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(2002) 04 MAD CK 0101

In the Madras High Court

Case No : Writ Petition No.11936 of 2002and WPMP No.16074 of 2002

M. Manikandan, E. Senthil Kumar, S. Senthil Kumar, K. Sakthivel and V. Vadakasi — APPELLANT

Vs

Manonmaniam Sundarnar University and The Principal S. Chattanatha Karayalar College, Tenkasi — RESPONDENT

Date of Decision : 22-04-2002

Acts Referred:

Citation : (2002) 2 MLJ 593

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : Hema Sampath, for the Appellant; M.P. Subbaya, V. Karthic and T.S. Gopalan, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—By consent of all the parties, the main writ petition itself is taken up for final disposal.

2. The petitioners who are students studying in S. Chattanatha Karayalar College, Tenkasi - second respondent herein, have approached this Court to issue a writ of mandamus directing the second respondent to implement proceedings No. MSU/A/DC/2002 dated 11.03.2002, issued by the first respondent - Manonmaniam Sundaranar University and take back them in the College.

3. According to the petitioners, they are studying in the second respondent''s College. The second respondent expelled the petitioners vindictively, on representation from the petitioners, the first respondent University directed the second respondent College to take back the petitioners. The petitioners 1 to 3 are studying in second year B.Com., 4th petitioner is studying in second year B.Sc., Computer Science and the 5th petitioner is studying in second year B.Sc., Micro Biology. All of them have obtained good marks and have been regularly attending the College. The teaching staff requested the second respondent to

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pay UGC''s scales of pay as paid by other Colleges. The same was not acceded to by the second respondent. The second respondent College management engaged outsiders, who came to the College campus. They beat several students on 26.12.2001, and teased the girl students. Petitioners 1 and 2 met the Principal and requested him to send the outsiders out of the College. Protesting against the beating of the students, the College students went on strike on 27.12.2001. Thereafter, the Revenue Divisional Officer conducted an enquiry, in which the second respondent, the representative from the management - Manimaran and the students participated. It was agreed in the meeting that the students future should not be affected and hence they should be taken back. The second respondent and the representative of the management agreed for the same and signed the minutes of the meeting held on 28.12.2001. Thereafter, the College reopened in a phased manner. While so, on 15.01.2002, the petitioners were suspended for 15 days and enquiry was fixed. They submitted their explanation on 18.01.2002. At the time of enquiry, no procedure was followed and the Enquiry Committee did not examine any person. Thereafter, the second respondent sent Transfer Certificates of the petitioners on 19.01.2002. Immediately, they made a representation to the first respondent. The first respondent University constituted a Discipline Committee and ultimately, the Committee decided to implement the minutes of the Peace Committee meeting held by the Revenue Division Officer on 28.12.2001 and directed the second respondent to take back the students. The Transfer Certificates of the petitioners were sent back. Even though the second respondent has received the order of the University dated 11.03.2002, they have not implemented the same. As a result, they could not participate in the practical examination. Now, the University examination is to commence on 24.04.2002, hence, having no other remedy, filed the present writ petition.

4. Pursuant to the notice issued, the second respondent filed a counter affidavit disputing various averments made by the petitioners. It is stated that the second respondent is a private College and it is responsible for the conduct and discipline of its students. The salary of teaching and non-teaching staff is paid from and out of the funds generated in the College and the second respondent does not get any grant or aid from either the Government or from the University. The first respondent - University has no role in the day to day administration of the second respondent nor the matters regarding the discipline of the students. The College was closed indefinitely on account of the violence indulged by the students. The petitioners had gathered students and they boycotted the College on 27.12.2001 and caused damage to the property of the Institution. As there was a law and order problem, the Revenue Divisional Officer, Tenkasi convened a Peace Committee meeting on 28.12.2001. It was decided that the reopening of the College would be left to the decision of the Principal of the College and further decided that in respect of the dispute, lack of attendance of the students would not be affected for the period of closure of the College and their education would not in any way be hampered due to the lack of attendance. In the Peace

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Committee meeting held on 03.01.2002, it was decided that as far as the disciplinary action is concerned, it was open to the second respondent to take appropriate action. An enquiry was ordered and notices were sent to all the parties concerned and statements were recorded from various parties. The statements were made by the petitioners. The Enquiry Committee submitted a report. The Committee found that the petitioners were at the forefront of the agitation by the students and that their continued presence in the College would hamper the smooth functioning of the College and also be disruptive influence to the other students. The Enquiry Committee had also recommended that the petitioners should also be expelled from the Institution. Accordingly, on 18.01.2002, all the petitioners were expelled from the Institution and the Transfer Certificates were also sent to them. It is not open to the first respondent - University to interfere with the affairs of the discipline of the College and therefore, the order dated 11.03.2002, of the first respondent cannot be countenanced for any reason whatsoever.

5. In the light of the above pleadings, I have heard the learned counsel for petitioners as well as respondents.

6. In the light of the narration of the facts of the petitioners as well as the second respondent, it is unnecessary to refer the same once again. It is the case of the second respondent that, in the light of the involvement of the petitioners in the agitation, an Enquiry Committee was constituted and after affording opportunity to them, the Committee submitted a report. It is also the case of the second respondent that, based on the report of the Committee and in order to maintain discipline, decision was taken to return the Transfer Certificates of the petitioners. It is further seen that, against the decision of the second respondent the petitioners made a representation to the first respondent - University. Based on the representation of the petitioners, the first respondent University placed the matter before the Discipline Committee of the University, which was held on 06.03.2002. The Discipline Committee of the University met in the Syndicate Room on 06.03.2002 at 3.00 p.m., and after detailed discussion about the incidents that led the expulsion of the petitioners and taking note of the report of the Peace Committee etc., directed the second respondent College to take back all the five students (petitioners herein).

7. The perusal of the decision of the Discipline Committee of the first respondent University shows that the Committee considered the grievance of the petitioners and the incidents that had taken place in their College as well as the report of the Peace Committee meeting convened by the Revenue Divisional Officer, Tenkasi. After holding that the issue of Transfer Certificates to the five students is definitely against the norms accepted by everybody on that day, the Committee expressed that the five students (petitioners herein) may be taken back in the same Institution for the good of the students.

8. Learned counsel appearing for the second respondent would contend that in the matter of day to day administration and discipline, the first respondent

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University has no role to play; accordingly they cannot be directed to accept the direction of the first respondent University. In the light of Clause 9 (c) of Chapter XVIII of the Manonmaniam Sundaranar University Statute (in short "Statute"), I am unable to accept the said stand of the second respondent as well as the argument of the learned counsel. There is no dispute that the second respondent College is affiliated to the first respondent University. Clause 9 (c) of the Statute reads as under.

" 9 (a).....

(b).....

(c) Expulsion of student from College:- If any student is expelled from an approved or affiliated college, intimate of the fact of expulsion with a statement of the reasons therefore shall be given forthwith the Principal (a) to the parent or guardian of the student and (b) to the syndicate; intimation to the Syndicate shall be accompanied by the transfer certificate of the student. The Syndicate, on the application of the student or his parent or guardian may, after making such enquiry as it deems proper, deliver the certificate to the student with any necessary of endorsement or withhold it temporarily or direct the college to readmit the students. "

Based on the said Clause, on receipt of the orders of the second respondent, the petitioners made a representation to the University and their representation was placed before the Discipline Committee and decision was taken directing the second respondent College to take back all the five students (petitioners herein). In the light of the statutory provision referred to above, I am satisfied that the first respondent University has every power / right to issue appropriate direction to the second respondent College.

9. I have also considered the report of the Peace Committee convened by the Revenue Divisional Officer, Tenkasi and the decision of the Enquiry Committee of the second respondent College. The learned counsel appearing for the first respondent University has also produced a minutes of the Discipline Committee meeting which held on 06.03.2002. While considering all the above materials and taking note of the interest of the petitioners / students as well as the second respondent Institution, this Court directed the petitioners to file an affidavit of undertaking conveying their regret for the incident which took place on 26.12.2001, in the College premises and also specific undertaking that they would not resort to any unlawful act which will bring disrepute to the College. Accordingly, the petitioners filed affidavit of undertaking and the same are hereby recorded.

10. Taking note of all the above aspects, more particularly in the interest of the carrier of the students and the discipline to be maintained in the second respondent College, and also considering the fact that the petitioners repent their action and promised that they would not involve in any such incident in future, I am of the view that one more opportunity may be given to them to pursue their

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studies and complete their course in the second respondent''s College. Accordingly, direction is issued to the second respondent College to implement the proceedings of the first respondent - University dated 11.03.2002 and take back all the five petitioners in the College forthwith. With the above direction, the writ petition is allowed. No costs. Consequently, connected WPMP., is closed.

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