

(2014) 09 MAD CK 0338

In the Madras High Court

Case No : Writ Petition Nos. 482 to 484 of 2014 and M.P. Nos. 1 to 3 of 2014

Annavaajjala Aghamarsh

APPELLANT

Vs

The Registrar

RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Citation : (2014) 09 MAD CK 0338

Hon'ble Judges : V. Ramasubramanian, J

Bench : Single Bench

Judgement

V. Ramasubramanian, J.—The petitioners, who joined the 1st respondent Institute, in the first year of their Degree Course in Engineering, in various disciplines, have come up with the above writ petitions, challenging the orders of their expulsion.

2. Heard Mr. M. Velmurugan, learned counsel for the petitioners, Mr. A. Saravanan, learned counsel for the 1st respondent and Mr. P. Sanjay Gandhi, learned Additional Government Pleader for the 2nd respondent.

3. It appears that the petitioners, in these writ petitions, joined Degree Course in Engineering in the 1st respondent Institute for the academic year 2013-2014. On 31.08.2013, the petitioners were to appear for a Continuous Assessment Test. When the test was going on, it appears that the invigilator caught hold of the petitioners in the second and third writ petitions on the allegation that they had impersonated for some other candidates and were writing the test on behalf of other candidates.

4. According to the respondents, a circular was sent on 10.09.2013, calling upon the petitioners in the second and third writ petitions to appear for an enquiry on 13.09.2013. On the basis of the statements allegedly made by the petitioners in the second and third writ petitions, an allegation was made against the petitioner in the first writ petition that he also impersonated two other candidates and wrote the test on behalf of two others. In other words, the petitioners in the

second and third writ petitions were allegedly caught red-handed at the time of impersonation, but, the petitioner in the first writ petition was allegedly caught, based on the statements said to have been made by the petitioners in the second and third writ petitions. Thereafter, an Enquiry Committee is said to have sent its report on 16.09.2013 to the Registrar of VIT University. Subsequently, a circular was issued on 24.09.2013 constituting a Committee of four persons, with one of them being the Convenor, two others being members and the fourth being an ex-officio member. The Committee was directed to conduct enquiries on 24.09.2013 and 25.09.2013.

5. On 26.09.2013, the petitioners were placed under suspension and they were also directed to vacate the hostel on or before 28.09.2013. It appears that, thereafter, a report was submitted by the Enquiry Committee on 29.09.2013 and on the basis of the same, the 1st respondent expelled the petitioners. Challenging the orders of expulsion, the petitioners are before this Court.

6. The main grievance of the petitioners is that the entire proceedings were completely violative of the principles of natural justice and that the expulsion was, actually, an arbitrary exercise of power. According to the learned counsel for the petitioners, the orders of expulsion, though dated 29.09.2013, were actually communicated only after three months, on 20.12.2013. Hence, the petitioners prayed for setting aside the orders of expulsion.

7. The respondents have filed a common counter affidavit and an additional counter affidavit along with a set of documents.

8. Mr. A. Saravanan, learned counsel for the 1st respondent contended, on the basis of the documents filed by the respondents, that the allegations against the petitioners are so serious in nature that, no lenience can be shown in their favour. According to the learned counsel, the petitioners had actually impersonated other candidates and wrote the test, for a monetary consideration. Therefore, it is submitted by the learned counsel that in such matters, the larger interest of the educational institution and the interest of the student community, for maintaining discipline, have to be taken into account before the Court tests the proceedings on the issue of principles of natural justice. Learned counsel relied on the decision of the Supreme Court in *Controller of Examinations and Others Vs. G.S. Sunder and Another*, where, the Supreme Court cautioned the High Courts against interference with matters concerning the enforcement of discipline in educational institutions.

9. I have carefully considered the pleadings, documents and the submissions.

10. It is true that the orders of expulsion passed by the educational institution, against students, on grounds such as those on hand, cannot be interfered with, very lightly. Copying in examinations and impersonating other persons in the examinations are so serious in nature, that the normal parameters, which the Court would apply, for testing the correctness of such orders in other areas, cannot be scrupulously followed.

11. To the above extent, the law is very clear. But, the most fundamental requirement of putting the student on notice, of the allegation, for which he is sought to be thrown out, cannot be dispensed with, by any educational institution. If we have a careful look at the sequence of events that has happened in this case, the following will be very clear:

(a) The date of Continuous Assessment Test was on 31.08.2013.

(b) The first action that was taken by the respondents was to remove the petitioners in the second and third writ petitions from the examination hall on that allegation. But, no record is maintained to indicate the same. The petitioners rely upon a circular issued by the respondents, which stipulates the procedure to be followed. As per the said circular, which the respondents themselves have filed, the invigilator should allow the student, whenever he is caught red-handed, while committing a malpractice, to finish the examination and thereafter, the invigilator is supposed to ask the candidate, to give in writing, the nature of the malpractice alleged. This should also be authenticated by the invigilator with his signature. Paragraph 3 of the circular relied upon by the respondents themselves reads as follows:

"The student will be allowed to finish the examination, after which, he will be instructed to give in writing the nature of malpractice he had indulged, again, will be authenticated by the invigilator with the signature."

In the case on hand, considering the nature of the allegation made, the invigilator could not have allowed the students to complete the examination. But, the second limb of paragraph No. 3 could have been followed. It was not followed.

For a moment, I would not go by paragraph 3 of the circular relied upon by the respondents. I will not consider the said violation as a violation for the present.

(c) What happened after 31.08.2013 was that, the respondents issued a circular dated 10.09.2013, calling upon the petitioners in the second and third writ petitions to attend an enquiry on 13.09.2013. This circular does not contain any of the allegations or charges made against the students.

(d) On 13.09.2013, an enquiry is said to have been conducted. The said enquiry is only as against the petitioners in the second and third writ petitions. It is only based upon the statements allegedly made by the petitioners in the second and third writ petitions that the petitioner in the first writ petition is roped in.

(e) On 16.09.2013, a recommendation is made by the Enquiry Committee for a special enquiry. In other words, it is found from the report of the Enquiry Committee dated 16.09.2013 that, after they enquired the petitioners in the second and third writ petitions, they merely recommended a special enquiry to be arranged for getting adequate details, so that appropriate punishment could be given. In other words, this enquiry concluded the guilt without recording the same in so many words.

(f) Thereafter, two circulars are issued on 24.09.2013, calling upon the persons concerned to attend the enquiry on 24.09.2013 and 25.09.2013. It is, on the basis of whatever transpired during the said enquiry, that an office order dated 26.09.2013 is passed suspending the petitioners. It was followed by a report dated 29.09.2013 holding the petitioners guilty of malpractice. Thereafter, on the basis of the recommendation of the Enquiry Committee, expulsion is effected.

12. From the above sequence of events, it will be clear that the two students, who are petitioners in the second and third writ petitions were not even informed of the charges, which they were called upon to answer, in the enquiry proposed to be held on 13.09.2013. The case of the third person, who is the petitioner in the first writ petition, is still worse. He is not a person, who is allegedly caught red-handed. He was roped in, on the basis of the statements allegedly made by the other two, in the enquiry held on 13.09.2013. To him also, a mere circular, calling upon him to appear for the enquiry is issued.

13. Therefore, it is clear that the petitioners in these writ petitions were not even informed of the charges that they are obliged to answer. Many of the requirements of principles of natural justice, I admit, could be dispensed with in cases of this nature. The question as to whether, who were examined as witnesses, whether full opportunity was given to cross-examine them, whether documents were produced, etc., may all stand at the fringe of the principles of natural justice. But, the most fundamental requirement, namely that of, putting the delinquents on notice, of the charges against them, can never be dispensed with.

14. Learned counsel for the 1st respondent contends that the petitioners are aware of the allegations against them and that they have accepted the same and given letters in their own handwriting. But, the letters allegedly given by the petitioners are dated 24.09.2013. The enquiry had already concluded on 13.09.2013. Learned counsel for the 1st respondent submitted that there was a wrong mentioning of dates. But, even assuming that there was a wrong mentioning of the dates, the doubt created, on the basis of wrong mentioning of the dates, cannot be cleared so easily, especially, in view of the fact that the petitioners were not even put on notice of the charges.

15. Therefore, despite the fact that the allegations against the petitioners are very serious, I cannot approve of the ultimate conclusion, due to the absence of the most fundamental requirement. Hence, the writ petitions are allowed.

16. Coming to the question of relief, the petitioners have not attended the first year of the course during the academic year 2013-2014. Therefore, they cannot now go to the second year. At the most, they can be only re-admitted to the first year of the course for the current academic year. Hence, the respondents are directed to admit the petitioners. No costs. Connected M.P.s are closed.