

THE HIGH COURT OF MEGHALAYA

WP(C) No. 119 of 2015

Shri. Aaron Lungleng,
Son of Benjamin Lungleng,
Department of Anthropology
(Ph.D) Japfu Hostel, Block C
Mawlai, Shillong, East Khasi Hills
District, Meghalaya.

.....Writ Petitioner

-Versus-

1. The North Eastern Hill University,
Mawlai, Umshing, Shillong.
2. The Vice Chancellor of the North
Eastern Hill University, Umshing, Shillong.
3. The Registrar of the North Eastern Hill
University, Umshing, Shillong.
4. The Proctor of the North Eastern Hill
University, Umshing, Shillong.
5. The Dean Student's Welfare of the North
Eastern Hill University, Umshing, Shillong.
6. The Security In-charge,
Security Cell, North Eastern Hill University,
Umshing, Shillong.

.....Respondents

AND

WP(C) No. 120 of 2015

Shri. Saramwung Raikhan,
Son of Wungmaso Raikhan,
Department of History (Ph.D)
Chhinlung Hostel, Block -A,
Mawlai, Shillong, East Khasi
Hills District, Meghalaya.

...Writ Petitioner

-Versus-

1. The North Eastern Hill University,
Mawlai, Umshing, Shillong.
2. The Vice Chancellor of the North
Eastern Hill University, Umshing, Shillong.
3. The Registrar of the North Eastern Hill
University, Umshing, Shillong.
4. The Proctor of the North Eastern Hill
University, Umshing, Shillong.
5. The Dean Student's Welfare of the North
Eastern Hill University, Umshing, Shillong.
6. The Security In-charge,
Security Cell, North Eastern Hill University,
Umshing, Shillong.

.....Respondents**AND****WP(C) No. 121/2015**

Shri. Ringlan Ngashangva,
Son of Pearson Ngashangva,
Department of Sociology (M.A.)
Kynrem Hostel-14, Mawlai,
Shillong, East Khasi Hills District,
Meghalaya.

.....Writ Petitioner**-Versus-**

1. The North Eastern Hill University,
Mawlai, Umshing, Shillong.
2. The Vice Chancellor of the North
Eastern Hill University, Umshing, Shillong.
3. The Registrar of the North Eastern Hill
University, Umshing, Shillong.

4. The Proctor of the North Eastern Hill University, Umshing, Shillong.
5. The Dean Student's Welfare of the North Eastern Hill University, Umshing, Shillong.
6. The Security In-charge,
Security Cell, North Eastern Hill University,
Umshing, Shillong.

.....Respondents

**BEFORE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

For the petitioner : Mr. H.L.Shangreiso, Adv.
 For the respondents : Mr. K.Khan, Adv.
 Date of hearing : 25-05-2015
 Date of Judgment : 25-05-2015

JUDGMENT AND ORDER (ORAL)

These writ petitions are taken up for joint hearing inasmuch as the same relief is prayed for on the basis of common question of fact and law.

2. Heard Mr. H.L.Shangreiso, learned counsel appearing for the petitioners and also Mr. K. Khan, learned counsel appearing for the respondents. The common impugned order dated 09-03-2015 assailing in these writ petitions read as follows:

**“NORTH-EASTERN HILL UNIVERSITY
MAWLAI – UMSHING, SHILLONG – 793022**

*No.F.SC/9-25/Rape&Molestation/2015/-01
Dated 9th March 2015*

ORDER

Consequent upon the incident which occurred on 27th February, 2015; as per the F.I.R. dated 28.2.2015 filed by one canteen maid (name withheld for confidentiality) with the Mawlai Police Station, Shillong against the three accused NEHU students, identified as (1) Shri Ringlan Ngashangva, 4th semester student, Department of Sociology & Resident of Kynrem Hostel No. 14, (2) Shri Aaron Lungleng, Ph.D. Student, Department of Anthropology & Resident of Japfu Hostel No. 13, and (3) Shri Saramwung Raikhan, Ph.D. Student, Department of History Department & Resident of Chhinlung – A Hostel No. 11; and as per the Report submitted by the S.I./In-Charge, Security Cell, NEHU, Shillong; the University authority took stock of the development of the case in a meeting on 2nd March, 2015 and recommended temporary suspension of all the accused students from the University, till the matter is finalized by the District Administration/ Court.

This has the approval of the Vice Chancellor.

Registrar”

3. Facts of the case sufficient for deciding the present writ petitions is briefly noted. On 27-02-2015 an Ejahar had been lodged by an employee of the canteen of the NEHU to the Mawlai Police Station alleging that the writ petitioner and two others had assaulted the said employee of the canteen. On the basis of the said ejahar, the Officer Incharge of Mawlai P.S. had registered criminal case being Mawlai P.S. Case No. 16 (2) 2015 under Section 354/325/34 IPC. It is also stated that the writ petitioners, after coming to know the registration of the said criminal case against them, had filed the application for pre-arrest bail before the Court of the Additional Deputy Commissioner (Judicial), Shillong. The learned Additional Deputy Commissioner (Judicial), Shillong had granted the anticipatory bail to the writ petitioners vide order dated 18-03-2015.

4. It is also alleged that as per the report submitted by Security Incharge, Security Cell, NEHU, Shillong the University

authority in its meeting held on 02-03-2015 recommended temporary suspension of all the petitioners from the University till the matter is finalized by the District Administration/Court. It is categorically stated in the writ petitions that before passing the common impugned order dated 09-03-2015, the petitioners were not provided with the opportunity of being heard.

5. Mr. K. Khan, learned counsel appearing for the respondents contended that the disciplinary committee can enquire into the case of discipline suo moto or on report for any students, teachers etc. Ordinance 2 of OD-8 of the NEHU Ordinance read as follows:

“DEPARTMENTAL DISCIPLINE COMMITTEE

2:1 Every Department shall have a Departmental Discipline Committee. The Committee shall have three members with the Head of the Department as its Chairman. The Committee will be constituted by the Head of the Department in consultation with the Department and with the approval of the Dean of the School. Its term of office shall be two years.

2:2 The functions of the Department Discipline Committee shall be as follows:

- (i) to oversee general discipline in the Department and assist the Head in ensuring that the Department functions smoothly.*
- (ii) to enquire into cases of discipline suo moto, or on report from any student, teacher etc.*

2:3 The Committee shall be competent to admonish, and issue written warning in case a student is found guilty of indiscipline. If the act of indiscipline recurs more than twice, the matter shall be referred to the School Discipline Committee.

2:4 The Head of the Department, as the Chairman, will preside over the Departmental Discipline Committee meetings and all communications to the School Discipline Committee will be made by him.”

6. Mr. K.Khan, learned counsel appearing for the respondents does not deny the fact that no opportunity of being heard was provided to the petitioners before passing the common impugned order dated 09-03-2015. Mr. K. Khan, learned counsel appearing for the respondents also faintly submitted that there is no provision for giving opportunity of being heard to the students before passing any order in the said ordinance. He also contended that Statute 31 of the University Statute clearly provides as to who can pass the order for maintenance of discipline amongst the students. Statute 31 of the NEHU read as follows:

“31. (1) All powers relating to the discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in the exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department of the University for a stated period, be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or a Department for one or more years, or that the results of the student or students, concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges, Institution, Head of Special Centres, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to

exercise all such disciplinary power over the students in their respective Colleges, Institutions, Special Centres, Schools and Teaching Department in the University as may be necessary for the proper conduct of such Colleges, Institutions, Special Centres, School and teaching in the Departments.

(5) Without prejudice to the powers of the Vice Chancellor, the Principals and other persons specified in Clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principal of Colleges, Institutions, Head of Special Centres, Deans of Schools of Studies and Head of Teaching Departments in the University may also make supplementary rules as they deem necessary for the aforesaid purposes. Every student shall be supplied with a copy of the rules made by the University and a copy of the supplementary rules shall be supplied to the student concerned.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.”

7. Mr. H.L.Shangreiso, learned counsel appearing for the petitioners contended that even if the statute does not provide for opportunity of being heard before passing any order of punishment, the principle of natural justice shall read into that statute. For this settled principle of law, this Court is of the considered view that no citation is required. After hearing the submissions of learned counsel appearing for the parties and also perusal of the pleadings in the writ petitions supported by an affidavit, it is clear that the petitioners were not provided the opportunity of being heard or given any opportunity of filing show-cause before passing the common impugned order dated 09-03-2015 on the basis of Resolution of the authority of NEHU held on 02-03-2015. Accordingly, the common impugned order dated 09-03-2015 which was passed in clear

violation of principal of natural justice is called for interference. Hence, the common impugned order dated 09-03-2015 is hereby quashed. However, passing of this order shall not stand in the way of taking up any disciplinary proceedings against the petitioners according to law by following the principle of natural justice. With the above observations, the writ petitions are allowed.

JUDGE

S.Rynjah