
(2012) 03 MAD CK 0164

In the Madras High Court

Case No : Writ Petition (MD) No. 1061 of 2012

M. Raghuvaran

APPELLANT

Vs

The State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 354

Tamil Nadu Private Colleges (Regulation) Act, 1976 — Section 14(1)(c)

Citation : (2012) 2 CTC 629 : (2012) WritLR 581

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : P. Rathinam in Both W.Ps, for the Appellant; K. Mahendran, for R1 to R3 and R6 Special Government Pleader and Mr. B. Saravanan, for R4 For Respondents in Both W.Ps., for the Respondent

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—Seeking to quash the impugned orders dated 08.11.2011 passed by the 4th respondent dated 08.11.2011 and for a consequential direction to the 4th respondent to allow them to continue their studies in the 4th respondent College, the petitioners have filed these Writ Petitions. Facts of the case as put forth in the affidavits accompanying the Writ Petitions would run thus:

(i) The petitioners, viz., M. Raghuvaran and D. Kavitha are doing I year B.C.A. Degree in the 3rd respondent College. On 07.10.2011, the petitioners attended the College as usual and at about 2.00pm, the petitioner Raghuvaran attended the Lab Class and thereafter, at about 2.30 pm, his Head of Department (HoD) Mr. Selvam and Lecturer Ponmani found mobile phone in his bag and that of one Kavitha, the other writ petitioner and earlier also, he found mobile phones in the bags of senior students, but no action was taken. Thereafter, Mr. Selvam enquired Raghuvaran and Kavitha as to why they brought mobile phones inside the college, for which Kavitha replied that she brought mobile phone forgotten and it is not willful and he asked both Raghuvaran and Kavitha to give a letter of

apology and accordingly, both of them gave a letter of apology. Later, they were brought before the Director Mr. S. Ashokan, who asked Kavitha's caste name and found that she belongs to Nadar Community and told her that he will call her later. When he asked Raghuvaran about his caste, he replied that he belongs to Thevar (Kallar) Community, for which Mr. S. Ashokan told that people belonging to his Community always behave in such manner only and asked Raghuvaran to come on Monday along with his parents to collect his Transfer Certificate.

(ii) Thereafter, Mr. S. Ashokan, through the HoD Mr. Selvam, asked Kavitha to appear before him in the 4th respondent's Office, i.e. the Office of the Principal and Kavitha went to the Principal Office for enquiry. While so, Mr. S. Ashokan asked Kavitha to come to the Auditorium Hall and Kavitha went to the Auditorium with Mr. S. Ashokan and he told her that if she obeys his words, he will not inform the cell phone matter to the Principal and she may continue her studies without any disturbance and that he will provide exam question papers before the commencement of examination and also he will pay examination fees for her. Suddenly, Mr. S. Ashokan caught hold of Kavitha's hands and attempted to molest her. But, Kavitha escaped from the hands of Mr. S. Ashokan and came from the Auditorium and at that time, the Principal came to that place and thereafter, Mr. S. Ashokan gave his mobile number to Kavitha and asked her to contact him, otherwise, he will issue Transfer Certificate to her. Later, Kavitha attended her class.

(iii) On 08.10.2011, Kavitha contacted Mr. S. Ashokan and she was asked to contact him on Sunday morning. When Kavitha contacted Mr. S. Ashokan on Sunday at 10.30 am, he asked her to come to his residence at about 11.00 am. Thereafter, she went to his residence and was waiting outside. When Mr. S. Ashokan asked her to come inside his house, she went inside the house and immediately, Mr. S. Ashokan started to molest her and also enticed her that he will not issue Transfer Certificate to her unless she obeys his words. But, Kavitha escaped from the hands of Mr. S. Ashokan and thereafter, on 08.10.2011, she explained the sexual harassment of Mr. S. Ashokan to her friends. Subsequent to which, students of that College made a demonstration against the administrative authorities to take action against Mr. S. Ashokan and on 11.10.2011, Kavitha lodged a complaint before the Inspector of Police, Nagamalai Pudukottai Police Station, for which a complaint receipt in C.S.R.No.236 of 2011 was given.

(iv) On 11.10.2011, the 3rd respondent sent a notice stating that on 12.11.2011, an enquiry will be held regarding the complaint made by Kavitha against Mr. S. Ashokan and that her grievance can be redressed by explaining the incident before the Disciplinary Committee and after demonstration and agitation, the Inspector of Police, Nagamalai Pudukottai registered a case on the basis of Kavitha's complaint u/s 354 I.P.C. r/w Section 4 of Women Harassment Act, on 13.10.2011 against Mr. S. Ashokan.

(v) On 12.10.2011, the 3rd respondent sent another notice stating that enquiry regarding the petitioners' indiscipline is going to be held on 14.10.2011 at about

11.00 am before the Disciplinary Committee and if they fail to attend the same, an ex parte decision will be taken.

(vi) On 08.11.2011, without even giving an opportunity to them, the 3rd respondent passed the impugned orders of their dismissal expelling them from the College and asked to collect the Transfer Certificate from the 2nd respondent, which is totally against the principles of natural justice and that the 3rd respondent has stated that such a decision was taken based on the recommendation of the Disciplinary Committee and they failed to give the enquiry report to Raghuvaran and Kavitha.

(vii) It is unfair to pass an order of dismissal which is also not appropriate. The 3rd respondent has neither suspended the petitioners nor framed charges against them. But, it is peculiar to pass an order of dismissal without even charges being framed. The specific indiscipline was not at all stated at any point of time by the 3rd respondent and also earlier, the 4th respondent threatened the petitioners' classmates that they are going to pass dismissal orders against them also, because they supported Kavitha for lodging a complaint against Mr. S. Ashokan and in the interest of justice to Kavitha, the students of S. Vellaichamy Nadar College, viz., (i) M. Sola Rajan (I BCA), (ii) V. Jeya Kumar (I BCA), (iii) P. Muthu Bharathi (I BCA), (iv) R. Muthu Pandi (I BCA), (v) Jenifer Priya Raja (I BCA), (vi) S. Ram Prasad (I B.Com.), (vii) G. Vinoth (III B.Com.), (viii) M. Vignesh (I B.Com.), (ix) K. Shanmugavel (I B.C.A.) and (x) A. Shanmugaraj (I B.Com.) and other students conducted strike in the College. The above said students are studying various courses in self finance and because of the strike conducted by the students, Mr. S. Ashokan, Director of self-finance resigned from the College. Hence, the students who attended the strike were asked to attend the enquiry conducted by the Disciplinary Committee. In that enquiry, the College Management asked the students, who attended the strike to collect their Transfer Certificate. But, the students are not ready to collect their Transfer Certificates as they wanted to continue their studies. Therefore, the College Management did not allow the students to write the semester examination. Thereafter, Kavitha made a representation to the 5th respondent and thereafter, other students were allowed to write examination by the intervention of the 6th respondent.

(viii) An enquiry was conducted only orally and also no report was filed. Non-furnishing of enquiry report clearly shows the biased approach of the Disciplinary Committee. There is no substantiating evidence available with either the Disciplinary Committee or the 4th respondent to point out specifically certain indiscipline or misconduct and the dismissal orders were passed against Raghuvaran and Kavitha for the reason that Kavitha lodged a complaint against Mr. S. Ashokan and on that basis, FIR is registered in Crime No. 369 of 2011 and that the dismissal orders were passed only to avenge Raghuvaran and Kavitha, as the Semester examination commenced on 11.11.2011 is over. Aggrieved by the impugned orders of dismissal, Kavitha sent a detailed representation to the

1st respondent on 24.11.2011. Left with no other remedy, the petitioners have approached this Court by way of the present writ petitions.

2. The 4th respondent, Principal of S. Vellaichamy Nadar College has filed a counter affidavit, stating as follows :

(a) The College viz., S. Vellaichamy Nadar College is one of the reputed Colleges in Madurai, which is catering to the educational needs of the poor and downtrodden students. It is imparting high quality education to the students and is consciously encouraging the students to imbibe discipline so as to make them educationally and morally strong citizens of this Country.

(b) The petitioners are students studying First year B.C.A. Degree Course in the 4th respondent College. On 07.10.2011, when the petitioner M. Raghuvaran was attending the class, he was found to be using a Cell Phone. After the same was detected by the Lecturer of the Class, she intimated the same to the Department Head. Further, it was also found that during the class hours, messages were frequently sent to one Kavitha, who was studying in the same class on the same day and the contents of the messages were found to be indecent. The Cellphone of the girl student D. Kavitha was also examined and it was found that messages were sent to her by M. Raghuvaran.

(c) When the above incident was enquired by the Department Head with both the petitioners, they admitted the same in writing stating that they brought cellphones into the College campus and that they will not bring the same thereafter.

(d) Later, by a communication dated 12.10.2011, an intimation was sent to the father of the petitioner in both the Writ Petitions that they had to appear for an enquiry into the misconduct of the Petitioners on 14.10.2011 at 11.00 am before the Enquiry Committee and it was also informed that in case of absence, an exparte decision would be taken against the Petitioners.

(e) As the petitioner in W.P.(MD) No. 1061 of 2012, i.e. Raghuvaran did not appear before the Enquiry Committee on 14.10.2011, yet another communication dated 18.10.2011 was sent to him requiring to appear before the Enquiry Committee on 21.10.2011 at about 11.30am to take a final decision. Even on 21.10.2011, he did not appear and hence, again the Disciplinary Committee Meeting was convened on 03.11.2011 and the petitioner during the enquiry admitted the charges, viz., using cell phone in the classroom during class hours and that he asked his classmate D. Kavitha to write his assignment and they travelled together in bus. Then, he requested time for attending the Disciplinary Proceedings and accordingly, he was intimated that the proceedings will be conducted on 05.11.2011 at 11.00am. On 03.11.2011, Raghuvaran and his father attended the enquiry proceedings. Even on 03.11.2011, Raghuvaran's father requested the Disciplinary Committee to give time till 05.11.2011 to apply for Transfer Certificate. Thereafter, on 05.11.2011, Raghuvaran and his father informed the Committee that they are not ready to collect the Transfer Certificate

and hence, it was decided by the Committee that he had to be dismissed from the College, as his conduct was found to be unsatisfactory.

(f) With regard to the petitioner D. Kavitha in W.P.(MD) No. 1602 of 2012, the 4th respondent would state that on 14.10.2011, her mother, viz., Vijaylakshmi and her relatives attended the enquiry at 11.00am. The petitioner D. Kavitha appeared before the Enquiry Committee at 1.10 pm and during the enquiry, after coming to know about the charge against her relating to the misuse of cellphone inside the classroom and writing assignment for one M. Raghuvaran, the petitioner D. Kavitha and her mother admitted to the charges and requested the Committee to issue Transfer Certificate and that throughout the Enquiry Proceedings, Kavitha did not raise any objection/grievance that she was not put on notice as to the charges levelled against her. The enquiry was conducted in a fair and proper manner by a Committee and all the facts and circumstances involved in the issue were analysed and a conclusion was arrived at only after her admission that all the charges levelled against her were true and there was no denial by her.

(g) The ground of not specifying the charges against the petitioners has been taken as an afterthought, as such a ground is not available to the petitioners inasmuch as the charges were admitted to by the petitioners before the Disciplinary Committee and hence, the Writ Petitions are liable to be dismissed.

(h) The petitioners themselves admit the possession of cell phones and that all the allegations pertaining to the conduct of Mr. S. Ashokan, Director (Self Finance) of the College, took place not in the presence of others and it is for the petitioners to prove the same. Apart from the alleged conduct, Mr. S. Ashokan has got nothing to do with the misconduct of the petitioners and the consequential action against them. The action taken against the petitioners is specifically based on the misconduct committed by them. In fact, the said Mr. S. Ashokan has already been dismissed from the College. It is also stated that the other allegations relating to the boycott of the College are not the subject matter for adjudication in the present writ petitions and hence, no specific denial is required and that enquiry into the misconduct of a student cannot be equated with the disciplinary proceedings in service matters and hence, no enquiry report is required to be given to the petitioners.

(i) The College is bound to balance the interest of the petitioners as well as other students, otherwise, the bad conduct of any student will be taken as an example by other students and the same will spoil the entire atmosphere of the College.

3. Mr. P. Rathinam, learned counsel appearing for the petitioners in both the Writ Petitions would strenuously contend that the impugned order is ex facie illegal, non-speaking and with total non-application of mind. He assailed the order on the ground that there were no charges framed against the petitioners before conducting the enquiry and that no enquiry was conducted in the manner as provided and a copy of the alleged enquiry Report was not furnished to the

petitioners and therefore, there is a clear violation of the principles of natural justice, as no opportunity was afforded to them to explain their position. 4a. In support of his case, learned counsel for the petitioners has relied on a decision of this Court reported in 2012 WLR 97 in the case of K. Neelamegam vs. Durgamoorthi Revenue Divisional Officer, Sivagangai and others

38. Therefore, carrying a mobile phone inside the court hall or keep it in a silent mode or the occasional alerts or looking at the short messages received through mobile phone or forwarding messages in reply without disturbing the court proceedings cannot be said to be obstructing the course of administration of justice attracting criminal contempt proceedings. In fact, the technology so advanced that it is unthinkable that the counsel can be without the aid of mobile phone. The mobile phone provides multifarious services. Today one can get the cause list sent through SMS on a small fee paid to certain agencies. Software has been developed to have statutory enactments seen from a mobile phone. Counsel can keep in touch with his office or office staff or juniors. A counsel can also get messages from some other court regarding the progress of the case. At times, a messages or SOS call from his family or friends or clients. The facilities available in a mobile phone for the counsel will also apply to clients who attend Courts. In Supreme Court from the Court halls, the Court masters contact the Registry Officials from the intercom even during the middle of the court proceedings. Many a times, this court through the services of other side counsels or court masters sent messages to counsels, who are not present at the time of calling their cases and to avoid the cases to go for default. One can multiply the advantage of the facilities which come through advancement of technology. This was not to suggest that they are free to use mobile phone, lest it may hinder or hamper the court proceedings. Ultimately, the Judge who conducts the proceedings in a particular court hall will be the ultimate authority to decide the disturbance if any caused due to ringing of mobile phones and if it was so intolerable that only a punishment for contempt alone was the way out.

4. On the other hand, Mr. B. Saravanan, learned counsel appearing for the 4th respondent would contend that the petitioners have admitted their guilt before the Enquiry Committee and now they have come before this Court taking a different plea, which is unjustifiable in law. He would submit that the petitioners were aware of the charges against them at the time of enquiry and they have attended the enquiry along with their parents and admitted the guilt. Further, the contention of the petitioners as to the non-furnishing of the Enquiry Report would not vitiate the proceedings since it is an Educational authority's enquiry.

4a. In support of his contention, he has relied on a Supreme Court decision reported in Controller of Examinations and Others Vs. G.S. Sunder and Another, wherein, it is held as follows :

11. When the matter is approached from the above point of view, we find, as rightly submitted by the learned Attorney General, it is a systematic case of fraud committed by the first respondent. It cannot be a sheer coincidence that in

all the semesters, namely, Semesters III to VI, the first respondent secured good marks and the other student K.R. Gandhi failed. There is nothing unbelievable in the first respondent admitting his mistake and giving a statement to this effect. We also find that there is no question of violation of principles of natural justice. The first respondent knew the charges fully and he had admitted his guilt. That is why we are constrained to put out the technicalities of law should not be imported to further the cause of a student who had indulged in malpractice. Even if others are in complicity with the perpetration of fraud, that does not mean the first respondent is absolved of his guilt. Thus, we are unable to agree with the findings of the High Court which are hereby set aside.

12. We may also add that when the University wants to take action, certainly the blame cannot be laid at the doors of the University, directing action be taken against its officials. Though the observation of the learned Single Judge was diluted by the Division Bench, we consider such observations are not warranted in the circumstances of this case.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. On going through the records, what comes to be known is that the petitioners are students, studying first year B.C.A. Degree Course in the 4th respondent College. On 07.10.2011, while the petitioners were attending the college, Head of the Department found mobile phones with them. They were taken to S. Asokan, Director, who, in turn, asked the petitioner in W.P.(MD).No. 1062 of 2012, i.e., Kavitha to appear before him. However, due to the alleged sexual harassment of the said Asokan, the students of the college staged a demonstration against the administrative authorities. Thereafter, Kavitha lodged a complaint against Asokan. On 11.10.2011, the third respondent sent a notice, stating, that on 12.11.2011, an enquiry would be held regarding the complaint made by Kavitha against Asokan and that her grievance could be redressed by the Disciplinary Committee. In the meantime, the third respondent sent another notice, stating, that the enquiry would be held on 14.10.2011 at about 11.00 a.m. before the disciplinary committee. However, on 08.11.2011, without giving an opportunity to the petitioner, the impugned order came to be passed against her. Likewise, in the case of the petitioner in W.P.(MD).No. 1061 of 2012, viz., Raghuvaran, he was asked to appear before the Enquiry Committee on 14.10.2011 and, as he did not appear before the said Committee on that date, yet another communication, dated 18.10.2011, was sent requiring him to appear on 21.10.2011. Even on 21.10.2011, he did not appear and, hence, again, the Disciplinary Committee Meeting was convened on 03.11.2011, during which he, along with his father, was present and had admitted the charges. During the said meeting, he requested for time for further enquiry and, accordingly, he was intimated that the proceedings would be conducted on 05.11.2011 at 11.00am. Even on 03.11.2011, father of Raghuvaran requested the Disciplinary Committee to give certain time to apply for Transfer Certificate. However, the fourth

respondent has passed the impugned order on 08.11.2011 against the petitioner. Under the circumstances, the petitioners questioned the impugned orders on the grounds that no charges framed against them; the enquiry was conducted in a biased manner and the enquiry report was not furnished to them and that the said orders are non-speaking and with total non-application of mind,

7. On the backdrop of the above facts and circumstances, this Court has to examine as to whether the orders impugned are legally infirmed?

8. In this context, with regard to the first contention of the learned counsel for the petitioners that no charges were framed against the petitioners before proceeding with the disciplinary enquiry, it is to be stated that it is an admitted fact by the fourth respondent in para 9 of the counter affidavit that the petitioners came to know about the charges during the course of enquiry and the same have been admitted by the petitioners. It only means that prior to the enquiry, the petitioners were not either served with charge memos or informed of the charges. Had the petitioners been intimated the charges well in advance, the position would have been different, and the petitioners would be in a position to explain their position to the charges levelled. Therefore, non-serving of the charge memos or not keeping the petitioners informed of the charges levelled against them prior to the enquiry is a crucial factor to be weighed with, which goes against the fourth respondent.

9. Coming to the second contention of the learned counsel for the petitioners that no copy of enquiry report was furnished to the petitioners and that the enquiry was conducted against the manner as contemplated, the stand of the fourth respondent is that no enquiry report is required to be furnished to the petitioners as the enquiry into the misconduct of students cannot be equated with the disciplinary proceedings in service matters. Here again, the third respondent has fallen in error in taking such a stand.

10. It is a settled law that once a proceeding is initiated and subsequent to which action taken against a particular person, that person must know what the report of the enquiry committee is. Had a copy of such report been furnished to the petitioners, they would have an opportunity of espousing their cause, by explaining the factual position whether the findings of the enquiry committee and the conclusion arrived at thereon were acceptable or, at least, the petitioners would have an opportunity to convince the authorities, before being imposed with the punishment. Therefore, it has to be construed that non-supply of enquiry report, which was obligatory on the part of the fourth respondent to provide, had deprived the petitioners of an opportunity to submit further explanation to the fourth respondent.

11. It may be true, as contended by the learned counsel for the fourth respondent, that the enquiry into the misconduct of students cannot be equated with that of the disciplinary proceedings in service matters. But, to subserve the ends of justice and in order to see that the action of the authority is not tainted

with mala fides, the minimum duty that the authority could afford to the individual is an opportunity, which, conspicuously, is absent in this case. This, in my standpoint, is a clear violation of principles of natural justice.

12. Adverting to the last contention of the learned counsel for the petitioners that the orders impugned were ex facie illegal, non-speaking and with total non-application of mind, the orders impugned read to the effect that "As per the recommendations of Disciplinary Committee, you are dismissed from the college and your Transfer Certificate is sent to the Registrar, Madurai Kamaraj University, Madurai. You are asked to collect the transfer certificate from the Registrar, Madurai Kamaraj University, Madurai, along with your parents." That was how the impugned orders were passed.

13. Though it is stated in the orders impugned that as per the recommendations of Disciplinary Committee, the petitioners are dismissed from the College, it is not known what the recommendations of the Disciplinary Committee are. By stating so, the fourth respondent had taken a unilateral decision to pass the impugned orders. In fact, the impugned orders would clearly indicate that no reasons were adduced by the fourth respondent for dismissing the petitioners from the college. That apart, the authority has sent the Transfer Certificates to the University for collection, which, in my viewpoint, is not warranted. Even assuming that the action of the respondent is bona fide, when the authority insists on production of Transfer Certificates from the students and receives the same at the time of admission, it is his bounden duty to issue the Transfer Certificates by himself to the students instead of asking them to collect the same from the University.

14. As regards the charge that both the petitioners travelled together in a bus, it is to be mentioned that in an institution, which consists of co-education i.e., boys and girls, after college hours, it is not uncommon that we see so many students both male and female travelling together in buses or other vehicles, which are meant for general public, to reach their homes. It is not the case of the fourth respondent that the petitioners travelled on a two wheeler as rider and pillion. In a civilised and developed society, movement of students irrespective of the sex they belong to freely cannot be faulted with by the institution. If it is construed in a wrong sense, there will not be any headway with regard to the day-to-day affairs of the society among the students, which leads to their mundane life and as-is-where-is state. It cannot also be the case of the fourth respondent that because of the co-travel of the petitioners in the bus, the reputation of the institution has spoiled. In the given situation, the charge of that nature, that too when it was not framed and served on the petitioners, cannot be a factor for imposing the punishment of dismissal.

15. A mere reading of the five line order of the fourth respondent would give a clear impression to this Court that the fourth respondent has passed the same in a non-speaking manner and with total non-application of mind, besides not affording an opportunity to the petitioners.

16. At this point, it is useful to refer to the Section 14(1)(c) of the Tamil Nadu Private College (Regulation) Act, 1976, which reads as under: -

14. Function of the College committee and responsibility of educational agency under the Act:- (1) Subject to the provisions of this Act and the rules made thereunder, the college committee shall have the following functions, namely:-

(a).....

(b).....

(c) to take disciplinary action against teachers and other persons of the private college.

17. It is true, as per Section 14 (1) (c) of Tamil Nadu Private Colleges (Regulation) Act, 1976, the College Committee has derived the power to take disciplinary action against teachers and other persons of the private college. But, the said action shall be only after following the due procedure and affording an opportunity to the persons aggrieved. Clause 2 of the Rules of the fourth respondent College (code of conduct) as well as in the prospectus provide that the students should not bring the cell phone inside the College. Therefore, the fourth respondent has the power to initiate action against the petitioners, in case of any breach of the rules.

18. In the case on hand, though the College Committee of fourth respondent is empowered to take disciplinary action against the petitioners, the only concern of this Court is that it is taken without giving an opportunity to the petitioners as detailed by me in paragraphs 9 to 16 above.

19. It is also true that as per the prospectus of the fourth respondent college, students should not bring cellular phones to the college. It is also a matter of fact that one of the petitioners had kept the cellphone in her bag and one of the allegations was that SMS was put to use during class hours. In an educational institution where the students are to learn and to move forward to higher positions in their academic career, if they use any kind of instrument which is not permissible inside the classrooms or the college, it should be restrained in a proper manner. It is an alarming factor in every institution like that of the fourth respondent and all other institutions in the country as well. Hence, it is to be regulated in a proper manner.

20. In this case, one of the petitioners, knowing that usage of cellphone would not be allowed inside the class, kept the same in her bag, through which she received an SMS. Suppose a student is having a cellphone, before entering into the college, the institution must have a mechanism to keep the cellphone of the student in a protected place or the student should be made to keep the same outside the campus. Such a mechanism or arrangement is not shown to this Court by the fourth respondent college. Therefore, the cellphone has been kept by the student concerned in her bag. She, accordingly, carried the cellphone inside the campus, but, unmindful of the consequences, used it. For that alleged

use of cellphone, the college has gone to the extent of dismissing the petitioners from the college, without giving them an opportunity to correct themselves.

21. In a decision of this Court, relied upon by the learned counsel for the petitioners in the case of K. Neelamegam, referred to above, usage of cellphones in places like court halls was termed germane, subject, however, to the same being used for a genuine purpose and not causing any disturbance.

22. Significant it is to mention here that the fourth respondent has also not produced any regulation or rule before this Court, indicating harsh punishment of dismissal in case of misconduct of students.

23. Communication is one of the most important parts of human life. Communicating with each other and passing information and understanding each other are of vital importance if one is to survive in the society. Methods of communication, verbal and non-verbal would go a long way for simple needs like hunger and illness. Today, we can pick up a telephone and call any one around the world or, in some exceptional cases, astronauts who are based in space stations. We have the internet, satellite communication and so many other ways that we can communicate.

24. Educational technology is the study and ethical practice of facilitating learning and improving performance by creating, using and managing appropriate technological processes and resources. Also, Technology of education is most simply and comfortably defined as an array of tools that might prove helpful in advancing student learning and may be measured in how and why individuals behave. Educational Technology relies on a broad definition of the word "technology". Technology can refer to material objects of use to humanity, such as machines or hardware, but it can also encompass broader themes, including systems, methods of organization and techniques. Some modern tools include but are not limited to overhead projectors, laptop computers and calculators. Newer tools such as cellphones and smartphones are beginning to draw a serious attention for their learning potential.

25. Also, technological advancement is the order of the day and it cannot be prevented by a sheer method of prohibition in an educational institution. Therefore, there must be a mechanism to be devised to regulate the code of conduct inside the educational institutions. This Court has also much concern about the usage of cellphones in the manner as used by the students for some purposes, which shall not be appreciated.

26. Today's students are tomorrow's citizens of the nation and, therefore, education is a fundamental right for them. Mere use of a technological advancement which causes certain inconvenience will not deprive them of their right to education. The impugned orders of dismissal of the petitioners will not only prevent the petitioners from proceeding further with their education but will ruin their entire future, in case the said orders are allowed to take effect. Hence, it is for the State authorities, educational institutions and all other stakeholders

in the respective field to evolve a mechanism with regard to the usage of cellphones by the students and the regulation thereof. In view of my findings in the foregoing paragraphs, the orders impugned are ex facie illegal, non-speaking and with total non-application of mind, besides being passed without affording an opportunity to the petitioners. As such, they suffer from violation of principles of natural justice as well. In such view of the matter and considering the totality of facts and circumstances of this case, this Court is of the considered opinion that the decision arrived at by the fourth respondent in the orders impugned to dismiss the petitioners from the college is totally unwarranted. Accordingly, these Writ Petitions are allowed and the orders impugned are quashed. The fourth respondent is directed to re-admit the petitioners into the college at once. It is made clear that the period of absence of the petitioners, if any, during the dismissal, shall be reckoned as attendance, so as to enable them to write examinations in due course. No costs. Consequently, the connected M.P.Nos.1 of 2012 are closed.