

(2007) 07 MAD CK 0213

In the Madras High Court

Case No : Writ Petition (MD) No. 5840 of 2007 and M.P. (MD) No. 1 of 2007

K. Saravanan

APPELLANT

Vs

The Principal, Government Law College

RESPONDENT

Date of Decision : 05-07-2007

Acts Referred:

Constitution of India, 1950 — Article 226
Government Law College Regulations — Regulation 29
Penal Code, 1860 (IPC) — Section 147, 302, 323, 341

Citation : (2007) 4 MLJ 632

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : G.R. Swaminathan, for the Appellant;

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner, is a student of the Government Law College, Madurai and has filed the present Writ Petition challenging the

order dated 14.6.2007 by which he was permanently dismissed from the College.

2. The said order has been passed by the Principal of the Law College. It is stated by the petitioner in his affidavit that he is faced with a criminal

case arising out of an incident between the two fellow students and a case has come to be registered in Crime No. 1407 of 2006. The petitioner

has been alleged to have committed a murder and charged with offences under Sections 147, 341, 323 and 302 IPC. He was arrested from the

College on 7.11.2006.

3. Thereafter, an Enquiry Committee consisting of three senior selection grade lecturers were asked to go into the issue. The said committee

conducted an enquiry and submitted its report dated 6.6.2007. It was stated in

the report that the petitioner was solely responsible for the incident and his continuance in the College will destroy peace and discipline in the College. Apart from the petitioner two other students who were involved in the same incident were also permanently dismissed from the College.

4. Mr. G.R. Swaminathan, learned Counsel for the petitioner submits that the principles of natural justice were not followed and the petitioner was not given a copy of the enquiry report and the statements and materials relied on against the petitioner. He has also stated that only a criminal case has been registered and the petitioner is yet to be found guilty and therefore, Regulation 29 framed by the Government Law College cannot be invoked at this stage.

5. These arguments are not available in a case of student indiscipline, especially when a student is involved in a criminal case that too for an offence u/s 302 IPC. Involvement of the petitioner is not denied in the affidavit.

6. On the contrary, the argument that he should be given a full opportunity to defend himself in a properly conducted enquiry like the case of industrial worker does not arise. The Supreme Court in Hira Nath Mishra and Others Vs. The Principal, Rajendra Medical College, Ranchi and Another, dealt with a case of disciplinary action against a student in a medical college, wherein it has been held as follows:

10. ...The Committee on a careful consideration of the material before them came to the conclusion that the three appellants and Upendra had taken part in the night raid on the girls Hostel. The report was confidentially sent to the Principal. The very reasons for which the girls were not examined in the presence of the appellants, prevailed on the authorities not to give a copy of the report to them. It would have been unwise to do so. Taking all the circumstances into account it is not possible to say that rules of natural justice had not been followed. In Board of Education v. Rice 1911 AC 179, Lord Loreburn laid down that in disposing of a question, which was the subject of an appeal to it, the Board of Education was under a duty to act in good faith, and to listen fairly to both sides, inasmuch as that was a duty which lay on every one who decided anything. He did not think that the Board was bound to treat such a question as though it were a trial. The Board need not examine witnesses. It could, he thought, obtain information in any way it thought best, always giving a fair

opportunity to those who were parties in the controversy to correct or contradict any relevant statement prejudicial to their view. More recently in *Russell v. Duke of Norfolk* 1949 1 All ER 109, Tucker, L.J observed :

There are, in my view, no words which are of universal application to every kind of inquiry and every kind of domestic tribunal. The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the Tribunal is acting, the subject matter that is being dealt with, and so forth. Accordingly, I do not derive much assistance from the definitions of natural justice which have been from time to time used, but, whatever standard is adopted, one essential is that the person concerned should have a reasonable opportunity of presenting his case." More recently in *Byrne v. Kinematograph Renters Society Ltd.* (1958) 2 All ER 579, Harman, J. Observed : "what, then, are the requirements of natural justice in a case of this kind? First, I think that the person accused should know the nature of the accusation made; secondly that he should be given an opportunity to state his case; and thirdly, of course, that the Tribunal should act in good faith. I do not think that there really is anything more.

11. Rules of natural justice cannot remain the same applying to all conditions.

7. A similar ruling was given by Mohan, J. in *R. Satheesh (minor) rep. by father and natural guardian, C. Rajendran v. Director of Higher*

Secondary Education (1989) 2 LW 206. The learned Judge held that in every case it cannot be insisted that there must be a memorandum of

charge, an enquiry and a finding arrived at like a Court or a judicial proceeding. The learned Judge observed as follows:

It is well settled by now that a student, so long as he behaves himself properly, in a disciplined way in other words, as a student ought to behave,

has every right to prosecute his studies. Such a right cannot be interfered with. As against this, should there be any act of indiscipline which is not

conducive to the interests of the Institution, and which will pollute the educational atmosphere of the Institution or the calm of the Institution,

certainly, the school authorities have every right to see that such a student who would not behave himself in a disciplined way is expelled from the

school. Apart from the fact that such an indisciplined student is not only an undesirable element who spoils his own future, his conduct and

character will have deleterious effect on others as well.

8. These decisions were followed subsequently by M. Srinivasan, J in the judgement reported in Leo Francis Xaviour Vs. The Principal, Karunya

Institute of Technology, Coimbatore and another, and it has been held in paragraph 26 as follows:

26. As it is found on the facts that there was an enquiry satisfying the requirements of the principles of of natural justice, this Court cannot interfere

with the finding of the Enquiry Committee and the Consequential order of expulsion passed against the petitioner. The plea taken by the first

respondent that it is a private college and the jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked by the

petitioner against the said College is well founded. Inasmuch as the principles of natural justice have been complied with, this Court has not

jurisdiction to interfere with the order of expulsion passed against the petitioner.

9. Further, it has also been held by the Supreme Court in the judgment reported in Maharashtra State Board of Secondary and Higher Secondary

Education Vs. K.S. Gandhi and Others, that the power of judicial review in case of student indiscipline is very limited and in such cases this Court

does not sit in appeal over decisions of the school authorities.

10. Under these circumstances, no case is made out for warranting interference. Hence the Writ Petition is dismissed. No costs. Consequently,

connected Miscellaneous Petition is closed.