Union exercises exclusive jurisdiction on institutions and connected educational matters mentioned in Entries 63-65 of list I.
2. States under Entry II List II, have general power on all educational institutions and matters except those mentioned in Entries 63-66 of List I.

20. Joseph Thomas v. Kerala AIR 1958 Ker.33. In favour of the Malabar area which had just then come into the state of Kerala, the Government had fixed the quota of seats in the State educational institutions in the ratio of 5:8, thus allotting larger number of seats to the new area.

21. Jacob Mathew v. State of Kerala, AIR 1964 Kerala 39. The Government had allotted seats in its educational institutions on district-wise basis. This allocation was neither based on the literacy census report nor on any other historical or geographical reason.

3. States have exclusive jurisdiction to prescribe medium of instruction in primary and secondary stages.
4. States may indicate medium of instruction in higher education but where it has an impact on coordination and determination of standards for higher education or research, the union has the only authority to act.
5. To arrive at a decision regarding fitness of a medium of instruction for higher education and research, availability of higher standard of reading material such as, books, journals, periodicals etc. and the facility of teaching and understanding in that medium may be taken into consideration.
6. A state action is unconstitutional and bad, if it has a tendency to make impossible or difficult the exercise of the union-power for coordination or determination of standards in institution for higher education, or research and scientific and technical institution.
7. States are justified in conferring on reasonable grounds some extra advantages or giving some concessions only to students domiciled within the State territories.
8. Place of birth and place of domicile are two different things and states can discriminate on the basis of place of domicile.
9. Discrimination to be justifiable must be based on some geographical, historical or other reasonable criteria and its objective must be reasonable.

II. Public and Private Interests

In India we find the following categories of educational institutions:-

1. Institutions wholly run by the Government.
2. Institutions aided and recognised by the Government - i.e. quasi-public institutions.
3. Institutions not aided but recognised by the Government.
4. Entirely private institutions i.e. neither aided nor recognised by the Government.

The last category of educational institution is of concern to the Government only in so far as it relates to the law and order situation. Of the remaining, institutions recognised by the Government and not getting grant at all are very few.²² Almost all private institutions are quasi-government.²³ These institutions involve interests of the following:-

- (1) Public in its interest of
 - (A) maintenance of higher academic standards.
 - (B) education for the masses.
- (2) The Managing Committees, representing the interest of the group or community which founded the institution.²³
- (3) The Institution itself in its interests of:-
 - (a) Coordination of Teaching and non-teaching staff.²⁴
 - (b) Discipline among the students.

22. "...no educational institutions in modern times, afford, to subsist and effectively function without some state-aid." S.R.Pas., C.J. In re Kerala Education Bill 1957, A.I.R. 1958 S.C.956 at p.980.

23. See discussion item 1(A) and (B), infra.

24. Refer to items 3 and 4 of the Scheme, infra

PUBLIC INTEREST

Maintenance of higher academic standards.

We have already seen that in educational matters general powers except those exclusively demarcated for the Union Govt. under entries 63-66 of List I, are left with the State Governments. To exercise these powers Government of each State has a full-fledged administrative machinery headed by the Minister for Education. The Education Department controls all government or quasi-government institutions so far as teaching and teaching conditions are concerned. Public interest lies in obtaining proper academic standards and conditions in institutions where students go to learn and acquire knowledge which would help them to take up useful careers in life.²⁵ The following are some of the important steps that the government takes to maintain academic standards:

1. Prescribe Books.
2. Look into working conditions of teaching and non-teaching staff.
3. Examinations.

Out of the books approved by the Education Department, institutions make their own selections. The students of the respective institutions are required to purchase only the prescribed books. Thus publishers have a vital interest in getting their publications approved. This interest often comes in conflict with the right and the discretion of the authorities to reject a publication which in their opinion

25. In re Kerala Education Bill, 1957. A.I.R. 1958.
S.C. 956 S.R. Das C.J. at p. 934.

does not conform to appropriate academic standard. The Law Courts have preferred not to interfere with the authorities' discretionary power which is of technical nature, unless it is exercised in a manner which is arbitrary. 'Mala fide' or in disregard of prescribed rules of procedure.²⁶ Publishers have claimed that rejection of their publications affects their right under Art. 19(1)(g) of the Constitution. The Orissa High Court has held²⁷

"...no publisher (has a right to expect that his or her publication would be approved or continued...."

However, sometimes the exercise of discretion by the authority may become arbitrary and may favour a publisher to the exclusion of others, thus creating for one publisher a monopoly in the trade. This would violate the right of other publishers under Art. 19(1)(g). Venkataramaiya J. observed:²⁸

Persons who make a living by sale of book, or to whom it is a calling and those who have to provide the books necessary for education of pupils who depend on them are entitled to expect and demand the observance of rules and adherence for methods settled by practice so that there is no room for doubt fancied or real about play of personal predilections in the choice of books... under Art. 19(1)(g) of the Constitution the citizens have the right to carry on occupation, trade or

-
26. Gopal Chetty v. Director of Public Instruction
A.I.R. 1955 Mysore 81
Manjula v. Director of Public Instruction
A.I.R. 1952 Orissa 344.
Chaitaneja Prakash v. Board of Secondary Education.
AIR. 1960 Raj. 185.
27. Manjula v. Director of Public Instruction.
A.I.R. 1952 Orissa 344 at p. 346.
28. Gopal Chetty v. Director of Public Instruction
A.I.R. 1955 Mysore 81.

business, subject to such restrictions as the State may impose in the interest of the public and such qualifications as are necessary for carrying on any occupation, trade or business.."

Regulation of Working Conditions.

Merely prescribing standard books does not help in maintaining academic standards which are greatly effected by working conditions obtainable in educational institutions. The academic equipment of the teaching staff, the adequacy of the salary paid to it, the timeliness and regularity of payments made to them, general terms and conditions of their services, the number of students admitted to each class, all these²⁹ and many others are matters which are connected with educational quality of an educational institution. Common good of the community³⁰ is involved in all these matters and the Governmental regulation and control is extended to them.

This regulation or control is not, however, ordinarily accepted by the management of private institutions. They oppose it and resent that it is an interference with their right³¹ to manage and administer their institutions. Kerala is the State which took a major step and prepared the Education Bill which had envisaged a scheme of wider control on all private educational institutions in the State. The Bill was referred

29. In re Kerala Education Bill, 1957. A.I.R. 1958 S.C. 956

30. Arya P. Sabha v. Bihar State AIR 1958 Patna 359 at p.365.
Dependra Nath v. State of Bihar AIR 1962 Patna 103.
Rev. Fr. Joseph v. State. AIR 1958 Ker. 290 at p.299.

31. Denominational bodies have claimed protection of this right under Arts 29(1) and 30(1).

to the Supreme Court for opinion under Art. 193(1) of the Constitution and the then Chief Justice S.R. Das held that "the right to administer cannot obviously include the right to maladminister."³² He added "State may prescribe reasonable regulations to ensure the excellence of the institutions..."³³ He called these regulations as "Permissible regulations"³⁴. These general regulations do not violate the constitutional protection guaranteed to religious and linguistic minorities under Articles 29 and 30.³⁵ They "are not restriction on substance of the right which is guaranteed; they secure the proper functioning of the institutions, in matters educational."³⁶

Substance of the right is the core in which the Government's regulatory powers should not generally penetrate. Thus Governmental "interference with the right of bare management of an educational institution does not amount to infringement of the right to property under Art. 19(1)(f)"³⁷, unless, it divests the management of "its character as trustees in ^{and} respects of the land/the building of the (institution)"³⁸ Government's attempt to take over or "to acquire" private institution even for a limited period, is a violation of the right to manage and administer an educational institution.³⁹

32. In re Kerala Education Bill, 1957, A.I.R. (1958) S.C.956
982 at p.

33. Ibid. 983.

34. Ibid.

35. Arya P.Subba v. Bihar State A.I.R. 1958 Patna 359.

36. J.C.Shah J.in Sidharajbhai v. State of Gujarat
A.I.R. 1963 S.C. 540, 545.

37. Sidhraj Bhai v. State of Gujrat, A.I.R.1963 S.C.540,544.

38. Dwarka Nath v. State of Bihar, A.I.R. 1959 S.C.244, 252

39. In re Kerala Education Bill 1957, AIR 1958 SC 956.

By admitting outsiders linguistic or religious minority institutions do not shed their denomination character and the State in regulating and controlling their management cannot claim that their rights are no more protected by Article 30 of the Constitution.⁴⁰ A Government's directive to denominational institution to admit government nominees in such a large number that the seats left to be filled by the institution's own candidates were insufficient to meet the requirements of the community which ran and managed the institution, has been held by the Supreme Court as unconstitutional.⁴¹ Justice J.C.Shah observed.

"The right is intended to be effective and is not to be whittled down by so-called regulative measures conceived in the interest not of the minority educational institutions, but of the public or nation as a whole."⁴²

If the protection provided by Article 30(1) can be interfered in national or public interest then, the court held, it would be a 'teasing illusion' or a 'Promise of unreality.'

For a State Regulation to be a valid regulation without effecting the substance of the right to manage and administer quasi-government and denominational educational institutions, his lordship J.C. Shah enunciated a dual test.⁴³ that (1) the Regulations must be reasonable and (2) be regulative only of the educational character of the institution so as to make it an effective vehicle of education.

40. Ibid at p. 978.

41. Sidhraj bhai v. State of Gujarat AIR 1963
SC 540.

42. Ibid. p.547

43. Ibid. at p. 547.

Examination Cases

Regard for Statutory Provisions.

On a perusal of the cases connected with examination matters, it appears that various High Courts concentrate more on two aspects, viz. legal and social. It is the primary function of Law Courts to see that executive actions are covered by some statutory provision.⁴⁴ If an action is rightly based on a statutory provision, the courts have upheld it as lawful and valid action;⁴⁵ while on the other hand, in cases where actions of examination-authorities are results of mis-interpretation or misapplication of legal provisions the Courts have not hesitated to declare those actions as invalid and unlawful.⁴⁶

44. Prasun Kumar v.R.S. College, Jharia AIR 1959 Patna 486
Kamla Banerjee v.Calcutta University AIR 1956
Cal.563
G.P.Singh v. Faculty of Law AIR 1953 All.6
Himendra Chandra v.Gauhati University AIR 1954
Assam 65.
Gauhati University v. Sailash Panjan AIR 1955 Assam 9
Laxmi Narain v. C.B. Mahajan AIR 1955 All.534
Indra Bajaj v. The Agra University AIR 1956 Cal. 563 .
Somesh Charan v.University of Calcutta AIR 1957
Cal. 656
University of Calcutta v.Somesh Charan AIR 1958
Cal.131
G.K.Ghosh v.University of Calcutta AIR 1958 Cal.83.
Sobr Bhatnagar v.The State AIR 1959 M.P. 367.
Anitar v. Principal B.E. College AIR 1962 Cal.93.
45. Prasan Kumar v. R.S. College, Jharia AIR 1959,
Patna 486
Kamla Banerjee v. Calcutta University AIR 1956
Cal.563 .
G.P.Singh v.Faculty of Law AIR All 6.
Somesh Charan v. University of Calcutta AIR 1957
Cal.656.
University of Calcutta v. Somesh Charan AIR 1958
Cal. 131
46. Laxmi Narain v. C.B. Mahajan AIR 1955 All.534
G.K. Ghose V.University of Calcutta AIR 1958 Cal.83.
Anitar v. Principal B.E. College AIR 1962 Cal. 93.

Reluctance to Interfere -

The general attitude of the Courts may be divided under two heads (a) Respect for jurisdiction for exercise of powers by examining bodies (b) consciousness for immediate and future career of the examinees. Society has interest in both examining Bodies and educational institutions on the one hand, and the examinees on the other.. If examining Bodies are not given due respect and sanctity for their actions, smooth and orderly conduct of examinations would become, impossible. People do not take to examination willingly, they appear at it because it is unavoidable. It may be that, in case examinees find that they can avoid examinations by conveniently challenging any action of examination-authorities they may be quick to adopt it as practice. It appears, for some similar reasons the Court have been reluctant to interfere with jurisdiction of examining Bodies.⁴⁷

Further, the courts have not only shown due regard and recognition to the authority of examining bodies to deal with matters falling in their jurisdiction, but have also denounced objectionable conduct on part of examinee

47. Shudarshan Lal v. Allahabad University AIR 1953 All 194 "This Court is most reluctant to entertain such application especially as it is extremely desirable that the students should be under the full control and guidance of the university and its staff and unless the act complained of is clearly beyond the jurisdiction or is clearly against the rules of natural justice, this court will not interfere in such matters which relate to internal working of the university."

petitioners.⁴⁸ Again, where petitioner has shown fear for subsequent prejudice on part of the / examining body, the Court has shown its faith in fairness and reasonableness of the authorities.⁴⁹

The Courts, in order to safeguard the honour of examining bodies, have, before issuing directions or orders to correct their mistakes, often allowed examination-authorities opportunity and time to do the needful on their own.⁵⁰ Sometimes courts has not even issued directions or orders.

48. Shankar Rastogi v. Principal S.M.College AIR 1962 All 207

This court, as a court of equity will not exercise its discretion in favour of a student who by his demeanour in the suit itself has proved himself devoid of all sense of discipline. The Court will not impose on the college a student-teacher relationship by his open disrespect for the head of the institution and his very presence in the college with the subversive of discipline."

Bhavan J. at p.208.

49. G.P.Singh v. Faculty of Law AIR 1953 All.6

"There appears no reason to suppose that the Faculty of Law and the University will not act fairly and will not consider the question of the conferment of the degree of doctor of Laws on the applicant properly. We feel no doubt that these proceedings will not prejudice such consideration when the applicant resubmits his thesis after revising it in the light of the suggestion of the examiners."

Raghubar Dayal J.at p.9.

50. Himendra Chandra v. Gauhati University AIR 1959 Assam 65.

I was anxious that the authorities themselves would realise their mistake and would rectify the wrong which they had done to the petitioner; but I understand that in spite of my having given them sufficient opportunity to do so, they have consistently refused to consider the claim of the petitioner. The university is a creature of the statute and must obey the rules and regulation by which it professes to be bound.If it acts in violation of these rules and thereby adversely affects the rights of others,its conduct is open to question,I have,therefore,no other alternative but to direct that the Rules and Regulations framed by the university should be strictly followed."

"The conduct of the respondents in the present case cannot be supported.I would accordingly order that a writ of mandamus should issue...." Sarjoo Prasad C.J.at p.69.

but only made recommendations to examination - authorities to reconsider the examinee's case favourably if possible.⁵¹

Consciousness for examinees' career in life -

Honour and authority of examining-bodies are maintained ultimately in the interest of examinees themselves. Therefore, where justice and fairness demand the examinees' interests are protected and upheld by the Law Courts. It is not justified to refuse a rightful claim of a student 'merely because some inconvenience is likely to be caused to the University authorities.'⁵² The Court has gone to the extent that 'if on merits the petitioner has a good case he should not be deprived of his remedy merely because of the delay (in his petition)'⁵³

Whenever, the Courts have found that two possible views can be taken of any statutory provision, they have always preferred one which 'supported the claim of the examinee and did not tend to thwart his career in life'.⁵⁴ The Courts would not favour "any other view of the matter...(which) would be harsh and unjust."⁵⁵ Under certain circumstances the

51. See also Tapendra Nath Roy v. University of Calcutta AIR 1954 Cal. 141.

Meena v. Madras University AIR 1958 Mad.494.
"Of course, this court has neither the power nor the intention to interfere with the discretion of the university in such matters. But just as it has got power to recommend to the Government the commutation of a sentence which it has no power to reduce, it must be deemed to have the power, and in deed duty, to recommend in suitable cases like this, to the university to reconsider its order, if it deems fit to do so.

P.Ayyar J. at p.493.

52. Damodar Mzhauly v. Utkal University AIR 1955 Orissa 151 Per Narasimah J. at p.156.

53. Ibid at p.156.

54. Himendra Chandra v. Gauhati University AIR 1954 Assam 65 Per Sarjoo Prasad C.J. at p. 67.

55. G.K. Ghose v. University of Calcutta AIR 1958 Cal. 83. per Sinha J.

Law Courts have found that 'Cancelling an examination or refusing to declare a result (is penal).⁵⁶ 'Any order would adversely affect the career of the student and deprive him or her of the fruits of the labour put-in must be regarded as a penalty for this purpose.'

The Calcutta High Court expressed its feeling of 'embarrassment' in dealing with a case where it found that 'the appellant has a just grievance (but) it is equally clear that no relief can be given'.⁵⁷ The courts have never lost opportunity, in deserving cases- where they have not found it difficult to issue orders or directions or allow remedies sought by the petitioners - to recommend to examination - authorities to adopt a sympathetic attitude and have reasonable consideration for examinee petitioners.⁵⁸

Education for Masses

A welfare government's responsibility does not end with establishing educational institutions or taking care that educational institutions run under its jurisdiction are of proper academic conditions and standards. It is also interested in seeing that the maximum number of persons take advantage of them. The Constitution enables Government to make special provisions to educate those who have lagged behind in the field of literacy and academic advancement.⁵⁹

56. Chittra Srivastava v. Board of H.S. and Inter Exams. UP. AIR 1963 All 41 at p. 43 Per Katju J.

57. Kanla Banerjee v. Calcutta University AIR 1956 Cal. 563 Per Chakravarti C.J. at p. 564

58. e.g. Triloki Nath v. Allahabad University AIR 1953 All.244
Meena v. Madras University AIR 1958 Mad 494.

59. Ref - article 15(4).

Eversince the Constitution came in force States have been making special provisions to facilitate educational requirements of socially and educationally backward class. The earlier State efforts to provide special advantages to members of backward classes, were held invalid by the Law Courts⁶⁰ as violating constitutional provisions prohibiting discrimination.⁶¹

The Madras State,⁶² (in pursuance of Art. 46 of the Constitution,) had made reservation of seats in medical and engineering institutions in favour of candidates coming from Backward classes. The reservation restricted the rights of students of advanced classes, which were of higher caste also, to get admission in those institutions. Article 46 is one of the Directive Principles of State Policy and it was contended on behalf of the affected students that the communal G.O. could not be valid as directive principles cannot override the fundamental rights guaranteed under Arts. 15(1) and 29(1). The High Court of the State as well as the Supreme Court accepted the contention and declared the 'communal G.O.' unconstitutional.

To avoid this anomalous position, immediately after the Supreme Court decision, the First Amendment of the Constitution was made to insert Art. 15(4). This is a saving clause for State to make special provision for the advancement of any socially and educationally backward classes of citizens or

60. Dorairajan v. State of Madras
A.I.R. 1951 Mad. 120.

State of Madras v. Sm. Champakam Dorairajan
A.I.R. 1951 S.C. 226.

61. Articles 15(1), 29(2).

62. Dorairajan v. State of Madras, AIR 1951 Mad. 120
State of Madras v. Sm. Champakam Dorairajan AIR 1951 SC.
226.

for the Scheduled Castes and the Scheduled Tribes.

Art. 15(4), however, does not solve the entire problem, many other difficulties have been brought to the Law Courts. The difficulties are:

- (1) Who may classify sections of citizens as socially and educationally backward classes and provide for them?
- (2) What should be the criteria for such classification?
- (3) What is the scope of Art. 15(4) to make special provisions for Backward Classes?

The first constitutional objection against steps taken by State authorities under Art. 15(4), is a jurisdictional one. Under Art. 340, it is in the President's jurisdiction to appoint a commission to investigate and study conditions of Backward Classes and to suggest steps to improve these conditions. Thus the contention was that it was not for the State but for the President to classify socially and educationally Backward Classes,⁶³ and to take steps to ameliorate their conditions. The contention was supported by citing Articles 341, 342 and 388 under which authority is vested in the President to determine and classify scheduled classes and scheduled Tribes. Both, the Supreme Court and the High Court of Mysore did not accept

63. Ramkrishna Singh v. State of Mysore A.I.R. 1960, Mysore 338.

M.R. Balaji v. State of Mysore AIR 1963 S.C. 649.

64. Ibid.

these contentions. Chief Justice S.R. Das Gupta of the Mysore High Court pointed out that it was not mentioned in the Constitution that for the purposes of the Constitution "Socially and educationally backward classes would mean the classes who have been specified by the President under Art. 340 of the Constitution."⁶⁵

Reading Articles 340 and 15(4) together, Justice Gajendragadkar (now Chief Justice of India) called the contention 'misconceived'. He said 'it would be erroneous to assume that the appointment of the Commission and the subsequent steps that were to follow it constituted a condition precedent to any action being taken under Art. 15(4).'⁶⁶ Regarding steps recommended by the Commission under Art. 340(1), his lordship held that they would be "implemented in their discretion by the Union and the State Government and not by the President (Thus) the argument that the President alone has to act in this matter cannot be accepted."⁶⁷

Criteria for Backwardness

After upholding the validity of constitutional authority of the State to act through its Executive⁶⁸ or Legislature

65. Ram Krishan Singh v. State of Mysore
A.I.R. 1960 Mysore 338, 344.

66. M.R. Balaji v. State of Mysore AIR 1963 Sc 699, 658.

67. Ibid at p. 658.

68. Ibid at p. 658, to the contention that under Art. 15(4) only State legislature can act and not the State executive, the Court held that under Art. 12 State includes both the Government and the legislature.

under Art. 15(4), the Supreme Court considered the important⁶⁹ question as to what should be the criteria according to which any class of citizens may be classified as Backward. The Court held that the backwardness should be both social and educational and not either of the two.⁷⁰ Determining social backwardness is a very difficult problem involving comprehension of complex and changing criteria needing an "elaborate investigation and collection of data and examining the said data in a rational and scientific way."⁷¹

However, the Supreme Court considered some objective conditions as relevant in adjudging backwardness of a class of citizens. These conditions are caste, poverty, occupations, place of habitation-rural or urban, and literacy.⁷² To decide backwardness of a group of citizens caste is not an irrelevant consideration⁷³ and it can also not be said that under Art. 15(4) the only permissible discrimination on the basis of caste is in favour of Scheduled Castes,⁷⁴ but the court held that caste cannot be treated as sole test of backwardness. Other factors must also be taken into consideration.

69. The Court held: "If the social backwardness of the communities to whom the impugned order applies has not been determined in a manner which is not permissible under Art. 15(4) and that itself would introduce an infirmity which is fatal to the validity of the said classification." Ibid at p.

70. Ibid at p. 658.

71. Ibid at p. 659.

72. Ibid.

73. Ibid.

74. Ramkrishan Singh v. State of Mysore
AIR 1960 Mys. 338 at p. 345.

The Mysore State made reservations of seats in educational institutions for candidates coming from backward classes and fell in error when it assessed backwardness of these classes in comparison to the most advanced sections of the society. The High Court pointed out that Article 15(4) of the Constitution was not designed to provide for comparatively backward classes, i.e., classes who compared to most forward classes are backward.⁷⁵ The Court called this reservation discrimination against five per cent of the population of the State, rather than a provision for the backward classes.⁷⁶ In practice the provision gave no benefit to really socially and educationally backward classes as they could not compete in the reserved quota of the seats against comparatively advanced (but classified) classes of the population.

The Supreme Court noted that fixing most advanced classes in the State as a standard for comparing backwardness had actually resulted in "sub-classification" among backward classes. The Court held that in introducing two categories of Backward Classes the impugned order purported to devise a measure for the benefit of all the classes of citizens who were less advanced compared to the most advanced classes in the State and it was not the scope of the Art. 15(4).⁷⁷ "The classification of the two categories, therefore, is not warranted by Art. 15(4)."⁷⁸

75. Ibid at p. 349;

76. Ibid.

77. M.R. Balaji v. State of Mysore. AIR 1963 SC 644 at 661.

78. Ibid.

The Law Courts have declared special provisions for backward classes unconstitutional where these provisions lead to infringement of the fundamental rights either of individuals of the backward classes themselves or of other citizens.⁷⁹ Thus the fixing^{of}/maximum number of seats available to members of Backward Classes resulted in hardship to them when they were actually able to compete and secure more seats had there been no reservations at all. Chief Justice K. Subba Rao (as he then was) of Andhra High Court held that this reservation would violate fundamental rights under Art. 19(2).⁸⁰ His Lordship suggested a modification in the rule for reservation of seats by substituting the words "minimum of 15 per cent" for the words "maximum of 15 per cent."⁸¹

The rights of other citizens may be abridged by special provisions made under Art. 15(4) but the Law Court would hold those provisions unconstitutional if the restraint "is wider than required by the actual necessity of imposing that restraint to achieve the object of securing advancement of Backward Classes." ⁸²

The arrangement is unconstitutional⁸³ which reserves percentage of seats in professional educational institutions in three categories viz., Scheduled Tribes and Scheduled Castes, Backward Classes and General Pool, and then provides that seats remaining unfilled in one of the first two categories might be

79. Jacob Methew v. State of Kerala AIR 1964 Ker.39 at p.64.

80. P.Sundarsan v. State of Andh. Pradesh
AIR 1958 A.P. 569 at p.571.

81. V. Raghuramulu v. Union of India
AIR 1953 A.P. 129 at p.131.

82. S.A. Partha v. State of Mysore AIR 1961 Mys.220 at p.234.

83. *ibid.*

transferred to another and also at the same time allows candidates for the reserved categories to compete separately both in the reserved as well as the general category.

This division of seats in different compartments and then allowing double advantages to backward class candidates causes great hardship to the candidates belonging to other communities.⁸⁴ K. Subba Rao the then Chief Justice of the Andhra High Court, suggested the need to work out reservation of seats in such a way as to protect the interests of students of the backward classes without at the same time causing prejudice to the students belonging to other communities.⁸⁵

In *M.R. Balaji v. State of Mysore*,⁸⁶ P.B.Gajendragadkar J. emphasised the need to adjust the interest of weaker sections of society which are the first charge on the States and the Centre with the interests of the community as a whole.⁸⁷ He observed:

"It would be against the national interest to exclude from the portals of our universities qualified and competent students on the ground that all the seats in the universities are reserved for weaker elements in society."⁸⁸

84. *P. Sundarsan v. State of Andhra Pradesh*
AIR 1958 A.P. 561.

85. *Ibid.*

"This could be achieved by pooling all the candidates together and guaranteeing minimum seats for those belonging to the backward classes.... If they fell short of that number, they would be selected to make up their number on the basis of merit inter se between them, though they get less marks than boys belonging to other communities."

86. AIR 1963 S.C. 649.

87. *Ibid* at p. 663.

88. *Ibid* at p. 662.

To achieve this adjustment of conflicting interests he referred with approval to the University Education Commission's suggestion that "the percentage of reservation shall not exceed a third of the total number of seats, and ... the principle of reservation may be adopted for a period of ten years (p.53).⁸⁹

However the Supreme Court was aware that to achieve this adjustment of interests no common formula or plan could be provided which could be adopted by each State. P.B. ⁹⁰ Gajendragadkar J.. while concluding his judgment observed:

"In our country where social and economic conditions differ from State to State, it would be idle to expect absolute uniformity of approach; but in taking executive action to implement the policy of Art. 15(4), it is necessary for the States to remember that the policy which has been declared by Art. 46 and the preamble of the Constitution. It is for the attainment of social and economic justice that Art. 15(4) authorise the making of special provisions for the advancement of the communities there contemplated. If such provisions may be inconsistent with the fundamental rights guaranteed under Art. 15 or 29(2). The context, therefore, requires that the executive action taken by the State must be based on an objective approach free from all extraneous pressures. The said action is intended to do social and economic justice and must be taken in a manner that justice is and should be done."

89. Ibid.

90. Ibid at p.664.

Students' indiscipline cases and the Law Courts -

A review of the cases connected with rustication of students on disciplinary grounds, discloses that the Law Courts have taken into consideration:

- (i) that in India the relationship between teacher and pupil is held sacred.⁹¹
- (ii) that the educational institution stands for the improvement of moral and intellectual standards of students. ⁹²
- (iii) that maintaining discipline the responsibility is entirely that of the head of the institution or any other authorised body. ⁹³
- (iv) that while exercising its disciplinary powers the authority concerned has to see the interest of all the three parties concerned - the institution, other students and the student against whom action is taken.
- (v) that the authority having a disciplinary power is the best judge to meet out punishment for misconduct committed by a student.⁹⁴

Considering (i) and (ii) it can be said that the courts in India are very reluctant to entertain and proceed with student - petitions relating to cases of indiscipline. The Courts do not like to interfere in the sacred relationship between a student and a teacher, or to help a student against his teacher. Teja Singh C.J. observed.⁹⁵

91. Jang Bahadur v. Mohinder College AIR 1951 Pep. 59.

92. Trilochan Singh v. Director S.I.S. Institute
A.I.R. 1963 Mad. 68.

93. Rana Pratap v. Banaras Hindu University A.I.R. 1960 All.579.

94. Ram Chandra v. Allahabad University
A.I.R. 1956 All. 46.

95. Jang Bahadur v. Principal Mohindra College,
A.I.R. 1951 Pepsu 59. at p.60.

"The relationship between a pupil and a teacher has always been held to be sacred in India and it is in the interests of students as well as of the entire body of the citizen that discipline amongst student is insisted upon. If students are allowed to condemn their teachers openly and with impunity, discipline is bound to go to dogs and no teacher will be able to discharge the sacred duty with which he is entrusted. It is for this reason that in every civilized state, Heads of Educational Institutions have been given ample and in some cases drastic powers to deal with cases of proved breach of discipline."

"It is wrong to import," observed Subba Rao J.,⁹⁶ "the conception of "lis" in dealings of a Principal with his students." And, on the question of a legal right of the student to come to a law court, Malik C.J.⁹⁷ observed:

"To hold that a student has a legal right to come to a court of law and require the head of the institution to justify his action where he has meted out some punishment or taken any disciplinary action will be subversive of all discipline in the schools and colleges. The High Court will not interfere in such matters for the internal autonomy of education institutions."

Giving a modern interpretation of contractual relationship between a student and a head of an educational institution, V. Bhargava J. of Allahabad High Court observed:⁹⁸

96. C.D. Sikkiler v. Krishna Moorthi AIR 1952 Mad. 151.

97. Kishob Chandra v. Inspector of Schools
A.I.R. 1953 All. 623.

98. Ram Chandra v. Allahabad University
A.I.R. 1956 All. 46.

.

A student, who enrolls himself in a University to receive education places himself under disciplinary powers of the Vice-Chancellor and the Vice-Chancellor can obviously award every kind of punishment that would be appropriate for the purpose of maintaining discipline."

iii) To achieve the purpose of an educational institution - 'to raise the moral and intellectual standard of its students' - and to honour the relationship between a student and a teacher, the courts have also accepted full discretionary powers of authorities of educational institutions to take disciplinary actions against misbehaving students. The exercise of such discretionary power has been held in many cases as an exercise of administrative discretion where observance of rules of natural justice while conducting enquiry into misbehaviour has not been held to be necessary.⁹⁹ In the exercise of administrative discretion the only requirements are that (a) an opportunity to explain the charge must be given to the student concerned at any stage

99. Swapan Roy v. Khagendra Nath.
A.I.R. 1962 Cal. 520.

Shibani Bose v. Promotha Nath AIR 1952 Cal. 238.

Ranvir Singh v. Distt. Inspector of Schools
A.I.R. 1954 All. 636

Ram Gopal Gupta v. Principal Victoria College
A.I.R. 1955 M.B. 33.

Ram Chandra v. Allahabad University
A.I.R. 1956 All. 46.

Jogindra Raj V. University of Allahabad A.I.R. 1956 All.503.

Rana Pratap v. Banaras Hindu University
A.I.R. 1960 All. 253
A.I.R. 1960 All. 579.

Trilochan Singh v. Director S.I.S. Institute
A.I.R. 1963 Mad. 68.

Harbans Singh v. Punjab University AIR 1964 Pun. 456.

of the enquiry¹⁰⁰ (b) the enquiry must be held 'honestly' and with no mala fide intention¹⁰¹ (c) the action taken must be on 'reasonable grounds'.¹⁰²

The interpretation of the rules of natural justice has been narrowed down by the courts and they have varied their application with the special circumstances of each case¹⁰. Thus, where the courts found that the statutory provision authorising the exercise of disciplinary power requires the exercise in quasi-judicial manner,¹⁰⁴ they have considered differently the adequacy of the opportunity¹⁰ given to the student concerned to be heard before disciplinary action could be taken against him. In such a case the Court required that the opportunity should have been given when the charges against the concerned student were

-
100. Rana Pratap v. Vice-Chancellor AIR 1960 All. 579.
 101. Shibani Bose v. Prometha Nath AIR 1952 Cal 228.
 102. Sadhu Ram v. Principal Rajender College
A.I.R. 1954 Pepsu 151.
 103. The requirement of the rule of natural justice, when applied to bodies like the university, what is required is that, the person to be proceeded against should be given an adequate or fair opportunity to rebut or explain the case against him, and as to whether in a given case the opportunity is adequate and fair must, from the very nature of things depend on a variety of circumstances.
I.D. Dua J.

Harbans Singh v. Punjab University AIR 1964 Pun 456.
Sadhu Ram v. Principal Rajendra College
A.I.R. 1959 Pepsu 151.
 104. Ramesh Chandra v. N. Padhy
A.I.R. 1959 Orissa 196. 209.
 105. Sadhu Ram v. Principal Rajinder College
A.I.R. 1954 Pepsu 151, 156.

'crystalized' and 'before the order of expulsion was passed: ¹⁰⁶

iv)&(v)

An expulsion order is a severe form of punishment. It carries with it a great stigma against the punished student. It has 'far-reaching consequences on his entire future career.' The Courts have, however, taken into consideration interests of the institution and its other students, and preferred not to interfere with the discretion of the institution's authority in the choice of punishment. Sometimes, the courts have chosen to comment on the punishment awarded to a student when they found that the expulsion order was not going to benefit either the institution, other students or the expelled student, and recommended to the concerned authorities to adopt a different attitude which may do good to all.¹⁰⁷ The Courts have shown great concern when the awarded punishment endangered the future of the punished youngmen. B.N. Banerjee J. observed:¹⁰⁸

"Scratch the green rind of a sapling repeatedly or wantonly twist it in the soil, and a scarred or crooked oak will tell of the act for years to come. So it is with the youngster treat him unsympathetically or shut to his face all the doors of educational institutions and an uneducated or a half-educated youth may live a useless life to proclaim what men want only didby refusing to him all opportunities of college education."

106. Sadhu Ram v. Principal Rajinder College
A.I.R. 1954 Pepsu 151, 156.

107. C.D. Sekkilar v. Krishna Mcorthy AIR 1952 Mad. 151, 57.

108. Swapen Rao v. Khagendra Nath AIR 1962 Cal. 520, 524.

3. Are Educational Institutions 'Industries'?

Is the work of imparting education conducted by educational institutions, an industry? In other words does S.2(j) of the Industrial Disputes Act, which defines 'industry' 'in words of widest amplitude', include educational institutions within its ambit? These were the important questions which came for consideration before the Law Courts in two cases,¹⁰⁹

To answer these questions the court had to give serious consideration to other allied concepts. Should the concept of 'service' which is expressly included in the definition of 'industry' be confined to 'material services' or ought it to be held to include even educational or cultural services? The Supreme Court had therefore necessarily to look at the function of educational institutions and observed;¹¹⁰

"The main function of educational institutions is to impart education to students and if it is held that the imparting of education is industry in reference to which the educational institution is the employer, it must follow that the teachers who cooperate with the institution and assist it with their labour in imparting education are the employees of the institution, and so, normally, one would expect that the teachers would be employees who would be entitled to the benefits of the Act."

109. University of Delhi v. Ram Nath AIR 1961 S.C. 1873.
B.S.E. Society v. W.B.C.E. Association AIR 1964
Cal. 48.

110. University of Delhi v. Ram Nath AIR 1963 S.C. 1873
P.B. Gajendragadkar J. (as he there was) at p. 1874.

The observation leads to another poser: 'Does the concept of cooperation between teachers and their institutions being treated as similar to the cooperation between labour and capital fit in with the scheme of the Act?' Teachers, however, are not held to be included in the definition of 'workmen' as provided by S. 2(a) of the Act. Thus, "the whole body of employees with whose cooperation the work of imparting education is carried on by educational institutions do not fall within the purview of S. 2(s), and any disputes between them and the institutions which employed them are outside the scope of the Act."¹¹¹

Looking at the essential activity of educational institutions (here the Delhi University) the Court concluded:

"The predominant activity of the University of Delhi is outside the Act, because teaching and teachers connected with it do not come within the purview, and so, the minor and incidental activity carried on by the subordinate staff which may fall within the purview of the Act cannot alter the predominant character of the Institution."

The minor and incidental activities are, for example, maintaining buses by employing drivers and conductors for carrying students, maintaining canteens and hotels.

111. University of Delhi v. Ram Nath AIR 1963 S.C. 1873 at p. 1875.

In the two appeal cases arising out of the awards made by the Industrial Tribunal to the respondents, drivers of college buses, whose services were terminated by the employer-University as the services were no more required, with one month's extra pay in each case but without a notice in advance, the Supreme Court held that the cases do not come under industrial disputes as the University is not an Industry.

maintaining repair shops for laboratory equipment, or maintaining a publication section only for those books and reading material which are needed for the institution itself. Besides teaching staff, staff of personal services, such as, accountants, library clerks, gatemmen, peons, is also maintained by an educational institution. Persons engaged in these services are not 'industrial workers.'¹¹²

The judgment of Justice Gajendragadkar in University of Delhi v. Ramnath has been criticized in so far as it takes away from an important and comparatively poor section of the Indian community the most important instrument of bargaining which the industrial civilization has developed. It is urged that in spite of a number of assurances continuously being given by government and other responsible persons to the teacher nothing substantial has been done so far for this class. In such a situation if the teacher had been allowed to use the instrument of collective bargaining as other classes and groups are allowed he would have certainly secured better terms. Justice Gajendragadkar, however, was looking at the profession from the high moral point of view and from the values and traditions attached to the teaching profession in India for a very long time. In his view the teaching profession should be a dedicated

112. B.S.E. Society v. W.B.E.C. Association AIR 1964 Cal. 48.

Brahmo Samaj Education Society and other education societies had gone in petition against the award made by the Industrial Tribunal to the W.B.C.E. Association. The award was for increase in salaries, providing facilities of house allowance provident fund etc. to the workers. The Association had claimed that the non-teaching staff of the colleges were entitled to the award.

The High Court of Calcutta held that educational institutions are not industries, therefore, workers of the institutions do not come under Industrial Disputes Act and are not entitled for the award.

class of right-minded thinkers whose image in society should not be that of a group using techniques and pressures for material and personal ends. Use of such collective bargaining techniques in his view would lower down the traditional image and status of a teacher in the eyes of the public and thus reduce his social efficacy.

Another criticism which is being levelled on this case is that while the case concerns the class IV servants of the university, the judgment bases itself upon the implications on the teacher community and only indirectly considers the effect upon those who brought the case to the court. The instrument of collective bargaining has so far been an instrument in the hands of the working class and if the hospital employees could be said to belong to the working class the class IV servants of the university would also deserve the same categorization. This disinclination of the court to regard the class IV servants of the university in the same category as the hospital employees seems to be largely due to the implications of such recognition on the total tone of life in a university. It may be that the present urgencies of social conflict in future may force the court to change this decision.

The following extract from the judgment of Justice Gajendragadkar bears ample testimony to this adherence to these values:¹¹³

"To speak of educational process in terms of

113. University of Delhi v. Ram Nath AIR 1963
S.C. 1873 at pp. 1875-76.

industry sounds so completely incongruous that one is not surprised that the Act has deliberately so defined workmen under S. 2(j) as to exclude teachers from its scope. Under the sense of values recognised both by the traditional and conservative as well as the modern and progressive social outlook, teaching and teachers are, no doubt, assigned a high place of honour and it is obviously necessary and desirable that teaching and teachers should receive the respect that is due to them. A proper sense of values would naturally hold teaching and teachers in high esteem, though power and wealth may not be associated with them. It cannot be denied that the concept of social justice is wide enough to include teaching and teachers, and the requirement that teachers should receive proper emoluments and other amenities which is essentially based on social justice cannot be disputed; but the effect of excluding S.2(s) is only this that the remedy available for the betterment of their financial prospects does not fall under the Act. The position nevertheless is clear that any problems connected with teachers and their salaries form the sole class of employees with whose cooperation education is imparted by educational institutions, their exclusion from the purview of the Act (The Industrial Disputes Act) necessarily corroborates the conclusion that education itself is not within its scope."

The measure and magnitude of Courts' interference in matters connected with educational institutions are largely influenced by the following considerations:

I. Effect on the autonomy of educational
institution. 114

II. Extent of the High Court's Jurisdiction
under Article 226 of the Indian Constitution. 115

-
114. Ramesh Chandra v. B.B.I. College AIR 1953 All 90.
Vilruddin v. Osmania University AIR 1964 Hyd. 25
Gokul Prasad v. M.M. Somani AIR 1962 M.P. 126.
M. Ramaswamy v. Marya Bhaken AIR 1963 Punj 419.
Himendra Chandra v. Gauhati University AIR 1954
Assam 65.
Meena v. Madras University AIR 1950 Mad. 494.
Sudarshan Lal v. Allahabad University AIR 1953
All 194.
Ashav Chandra v. Inspector of Schools AIR 1953
All 623.
Ishwari Prasad v. Allahabad University AIR 1955
All 131.
Phool Chand Sethi v. Nagpur University AIR 1957
Bom. 215.
Prem Narain v. State of the P. AIR 1960 All 205.
Shibani Bode v. Promotha Nath AIR 1952 Cal. 238
C.D. Sekkilar v. Krishna Moorthy AIR 1952 Mad.151.
115. Jogendra Raj v. University of Allahabad AIR 1956
All 503.
C.D. Sekkilar v. Krishna Moorthy AIR 1953 Mad 151.
Govindram Sharma v. State of U.P. AIR 1957 All 737.
Arunima Das v. Secy. Board of Secondary Education
AIR 1957 Cal. 182.
O. Birahari Singh v. Inspector of Schools AIR 1959
Manipur 1.
H.H. Datta v. Ad-hoc Committee P.B. (H.S.) AIR 1959
Tripura 27.
Eadasiva Arya v. State of Kerala AIR 1960 Ker.327.
Joseph Munlassery v. St. Thomas College, Tirchur
AIR 1954 T.C. 199.
S.F. Popali v. Travencore University AIR 1957 T.C.46.
S. Dutta v. Delhi University AIR 1963 Punj. 331.
Registrar University v. Ishwariprasad AIR 1956
All 603.
Dr. Brij Mohan Sharma v. Chancellor Lucknow
University AIR 1961 All 331.
Rana Pratap v. Banaras Hindu University AIR 1960
All 256.
Beni Madholal v. Bihar S.E. Board AIR 1954 Pat. 805.
Sadhu Ram v. Principal Rajindra College AIR 1954
Pepsu 151.
S.P. Singh v. Chancellor, Bhagalpur University
AIR 1964 Pat. 162.

III. Whether educational authority has acted in
administrative for quasi-judicial capacity;¹¹⁶
and the extent to which the principles of
natural justice should have been observed.¹¹⁷

-
116. Jagdish Chandra v. Punjab University AIR 1952
Punj. 395
117. East Punjab University v. Triloknath AIR 1953
Punj. 3.
- N.D. Vizirani v. Maharaja Sayaji Rao University
AIR Bom. 246.
- Amolak Singh v. Punjab University AIR 1957
Him. P. 31.
- Uma Shanker Singh v. State of Bihar AIR 1959
Pat. 224.
- Calcutta Singh v. Banaras Hindu University AIR
1960 All 331, AIR 1960 All 642.
- Pyaralal v. University of Saugar AIR 1961 M.P.356.
- Makand Madhav v. Agra University AIR 1961 All 301.
- Washin Ahmed v. Sec. Bd. of H.S. & Int. Exams.
AIR 1961 All 290.
- Anmol Singh v. Osmania University AIR 1963 A.P. 83.
- Swapna Rao v. Khagendra Nath AIR 1962 Cal. 520.
- Shivani Bose v. Prmotha Nath AIR 1952 Cal. 238
- Ranvir Singh v. Distt. Inspector of Schools
AIR 1954 All. 636.
- Ram Gopal Gupta v. Principal Victoria College
AIR 1955 M.B. 33.
- Ram Chandra v. Allahabad University AIR 1956 All 46.
- Jogindra Raj v. University of Allahabad AIR 1956
All 503.
- Rana Pratap v. Banaras Hindu University AIR 1960
All. 256 and 579.
- Trilochan Singh v. Director S.I.S. Institute
AIR 1963 Mad. 68.
- Harbans Singh v. Punjab University AIR 1964 Punj.456.
- C.D. Sekkilar v. Krishna Moorthy AIR 1952 Mad. 151.
- Ghanshyamdas v. Board of H,S.& Int. Exams. AIR 1956
All 539.
- Payarelal v. University of Sagaur AIR 1961 M.P.356.
- Mash-hoard Ali v. Sec. Secondary Education Andhra
Pradesh AIR 1962 A.P. 187.
- Board of H.S. & Int. Exams. v. Ghanshyam AIR 1962
S.C. 1110.
- Ran Chandra v. Panjab University AIR 1963 Punj 480.
- L. Nagraj v. University of Mysore AIR 1961 Mys. 164.
- Ajit Singh v. Ranchi University AIR 1964 Pat. 291.
- Ramesh Chandra v. N. Padhy AIR 1959 Orissa 196.
- Sadhu Ram v. Principal Rajinder College AIR 1954
Pepsu 151.
- C. Pirchaiah v. A ndhra University AIR 1961 A.P.465.
- J. Venkataswamy v. Correspondent K.G. Basic Senior
School AIR 1961 A.P. 178.

4. Autonomy of Educational Institutions -

The Law Courts have shown great restraint and unwillingness to interfere with the "internal autonomy"¹¹⁸ or 'internal working'¹¹⁹ of educational institutions. In matters connected with admission¹²⁰ examination¹²¹ and indiscipline¹²² of students and also in matters¹²³ connected with other bodies of educational institutions, such as, elections for University Court¹²⁴ or Executive Council¹²⁵ the Courts have not preferred to interfere with the exercise of discretion of the educational authorities with their internal administrations.

118. Vikruddin v. Osmania University AIR 1954 Hyd.25,28.
Keshav Chandra v. Inspector of Schools AIR 1953
All 623.
119. Shudarshan Lal v. Allahabad University AIR 1953
All 194, 195.
120. Ramesh Chandra v. B.B.I. College AIR 1953 All 90.
Vikruddin v. Osmania University AIR 1954 Hyd. 25.
Gokul Prasad v. M.M. Somani AIR 1962 M.P. 126.
M. Ramaswamy v. Manju Bhaken AIR 1963 Punj. 419.
v.
121. Himendra Chandra/Gauhati University AIR 1954 Assam 65.
Meena v. Madras University AIR 1958 Mad. 494.
Sudarshan Lal v. Allahabad University AIR 1953
All 194.
122. Keshav Chandra v. Inspector of Schools AIR 1953
All 623.
Shibani Bose v. Promotha Nath 1952 Cal. 238.
C.D. Sikkilar v. Krishnamoorthy AIR 1952 Mad 151.
123. Ishwari Prasad v. Allahabad University AIR 1955
All 131.
Phool Chand Sethi v. Nagpur University AIR 1957
Bom. 215.
Prem Narain v. State of U.P. AIR 1960 All 205.
124. Phool Chand Sethi v. Nagpur University AIR 1957
Bom. 215.
125. Ishwari Prasad v. Allahabad University AIR 1955
All. 131.
Prem Narain v. State of U.P. AIR 1950 All. 205.

Courts' reluctance to interfere in matter involving students is guided mostly by the consideration that interference will be "subversive of all discipline" in educational institutions.¹²⁶ Courts have shown faith in the proper exercise of discretion and power by persons responsible for running educational institutions.¹²⁷

So far as the autonomous bodies creations of statutes,^{128a} keep within statutory limits and conduct their business according to rules and regulations both in spirit and in letter¹²⁸ the Law Courts are reluctant to interfere.

Situations no doubt can arise which are not covered by an Act or a Regulation and an autonomous body has residuary power to deal with such situation in appropriate ways.¹²⁹ However, the Law Court requires that "the residuary power can be exercised only by way of implementing the express provisions of the Acts and Regulations and cannot be exercised in a manner inconsistent with them."¹³⁰

126. Keshav Chandra v. Inspector of Schools AIR 1953 All. 623, Sudarshan Lal v. Allahabad University, AIR 1953, All. 194, Meena v. Madras University AIR 1958 Mad. 494, Ramesh Chandra v. Principal B.B.T. College, AIR 1953, All. 90.

127. Vikruddin v. Osmania University, AIR 1954 Hyd. 25
G.P. Singh v. Faculty of Law, AIR 1953 All. 6, 9.

128a. Andhra University v. Durga Lakhami Manoharan
AIR 1951, Mad. 870.

128. Laxami Narayan v. C.B. Mahajan AIR 1955 All. 534.

129) Kamla Banerjee v. Calcutta University, AIR 1957

130) Cal. 563, 568.

Conduct of educational bodies, sometimes, leads to situations which may require application of rule of estoppel,¹³¹ but the Law Courts have not applied the rule where the conduct is found to have no statutory support at all.¹³² In *Meena v. Madras University*,¹³³ the petitioner was issued the hall-ticket to appear at B.T. Degree Examination of Madras University and she had appeared at the practical examination but was stopped from appearing at the theory examination as it was found that the University had not recognised the graduation degree of the S.N.D.T. Women's University of Bombay. It was urged on behalf of the petitioner that by allowing her to appear in the practical examination, the University was barred from refusing her to appear at the theory examination. The Court rejected the argument and observed¹³⁴

"There cannot be any legal or equitable estoppel in such cases. A mere moral estoppel as in this case, can only be ground for recommendation as *misericordiam*".

On the other hand, the Law Court has applied the rule of estoppel to a situation which was the result of an established practice not opposed to any statutory provision of a statutory body. In

-
131. *G.P. Singh v. Faculty of Law* AIR 1953 All 6.
Meena V. Madras University, AIR 1958 Mad.494.
Registrar, Madras University v. Dundra AIR 1956, Mad. 309.
132. *G.P. Singh v. Faculty of Law* AIR 1953 All 6.
133. *Meena v. Madras University* AIR 1958 Mad.494.
134. *Ibid* at p.495.

Madras University v. Sundra¹³⁵ the petitioners respondents were admitted to university courses of studies on the basis of stamped endorsement 'certificate completed' on Secondary School Leaving Certificate book (S.S.L.C. book). It was discovered much later¹³⁶ that their names were not in the list of the eligible candidates. Rajamannar C.J. of the Madras High Court observed:¹³⁷

"The position, therefore, is that the University did hold out that the eligibility endorsement on the certificate was 'prima facie' proof of the declaration of eligibility of the candidate concerned."

"In our opinion, this is an instance of something much more substantial than what Mr. Venkatasubramania Iyer characterised as sentimental estoppel. It is a case of legal and equitable estoppel which satisfies practically all the conditions embodied in S.115 of the Evidence Act".

Courts of Law will also not interfere if some other statutory remedy is available within the framework of the autonomous body.¹³⁸ The courts have held that they would interfere only when there is a

135. AIR 1956 Mad. 309.

136. Two of the three petitioners had already studied for one academic session and were promoted to second year, their appeal was decided in their favour. The third petitioner respondent had studied only for few months. In this case the Court held: "We do not think that the circumstances are such as would sustain a plea of estoppel. It is conceded as it was, that the University would have a right to correct a mistake made in the endorsement of eligibility on the S.S.L.C. Certificate. It is obvious some time elapse before a mistake is discovered...."

137. Andhra University v. Durga Lakshmi Manoharma AIR 1951 Mad. 370.

138. Phool Chand Sethi v. Nagpur University AIR 1957 Bom.215.

is a 'palpable violation of law which has occasioned injustice in a broad and general sense;¹³⁹ or which the authority concerned has acted malafide arbitrarily of actuated by extraneous circumstances.¹⁴⁰

In matters of the service conditions of the staff of statutory educational bodies, the law Courts have held that the rule that office is held during 'pleasure' does not apply.¹⁴¹ The Court observed that this rule is applicable only to the officers held under Governmental authority or Local ~~Self~~ Government. The Court warned that such a view would "however high the legitimate place of honour which a statutory body like the university ought to enjoy in the public life of the country, not only exalt it to a higher place than is warranted by needlessly assimilating it to a governmental authority or a body connected with Local Self Government but also involve

139. Prem Narain v. State of U.P. AIR 1960.

140. C.D. Sekkiler v. Krishna Moorthy AIR 1952 Mad. 151

141. Andhra University v. Duraga Lakshmi Manoharma AIR 1951 Mad. 870. The question involved was whether a servant of a university held his office at the 'pleasure' of the syndicate. It was contended on behalf of the university that servants of statutory corporation like Madras City Corporation held office during pleasure that appears of the university also held ~~their~~ officers at the pleasure of the syndicate.

for reaching consequences which ought not to be countenanced in regard to the security of tenure which ought to be assured to public officers and servants holding employment under it".¹⁴²

The Courts are in most cases of the view that services in autonomous educational institutions¹⁴³ are based either on master and servant relationship¹⁴⁴ or on contract.¹⁴⁵ In the case of master and servant relationship, the servant can always be dismissed for misconduct which however is a matter for proof by the master in court when the dismissal is challenged.¹⁴⁶ In the case of service based on contract; it can be terminated according to the terms and conditions of the contract.

A survey of cases connected with educational matters reveals that almost all of them were taken to the High Court under Article 226 of the Constitution. Under this Article the High Court

142. Ibid at p. 873

143. Biswaranjan Bose v. Hon. Sect. R.K. Misra .. Vivekanand Society Jamshidpur AIR 1958 Patna 653.

144. M.K. Datta v. Ad hoc Committee Panchaya Bharthi Agarthala AIR 1959 Tripura 27.

145. Rama Swamy Ayyangar v. State of Madras, AIR 1962 Mad. 387.
E.P. John v. State AIR 1957 T.C. 265

146. Andhra University v. Durga Lakshmi Manoharan AIR 1951 Mad. 870, 871.

Ramesh Chandra v. H.D. Jain College AIR 1957 Pat. Arrah 145.

has power to issue within its territorial jurisdiction directions orders or writs in the nature of certiorari, quo waranto, mandamus etc., to any person or authority.

- 1) for the enforcement of any of the rights conferred by Part III, and
- 2) for any other purpose.

For a High Court to exercise jurisdiction under Art. 226 existence of following conditions¹⁴⁷ is necessary :

- 1) The authority or person to whom orders, directions or writs are to be issued, must be a public authority or hold some quasi-public character.
- 2) For the issue of writ of certiorari or prohibition the authority must have¹⁴⁸ acted judicially or quasi-judicially.
- 3) The authority might have acted in excess¹⁴⁹ of jurisdiction.
- 4) The authority might have violated rules¹⁵⁰ of natural justice.

¹⁴⁷. These conditions have crystallised through several decisions of various High Courts and the Supreme Court since the constitution came in force.

¹⁴⁸. Discussed infra.

¹⁴⁹. Discussed infra.

¹⁵⁰. Discussed infra.

5) or there is error apparent on the face of the record.

1. In educational matters the question of public or quasi-public character of an authority in order to be amenable for remedies under Art. 226, is of great significance as there are institutions which are entirely private in character and the High Courts have held that they are not amenable to their jurisdiction under Art. 226.¹⁵² In some cases the Courts have gone to the extent that even a measure of government aid or affiliation¹⁵³ to a university does not make an institution a quasi-public institutions.

152. Joseph Munlassery v. St. Thomas College,
Trichur AIR 1954 T.C. 199

Chinnamma v. Regional Dy. D.P.I.
AIR 1964 A.P. 277; Swapan Roy v. Khangendra
Nath AIR 1962 Cal. 520

153. Joseph Munlassery v. St. Thomas College
Trichur AIR T.C. 199; G.F. Papali v.
Travancore University AIR 1957 T.C. 46;
Swapan Roy v. Khagendra Nath AIR 1962
Cal.520.

The present position is that mostly the institutions are of quasi-public character¹⁵⁴ as they either receive some government aid or use some public money available from some public-trust or public fund.¹⁵⁵ Thus, it is not difficult for a High Court to entertain a petition under Art. 226¹⁵⁶ against a quasi-public institution.

154. In re Kerala Education Bill 1957, AIR 1958 SC. 956.

155. Sikkilar v. Krishna Moorthy AIR 1952. Mad. 151.

156. C.D. Sikkilar v. Krishna Moorthy AIR 1952 Him. P.8

.....

Under Art. 226, however, the High Courts have confined their jurisdiction to the review of legal issues only and would not go into question of facts,¹⁵⁷ findings based on evidences,¹⁵⁸ or nature of punishment¹⁵⁹ or any policy questions.

The High Courts have also declined to entertain service disputes of contractual nature,¹⁶⁰ under Ar. 226. Violation of non-statutory rules and regulations which are only directory and executive in nature are not remediable under this Article. The High Courts have held that they would not issue directions to enforce directive or executive order under Art. 226.¹⁶¹ In addition to the limited judicial review under Art. 226 the High Courts have also entertained cases where the question of exercise of autho-

-
157. Hakim Rai v. University of Punjab AIR 1958 Him. P.8 East Punjab University v. Trilokinath AIR 1953 Punj. 3; Anmol Singh v. Registrar, Osmania University AIR 1963 A.P. 83.
158. M.K. Dutta v. Ad hoc Committee P.B. (H.S.) AIR 1959 Tripura 27.
159. O. Birhari Singh v. Inspector of Schools AIR 1959 Manipur 1; Ranvir Singh v. District Inspector of Schools AIR 1954, All 636; Trilochan Singh v. Director SIS Institute AIR 1963 Mad. 68; Ram Chandra v. Allahabad University AIR 1956 All 46.
160. Govindram Sharma v. State of U.P. AIR 1947 All 737.
161. Arunima Das v. Secy. Board of Secondary Education; AIR 1957 Cal. 182; Sadasiva Arya v. State of Kerala, AIR 1960, Ker. 327.

rity in excess of jurisdiction was involved.¹⁶²

The excess of jurisdiction may arise either by acting without any statutory authority or even by acting on unreasonable grounds.¹⁶³

A common ground on which the High Courts are usually approached is the violation of the rules of natural justice.¹ However, before looking into the application of the rules of natural justice to a particular case the courts have to see whether the authority had acted in administrative or a quasi-judicial capacity. So far as the relevant rules and statutory provisions require the authority to act according to a prescribed procedure there is no

162. Rana Pratap v. Banaras Hindu University, AIR 1960 All 256, Beni Madholal v. Bihar S.E. Board, AIR 1954 Pat. 405; Sadhu Ram v. Principal Rajindra College, AIR 1954, Pepsu 151.

163. Sadhu Ram v. Principal, Rajindra College, AIR 1954 Pepsu 151.

164 F.N. 116, 117.

difficulty for the Law Courts which have only to see that the prescribed procedure is followed.

In most of the cases where the authority is vested with ample discretion, the Courts have interpreted it as an administrative action. In exercise of statutory discretion, the Courts have observed that no particular procedure is to be necessarily followed.¹⁶⁵ The only limitations which the Courts have chosen to impose on an administrative action of educational authorities are that it should be done 'fairly', 'honestly', and in good faith uninfluenced by 'extraneous motives'.¹⁶⁶

In some cases, the High Courts have interpreted the exercise of administrative discretion as an act of quasi-judicial nature. Their interpretation has been guided by (a) the

165. Swapan Roy v. Khagendra Nath, AIR 1962 Cal. 520; Shiban Bose v. Promotha Nath AIR 1952 Cal. 238; Rana Pratap v. Banaras Hindu University, AIR 1960 All 256, AIR 1960 All 579; Trilochan Singh v. Director SIS Institute, AIR 1963 Mad. 68.

166. C.D. Sikkilar V. Krishnamoorthy, AIR 1952 Mad. 151.

wordings of the statutory provisions authorising the exercise of the disciplinary powers or (b) the special circumstances of the case.

The special circumstances may be the existence of a 'lis' between the parties, or the authority's action might have 'prejudicially'¹⁶⁷ affected the petitioner, or the action which resulted in a stigma which would cast a slur on the character of the petitioner for the rest of his life.¹⁶⁸ The Supreme Court in Board of H.S. and Intermediate Exams. v. Ghanshyam¹⁶⁹ has observed that it is not always possible to determine in a given case from the statutory provisions,

167. Ghanshyam Das v. Board of H.S. and Intermediate Exams. AIR 1956 All 539; Payarelal v. University of Sagaur AIR 1961 M.P. 356; Mastihaad Ali v. Secy. Secondary Education Andhra Pradesh, AIR 1962 A.P. 187; Ghanshyam Das v. Board of H.S. and Intermediate Exams. AIR 1962 S.C. 1110; L. Nagraj v. University of Mysore, AIR 1961 Mys. 164; Ajit Singh v. Ranchi University, AIR 1964 Pat 291; Dipa Lal v. University, of Calcutta, AIR 1952 Cal. 544.

168. L. Nagraj v. University of Saugar, AIR 1961 Mys. 164.

169. AIR 1962 S.C. 1110

or from any one single circumstances of the case to what is the nature of the exercise of the authority. To determine whether the authority should have acted in administrative capacity or in quasi-judicial capacity,

170

Justice K.N. Wanchoo observed:

"The inference whether the authority acting under a statute where it is silent has the duty to act judicially will depend on the express provisions of the statute read along with the nature of the rights affected, the manner of the disposal provided, the effect of the decision on the person affected and other indicia afforded by the statute. A duty to act judicially may arise in widely different circumstances which it will be impossible and indeed inadvisable to attempt to define exhaustively".

The quasi-judicial authorities must follow the rules of 'natural justice'. But, the rules of natural justice are of variable content, and are of 'elastic conception specially when applied to educational institutions'.

171

The Law Courts have generally observed the following

170. AIR 1962 S.C. 1110 at pp. 1113-1114.

171. C.D. Sikkilar v. Krishna Moorthy AIR 1952 Mad. 151, 156.

rules in applying the principles of natural justice to educational cases :

- a) An opportunity to explain charges, at any stage of the proceedings, is a sufficient compliance with the rule that opportunity to be heard should be given. 172

(But in the special circumstances of a case this may not be sufficient, and the opportunity should be given only when charges have crystallised)173

- b) Notice of the charges should be given. Charges should be specific, but the specifications are not necessary when in the special circumstances of a case it is not possible to identify an individual's act in a mass demonstration.175

174

- c) There is no right to cross-examine the witnesses who appear during the course of enquiry conducted by an educational authority.176

- d) It is also not necessary that an opportunity be given to have an access to the entire record and reports collected during the enquiry.

172. Rana Pratap v. Banaras Hindu University, AIR 1960 All. 579.

173. Sadhu Ram v. Principal Rajinder College AIR Pepsu 151.

174. Harbans Singh v. Punjab University, AIR 1964 Punj. 456.

175. Rana Pratap v. Banaras Hindu University, AIR 1960 All 599.

176. Ram Chandra v. Allahabad University, AIR 1956 All. 46; Harbans Singh v. Punjab University, AIR 1964 Punj. 456.