

(1996) 02 KAR CK 0023

In the Karnataka High Court

Case No : Writ Petition No. 44663 of 1995 connected and W.P. No's. 44658 to 44662 of 1995

Javid Ahmed Shah

APPELLANT

Vs

Dr. B.R. Ambedkar Medical College, Bangalore

RESPONDENT

Date of Decision : 07-02-1996

Acts Referred:

Karnataka State Universities Act, 1976 — Section 62, 62 (b)

Citation : AIR 1997 Kar 122 : (1997) 2 LLJ 239

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : S.G. Bhagwan and Mohandas N. Hegde, for the Appellant; B.S. Patil, for the Respondent

Judgement

1. This set of five petitions relate to an order of rustication passed by the Principal of Dr. B. R. Ambedkar College, Bangalore against the six petitioners on November 20, 1995. The petitioners are all Medical Students prosecuting their studies with the college in question and the respondent - Principal had passed the order on the ground that the petitioners have involved themselves in serious act of misconduct / indiscipline. There are certain other proceedings that have been instituted against these petitioners with which we are not immediately concerned. The issues involved in this case are of deep significance insofar as they concern two vital areas the first of them being the question as to what should be the attitude or role of the Courts in cases relating to action that follows proven misconduct and secondly, certain aspects of priority insofar as whether at all the Courts should interfere in these cases and in those of the ones where the Court is required to take judicial notice, what precisely should be the approach of the Courts. I need to prefix this judgment with certain observations which are of consequence, the first of them being that this Court will have to take judicial notice of the situation that prevails as of today and insofar this goes, the numerous instances of misconduct and vandalism that are repeatedly being projected before the colleges and the Universities and the utter helplessness of

the authorities in the face of these incidents coupled with the overall demoralising effect it has in public life in general, are the areas that this Court must address itself to. There are instances when young students involve themselves in petty pranks and the Court as of necessity is required to adopt a lenient view. There is a second category of instances where the misconduct alleged is not so petty and is of some consequence and despite this position, the attitude of the Court is almost that of a parent and therefore, the ultimate decision is guided by principles of correctiveness. There may however, be a third category of misconduct where the gravity is so serious that any element of leniency or laxity will virtually make a mockery of the entire disciplinary process. It is in relation to these categories of misconduct therefore that the Court is required to mould the decision making process particularly in the light of the effect that it will have on the Universities, the colleges, the standard of education, the authorities who run the colleges and more importantly, the total fall out that will emerge from situations of this type coupled lastly with the signals that these verdicts send out.

2. The incident that gave rise to the action in question had taken place within the college premises on the night of November 13, 1995. It is alleged that certain students arrived at the spot where a statue of the late Dr. B. R. Ambedkar has been put up and that they were playing music, that they consumed alcohol and it is alleged that subsequently they poured the alcohol along with various eatables that they were consuming on the statue. In sum and substance, the allegation is that the statue in question was defiled or desecrated. The further allegation is that the spectacles were removed from the face of the statue and taken away. These incidents are alleged to have taken place around midnight of that day and the charge is that the security staff who were present there tried to stop the students in question from what they were doing. According to the version of the security staff, these students who had come there in cars were wholly and totally out of control. They have alleged that the students not only did not listen to the security staff but that they threatened and intimidated them. According to the version of the security staff they made various references to their position and particularly their financial capacities. They also threatened the staff with dire consequences if they came in their way and after the performance which I have briefly narrated, that they finally went away. The security staff state that they cleaned up the area to whatever extent they could and that they lodged a complaint with their superior Officers on the next morning, who in turn communicated the facts to the Principal. Thereafter the Principal of the college made certain enquiries and it is his case that he immediately sent for the students in question. Out of those who had been sent for, three students did not appear before him and the remaining came to his office. According to the Principal, he held an enquiry for purposes of ascertaining as to who were responsible for the incidents of the previous night. It is his case that in the course of the enquiry one of the students by the name of Chakravarthy wrote out certain names on a piece of paper and that he also indicated that car numbers

that had been used on the previous night. The Principal also states that he sent for the security staff who had witnessed the incident and that he recorded their statements in the enquiry as also the statements of some other persons. The security staff are supposed to have identified seven of the students, four on the basis of personal identification and three on the basis of photographs from the admission forms which were in the college records. On the basis of this enquiry, the Principal held these seven persons guilty of acts of serious misconduct and passed an order dated November 20, 1995 expelling the seven students from the college with immediate effect. I need to mention here that the Principal on the same day also lodged a complaint with the police in respect of the same incident and that the police authorities have commenced certain proceedings. Those proceedings are not the subject-matter of these petitions but the limited reference is made because the petitioners learned Advocates have advanced certain significant submissions with regard to the lodging of that complaint which is the limited reason why I have referred to them in this judgment.

3. The present petition has been directed against the order of expulsion. The petitioners have contended that they have not committed any acts of misconduct and that the manner in which the order that has been passed will not pass legal scrutiny and that consequently it is liable to be quashed. In sum and substance, what has been contended on behalf of the petitioners is that this is a case in which serious consequences ensue and that therefore it is very necessary to conform to the principles of natural justice in respect of whatever action is taken against the petitioners. It is contended that the Principal has pointed out that the entire enquiry was held on the morning of November 14, 1995 and completed on that day and the petitioners learned Advocates have submitted, that this circumstance alone will indicate that there was a total breach of the provisions of natural justice insofar as the petitioners were not given any formal show-cause indicating to them as to what the charges against them were, that they were not afforded an opportunity of cross-examining the witnesses and that in sum and substance, no proper enquiry has been held and that even if there is a charge of grave misconduct against the petitioners that it was necessary to hold a proper, formal enquiry before imposing such a harsh punishment as expulsion from the college. There is a subsidiary ground canvassed which is to the effect that u/s 62 of the Universities Act, there is a provision which indicates that the final authority in respect of matters relating to students discipline etc. shall be the Vice-Chancellor and it is therefore contended that it is this authority alone who could have passed orders against the petitioners, that the Principal had no right or jurisdiction to have passed the impugned order. Another limb of submission is that the same Regulation prescribes that the Principal of a college shall only be empowered to rusticate a student. The learned Advocates have submitted that the power to rusticate presupposes a temporary removal from the institution for a prescribed period of time and that an order of expulsion which tantamount, to an order of dismissal from the institution or a permanent removal is not an order which the Principal is empowered to pass. These basically are the heads of

challenge as far as the petitioners are concerned.

4. The respondents, apart from justifying the action have contended that this is a case in which the petition itself is not maintainable. They have attacked the very foundation of this litigation by pointing out that the respondent-Institution is a Public Trust and that the action taken by the Principal is something within the internal management of the affairs of that Trust and therefore not amenable to the writ jurisdiction of this Court. The learned Advocate submitted on the basis of various decisions, a particularly in relation to Article 12 of the Constitution that irrespective of what action the petitioners may be entitled to take, that they cannot challenge the action through a writ petition.

5. In support of his contention that these writ petitions should be dismissed at the very threshold on the ground of maintainability, Mr. Narayana Rao, learned Counsel who represents the respondent-Institution, quite apart from the basic contention that no writ petition is maintainable against the respondent-Trust, relied on certain decisions which despite three compilations having been filed I am still unable to lay my hands on. I do not propose to reproduce those decisions because this judgment has been delivered piecemeal over the last few dates of hearing and I do not propose to defer it any longer. The fact of the matter remains that the principal argument canvassed is that the institution would not by any standards come within the definition of State or Instrumentality of State as far as Article 12 of the Constitution goes and that consequently, the petitioners are precluded in law from maintaining the present petitions. The petitions has been seriously contested by the petitioner learned Advocates who have also relied on certain rulings both of this Court and of the Supreme Court. It unnecessary for me to reproduce the list of those cases because the law with regard to the maintainability of such a petition is now sufficiently well-settled. The Supreme Court, several years back while considering a somewhat similar situation and while dealing with the case of Trust, where the point of maintainability was canvassed had occasion to not only interpret the concept "Instrumentality of State" and to lay down several tests, which have subsequently been amplified in later judgments. The Apex Court in *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, laid down various propositions of law which hold good up to the present point of time and it is really those principles which are required to be applied to the fact of this case for purposes of deciding the question of maintainability. I need to also point out that the petitioners learned Advocate raised one additional aspect of the matter when he submitted that as far as the action that is challenged in the present proceeding is concerned, that the Principal of the college was exercising certain statutory powers and that consequently there could be no dispute about the fact that the petitioners are entitled to maintain the present petitions against that action. The fact remains, that it is not really the structure or complexion of the respondent-Institution which is material but the generality of the cause of action and, if one were to apply the various tests prescribed by the Courts over the years, there can be no doubt about the fact that the present petitions are in fact

maintainable. I do not propose to labour on this point because as indicated by me the law is well settled and therefore, the preliminary objection regarding maintainability will necessarily have to fail.

6. The real dispute as far as the present proceeding is concerned has been canvassed by the petitioners learned Advocates who maintain that this is a situation in which there has been a total breach of the principles of natural justice. In sum and substance, the learned Advocates have pointed out that after the incident that took place on the night of November 13, 1995, the respondent-Principal is alleged to have held an enquiry on the very next day. The respondents case is that the Principal sent for the students concerned and that barring three of them, the remaining students appeared before him. According to him, he conducted an enquiry in the college premises on that day and in the course of the enquiry the security guard Suresh identified four of the students personally and three of them on the basis of their photographs in the Admission Register. The Principal also contends that one of the students namely Chakravarthi had given a written statement indicating that there were 5 persons including him at 11.30 p.m. on November 13, 1995 and that he has also given the car number in which he came. He is stated to have admitted having taken drinks near the statue. He has denied having taken away the spectacles of the statue. According to the Principal, three other students denied their involvements and all of them refused to sign the statements recorded. The Principal relied heavily on the identification evidence of the security guard Suresh who was present at the time when the incident took place and he has proceeded to pass the impugned order expelling the seven students from the college. Petitioners learned Advocates submitted that in the first instance according to them no enquiry was held on the morning of November 14, 1995 and it is their case that the order which was passed on November 20, 1995 is an order that the Principal has passed without holding any enquiry whatsoever, In support of this contention, the learned Advocates have produced before me certain documents in relation to the subsequent proceedings namely the complaint that was lodged and that the police authorities pointed that this complaint was lodged on the afternoon of November 14, 1995 i.e., the same day on which the enquiry was held. Petitioners learned Advocates rely heavily on the fact that even though the complaint sets out the details of the incident etc., that the names of two of the present petitioners are not stated in that complaint. It is their contention that if the Principal had held an enquiry on November 14, 1995 morning as contended by him, that in the course of the enquiry the names of the various students who had taken part, in the incident had emerged and if this was the position, that there is no explanation for excluding two of the names. According to the petitioners learned Advocates, this circumstance is sufficient to completely destroy the credibility of the version that some enquiry had taken place on November 14, 1995. A perusal of the complaint that was lodged on that date by the Principal does indicate that two of the names have not been stated in that complaint. The reasons for this omission are something which the complainant

will have to explain as and when that proceeding comes up. The effect of the nomination of these two names will be assessed by the Court before which that proceeding is pending. As of now, what I need to take cognizance of is that the respondent is a Principal of a teaching institution, admittedly a serious incident had taken place on the previous night and it only stands to reason that in this background the very first thing that the head of the institution would do is to ascertain from the security staff and all other available quarters as to what precisely happened and who was responsible for the incident. There can be no doubt whatsoever that this was done because the security Officers themselves have pointed out that they immediately reported the matter to the Principal. The security guard Suresh who is the one who has identified the students very clearly stated that he was on duty near the Ambedkar statue on that night. He has also stated that he could identify the persons who had taken part in the incident because the incident was one of considerable duration. Under these circumstances to my mind, it would be impossible to accept the contention that is canvassed on behalf of the petitioners that no enquiry has taken place on November 14, 1995. Apart from the circumstantial evidence, we have on record a document which is in the handwriting of one of the students and which the Principal states was obtained from him in the course of the enquiry. The document in question is signed by him and I do not visualise any situation other than the enquiry that was conducted on November 14, 1995, when such a document could have seen the light of day. It is nobody's case that the document is a fabricated one and under these circumstances, merely because two of the names are not mentioned in the complaint lodged to the police cannot under any circumstances lead to the conclusion that the enquiry had not taken place. The other aspect of the matter namely the question as to why these names have not been set down and the effect thereof is something which the Criminal Court before which the other proceeding is pending will examine and I am not really concerned with that aspect of the matter. Whether it was a lapse or what the reasons were are something within the knowledge of the complainant which he will indicate to that Court.

7. The main thrust of the challenge is directed towards the contention that the holding of the enquiry on November 14, 1995 does not conform with the requirements of the principles of natural justice. The learned Advocates have submitted that the incident had an unfortunate fall out and the repercussions are said to have been very serious but more importantly, that as far as the careers of the students are concerned, that the action has had very far reaching consequences and it is therefore submitted that before punishment of this type could have been meted out to the students, that an enquiry that passes the test of fairness was necessary. They submit that even if the respondents case is to be accepted, that the Principal alleges that he sent for the students concerned after coming to know from his enquiries as to who according to him had taken part in the incident whereas it is his version that after the students came, he conducted the fact finding enquiry for purposes of ascertaining the correct position. The

petitioners learned Advocate submitted that assuming without admitting that the students were sent for, that they were totally unaware of the charges levelled against them and secondly that they did not have a full and fair opportunity of defending themselves. As far as these two aspects of the matter are concerned, I shall presently demonstrate while dealing with the case law on the point that the Courts are required to take special cognizance of the fact that enquiries relating to academic bodies are within an entirely 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 therefrom 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 the person concerned should not be deprived of an opportunity of presenting his defence. It is from this angle alone that the validity or otherwise of the enquiry that was held will have to be ascertained. The College Principal has in this case stated what is reproduced in the impugned order that the solitary eye-witness to the incident was the security guard Suresh. He has also relied on the statements of the security Officer to whom the incident was reported which is supportive evidence. As far as Suresh is concerned, admittedly he was the security guard posted in the college and was on duty near the statue where the incident took place. From the record it is clear particularly from the statements of the witnesses, that the incident was of a sufficiently long duration insofar as this was not a mere hit and run case. His version is that the students in question started playing music, that they were consuming alcohol and that they thereafter poured some of the alcohol and food-stuffs on the statue and removed the spectacles. All this has taken sometime and the security guard Suresh who was present there and who has witnessed the incident had more than an adequate opportunity to view the persons taking part in the incident and I need to further record that the incident was one of a very unusual complexion insofar as even if the aspect of playing music and consuming some drinks is nothing exceptional, the latter part of it concerning the statue was sufficient to have caused a high degree of alarm in the mind of the security guard. He was obviously aware of the fact that he would have to report the incident to his superiors and being a person who has been posted in the college, the normal reaction of the person would have been to try and ascertain as to precisely who the persons involving themselves in the act were. The added factor is that these were not students of some other institution but happened to be students of that very college. These are circumstances which one needs to take into consideration because the Principal did not merely record the statement of Suresh and remain content with that but he had also asked Suresh to identify the persons who had taken part in the incident. Suresh did identify four persons at that time and he also picked out from the Photographs shown to him three other students whose names are also set-out in the order but who were not present at the time of the enquiry. This identification has taken place during the enquiry and the four students who are present, as emerged from the record did not dispute the identification. Thereafter the Principal has also relied on the evidence of Sri

Sampath who is the Security Supervisor. These persons' statements were recorded at the time when the enquiry was held and there is nothing on record to indicate that the petitioners who were present had disputed the correctness of all these materials. On the contrary the hand written document given by one of them more than fully corroborates the evidence of Suresh and Sampath. It is from this document, that one needs to ascertain as to whether the criticism levelled against the holding of this enquiry by the petitioners learned Advocates who contend that it was not a fair and correct enquiry, requires to be upheld. It is quite obvious from the sequence of events on that date and thereafter that there was no dispute with regard to what had transpired in the course of the enquiry and had the petitioners wanted to dispute anything, to my mind they would certainly have placed it on record. The reason for this is that the record indicates that very unfortunately, this incident did have a very sporadic reaction insofar as all sorts of forces were let loose immediately which were not confined to the college premises only but erupted elsewhere. In this background there can be no two opinions about the fact that the petitioners themselves right from the very beginning were fully aware of the gravity and repercussions of what had happened. Under these circumstances for purposes of assessing whether the petitioners were denied any opportunity of placing any defence before the enquiry or in disputing the evidence, the Court will have to ascertain as to whether or not the evidence in this case has virtually gone uncontroverted and that even at a subsequent point of time no grievance of any type has been put forward. This very briefly summarises the state of record. I do concede that at this point of time a serious argument has been advanced that all this evidence, requires to, be carefully tested and that consequently, if at all any action is warranted, that a fresh enquiry should be held. The position remains however that the evidence has gone undisputed and that no grievances were made at the time when the enquiry was held or immediately thereafter and that consequently it is not open several months later to find fault either with the fairness or correctness of the holding of the enquiry, both of which factors are perfectly in order.

8. A serious charge has been levelled by the petitioners learned Advocates with regard to what they term as the extreme hurry that was displayed in holding the enquiry. As far as this is concerned, learned Counsel submitted that the order itself was passed after six days and that if the respondent-Principal were to act correctly and fairly, that he ought to have held the enquiry after giving the petitioners reasonable time and that there was no desperate hurry to hold an enquiry on that very morning. I am however unable to uphold this ground of attack because the record indicates that the matter was reported to the Principal by the Security Officer the first thing that morning and to my mind, the proper course which the Principal ought to have followed was to enquire into the incident without lapse of any time. This is precisely what he has done. This was a case in which various aspects were predominant, the first of them being the question of identification. It was therefore of paramount importance that no time

should have been wasted and this Court has on numerous occasions found fault with authorities for delaying those proceedings which have not only worsened the situation for the authorities but also for the students concerned. The Supreme Court has occasion many years back while dealing with the case of *M.S. Sheriff Vs. The State of Madras and Others*, to observe that it is essential that persons who have committed serious offences should be punished when the facts are still fresh in the public mind and it is virtually an extension of this principle which requires that in important matters enquiries and trials must be conducted at the earliest point of time. I see nothing wrong in the Principal having conducted the enquiry on that morning and on the other hand this Court would like to compliment him for his efficiency and expedition. There is an additional reason for this insofar as once a certain amount of time has elapsed, the quality of the evidence begins to deteriorate. It was therefore the right and correct thing to have done insofar as the enquiry was held on that very morning and I see no ground why this should have been delayed. The submission canvassed on behalf of the petitioners that the order came to be passed after the lapse of six days and that therefore, there was no desperate hurry to complete the enquiry does not impress me for the simple reason that it was the holding of the enquiry which included identification and recording of the statements 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. One needs to take into account that there was no abnormal delay in passing the order insofar as this procedure was completed on November 20, 1995 itself.

9. The next submission that was canvassed on behalf of the petitioners was that the order so passed by the Principal which is u/s 62 of the Act is an order without jurisdiction. In support of this contention, the petitioners learned Advocates have relied on the provisions of Section 62 of the Universities Act, 1976. The submission is a two fold one. The first part of it proceeds on the footing that the final authority in respect of disciplinary matters vests with the Vice-Chancellor of the University and not with the Principal and the learned Advocates rely on the provisions of Section 62(b) as far as the second part of their submission is concerned. This is to the effect that the only powers which can be exercised by the head of the institution namely the Principal are to the extent of rustication. Petitioners' learned Advocate rely on the dictionary meaning of the term "rustication" and they submit that at the very highest, the head of the institution may be permitted to rusticate a student who is guilty of serious misconduct which presupposes that the student can only be sent out of the institution for a prescribed period of time. Learned Advocates submit that this presupposes a short term order and they pointed out to the Court that in the present instance the Principal has passed an order of expulsion from the institution which cannot be done insofar as an expulsion is a permanent removal from the institution. They submit that if at all such an order of expulsion was competent, that no authority other than the Vice-Chancellor of the University could have passed that order and that on this ground alone it will have to be quashed for want of

jurisdiction. On behalf of the respondents it has been submitted that this is a misreading of the Section. It is not disputed that the final authority in disciplinary matters is the Vice-Chancellor of the University. The learned Advocate submits that as far as individual educational institutions are concerned the power devolves on the head of that institution namely the Principal. Reliance is placed on the provisions of Section 62(b) of the Act whereby the power of rustication is in fact invested with the head of the institution. It is therefore contended that the powers have been exercised u/s 62(b). As regards the distinction between an act of rustication and expulsion, the defence of the respondents learned Counsel is that the two terms are virtually synonymous as far as the academic field is concerned. It is submitted that depending on the gravity of the misconduct that is alleged, that it is open to the head of the institution to decide on the type of punishment which is warranted and in extreme cases where the misconduct is so grave or serious, that it is open to the Principal to pass an order of expulsion which power is implicit in Section 62(b). I need to record here, that the scheme of Section 62 is such that the final authority and responsibility for the maintenance of discipline among students of the University does undoubtedly vest in the Vice-Chancellor. u/s 62(b) however, the power of imposing the penalty of rustication from the college or hostel or an institution is vested in the head of college or hostel or an institution concerned. The Section does give the Principal the ultimate power of imposing the punishment of rustication in appropriate cases and to my mind, the fact that the Section does not deal with cases of expulsion clearly indicates the legislative intendment that where the term rustication has been used in relation to educational institutions, that it is synonymous with expulsion. Had the law intended to make a distinction between the two, then separate provisions would have been provided for but as far as Section 62(b) is concerned, it is very clear that rustication presupposes removal from the institution. If in appropriate cases the head of the institution is of the view that the removal should be for a prescribed period of time, it may be open to the Principal to impose such a punishment but in the absence of such a situation, where an order of rustication has been passed against a student as far as academic circles are concerned, it will have to be treated on par with an order of expulsion. Under these circumstances to my mind, merely because the Principal has used the word expelled instead of rusticated would not make any difference to the order because it would still be a valid and correct order u/s 62(b) of the Act. This is not a situation in which the mere wording or terminology will make any difference to the quality of the order.

10. The petitioners' learned Advocates have relied on certain judgments in support of their contentions which I shall briefly deal with. The reliance has been placed in the first instance on a decision of this Court in B.P. Puttaraju and Others Vs. The Bangalore University and Another, . The petitioners' learned Advocates have drawn my attention to paragraph 9 of that judgment wherein the Court had occasion to observe that in relation to educational institutions the term rustication must be understood as expulsion for a given period of time and no

more. This argument was canvassed in support of the plea that this is a case in which the respondents, have claimed abnormal seriousness vis-a-vis what happened on the night of November 13, 1995 because of several subsequent developments in different parts of the city and the State. The learned Advocates have submitted that the incident itself was something that took place within the college premises and merely because the same subsequently escalated for a variety of reasons, that the two aspects are unconnected and that consequently even if everything were to be held against the petitioners, that a permanent removal from the college in the form of an expulsion order was unjustified. They contend that an order of rustication would necessarily have implied removal from the institution for a prescribed period of time which itself would have been sufficient and adequate punishment. It is therefore contended i that the order in question would necessarily have to be treated regardless of the wording as an order of rustication simpliciter and that it must be made time bound.

11. The next decision relied on is of this Court in *The Bangalore University, Bangalore and Another Vs. B.P. Puttaraju and Others*, . This was a case relating to suspension of a student from an educational institution and the Petitioners" learned Advocates have relied on the decision for the limited purpose of pointing out that this Court took the view that the interruption of the students career or the cessation of that career are factors of paramount importance to a Court and that consequently, it is very necessary to limit the period of damage to the very minimum. This basically is an extension of the earlier argument canvassed in relation to the aspect of rustication.

12. As far as this aspect of the matter is concerned, I need to record 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 as lenient a view 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. In the present instance, the Principal has indicated in the concluding portions of the order that the incident in question was a very serious one. This was a case where the Principal was dealing with students doing professional courses and having regard to the facts of the case, as also the repercussions of the incident to the institution itself, the Principal was of the view that it would be impossible to permit the petitioners students to continue with their course of study in that institution. These briefly are the reasons that he has indicated for having passed an order expelling petitioners from the college. As far as this aspect is concerned, I have already indicated the submissions canvassed

by the petitioners" learned Advocates and I have carefully evaluated the record of this case. The fact remains, that the repercussions of the incident were undoubtedly very grave. I am not in the least either biased or prejudiced by any of the incidents that have taken place in the college or in different quarters of the city or State thereafter but there is such a thing as righteous indignation. These aspects of the matter are totally irrelevant as far as the petitioners are concerned except to a limited extent insofar as the petitioners are all adults doing professional courses and it is legitimate for the authorities as also for this Court to expect a sense of responsibility to prevail as far as their conduct at all times is concerned. Viewed at from this background, there can be virtually nothing that can be said in support of even an extenuating circumstance vis-a-vis the conduct of the petitioners which is virtually unpardonable. It needs to be also taken into account that every person, and that would necessarily include students, must be extremely cautious while dealing with incidents that are likely to provoke serious reactions. This is an aspect of the matter which this Court has to take cognizance of because it was not a mere question of the students indulging in pranks or some innocent misbehaviour but the incident was far more serious insofar as it was clearly calculated to vandalise the statue and to cause serious disrespect to the memory of the person whose statue it was. It was these two aspects of the matter that resulted in many unfortunate incidents thereafter. I am only referring to the limited extent of recording that where adult students and that too those pursuing professional courses indulge in conduct of this type, that the head of the institution would be fully justified in passing an order that persons who have committed such atrocities should no longer be allowed to continue in that institution.

13. In the course of his submissions, the petitioners learned Advocates drew my attention to a Division Bench decision of the Kerala High Court in the case of Headmaster, Poilkav High School, P.O. Edakkulam Quilandy Vs. Murali A. and Others, . This was a case of student of an educational institution who was dismissed on the ground of indiscipline. The Court had occasion to examine the position in law with regard to various aspects including, the procedure that is required to be followed in cases of this type. One aspect of the matter centres around the 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. The Division Bench of the Kerala High Court had occasion to examine the law on the point virtually threadbare and to consider the views expressed by different Courts both in India and in England spanning almost a whole century. The learned Judges have in the course of the detailed examination of the law referred to the following decisions :-

1. Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc.,
2. Rattan Lal Sharma Vs. Managing Committee, Dr. Hari Ram (Co-education) Higher Secondary School and others, ;

3. Karnataka Public Service Commission and others Vs. B.M. Vijaya Shankar and others, ;
4. Sajil Venu v. Principal, S. N. College 1992 2 KLT 476;
5. Union of India and another Vs. Ex Constable Amrik Singh, ;
6. Maharashtra State Board of Secondary And Higher Secondary Education v. K. S. Gandhi and Others AIR 1991 SCW 879;
7. Charan Lal Sahu Vs. Union of India, ;
8. Mohinder Singh Jamwal Vs. University of Jammu and Others, ;
9. P.M. Unni Raja and Others Vs. Principal, Medical College, Trivandrum and Others, ;
10. R.C. Thampan and Others Vs. The Principal, Medical College, Calicut, ;
11. Hira Nath Mishra and Others Vs. The Principal, Rajendra Medical College, Ranchi and Another, ;
12. Herring v. Templeman 1973 3 All E. R. 569;
13. A. Raghavan and Another Vs. D.E.O. Attingal and Another, ;
14. Pramila Dei Vs. Secretary, Board of Secondary Education, ;
15. Union of India v. J. N. Sinha and another 1970 II LU 284 (SC);
16. A.K. Kraipak and Others Vs. Union of India (UOI) and Others, ;
17. Union of India (UOI) and Another Vs. P.K. Roy and Others, ;
18. The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others, ;
19. Ganesh Chandra Saha Vs. Jiw Raj Somani, ;
20. Aldo Maria Patroni and Another Vs. E.C. Kesavan and Others, ;
21. 1954 2 All E. R. 118 : 1954 1 WLR 730 (CA) Ex Parte FRY;
22. R v. Metropolitan Police Commissioner Exparte Parkee 1953 2 All E. R. 717;
23. G. B. Ghatge v. Emperor AIR 1949 Bom 226;
24. Russell v. Duke of Norfolk 1949 1 All E. R. 109;
25. AIR 1947 193 (Bom.) ;
26. P. Sankunni Vs. C.S. Venkatramani, minor by next friend C.S. Swatninatha Pattar, ;
27. Regina v. Hopley 1860 F&F 202

In sum and substance what has been held is that as far as the procedure is

concerned, that it must pass the absolute test of fairness in conformity with the Rules of natural justice that have earlier been referred to by me, but what the consensus of opinions expressed by the Court right through all these cases is that 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. This briefly summarises the situation and to my mind, where orders are passed having repercussions, undoubtedly the aggrieved party would be entitled to move a Court for a review of that order both with regard to the conclusions arrived at as also when it comes to the all important aspect of the gravity of punishment but as indicated by me earlier, unless there are very cogent and compelling circumstances, the policy of the Courts and the right principle that has been observed must be that 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.

14. The respondent's learned Advocate submits that this was one instance where undoubtedly a harsh order had to be passed but that in the circumstances of the case it was inevitable. In this regard, he contended that the respondent has taken into consideration the conduct of the petitioners in the course of the incident but more importantly, thereafter. The record indicates that one of the petitioners is the son of a Minister and all the others have come in through the management quota after paying large sums of money. It is ironical but true, that this intoxication of power and wealth has led the petitioners to such a vulgar display of vandalism. He has drawn my attention to the statements that have been attributed to the petitioners wherein they have virtually intimidated the security guard and wherein they are alleged to have even told him that they have paid as much as Rs. 15 Lakhs for each of their seats implying thereby that they are in a position to do acts of this type and get away because of their wealth and position. Learned Counsel drew the Court's subsequent attention to a written complaint which has been received from the security staff a copy of which has been placed before the Court which is dated December 25. 1995 at Exhibit R-9. This statement indicates that one of the petitioners had so gone in search of the security guard Suresh, that he had not only intimidated the security guard on duty but that he had told him that he would not leave Suresh wherever he is. The respondents learned Counsel relied on this document for the limited purpose of demonstrating as to what precisely the attitude, arrogance and behaviour of the petitioners has been even after the incident and he submitted that this was the modus operandi that would he indulged in as far as the poor witnesses were concerned in order to destroy the evidence. I have

taken a very serious view of these aspects of the case. They clearly indicate the mental make up of the petitioners, not only are they unrepentant but this is a clear attempt of trying to intimidate the eyewitness and to ensure that nothing further can happen. This is an aspect of the matter in respect of which this Court must take a very very serious view and it is in this background, that the Court fully endorses the correctness of the order that has been passed against the present Petitions.

15. I am conscious of the fact that the order in question has very far reaching consequences as far as the petitioners are concerned and it is precisely from this point of view that I have examined the record of this case virtually backwards and forwards for purposes of ensuring that nothing other than an absolutely fair and a correct verdict results in this proceeding. It is unfortunate that the order in question had to be passed against the petitioners and I am conscious of the serious fall out of that order as far as their careers are concerned but the incident in question was of a gravity that makes such an order inevitable and the consequences must therefore necessarily follow. I need to record that this Court very clearly indicates that where questions relating to discipline are concerned, there can be no compromises made whatsoever insofar as leniency will be shown in cases where leniency is deserved but no misplaced sympathy can be shown where the facts indicate that the persons concerned are totally undeserving. This unfortunately is one of the cases that falls into the second category.

16. It is in this background that this Court after a very careful consideration of the record as also the law on the point is left with no option except to dismiss the petitions as no judicial interference is warranted. All these writ petitions accordingly fail and stand dismissed. In the circumstances of the case, there shall be no order as to costs.