

(2009) 06 MAD CK 0060

In the Madras High Court

Case No : Writ Petition No. 6227 of 2009 and M.P. No. 1 of 2009

A. Madhivanan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 23-06-2009

Acts Referred:

Constitution of India, 1950 — Article 19(1), 19(2), 226

Criminal Procedure Code, 1973 (CrPC) — Section 54

Penal Code, 1860 (IPC) — Section 147, 188, 294, 353

Tamil Nadu Public Property (Prevention of Damages and Loss) Act, 1992 — Section 3

Citation : (2009) 06 MAD CK 0060

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : R. Sagadevan, for the Appellant; Dhakshayani Reddy, Government Advocate (R. 1 to R. 3 and R. 4) and T. Madhusudhan Reddy, for (R. 2), for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing for the petitioner, the learned Government Advocate appearing for the

respondents 1, 3 and 4 and the learned Counsel appearing for the second respondent.

2. The petitioner has stated that he has been pursuing his studies in the third year Bachelor of Arts (Philosophy) in Madras Christian College,

Tambaram. While so, the Principal of the College, the second respondent herein had passed an order, dated 31.3.2009, suspending the petitioner

from the college.

3. The petitioner has further stated that he is a member of RSYF, which is an organisation formed to safe guard the rights of those who suffer social

injustice, including casteism, and for the protection of student rights and socio

political rights. The said organisation had joined the agitation relating to the Srilankan Tamil issue by organising demonstrations, processions, meetings etc. On 3.3.2009, the petitioner had participated in a demonstration, held in front of the entrance of Presidency College, Chennai. During the said demonstration, some police personnel, including the third respondent, had arrived at the spot in a police patrol vehicle and they started abusing the petitioner and others, by using filthy language. They had also assaulted the petitioner and the other members of the organisation. Thereafter, a first information report had been lodged and a criminal case had been registered in Crime No. 37 of 2009, against the petitioner and others, under Sections 147, 353, 294(b), read with Section 188 of the Indian Penal Code and Section 3 of the Tamil Nadu Public Properties Destruction Act. The petitioner was produced before the XIII Metropolitan Magistrate, Egmore, Chennai, for being remanded to custody. The petitioner had filed a petition, u/s 54 of the Criminal Procedure Code. The injuries suffered by the petitioner had been recorded and he was referred to the Government Hospital for treatment. After the petitioner had been treated he was sent to judicial custody, till 17.3.2009. The petitioner and the others had been granted bail, on 9.3.2009. On 16.3.2009, the petitioner had received a letter from the second respondent college directing him to appear for an enquiry to be conducted by the College Discipline Committee, on 20.3.2009. Pursuant to the letter of the second respondent, the petitioner had attended the enquiry conducted by the College Discipline Committee, on 20.3.2009, wherein he had explained the facts and circumstances leading to the incident that had occurred, on 3.3.2009. On 31.3.2009, the petitioner had received an intimation from the second respondent college that he had been suspended from the college from 31.3.2009, until a clearance from the Police Department, D-6 Anna Square Police Station, was obtained. In such circumstances, the petitioner has preferred the present writ petition before this Court, challenging the said communication from the second respondent college, dated 31.3.2009, under Article 226 of the Constitution of India.

4. The learned Counsel for the petitioner had submitted that the petitioner is a law abiding student. However, under certain compelling circumstances, the petitioner had participated in a demonstration near

Presidency College, Chennai, in support of the Srilankan Tamil issue. During the said demonstration the petitioner was abused by the police personnel, who had come to the place, where the demonstration was being held.

Though the petitioner and the others present at the site had been demonstrating peacefully, a criminal case had been registered against them, without sufficient cause or reason.

5. Per contra, the learned Counsel appearing on behalf of the respondents had submitted that action had been taken against the petitioner and the others, who were agitating near Presidency College in support of the Srilankan Tamil issue, since they became violent and were causing nuisance in a public place. It has been further stated that a criminal case had been registered against the petitioner in Crime No. 37 of 2009, and it is pending on the file of the XIII Metropolitan Magistrate, Egmore, Chennai.

6. The learned Counsel appearing on behalf of the second respondent had stated that the petitioner had indulged in slogan shouting, on 3.3.2009, near Presidency College, Chennai, in support of the Srilankan Tamil issue. Based on the first information report lodged against the petitioner before the third respondent police station, a criminal case has been registered against the petitioner in Crime No. 37 of 2009. Since the action of the petitioner amounted to indiscipline, an enquiry had been held by the College Discipline Committee, on 20.3.2009. The petitioner had submitted a written explanation admitting that he had participated in a demonstration before Presidency College, in support of the Srilankan Tamil cause. The College Discipline Committee, after taking into consideration the safety and the discipline of the college and the larger interests of the other students, had suspended the petitioner, temporarily, after providing him a due opportunity to explain his case. In such circumstances, the order passed by the second respondent, on 31.3.2009, is in accordance with law and the principles of natural justice. Therefore, the writ petition is devoid of merits.

7. At this stage of the hearing of the writ petition, the learned Counsel for the petitioner had submitted that the petitioner would file an affidavit undertaking that he would not indulge in such activities in future and that he would not act in any manner that could be termed as indisciplined behaviour. Since the academic career of the petitioner would be seriously

affected this Court may be pleased to direct the second respondent to revoke the suspension order, dated 31.3.2009, forthwith, and further, direct the authorities concerned to permit the petitioner to write the examinations, which he could not write due to the disciplinary proceedings initiated against him, and to publish the results thereafter, subject to the rules and regulations applicable to the case.

8. At this stage of the hearing of the writ petition, the learned Counsel appearing on behalf of the respondent had filed an affidavit of undertaking signed by the petitioner before this Court. It is as follows:

1. I submit that I am the petitioner herein as such I am well acquainted with the facts and circumstances of the case.

2. I submit that I am filing this undertaking as per the orders of the Honourable High Court of Judicature at Madras in W.P. No. 6227 of 2009.

3. I hereby render my unconditional apology to the 2nd respondent college. I further submit that I will regularly attend the class and maintain

discipline in the college campus and I will strictly follow the rules and regulations of the college.

4. I submit that taking into consideration the fact that the 2nd respondent college is willing to permit me to attend the college, I hereby undertake the following:

(A) I shall not indulge in acts of violence within the college campus, or outside the campus, either by myself or in the company of other students, or others;

(B) I shall not participate in any political agitations, if any, and concentrate only on my studies; and

(C) In addition to my studies, I also undertake to do any work assigned to me, without prejudice to my dignity, by the second respondent college.

5. I submit that this undertaking is without prejudice to the prosecution initiated against me in Crime No. 37 of 2009 registered by the third respondent, in which I am an accused.

6. I submit that in default of my undertaking, I shall submit myself to contempt of Court, or any action taken by the second respondent college.

9. In view of the undertaking given by the petitioner, the learned Counsel appearing on behalf of the second respondent had submitted that the

impugned order of suspension, dated 31.3.2009, would be revoked on condition that the petitioner files a similar undertaking before the second respondent.

10. At this juncture, it is pointed out that freedom of speech and expression, enshrined in Article 19(1)(a) of the Constitution of India, being a fundamental right, it should be preserved and given effect to with all the sanctity it deserves. However, it also casts a duty on the person who exercises such a right. However, it is clear that the said right could be curtailed and regulated to the extent permitted, under Article 19(2) of the Constitution of India. There is no doubt that it is equally important for the management of the second respondent college to maintain discipline amongst its students, in order to maintain the high standards expected of such educational institutions.

11. In view of the submissions made by the learned Counsel appearing on behalf of the petitioner, as well as the respondents, the respondents 1, 2 and 4 are directed to permit the petitioner to write the examinations, which he could not write due to the disciplinary proceedings initiated against him, and to publish the results thereafter, subject to the rules and regulations applicable to the case.

12. In view of the submissions made by the learned Counsel for the second respondent that the impugned order, dated 31.3.2009, would be withdrawn on the petitioner submitting an undertaking, similar to the affidavit of undertaking, dated 22.6.2009, filed before this Court, this Court is of the view that no further orders are required to be passed in the present writ petition, quashing the impugned order of the second respondent, dated 31.3.2009. This order is passed without prejudice to the criminal proceedings pending against the petitioner.

The writ petition is ordered accordingly. No costs.