

(1993) 11 MAD CK 0070
In the Madras High Court

C. Arun Prasad

APPELLANT

Vs

The Headmaster, Municipal H.S. School and Others

RESPONDENT

Date of Decision : 04-11-1993

Acts Referred:

Citation : (1994) 1 MLJ 386

Hon'ble Judges : Bakthavatsalam, J

Bench : Single Bench

Judgement

Bakthavatsalam, J.—When the miscellaneous petition came up for hearing by consent of both parties, the main writ petition itself is taken up for final disposal.

2. The writ petitioner is before this Court against an order of expulsion from the first respondent school from 6.8.1993 onwards. This resolution seems to have been passed by the teachers association. The petitioner hails from a poor coolie family and he belongs to Scheduled Caste. It seems that a strike had taken place on 4.8.1993 against the decision for raising the sum of Rs. 300 for uniforms. It seems the students abstained from classes and the Sub-Collector interfered with the matter and the police came to the scene and the students were injured. It is alleged in the affidavit that the petitioner was only a spectator of gathering. It seems the school authorities held three students responsible for the said incident and an order of expulsion was passed on 5.8.1993 against (1) Manivannan, (2) Agora Moorthy, and (3) Ramesh, all belonging to 12th Standard. It seems the Headmaster of the school made a complaint to the Inspector of Police against the said persons. It is also alleged in the affidavit that the petitioner was not in any way connected with the incident. It is also alleged that on 5.8.1993, the Tahsildar, the third respondent herein, deputed by the Sub-Collector visited the said school and after enquiry the Tahsildar left. It is also alleged in the affidavit that aggrieved by his report to the Tahsildar, the petitioner was expelled from the school and that the person who passed the order was the acting Headmaster, against whom the petitioner had complained to the Tahsildar. It is also alleged in the affidavit that the summary expulsion is said to have been resolved by the

Teachers Association in the interest of discipline in the school. It is also stated that the three students who were found to be the cause of the mischief, mentioned above, were only suspended initially and that they were re-admitted back to the school and however, one of the said three students named Ramesh, dropped out of the school. On 9.8.1993, it seems the third respondent convened a conciliatory meeting of the teachers, parents and students and that the outcome of the meeting was recommendations by the third respondent to the first respondent to transfer the admission of the student Ramesh to some other school and that the petitioner shall be re-admitted. It is stated that the first respondent has not heeded to the recommendation but the petitioner was kept in suspended animation. It is also stated that when the petitioner approached other schools with a request to re-admit him, he came to know that the first respondent had already requested them not to give admission to the petitioner. It is also stated that the transfer certificate of the petitioner is still with the first respondent and that it has not been enclosed with the order of expulsion. It is also stated in the affidavit that the impugned order is passed behind the back of the petitioner, that it is passed in violation of the principles of natural justice, fair play and equity and as such the impugned order has got to be set aside.

3. A counter-affidavit has been filed by the first respondent Headmaster stating that the petitioner had passed 10th Standard and was studying the XII Standard. It is also claimed in the counter-affidavit that the petitioner developed a tendency to create a confusion and pandemonium in the school atmosphere and disturbed the education of the poor students. It is also stated in the counter-affidavit that considering the economical and social standard of the petitioner, it was tolerated. It is also stated in the counter-affidavit that from the present academic year, it has been decided to observe and enforce the prevailing Rules and regulations relating to the conduct of the students and strict discipline and that as an initial measure the students were advised to come to the school and to attend classes with blue and white uniforms. It is also stated that the staff council of the school welcomed the measure, but the petitioner with the intention to create disturbance induced the students not to co-operate with the teaching staff and ill-advised other students to disobey their teacher and violate their directions. With regard to the allegation made in para. 3 of the affidavit, it is stated that it is not correct to state that the students were wearing the same dress for three days and that the petitioner was attending the school with colourful garments without washing the same for three days. The allegation made in the affidavit with regard to the fact that there was a strike on 4.8.1993 is denied in the counter-affidavit. It is further stated that on 5.8.1993 the abovementioned three students were suspended temporarily as they had attempted to disturb the school's calm atmosphere along with the petitioner. It is also stated that while some of the Post Graduate teachers were conducting science classes in the school laboratory for the XI Standard students, the petitioner collected few other students and attempted to enter into the laboratory with the intention to revoke the order of suspension caused against his friends

(against three of them stated earlier). It is also stated in the counter-affidavit that in order to save the life of the students inside the science laboratory, the teachers attending the science class at that time out of the responsibility with the maximum strain objected and prevented the petitioner and his friends from entering into the laboratory. The allegation made in para. 7 of the affidavit is denied. It is also stated that the petitioner did not feel sorry for his behaviour and that he refused to listen to the advice of the teachers and that the petitioner stood an example of the worst category of the students. It is also stated that the petitioner has invited his own end out of his own behaviour. It is also stated in the counter-affidavit that the writ petition is not maintainable as the petitioner has filed the writ petition without availing of the alternative remedies (wrongly typed in the counter-affidavit as "without invoking the alternative and prayer sources"). It is also stated that the respondents have no animosity or intention against the petitioner and that if a direction is issued to re-admit the petitioner, the first respondent institutions will be ruined and put to heavy hardship. It is also stated that the agitated students are the friends of the petitioner and suddenly they become wild and attacked the staff, as mentioned above, at their duty time. Three names of the teachers are given in the counter-affidavit. It is also stated that the three students who were found guilty refused to tender apology and they abused in a bad language, and as such the Headmaster then assembled the staff council and had taken the decision to expel the petitioner from the school. It is also stated that there was no summary expulsion as alleged. It is also stated that the petitioner is not innocent, that he is mischievous and that he had acted as main brain for the bad incident, mentioned above.

4. I have considered the arguments of Mr. R. Karuppan, the learned Counsel for the petitioner and of Mr. S. Nataraj Shankar, the learned Counsel for the first respondent and of Mr. D. Krishnakumar, learned Government Advocate for the other respondents. Entire files has been produced before this Court by the learned Counsel appearing for the first respondent school. I have gone through the files. On a perusal of the files, I find that a report had been sent by one R. Radhakrishnan, on 6.8.1993 to the Sub-Inspector of Police, Mayiladuthurai, in which the name of the petitioner is mentioned stating the petitioner had used the bad language against the teacher. On the basis of the said report, an endorsement is seen, made by K. Rangaraj, the Headmaster-in-charge of the school to the effect that the said three students had been sent for through a peon. It is further endorsed by the Headmaster-in-charge that the said three students were enquired in the presence of teachers and other teachers and however, they were not ready to accept the advice made by him and as such the said letter had been placed before the staff council. The staff council seems to have met on 10.8.1993 and has passed a resolution stating that students (1) N. Agoramoorthy, and (2) K. Manivannan had given apology and that their parents also gave an undertaking that such an incident will not take place and that they may be re-admitted. With regard to the petitioner before this Court, an

unanimous resolution has been passed stating certain reasons i.e. he is creating loss to the school, attacking teachers, and abusing teachers with bad language and also inducing other students, violating Rules and Regulations of the School. It is also seen from the same resolution that (1) S. Ramesh, (2) G. Thiagarajan and (3) C. Arunprasad (petitioner herein) have been expelled for misconduct. The petitioner seems to have made a representation to the Tahsildar, Mayiladuthurai on 12.8.1993, apparently, the concerned school being a municipal school. In the representation sent to the Tahsildar, the petitioner has stated that he will not indulge in bad activities in future and requested the Tahsildar to recommend the school authorities to admit him. The endorsement made on the said representation by the Headmaster of the school shows that the recommendations of the Tahsildar have been considered by the staff council but it reaffirmed the resolution passed on 10.8.1993. A report to the District Educational Officer is sent about the expulsion of the petitioner.

5. It is true that no hard and fast rule can be laid down, with regard to the disciplinary action to be taken against a student. It is also true that this Court should be very slow in interfering with the matters of enforcement of discipline and that technicalities of law should not be imported to further the cause of a student who had indulged in indiscipline. However, if the facts of the case before me are looked upon, I do not see any ground to sustain the summary order of expulsion passed by the school authorities. Files do not show that any sort of enquiry has been done. The Headmaster-in-charge seems to have sent for the petitioner and others and they refused to tender apology. But when the staff council has passed a resolution, as found in the files, number of charges are seen against the petitioner and others. The petitioner seems to have been expelled on a number of charges, which are not known to him and no enquiry is seen. This itself is sufficient to set aside the impugned order before this Court, as it violates the principles of natural justice. One cannot import fine principles of law and weigh the same in golden scales, as held by Mohan, J. speaking for the Bench in *Controller of Examinations etc., v. G.S. Sunder J.T.* 1992 (4) 204. Yet, the minimum requirement of principles of natural justice has not been followed in this case.

6. Though I find, on a perusal of the files, that a complaint has been filed against the petitioner to the Headmaster-in-charge and police, no whisper has been made in the counter-affidavit filed before this Court. Except the bare-resolution passed by the staff council, no other material is found in the files warranting expulsion of the petitioner herein. If the expulsion of the petitioner is to be sustained, principles of natural justice ought to have been followed. No notice, indicating allegations or charges is found in the files. This is held to be bad by a Division Bench of the Bombay High Court in *Kobad Jehangit Bharda v. Farokh Sidhwa A.L.R.* 1991 Bom. 16. Even in the counter-affidavit I do not see any allegation against the petitioner that he is responsible for the incident of assaulting a teacher, according to the complaint, as found in the files. Though the files show that a complaint has been made by one Radhakrishnan, Teacher

stating that the petitioner had come and threatened him, no mention is made in the counter-affidavit about the said complaint, because no enquiry has been made on that complaint. That apart, I do not see any justification in the action of the respondent school in re-admitting other students, who were kept under suspension initially; and expelling the petitioner alone from the school. Though the learned Counsel appearing for the respondent school states that the petitioner is a ring leader and he has got to be expelled, as I have already stated, it is to be done following the principles of natural justice. It has not been done here. It has been held that when the order of expulsion is a quasi-judicial order, there should be sufficient compliance with regard to the principles of natural justice. In my view, the student in this case ought to have been informed about the charge or the allegation he has to meet and he ought to have been given an adequate opportunity to meet the said charge. Since that has not been done in this case, and that the principles of natural justice have not been followed, the impugned order is liable to be set aside. Accordingly, the impugned order is set aside. It is open to the respondents to hold an enquiry, if they want to pursue the matter further. But, in my view, the respondent school would be well advised if they take a letter of apology from the petitioner and re-admit him into the school as they have re-admitted the student who started the trouble if they so wish, taking into consideration the petitioner is a XII Standard and examinations are fast approaching in March/April, 1994. Till the enquiry is over, the petitioner is not entitled to attend the classes. Such an enquiry, if the respondent school proposes to hold as Instated earlier, the enquiry is to be completed on or before 19.11.1993. If there is lack of attendance, the school authorities have to take care of it, if the petitioner is allowed to attend classes. This writ petition is ordered accordingly. No costs.