
(2000) 04 MAD CK 0062

In the Madras High Court

Case No : Writ Petition No"s. 4471, 4472 and 4474 to 4476 of 2000 and W.M.P. No"s. 6865 to 6870 and 6874 to 6882 of 2000

Ashok Kumar etc.

APPELLANT

Vs

Director of Technical Education and Others

RESPONDENT

Date of Decision : 12-04-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 Mad 431

Hon'ble Judges : K. Sampath, J

Bench : Single Bench

Advocate : G.R. Enmund and S. James, for the Appellant; R. Muthukumaraswamy, for the Respondent

Final Decision : Dismissed

Judgement

K. Sampath, J.—Notice of motion was ordered in all the writ petitions. After service of notice, the third respondent appeared, filed counters and by consent the main writ petitions themselves are taken up.

The petitioners in the writ petitions are III year B.E. Degree course students in the third respondent College. Pursuant to a complaint given against them in Alanthurai Police Station, a case has been registered as Cr. No. 44/2000 under Sections 147, 341, 342 and 323 of the Indian Penal Code. The charge against them is that they manhandled a group of eight second year students in Alanthurai Village. The affected second year students lodged a complaint with the third respondent/College also, resulting in a show cause notice being issued by the third respondent College on 26-2-2000 calling upon them to give their explanations in writing to the Principal within a week from the date of receipt of the show cause notice, as to why disciplinary action should not be taken against them for their misconduct. The show cause notice further stated that since the matter was serious in nature, the writ petitioners were placed under suspension pending enquiry, that during the period of suspension they should not enter the

college and hostel premises and that the suspension would come into effect immediately. The prayer in all the writ petitions is for certiorari to call for the records of the third respondent in respect of his proceedings in KIT/STS/MEMO/320/2K. dated 26-2-2000 and for quashing the same.

2. The facts in all the writ petitions being identical, it is not necessary to set out the facts separately and if there are any additional facts pertaining to any writ petition, they will be set out in the common order itself.

3. The case of the petitioners is as follows:

On 16-2-2000, at about 9.00 p.m., nine second year B.E. students including Praveen Patrick. Dominic Prabhudas, Christoher Vinodhkumar, Christobar Jeyakumar, Vasant Kersone, Vimal Jebamany, K. Prasanna, R. Johnson Premkumar and Issac Vasanthkumar came to Alanthurai from the College Hostel, picked up quarrel with the village people and hence as students of the College, the petitioners Intervened fearing attack from the village people against the second year students. Ultimately, the second year students were taken to the local police and they were released by the police after getting an undertaking from them. These second year students were fully drunk and were even unable to walk. On 24-2-2000, Patric Prabakar father of Praveen Patrick. II year B.E. student, gave a written complaint to Alanthurai police station and a criminal case was registered against the petitioners. On the basis of the complaint, a criminal case in Crime No. 44/2000 was registered on 24-2-2000. The substance of the F.I.R. is that the petitioners manhandled the second year students in Alanthurai village on 16-2-2000 and in spite of several complaints to the College Management, the College had not taken any action and therefore the police complaint had been given. The F.I.R. is totally false and the delay of nine days in making the complaint amply demonstrates the said fact that the investigation in the criminal case is still pending and the charge-sheet is not yet filed. From 16-2-2000 till 24-2-2000. there was no murmur against the petitioners either by the College Management or by the second year students said to have been manhandled by the petitioners. A show cause-cum- suspension order dated 26-2-2000 was sent to the petitioners' parents as well as to the petitioners by Post to their residential addresses. The father of the petitioner in W. P. No. 4471/2000 received a communication from the third respondent dated 29-2-2000 stating that the College was unable to serve the show cause notice on the petitioner in the said writ petition in the last known address. The father of the petitioner in W. P. No. 4471/2000 sent a reply to the third respondent on 3-3-2000 denying the allegations in the show cause notice. The petitioners also have submitted his explanation to the show cause notice. The petitioners are eligible to appear for the University Examination to be held from 18-3-2000 as they paid the required examination fees and complied with the other conditions. In view of the suspension order, the petitioners are unable to attend the class and unless the suspension order is revoked, the petitioners may not be able to appear for the University Examinations due to shortage of attendance. It is

stated in the grounds that no charge-sheet had been filed till the date of filing of the writ petition, that the charge-sheet is only at the initial stage of investigation, that mere registration of criminal case cannot be used against the petitioners as if the alleged incident is true, that only after charge-sheet and conviction there may be any case for taking action against the petitioners. Even otherwise, conceding that all the allegations are true, the alleged incident took place outside the campus it had nothing to do with the campus discipline and therefore the third respondent had no jurisdiction to pass an order of suspension on the basis of the incident outside the College campus. The complaint is belated, motivated and an afterthought. The complaint had not been given by the students alleged to have been manhandled, but by the father of one of the students. There is no case made out for suspension. There is no application of mind. The petitioners have never indulged in any other case during their course of three years in the College and they are maintaining strict discipline inside and outside the campus and the suspension order is therefore unwarranted. Till the date of filing of the writ petitions, no enquiry has been conducted. The order of suspension without a preliminary enquiry is also illegal.

4. As already noticed, the allegations in the affidavits in support of the other writ petitions are identical.

5. Separate counter affidavits have been filed in all these cases by the third respondent and the substance of the counters is as follows :

(a) To the knowledge of this respondent, no event involving the villagers of Alanthurai Village as slated by the petitioners appears to have taken place on 16-2-2000. The third respondent came to know about the incident only on the evening of 19-2-2000 and that too because the affected students had represented to him that they were threatened by the petitioners with dire consequences if they made a complaint about the incident on 16-2-2000. On 25-2-2000, this respondent received information from Alanthurai Police Station that the father of one of the affected students, Mr. Pravccn Patrick had filed an F.I.R. Implicating the petitioners. Thereafter, this respondent decided to ascertain the facts of the case. While attempting to do so, on 26-2-2000 the petitioners in various writ petitions, gathered in front of his Office, behaved in an unruly boisterous way, shouting, encircling this respondent and his colleagues and thus thwarted his efforts as to getting proper facts. This respondent therefore decided to institute a formal enquiry. The petitioners continued to agitate and were determined to escalate the agitation to prevent the enquiry into the matter. For the purpose of conducting a proper enquiry in a peaceful manner, the impugned proceedings came to be issued by this respondent. There was justification for issuing the impugned order.

(b) The petitioners have not been regular in attending classes. The petitioner in W. P. No. 4471/2000 attended 42 days out of 51 days in VI semester. The petitioner in W. P. No. 4472/2000 had attended 42 days out of 51 days and during II and III semesters his lack of attendance was condoned by this

respondent. The petitioner in W. P. No. 14474/2000 attended 37.5 days out of 51 days. The petitioner in W, P. NO. 4475/2000 attended 36.5 days out of 51 days and during IV and V semesters his lack of attendance was condoned by this respondent. He also lost one year due to lack of attendance and readmitted in the second year.

(c) The petitioners had given replies to the show cause notices, but further action awaits disposal of the writ petition before this Court. The theory examinations start on and after 7-4-2000 only. The practical examinations for III year students commenced on 20-3-2000. The impugned orders have been properly issued. On complaints from the affected students, apart from intimation from the police, the show cause notices-cum-sus-pensions orders came to be issued. The FIR filed before the police and intimation received from them are not sole basis of the impugned orders. The previous conduct of the petitioners also accounts for the impugned notices. It is not correct to state that this respondent should take action only in respect of Indiscipline committed inside the college campus. Having regard to the past conduct of the petitioners and the undertaking given by them, this respondent could even pass final orders. I however ,in the interest of fair-play and justice, this respondent wanted to enquire into the matter relating to the allegations of causing indiscipline, which is well within the jurisdiction of this respondent. As there was every likelihood of breach of peace in campus following the unruly conduct of the petitioners, suspension was necessitated.

(d) The petitioner in W. P. NO. 4471 /2000 was involved in a criminal case as an accused registered by Karunya Nagar Police Station in Cr. No. 19/98 for offences under Sections 147, 148 and 324. IPC. On the basis of an allegation that one Edward Prakash had been assaulted. He was arrested on 15-12-1998 in respect of the said incident. He submitted a confession letter to this respondent on 5-1-1999 and also submitted a written undertaking dated 19-1-1999 that he would obey all the rules of the college and he could be dismissed from the college summarily without any enquiry if he was found involved in any disciplinary activities in future. Again in September, 1999, the petitioner was involved in activities unlawful and lacking in discipline for beating II year students and eve-teasing in the college, for which, he was suspended on 23-9-1999 and expelled from the hostel on 23-9-1999. On a mercy plea to the third respondent he was allowed to writ the examinations and the suspension was revoked. (e) The petitioner in W. P. No. 4472/2000 was issued with a memo for assaulting a non-teaching staff one Sivasankaran on 2-11-1998. He was suspended on 7-7-99 for assaulting III year students namely Senthil Kumar and Dileep. On an undertaking given by his father on 13-7-99, the suspension was revoked. He was expelled from the hostel on 23-7-99.

(f) The petitioner in W. P. No. 4474/2000 was suspended on 7-7-1999 for assaulting Senthil Kumar and Dileep. His father submitted a written undertaking that the petitioner would obey all the rules of the College and he could be

dismissed from the college without any enquiry if he was found involved in any activities wanting in discipline in future. On a mercy plea to this respondent, the petitioner was allowed to write the examinations and the suspension was revoked.

(g) The petitioner in W. P. No. 4475/2000 was involved in the criminal case registered by Karunya Nagar Police Station in Cr. No. 19/98 for offences under Sections 147, 148 and 324, IPC on the basis of allegation that one Edward Prakash had been assaulted. The petitioner was arrested on 15-12-1998. A confession was given by him to this respondent on 5-1-99 and also a written undertaking on 19-1-99 that he would obey the rules of College and he could be dismissed from the college summarily without any enquiry, if he was found involved in any indisciplinary activities in future. Again in September 1999, the petitioner was involved in unlawful activities for beating II year students in the college, for which, he was suspended on 23-9-99 and expelled from the hostel on the same date. On a mercy plea, he was allowed to write the examinations, and the suspension was revoked.

6. Rejoinder affidavits have been filed disputing the various allegations in the counter affidavits.

(a) The petitioner in W. P. No. 4471 in his rejoinder has admitted to his having been suspended on two previous occasions. The second suspension was done without any valid reason. Though there was no apology letter given by the petitioner, the third respondent voluntarily withdrew the suspension. It is the practice of the third respondent to suspend the students without any reason and thereafter ask the parents to come for enquiry and after harassing the parents and the students, suspension would be revoked. Almost all the students of the College are placed under suspension for one reason or the other. Even the students at whose instance the impugned show cause notice and suspension order had been issued were placed under suspension for a very serious offence of ragging in the college campus. Praveen Patrick, whose father has given the complaint, did not appear for III semester. This petitioner has voluntarily come out of the hostel from VI Semester. The group I students picked up a quarrel with public on 16-2-2000. This petitioner has not threatened any students either individually or grouply. No such incident as alleged took place on 26-2-2000. The petitioners have participated in organising freshers' party in the College and the petitioners have been appreciated for their good work. The involvement of the petitioners in the cultural and sports activities inside the college is total and everyone appreciated that. The petitioners bonafidely understand that the suspended II year students and their colleagues believed that the alleged attack on the II year students in Alanthural Police Station limit was at the instigation of Prof. Tensingh and one Ambrose, who are respectively the Joint Chief Warden and the Administrative Officer. On 26-2-2000 afternoon II year students attacked the Administrative Officer Thiru Ambrose and there was a clash between the II year and III year students and ultimately college was closed for 3 days from

28-2-2000 to 1-3-2000. The petitioners had nothing to do with the incident on 26-2-2000. When the petitioners came to know that a false complaint had been registered against them on 24-2-2000, they left Alandurai, fearing arrest by the Police. The third respondent has sworn to a false affidavit. Except during sickness, the petitioners have been attending the classes regularly. The petitioners have not been interrogated or arrested in respect of criminal case by the police. There was no question of eve-teasing or beating if year students in the college by the petitioners. Earlier, no apology letter was given, but suspension was revoked voluntarily. There was no expulsion from the hostel, but the petitioners concerned came out voluntarily. The petitioners have been falsely implicated to a criminal case on 24-2-2000. The complainant in the criminal case is demanding Rs. 5 lakhs from the parents of the petitioners. There is no truth in the criminal case and taking advantage of the complainant's proximity to the college management, he is attempting to extract money from the parents of the petitioners,

(b) so far as the rejoinder affidavit in W. P. No. 4472/2000 is concerned, there is denial of allegations relating to assault of the non-teaching staff Mr. Sivasankaran. In the enquiry it was found that the petitioner in W. P. No. 4472/2000 was not in any way connected to the alleged incident and therefore it was dropped without any action against him. With reference to suspension, it was revoked by the college management after enquiry.

(c) The rejoinder in W. P. No. 4474/2000 also denies the various allegations in the counter . To the same effect is also rejoinder in W. P. Nos. 4475 and 4476/2000.

7. Mr. G. R. Edmund, learned counsel for the petitioners in the various writ petitions, submitted that mere filing of F.I.R. docs not mean anything. There is absolutely no iota of truth in the various allegations made by the third respondent. The petitioners have been victimised. There is absolutely no justification for suspension, that the Management has acted in a mala fide manner in issuing show cause notice-cum- suspension orders. The learned counsel further submitted that the petitioners must be allowed to appear for the examinations and they should not be penalised for no fault of theirs. Mr. G. R. Edmund further submitted that previous incidents attributed to the various petitioners never took place, and that the Management is in the habit of issuing show cause notices-cum- suspension orders and voluntarily withdrawing them and allow the petitioners to take the examinations. The learned counsel for the petitioners has also challenged the third respondent/college to produce the apology letters alleged to have been given by the petitioners in the various writ petitions.

8. Mr. Muthukumarasamy. learned counsel for the respondents, submitted that the petitioners have had a very bad track record. They had been found involved in acts of indiscipline. They were proceeded against and after they tendered apology, their suspension was revoked and they were allowed to continue their

studies. Learned counsel also produced the relevant records relating to the various unlawful activities attributed to the petitioners.

9. A summary of the past events in respect of each of the petitioners, has been made available by the learned counsel for the respondents. So far as the petitioner in W.P. No. 44/1/2000 is concerned, a memo was issued on 14-12-1998 for attending students meeting arranged without permission of college authorities. There was a letter, dated, 7-1-1999 from the Inspector of Police, Alanthurai Police Station to the Principal/3rd respondent requesting for Medical report in Edward Prakash assault case. The petitioner was suspended on 15-12-1998 pending enquiry for assaulting Mr. Edward Prakash on 12-12-1998. An Enquiry Committee was constituted on 15-12-1998. The Enquiry Committee constituted found that Edward Prakash was assaulted both verbally and physically. However, the suspension was revoked on 25-1-1999 on the petitioner giving undertakings on 5-1-1999 and 19-1-1999. The petitioner was 16 arrears + 8 current semester papers. He was suspended on 26-2-2000 as he was involved in unlawful activities in the Institute. The suspension was revoked on 5-10-1999 in view of the University examinations. A xerox copy of the undertaking given by the petitioner on 5-4-1999 is also produced. On 22-9-1999, Mr. Ambrose, Administrative Officer, has submitted a letter to the Principal that the following persons -- Mr. Prabhu (petitioner in W.P. No. 4475/2000), Mr. Ashok Kumar (petitioner in W.P. No. 4471/2000), Mr. John Jeyakar (petitioner in W.P. No. 4476/2000) and one George Reck Solomon were creating problems involving ragging and eve-teasing. Thereafter, on 23-9-1999 these four persons were placed under suspension, that Prabhu and Ashok Kumar were expelled from the hostel and they were directed to vacate the hostel on or before 6.00 p.m. on 23-9-1999. On 15-12-1998, the petitioner in W.P. No. 4471/2000 was placed under suspension for assaulting fellow student Mr. Edward Prakash. A statement was given by Ashok Kumar on 18-12-1998 stating that Edward Prakash also beat him. On 5-1-1999 he gave an apology letter accepting his fault in the enquiry and expressing regret and ensuring that he would not repeat again, he would be thankful if he was allowed to attend the class on the next day. There is another undertaking letter dated, 19-1-1999 expressing apology. There are similar letters of apology from the other writ petitioners as well.

10. In these circumstances, it is not possible to accept the contentions put forward on behalf of the petitioners by Mr. G. R. Edmand, learned counsel for the petitioners that the petitioners are innocent and the Institute alone had been vindictive.

11. Speaking about students indiscipline, Mohan. J. (as the learned Judge then was) in (Murugan v. Director of Higher Secondary Education 1998 (2) MLW 206 had thus to say :

"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 misbehaviour and when ultimately

thrown out of the school, come to this Court as if he 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 has further observed as follows :

"In this connection, it requires to be remembered that the students are of impressionable age; sometimes they take all adventurism; sometimes they become victims of unguided 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."

12. All the petitioners have a bad track record. They have been suspended on previous occasions and subsequently on their giving letters of apology, they were allowed to rejoin and pursue their studies. There were also occasions when the Institution in view of the pending examinations chose to revoke the suspension out of grace. The petitioners in the instant cases have not substantiated their stand that the suspensions on the previous occasions were revoked by the authorities on their own without any act on the part of the petitioners expressing regret or giving undertaking to behave themselves in future. In some of the cases, where the petitioners claim that they left the hostel voluntarily, it has been found that their statements are false and they were expelled from the hostel on the ground of activities wanting discipline. Indeed, the petitioners will lose their chance to appear for the examinations. But then at some stage we have to put our foot down, take a firm decision as otherwise indiscipline in educational institutions will reach catastrophic proportions. After all these are orders of suspension. The third respondent has already asked for explanation from the students. It is not necessary to refer to the contents of the explanation. Suffice it to say that all the petitioners and the parents of the petitioners have given identical explanations and the explanations are bald. Whatever it may be, it is not proper on the part of this Court to interfere at this stage. It is open to the third respondent to complete the enquiry and take suitable action against the petitioners if they are found guilty.

13. At the request of Mr. G. R. Edmund, learned counsel for the petitioner, it was put to Mr. Mthukumarasamy whether the College would consider permitting the

petitioners to appear for the examination? After taking instructions from his client, Mr. Muthukumarasamy expressed the inability of the third respondent to allow the students to appear for examinations. It has, however, been suggested to the counsel to persuade the third respondent/College to give Transfer Certificates to the petitioners without remarks; if the same can be done, so that the petitioners can join some other institutions, and to continue their studies.

14. I do not find any merit in the writ petitions and they are dismissed. No costs. Consequently, W.M.P. Nos. 6865 to 6870 and 6874 to 6882/2000 are dismissed.