

(2009) 04 MAD CK 0521

In the Madras High Court

Case No : Writ Petition (MD) No. 2624 of 2009 and M.P. (MD) No's. 1 and 2 of 2009

A. Maharaja

APPELLANT

Vs

The Anna University and Pandiyan Saraswathi Yadhav
Engineering College

RESPONDENT

Date of Decision : 06-04-2009

Acts Referred:

Citation : (2009) 04 MAD CK 0521

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : J. Nisha Banu, in W.P. No. 1967/2009 and J. Ananda Valli, in W.P. Nos. 2624 and 2625/2009, for the Appellant; A. Thirumurthy, for Venkatsamy, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—"Discipline is the hall mark of any educational institution and is the most needed quality in any citizen of this country", said, a learned Judge of this Court in a decision reported in B. Muthuvairam Vs. The Principal, Pachiappa's College, Madras and Another, . The disciplinary action taken by the management of the third Respondent college is questioned in the present writ petitions.

2. The Petitioners are students of third Respondent-Engineering College. On completion of their diploma course, they applied for B.E., in Anna University, Chennai and they were selected and admitted to B.E.(Electrical and Electronics Engineering) course in the second year to the third Respondent college. According to them, they were admitted to the third Respondent college under the government quota for the academic year 2007-08.

3. It is the case of the Petitioners that along with their friends, they went out of the college around 10.00 a.m. and returned to the college at 3.00 p.m. They

have signed the outgoing and incoming registers maintained by the hostel warden. They went for a treat given by one of their friends for a Birthday party at Sivagangai. The mess timing for the afternoon is 2.30 p.m. Since they came late, the mess people refused to serve food and there was a wordy quarrel. The mess master came there and directed the workers to give food. The Petitioners had their lunch. When the warden came to the mess, he seized their cell phones which contained a photograph saying "cheers" while having drinks. On the next day, 3.00 p.m., suspension orders were served to the Petitioners alleging misbehavior. Immediately all of them gave a letter of apology stating that such incidents would not happen in future. Simultaneously, the Petitioners' parents were summoned to meet the Principal. Accordingly, their parents met the Principal about 5.00 p.m., on 05.01.2009. The Principal told their parents and instructed them to advise the Petitioners properly and asked them to sign in a piece of paper. Later on, it was found that the Principal, had issued Transfer certificates to all the Petitioners with an endorsement, "Discontinued". When the elders, requested the Principal to take them back into the college, it was refused.

4. It is the case of the Petitioners that though the third Respondent college had assured that the Petitioners would be re-inducted, they failed to do so. As the examinations for the sixth semester was scheduled on 08.03.2009, they are constrained to prefer the present Writ Petitions, challenging the action of the college in issuing the Transfer Certificates, and consequently prayed for a direction to withdraw the Transfer Certificates issued by the third Respondent and allow them to continue their studies.

5 . Refuting the averments made in the affidavit filed in support of the Writ Petitions, the Principal of the third Respondent college, in his counter affidavit submitted that on 04.01.2009, Mr. Karthigaiselvam (Petitioner in W.P(MD) No. 1967 of 2009) and four other students, viz., Mr. Maharaja (Petitioner in W.J.P.(MD) No. 2624 of 2009) (b) Mr. Anburajah, (c) Mr. G. Malaimurugan (Petitioner in W.P. (MD) No. 2625 of 2009) and (d) Mr. N. Naveen went out of the Hostel at 10.00 a.m., and returned to the college about 2.15 p.m., under intoxication. Thereafter, they went to the Canteen about 2.30 p.m., for lunch. The Respondent has further submitted that the canteen employees supplied food for them. They quarreled rudely with a lady canteen employee to parcel chicken for them for further consumption of alcohol in the college premises. The canteen employees informed the above incident to the canteen manager, who in turn informed the Deputy Wardens of the Hostel, viz., Mr. A. Sathasivam and Mr. A. Ayyanar. Thereafter, the Deputy Wardens enquired Mr. Karthigaiselvam, Petitioner in W.P. No. 1967 of 2009 and four other students, viz., Mr. Maharaja (Petitioner in W.P.(MD) No. 2624 of 2009) (b) Mr. Anburajan (c) Mr. G. Malaimurugan (Petitioner in W.P.(MD) No. 2625 of 2009) and (d) Mr. N. Naveen. In one of their cell phones, a photograph saying "Cheers", while consuming alcohol in the college premises and obscene photographs were found. When the Deputy Wardens enquired them about their conduct, all the Petitioners admitted that they had consumed alcohol in the college premises and also the quarrel between the Petitioners and the employees

of the canteen. Immediately, the Deputy Wardens informed the third Respondent over phone about the incident and through the Deputy Wardens, the Petitioners were instructed to bring their parents. Accordingly, the Petitioners' parents met the principal on 05.01.2009. A Committee was constituted to conduct an enquiry. The enquiry committee conducted a detailed enquiry about the incident (consumption of alcohol drinks in the college premises) that had occurred on 04.01.2009. The Petitioners and other students who were involved in the misconduct along with the parents appeared before the enquiry committee on 05.01.2009. They submitted individual letters of apology. The enquiry committee found that the Petitioners had indulged in a very serious misconduct of consumption of liquor and therefore, recommended for termination of the Petitioners from the college. The Principal of the College has further submitted that Mr. A. Maharaja, Mr. Anburajan, Mr. G. Malaimurugan and Mr. N. Naveen were already suspended for the very same misconduct committed by them on 27.01.2008. Warning and advice given to them did not have the desired effect of correction and therefore, it was decided to accept the enquiry committee's report and dismiss them from the college. He has further submitted that when four students, viz., (a) Mr. Maharaja (b) Mr. Anburajan, (c) Mr. G. Malaimurugan and (d) Mr. N. Naveen consumed alcohol in the college premises and caused annoyance, they were suspended on 27.01.2008. At that time, accepting their unconditional apology and undertaking that such incident would not happen in future, the college administration had shown leniency and cancelled their suspension, by giving a warning. Even thereafter, they did not mend their conduct and behaved in the same manner. The Petitioner in W.P. No. 1967 of 2009, Mr. Karthigaiselvam, has also joined the above group of students. In these circumstances, the college administration has apprehended that any leniency shown to the Petitioners, would only have a demoralising effect in the mind of other students and would also pave way to recurrence. When the college administration decided to dismiss the Petitioners for their grave misconduct, the Petitioners and their parents, requested the college administration to issue Transfer Certificates stating that they are discontinued from the college without indicating anything in the Transfer certificate about the disciplinary action taken against them. Considering the same, the administration issued individual Transfer Certificates, without any adverse entry, taking into consideration of the future life of the students. The third Respondent has further submitted that after the notification of the examination schedule, if any student discontinues, the college has to inform the concerned University of the discontinuation of studies, by the student. As the examination schedule has already been notified, the college would send the information regarding the discontinuation of the course by the Petitioners in due course. According to them, prior intimation to the University about the dismissal of students from the college is not required. The third Respondent has further submitted that adequate opportunity was given to each of the Petitioners and therefore, there is no violation of the principles of natural justice. For the above said reasons, they submitted that there is no illegality in issuing the Transfer Certificates to the Petitioners and prayed for dismissal of the

above Writ Petitions.

6. Referring to the Regulations 2008 of the Anna University applicable to all students of B .E and B. Tech programmes, from the academic year 2008-09, Mrs. Nisha Banu learned Counsel for the Petitioners submitted that whenever a disciplinary action is taken against the students, the college has to notify the University about the disciplinary action recommended for approval. She further submitted that though the third Respondent college claimed to have conducted an enquiry by a disciplinary committee, without forwarding the proposals for approval to the University, taking advantage of the illiteracy of the Petitioners' parents and by deceit, issued Transfer Certificates as if the Petitioners and their respective parents requested the college administration to issue the Transfer Certificates.

7. Pointing out that one of the members of the enquiry committee, viz., Mr. A. Sadasivam, Deputy warden (in charge) had signed the report on 06.01.2009, and when the report is dated 05.01.2009, learned Counsel for the Petitioners submitted that the apparent discrepancy in the report shows the mala fide attitude on the part of the Respondent college in preparing a report after the institution of the present Writ Petitions. Therefore, she submitted that records have been created and placed before this Court and in such circumstances, the Court should infer their intention of the third Respondent college in sending the students out of the college without giving them a reasonable opportunity. According to her, issuance of Transfer Certificates is in violation of Clauses 16 and 19 of the Regulations framed by the Anna University. She further submitted that the alleged incident occurred on 04.01.2009 and that the enquiry was fixed on the next day itself and therefore, the Petitioners were not given adequate time to defend the charge and hence, there is violation of principles of natural justice.

8. Learned Counsel for the Petitioners further submitted that if the Petitioners had intended to break their study during the academic year, the Head of the Department and the Principal ought to have informed the University, the reasons therefore and in any case, not later than, the last date for registering the students for the semester examinations in question. In the case on hand, though the examinations were notified and the last day for payment of examination fee for the sixth semester with penalty was 28.03.2009, the college authorities have failed to intimate the University and therefore, the action of the third Respondent college in issuing the Transfer Certificates is nothing but colorable exercise of power. Though the Petitioners have contended that the issuance of Transfer Certificates is illegal, considering the economic background of the students and their future life, learned Counsel for the Petitioners submitted that the students honestly regret for the above incident and give an undertaking to this Court that such incident would not happen in future and prayed for pardon.

9. Mrs. Anandavalli, learned Counsel appearing for the Petitioners (In W.P. Nos. 2624&2625/2009) has adopted her arguments.

10. Inviting the attention of this Court to the disciplinary action taken against the Petitioners on earlier occasions, Mr. A. Thirumurthy, learned Counsel appearing for Respondents submitted that the conduct of the Petitioners is incorrigible, though sufficient advice and warning were given earlier. He further submitted that though the disciplinary committee recommended that the Petitioners should be dismissed from the college, considering the request of their parents, transfer certificates were issued stating that they had discontinued from the college, without any adverse remarks.

11. Learned Counsel for the Respondents further submitted that Clause 16 of the guidelines issued by the Anna University is not applicable to the facts of present writ petitions, and it is applicable only in the case of break of study and not in the case, where the students obtain Transfer Certificates from the college. Insofar as the manner in which the disciplinary proceedings were conducted, learned Counsel for the 3rd Respondent college submitted that all the Petitioners have admitted their misconduct. Therefore, there was no necessity to conduct a detailed enquiry, as that of a departmental enquiry in service matters. He further submitted that there is no illegality in giving transfer certificates to the Petitioners, who had failed to reform themselves. Permitting the Petitioners to undergo further studies in the 3rd Respondent college, would affect the discipline in the institution and pave way for indiscipline among other students.

12. Heard the learned Counsel appearing for the parties and perused the materials available on record.

13. Purpose of education as held by the Supreme Court in Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others, is that,

Education nourishes intellectual advancement to develop dignity of person without which there is neither intellectual excellence nor pursuit of happiness. Education thus kindles its flames for pursuit of excellence, enables and ennoble the young mind to sharpen his/her intellect more with reasoning than blind faith to reach intellectual heights and inculcate in him or her to strive for social equality and dignity of person.

14. On the aspect of discipline to be maintained in educational institutions, I would like to quote a few decisions:

In Masanamuthuvel v. Cardamon Planters Association College, Rep. by its Principal, Pankajam Nagar, Bodinayakanur W.P. No. 8310 of 1998 Subramani, J (as He then was), while dealing with a case of copying, after referring to a number of decisions and standard words of Jurists, observed that the students, instead of devoting their precious time to character building and to pursue courses of study studiously and diligently in the pursuit of knowledge and excellence, dissipate their precious time and indulge in agitations and demonstrations.

15. Expressing deep anguish over the degradation of discipline among the students in the educational institutions and outside, The Hon''ble Mr. Justice M. Karpagavinayagam (as He then was) rendered a decision in P. Senthil, T. Jayasingh, S. Jayarathinam, M. Chandran, D. Rajesh, E. Suresh and M. Shanker Vs. The Principal, SIVET College, Dr. Balasundaram, S. Coordinator, Enquiry Committee, SIVET College, The Registrar, University of Madras, The Director of Collegiate Education, The Director, Government Scholarship Department and The Secretary, SIVET College, , and at Paragraph 55 of the judgment, observed as follows:

i) There is a degradation of discipline among students in the College institutions. We find through newspaper reports that day-in and day-out, unruly incidents happen in educational institutions by way of ragging, eve-teasing, boycotting, etc. This unhealthy trend is causing great concern. It is noticed that no effective effort has been made by the educational institutions to stop degradation of discipline among students in the educational institutions. The real reason must be that though the present day education develop intelligence and skill among students, it does little to develop good qualities among students.

ii) The knowledge that is gathered in educational institutions should be capable of being used for service to society and help to improve the conditions of one''s fellow men. The place where true teachers and students are gathered, should be filled with atmosphere of serene, peace and orderliness.

iii) When the educational institutions are trying to curb the evils like ragging, eve-teasing, boycotting, etc., the students, without proper guidance from parents and elders, rush to the Court to get some interim orders to throw the same as a challenge before the teaching institutions, so as to wriggle out of their misdeeds. The students shall not be the stumbling block to public tranquility. They should start cultivating the spirit of mutual regard and harmony.

iv) There is no point in blaming students alone. They are like the stones out of which the sculptors chisels the figure he wants It is the sculptor who produces the things of beauty out of pieces of hard rock.

v) The parents are keen about educating their children, but are not concerned about the kind of education that is being given. If there is failure in making the students to have good qualities, there will certainly be failure of orderliness in the educational institutions. This must be taken note of by both parents and educational institutions, if they are really interested in the well-being and improvement of students. So, the parents and teachers have to play a pivotal role in cultivating good human values in the minds of students.

vi) The only panacea for eradicating the evils like indifferent attitude towards teachers, ragging, eve-teasing, boycotting, etc., is to teach the students not only the curriculum subjects, but also teaching human values. Therefore, educational institutions must ensure that students are given coaching by providing special classes to teach human values, such as TRUTH, RIGHTEOUS CONDUCT, PEACE,

LOVE AND NON-VIOLENCE, so that they may resort to any sort of aggressive activities. The educational institutions should give special attention and indulge themselves in imbibing these qualities in the heart and soul of students. This Court is of the definite view that only through imparting human values in education, the students would blossom as "good citizens" of the country and consequently, the evils such as ragging, boycotting, insulting teachers, causing damage not only to college properties, but also the public properties, ingratitude to parents, etc., will automatically get eradicated.

vii) The educational institutions should further ensure that a special Committee is constituted to see that the grievance of the students are redressed then and there and that all facilities are given to them to carry on with their studies effectively and also for conducive atmosphere in the institutions, so that a situation may not warrant where the students would indulge in agitation under the garb of claiming rights.

16 In the case of dismissal of a student from an educational institution on the ground of indiscipline, the Division Bench of the Kerala High Court, in *Headmaster, Poilkav High School, P.O. Edakkulam Quilandy Vs. Murali A. and Others*, , examined the position of law and the procedure, that is required to be followed, in the case of imposition of extreme penalty of dismissal. The Court examined the following points:

i) One, aspect of the matter centres round the i degree of interference which would normally: be permissible by the Courts in cases of this type particularly in exercise of the writ jurisdiction. The second aspect of the matter which is more or less" subsidiary is with regard to the circumstances in which the Courts would at all interfere.

17. After, considering a catena of decisions, the Division Bench held that as far as the procedure is concerned, it must pass the absolute test of fairness in conformity with the rules of natural justice, but at the same time, in matters of discipline relating to academic bodies, that the interference by the Courts in such cases should be minimal and that even as far as the writ jurisdiction is concerned, that the Courts should be extremely slow to interfere, unless it is demonstrated that there has been flagrant breach of procedural law. In case of extreme penalty, it is well settled that if there are cogent and compelling circumstances, the policy of the Courts and the right principle that has been observed must be judicial interference should and must be minimum in such cases particularly pertaining to disciplinary proceedings where academic bodies are concerned. Unless this principle is observed by the Courts, namely that the matter of discipline be left to the good judgment of the eminent educationists who head the institutions, their authority will be undermined through Court interference and they will find it impossible to maintain or enforce discipline.

18. In *Javid Ahmed Shah and etc. v. Principal, Dr. B.R. Ambedkar Medical College, Bangalore* reported in AIR 1997 Kar 122, disciplinary action was taken

against the students who indulged in defiling and desecrating a statue of the Founder of the Constitution and that they were playing music, after consuming alcohol. It was further alleged that they poured alcohol along with various eatables on the statue. An enquiry was held and charges were proved against them. While challenging the order of expulsion, it was inter alia contended that the enquiry was conducted on the very next morning of the incident and therefore, the expelled students were not given adequate opportunity to defend the allegations. Dealing with that aspect, the Karnataka High Court has held that enquiries relating to academic bodies are entirely of different sphere. These are not Court proceedings nor are they on par with disciplinary proceedings and the principles that have emerged from the various cases and which can be culled out there from are to the effect that in such instances, all that is required is that the procedure followed should be fair and that the person against whom the allegations are levelled is aware of what the charges are and that person concerned should not be deprived of an opportunity of presenting his defence. It is further held that where the Principal of the college conducted the enquiry into the misconduct committed by the students of the college on the very next morning and in such enquiry the students were identified by the security guard on duty on that night near the place of occurrence and the statement of one of the students was also recorded in which he admitted to have committed the act alleged against them and also named the other students, it was held that the enquiry was fair and not liable to be interfered with. In such a case, it could not be said that order of rustication was passed after six days and therefore, it is not necessary that the enquiry should have been completed on the next morning and that thus it was made in hurry. It was the holding of the enquiry which included identification and recording of the statement that was of paramount importance and once this was completed if the process of preparing and passing the order took a few days, that was fully understandable.

19. Insofar as, the gravity of the punishment is concerned, the Karnataka High Court in the above reported judgment at Paragraph 12 held that;

the discretion with regard to the gravity of punishment is something within the province of the authority which passes an order. If that discretion is wrongly exercised or if the authority concerned passes an erratic or a run away order it is open, in the course of judicial review to turn down the consequences of that order or to correct it. Basically, what the court is required to do is in cases where a harsh order has been passed to ascertain whether reasons have been indicated for the passing of that order and secondly, whether those reasons pass judicial scrutiny. Undoubtedly, as far as students cases are concerned, both the disciplinary authorities and Courts invariably take a lenient view, as far as possible. There may however be incidents which are sufficiently grave and the consequences of which are extremely serious and which perhaps do warrant heavier punishment.

20. In R. Satheesh (minor) rep. by father and natural guardian, C. Rajendran, M.

Murugan v. Director of Higher Secondary Education, Madras and Anr. reported in 1988 WLR 343, two students were issued with transfer certificates. They challenged the action of the school authorities on the ground that there must be a memorandum of charge, enquiry and finding arrived at like a Court or a judicial proceeding. The allegations are that they took clandestine photographs of girl students, blackmailing them and humiliating them. While answering the question as to whether, a detailed procedure as set out in the case of domestic enquiry in service matters have to be followed, this Court at Paragraph 7 of the judgment held that;

In every case mat there must be a memorandum of charge, an enquiry and finding arrived at like a Court or a judicial proceeding. The basic requirement of law is that he should be ., given an opportunity to put forth his case. In an institution like a school, if by and large, the Court is able to conclude there has been a substantial compliance of natural justice, which in this case is much more, it should refuse to interfere on mere technicalities of law. The student himself admitted before the Headmaster orally, may be because he was in a tight corner. Now he cannot turn round and say that he knew nothing at all as to the reason for the issuance of Transfer Certificate. He had behaved himself in a manner so unworthy to be a student of any institution.

21. This Court has further held that insisting meticulously upon the educational institutions to follow the procedures, namely, issuing memorandum of charges, conducting an enquiry and arriving at a finding, in such cases will be too much to ask for. The principles of nature justice do not exist in die abstract. It cannot be extended to illegal extremes devoid of all circumstances. It is the educational authorities who alone should have every control over the students and take such action as is warranted in the circumstances. Court would no doubt come to the rescue of the students where they are victimised, or to use the phraseology of Labour Law, they are singled out for some hostile treatment.

22.1n yet another case S. Jeeva Vs. Sree Sevugan Annamalai College and Another, , a student who was issued with a transfer certificate for a serious act of indiscipline, challenged the same before this Court on the ground that he was denied of reasonable opportunity. The counter affidavit filed therein revealed that the student had come to adverse notice of the college and was also warned several times. For all those occasions, the student had admitted his misbehavior and pleaded for pardon. He had also promised to maintain good behavior and conduct in the college in future. But the promises were never kept up. On perusal of the records produced by the College, this Court found that the Petitioner was in the habit of committing acts of indiscipline, tendering apologies by the dozen and flouting the undertakings only to be followed by further apologies and breaking of promises. Facts of the reported case are as follows:

Earlier, he had given a letter of undertaking to the Head of the Department (Commerce), stating that he would behave properly, bring books to the class room and in case he acted contrary to the undertakings, he would abide by the

decision of the Head of the Department. This was followed by another undertaking given by him after four months to the Principal that he would conduct himself properly in the class and that he would abide by the rules and regulations of the college, that he was expressing apology for the way he conducted himself during the election of the Secretary, that he would not, in future, give any room for any complaint against him. After these two regretted incidents i.e., April 1999 and 20.08.1999, for yet another incident, the student's mother met the Principal on 08.10.1999 and expressed regret for the behavior of her son. It was also not disputed that on 15.10.1999, the Petitioner met the Principal and gave a letter of apology once again. Considering the repeated acts of indiscipline and apology tendered at each and every occasion, this Court observed that the Petitioner thrived on apologies. He gave them by the dozen without meaning anything. He had absolutely no intention to mend his ways. As regards the lack of opportunity, this Court held that it is well settled that in the matter of student indiscipline meticulous procedure ought not to be insisted upon.

23 . In *Ashok Kumar etc. Vs. Director of Technical Education and Others*, , suspension of B.E., students were challenged on the ground that the allegations took place outside the college campus. The police complaint registered against them was after thought and therefore, there is no need to suspend them from the college.

24. This is a case where certain students of third year course manhandled some students of the second year and an FIR was lodged against them. The college initiated enquiry and passed orders of suspension against the students who had indulged in acts of misbehavior and indiscipline. While testing the action of the college in suspending the students with reference to their bad track record of suspension on previous occasions, and allowing them to rejoin and pursue their studies, on accepting their letters of apology, to take up their examination out of grace, the Court found that the leniency shown by the college did not have the desired effect and therefore, declined to quash the suspension. While rejecting the plea to take up the examination, the Court observed that indeed, the Petitioners will lose their chance to appear for the examinations. But then at some stage, they have to put their foot down, take a firm decision as otherwise indiscipline in educational institutions will reach catastrophic proportions.

25. About the students discipline in educational institutions, His Lordship Mr. Justice Mohan, (as He then was) in *(Murugan v. Director of Higher Secondary Education)*, reported in 1998 (2) MLW 2006 said that,

These cases illustrate how students, who are to prosecute their studies, after gaining valuable admission in schools, instead of doing that, merely fritter away the valuable time, by indulging in some misbehavior and when ultimately thrown out of the school, come to this Court as if the writ jurisdiction is a panacea for all "misdeeds." The affidavits more often than not,, are bereft of details just to gain some interim orders so that notwithstanding the "misdeeds" the study could be further prosecuted and eventually, when the writ petitions come up for disposal,

the law's delays being notorious, they escape unscathed,"

The learned Judge further observed that: "In this connection, it requires to be remembered that the students are of impressionable age; sometimes they become victims of un-guided enthusiasm; sometimes they become the victims of vicious circumstances. In all these cases, could it be said by the Court No you shall not take action against this person/ because his right to prosecute the study will, be hindered? I should answer this question in the negative. To put it briefly, it is the educational authorities who alone should have every control over the students and take such action as is warranted in the circumstances. Court would no doubt come to the rescue of the student where they are victimised, or to use the phraseology of Labour Law, they are singled out for some hostile treatment. Normally speaking, I do not expect such victimisation or hostile treatment, in an educational institution, because, it is controlled and run by enlightened persons. The students come there to receive light and education. That being so, these are totally alien to such an atmosphere.

26. In P. Senthil, T. Jayasingh, S. Jayarathinam, M. Chandran, D. Rajesh, E. Suresh and M. Shanker Vs. The Principal, SIVET College, Dr. Balasundaram, S. Coordinator, Enquiry Committee, SIVET College, The Registrar, University of Madras, The Director of Collegiate Education, The Director, Government Scholarship Department and The Secretary, SIVET College, , this Court, in Paragraphs 34 and 35 further held that,

34. It is to be remembered in this context that the students are all of improbable age; some times they indulge in all adventure some activities and sometimes they become victims of not only unguided enthusiasm, but also the victims of vicious circumstances. In all these cases, the Court cannot ask the College authorities that they should not take action against these persons on the mere ground that their right to prosecute studies will be hindered.

35. In the interest of maintaining proper discipline in educational institutions, it is highly necessary to strengthen the hands of the College authorities by arming them with sufficient powers, so that the other students in the institution who are keen to study and improve their career, would not become the victims of handful of persons who may spoil academic atmosphere by indulging in anti social activities. It is the educational authorities who alone should have every control over the students and take such. action that would warrant the circumstances. If the educational institutions have not been allowed to exercise their discretion to decide as to whether a particular student should be retained, or not, then the educational institution will have to face the calamitous consequences.

27. From the above judgments, it is well settled that if a student, does not maintain discipline which is expected from him, it is not required for the college to retain him in the college. Insofar as the procedure to be followed in the matter of conducting an enquiry into misconduct or indiscipline of a student, courts have consistently held that it is not required to have a detailed enquiry as that of a

departmental proceeding in service matters. It is the consistent view of the Courts that the power of the educational institutions should not be disturbed in trying to maintain discipline in the institutions and it is suffice, mat there is substantial compliance of the principles of natural justice.

28 . Reverting back to the facts of present writ petitions, materials on record show mat Mr. Karthigaiselvam (Petitioner in W.P.(MD) No. 1967 of 2009), Mr. Malaimurugah (Petitioner in W.P.(MD) No. 2625 of 2009), Mr. A. Maharaja (Petitioner in W.P.(MD) No. 2624 of 2009) and 4 other students were found to have involved in a misconduct, for which on 27.01.2008 disciplinary action was taken against them. At that time, the above named Petitioners and others were students of II year EEE course. They were suspended from classes from 28.01.2008 and further directed to appear before! the Disciplinary Committee on 01.01.2008 along with their parents. As per the directions of the Disciplinary Committee, preceded by an enquiry held on 01.02.2008, they were suspended from hostel and class for consumption of alcoholic drinks in the hostel premises on 27.01.2008, with effect from 28.01.2008 to 10.02.2008.

29. Perusal of the letter dated 01.02.2008 given by Mr. G. Malaimurugan (Petitioner in W.P.(MD) No. 2625 of 2009) addressed to the Principal of the third Respondent College shows that he had tendered apology and given an undertaking that such incident will not recur in future. Therefore, it is evident that out of three writ Petitioners, two of them were already suspended between 28.01.2008 to 10.02.2008 for consuming alcohol in the hostel premises. It is further seen from the materials produced by the college that Mr. G. Malaimurugan (Petitioner in W.P.(MD) No. 2625 of 2009) and Mr. A. Jtfaharaja (Petitioner in W.P.(MD) No. 2624 of 2009) were involved in yet another act of misbehavior on 14.07.2008, in the college hostel for which disciplinary action has been taken by the college administration. Again, by a memo dated 14.07.2008, students numbering 11, including Mr. G. Malaimurugan (Petitioner in W.P.(MD) No. 2625 of 2009) and Mr. A. Maharaja (Petitioner in W.P.(MD) No. 2624 of 2009) were directed to appear before the Disciplinary Committee Enquiry on 17.07.2008 along with their parents. On 17.07.2008, the said Mr. dMalaimurugan had written a letter to the Principal of the college, stating that he had assaulted one Mr. Marichamy and that such incident would not recur in future. However, on the basis of the Enquiry Committee's report, students numbering 8 including Mr. G. Malaimurugan (Petitioner in W.P.(MD) No. 2625 of 2009) and Mr. A. Maharaja ((Petitioner in W.P.(MD) No. 2624 of 2009) were suspended from the hostel and classes, for manhandling their junior in the hostel premises on 14.07.2008, with effect from 15.07.2008 to 27.07.2008 and they were also directed to pay penalty against their names on 28.07.2008. On this occasion also Mr. G. Malaimurugan (Petitioner in W.P.(MD) No. 2625 of 2009) has given a letter of apology to the Principal of the third Respondent college and an undertaking that such mistake will not happen in future. The above incident would clearly depict the past track of record of the Petitioners Mr. G. Malaimurugan and Mr. A. Maharaja in the college.

30. Coming to the conduct of consumption of liquor and quarrelling with the employees of the third Respondent college, perusal of the counter affidavit shows that one Mr. Iyyanar, Office Assistant and Mr. A. Sathasivam have given a letter to the Principal on 05.01.2009 stating that on 04.01.2009 about 10.00 a.m. Mr. A. Maharaja, Mr. R. Karthigaiselvam, Mr. B. Anburajan, Mr. G. Malaimurugan, III year EEE students and Mr. N. Naveen (IT) student, sought permission to go out of the hostel and they were granted permission. They returned about 02.30 p.m, and demanded food in the canteen. The Deputy Warden (In-charge) had stated that six students quarreled with a lady employee of the third Respondent college. The canteen employee informed the Manager and thus, they came to know about the incident. All the students admitted that they had consumed liquor and the said fact was brought to the notice of the Principal. The students were directed to appear before him along with their parents. Pleadings disclose that the Deputy Warden has further stated that one of the students had a cellphone and which contained a photograph saying "cheers" while consuming alcohol and obscene photographs. Materials produced by the college further shows that Mr. Karthigaiselvam (Petitioner in W.P(MD) No. 1967 of 2009) III year EEE student has given an apology letter, dated 05.01.2009 to the Principal of the third Respondent college. Xerox copy of the photographs taken from the cell and enclosed in the typed set of papers, support the contention of the Respondent. It is to be noted that the Petitioners have not disputed their past record in the college. It is seen from the memo in PSYEC/PRL/PTA/Dis/2008-09/518-1, dated 05.01.2009 issued by the Principal, all the five students including the Petitioners were directed to appear before the Disciplinary Enquiry Committee on 05.01.2009 Monday at 09.00 A.M. The report of the Enquiry Committee dated 05.01.2009 reads as follows:

Report of the Enquiry Committee An enquiry committee conducted a detailed enquiry about the untoward incident (consumption of alcoholic drinks in the College premises) that occurred in the college on 04.01.2009.

The following students appeared before the enquiry committee members on 05.01.2009. The enquiry committee has conducted the enquiry with the above said students and received apology letters from them.

The Enquiry committee recommended that the following students are to be terminated from the college because they were already punished (suspended) for the same mistake committed on 27.01.2008.

Warning and Advices have no effect in the minds of following students and there is no other way to penalise them and hence the ultimate weapon "dismissal" is to be recommended.

S. No.

Name

Register No.

Year

Branch

1

ANBURAJAN.B

91206105301

III

EEE

2

KARTMGAISELVAM R

91206105312

III

EEE

3

MAHARAJA A

91206105313

III

EEE

4

MALAIMURUGAN.G

91206105314

III

EEE

5

NAVEENN

91206205021

III

IT

S. No.

Name of the Enquiry Officer

Designation

Signature of the Enquiry committee Member

1

Prof. P. ShankaraRamalingam

Principal

sd

2

Prof. M. Lourdusamy

Prof & Head/English

sd

3

Mr. P. Kanirajan

HOD/EEE

sd

4

Mrs.V. Suguna

Lecturer/IT

sd

5

Mr. M. Dhansekaran

Director of Physical Education

sd

6

Mr. M. Ayyanar

Deputy Warden I/c

sd

7

Mr. M. Sadhasivam

Deputy Warden I/c

sd 6.01.09

31. The contention of the learned Counsel for the Petitioners that one of the

members, Mr. M. Sadhasivam, Deputy Warden, I/c has signed the enquiry report on 06.01.2009 and therefore, the enquiry report was cooked up is not acceptable for the reason that the Petitioners and other students along with their parents have signed the proceedings in PSYEC/PRL/PTA/Dis/2008-09/518-2, dated 05.01.2009 termination order issued by the Principal for consumption of alcoholic drinks on 04.01.2009.

32. Regulation 16 of the Anna University, Chennai states as follows:

16. Temporary Break of Study from a programme;

i) A candidate is not normally permitted to temporarily break the study. However, if a candidate intends to temporarily discontinue the programme in the middle for valid reasons (such as accident or hospitalization due to ill health) and to rejoin the programme, he/she shall apply in advance to Director, Academic Courses of the University, through the Head of the Department and Principal stating the reasons therefor, in any case, not later than the last date for registering for the semester examinations of the semester in question.

ii) The candidate permitted to rejoin the programme after the break shall be governed by the rules and regulations in force at the time of rejoining.

iii) The duration specified for passing all the courses for the purpose of classification vide Clause 15.2.1 and 15.2.2 shall not be altered by the period of such break of study permitted.

iv) The total period for completion of the programme reckoned from the commencement of the first year of Annual pattern to which the candidate was admitted shall not exceed the maximum period specified in Clause 5 irrespective of the break of study in order that he/she may be eligible for the award of the degree (vide Clause 15).

v) If any student is detained for want of requisite attendance, progress and good conduct, the period spent in that semester shall not be considered as permitted "Break of Study".

33. Reading of the above clause makes it clear that it is applicable only in the case of temporary break of study from the programme in the middle of the academic year for valid reasons stated supra and the said clause is not applicable, when transfer certificates are issued. Insofar as maintaining of discipline is concerned Regulation 19 clearly -states that every student is required to observe discipline and decorous behavior both inside and outside the college and not to indulge in any activity which will tend to bring down the prestige of the University/College. The Principal shall constitute a disciplinary committee consisting of Principal, Two Heads of Department of which one should be from the faculty of the student, to enquiry into acts of indiscipline and notify the University about the disciplinary action recommended for approval. If a student indulges in malpractice in any of the University/internal examination he/she shall be liable for punitive action as prescribed by the University from time to

time.

34. It is said that discipline is a personal skill essential to success in life and without discipline, failure is inevitable. Educational institution is a place of instruction and learning code of conduct, as is the home, Church, Mosque and the Temple. Having regard to the deterioration in moral standards and degradation of discipline among the students, the need for discipline is obvious. Standards of education and discipline are the most important things to be maintained in any educational institution, the student not only learns subject, but also learns discipline and code of conduct which shape his life. Needless to say that many persons in the later part of their life take pride in the very name of their "Alma mater". Therefore, if there is a failure on the part of the educational institutions in not properly molding the students, it will certainly reflect the performance of the educational institution itself. When the educational institutions try to impart righteous conduct and in the process, curb the evils of indiscipline and weed out the incorrigible, any misplaced sympathy would only encourage indiscipline and breed violations in the hope of being condoned. In the interest of maintaining proper discipline in educational institutions, it is highly necessary to strengthen the hands of the College authorities, by arming them with sufficient powers, so that other students in the institution who are keen to study and improve their career, would not become victims of certain handful of students who may spoil academic atmosphere by indulging in activities prejudicial to the interest of other students and the institution.

35. It is a classic case where two students Mr. G. Malaimurugan (Petitioner in W.P. (MD) No. 2625 of 2009) and Mr. A. Maha-raja (Petitioner in W.P.(MD) No. 2624 of 2009) and others who were in the habit of committing acts of indiscipline and tendering apology, have totally ignored their undertaking and given scant respect to the mercy leniency shown by the college authorities. In fact, two Petitioners Mr. G. Malaimurugan (Petitioner in W.P.(MD) No. 2625 of 2009) and Mr. A. Maharaja (Petitioner in W.P.(MD) No. 2624 of 2009) were already hauled up for consumption of liquor in hostel premises along with other students and their apology seemed to have been thrown into winds. The leniency shown to them by the college authorities has only encouraged fresher's joining them, indulging in act of indiscipline by consuming alcohol and quarrelling with the hostel authorities. If the advice or pardon did not have the desired effect of correction or reformation but if it has the adverse influence on other standards, in the case on hand, like Mr. Karthigaiselvam (Petitioner in W.P.(MD) No. 1967 of 2009), the same cannot be expected to be extended by the college or the Court. Knowing fully well that the college authorities have taken disciplinary action and having admitted their misconduct before the disciplinary committee along with their parents the Petitioners have now claimed that the transfer certificates have been issued without conducting any enquiry. It is not difficult to visualise that the Petitioners apprehending that they would be rusticated from the college for grave misconduct, have accepted the transfer certificates issued by the college authorities who have graciously endorsed the Transfer Certificates, stating that

the conduct of the Petitioners, as satisfactory. The regulations applicable to all the colleges affiliated to the Anna University, Chennai clearly states that every student is enquired to observe discipline and decorous behavior both inside and outside the college and not to indulge in any activity which will tend to bring down the prestige of the university/college. Therefore, it is not open to the Petitioners to contend that consumption of alcohol was outside the college premises and therefore, no action can be taken. Even in the affidavits filed in support of the writ petitions, the Petitioners have regretted for the above said incident. Therefore, the factum of misconduct is admitted. The contention that the Petitioners and the parents were forced to sign the Transfer certificates or in the alternative, the college authorities would send it by post, cannot be countenanced. This is not a case where the students have been victimized and therefore, this Court would not lend its arm to save them from the alleged act of victimisation. The college authorities have followed a fair and reasonable procedure and that there is a substantial compliance of principles of natural justice. Therefore, in my considered opinion, any misplaced sympathy for the Petitioners would tantamount to curtailing the powers of the educational institution to have an effective control over the students who indulge in serious acts of misconduct.

36. In these circumstances, following the principles contained in the decisions stated supra, I am not inclined to interfere with the decision taken by the college authorities in issuing transfer certificates to the Petitioners. Accordingly, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.