

(2025) 12 KL CK 1888
In the High Court Of Kerala
Case No : Writ Petition (C) No.25535 Of 2025

Minipriya R

APPELLANT

Vs

State Of Kerala Represented By Its Principal Secretary Higher
Education

RESPONDENT

Date of Decision : 16-12-2025

Acts Referred:

Mahatma Gandhi University Act 1985 — Section 63, 63(6)

Citation : (2025) 12 KL CK 1888

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : T.Sanjay, Sanil Kumar G., Afnan Dawood, Satheesh Kumar K., Abel Tom Benny, S.Krishnamoorthy, Rajesh. K.Raju, D.Prem Kamath, Tom Thomas, Aaron Zacharias Benny, Alan J Yogyaveedu, Clint Jude Lewis, Mathew Angelo Davis, Tessa Rose, Thomas J.Anakkallunkal, Surin George Ipe, Princy Xavier

Final Decision : Allowed

Judgement

N. Nagaresh, J

1. The petitioner, who has been working in the Sacred Heart College (Autonomous), Thevara, Kochi and who has about 12 years of service, is challenging Ext.P3 order of suspension and Ext.P12 order of termination issued by the 5th respondent-Manager.

2. The petitioner states that she was issued with Ext.P3 notice of suspension dated 03.05.2024 in contemplation of disciplinary proceedings. The petitioner would urge that enquiry was proceeded with without even issuing a formal charge sheet. The respondents refused to sanction and pay subsistence allowance. The charges levelled against the petitioner in the suspension order were vague and was not accompanied by the statement of the allegation on which each charge is framed.

3. The petitioner was not provided with copies of relevant documents. The

petitioner was not permitted to effectively cross-examine the witnesses. A student, who filed complaint against the petitioner was included in the College level grievance redressal committee, at whose instance the suspension order was issued. Exts.P3 and P12 are therefore vitiated.

4. After the enquiry, the petitioner was imposed with the punishment of "termination", which is not a punishment permissible under the University statutes. The punishment imposed on the petitioner is grossly disproportionate to the gravity of the offence alleged. Exts.P3 and 12 orders are therefore liable to be set aside.

5. The counsel for the petitioner urged that though there is a statutory alternate remedy of filing appeal before the Tribunal under Section 63 of the Mahatma Gandhi University Act, the writ petition is maintainable since there are gross statutory violations. The counsel relied on a judgment of this Court in V.M. Karunakaran v. Zamorin Raja of Calicut and others [2019 (4) KLT 244] and argued that to ask the employee to defend himself against a general allegation of misconduct without specification of particulars denies to him and effective right of defending himself. The entire disciplinary proceedings are therefore vitiated.

6. The 3rd respondent-University filed a statement. The 3rd respondent stated that the order of suspension served on the petitioner was communicated to the University. The suspension was extended until 10.01.2025 as the enquiry proceedings were going on. The Manager's communication regarding the termination of the petitioner was reported to the Syndicate meeting held on 30.06.2025. As per Section 63(6) Chapter VIII of the Mahatma Gandhi University Act, 1985, the petitioner is entitled to file an appeal before the appellate Tribunal.

7. Respondents 5 and 6 resisted the writ petition. Respondents 5 and 6 submitted that several complaints were received against the petitioner from students and fellow Teachers. A show-cause notice was issued to the petitioner to which the petitioner submitted reply. Thereafter, Ext.P3 charge sheet was issued elucidating the charges against the petitioner.

8. The petitioner was given sufficient time to file reply to the charge sheet. Copies of witness list, document list and documents were supplied to the petitioner. Witnesses examined by the management were cross-examined. The petitioner did not examine any witness on her side. Enquiry proceedings were concluded and argument notes were submitted. The domestic enquiry was conducted strictly following the principles of natural justice and the petitioner participated in the enquiry. The writ petition is therefore without any merit.

9. As regards issuance of charge sheet, respondents 5 and 6 submitted that though Ext.P3 has been described as notice of suspension, the charges against the petitioner were clearly stated in Ext.P3. The petitioner repeatedly failed to cross-examine the management witnesses. The petitioner has not categorically denied the charges levelled against her. The writ petition is devoid of any merit and it is liable to be dismissed.

10. The 8th respondent-UGC also filed counter affidavit. The 8th respondent stated that disciplinary proceedings against the petitioner does not come under the purview of the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Other Measures for the Maintenance of Standards in Higher Education. The issue raised in the writ petition is an internal matter of administrative governance.

11. I have heard the learned counsel for the petitioner, the learned Government Pleader representing respondents 1 and 2, the learned Standing Counsel appearing for respondents 3 and 4, the learned counsel appearing for respondents 5 and 6 and the learned Standing Counsel appearing for the 8th respondent.

12. Ext.P3 is the suspension order issued on the petitioner. Though described as notice of suspension, Ext.P3 contains charges levelled against the petitioner. The charges levelled against the petitioner are as follows:

Regarding the allegations alleged in the charge sheet given by the Management of Sacred Heart College, Thevara dated 03.05.2024 to the accused teacher Minipriya R :

That you without any reason or provocation from the side of students, during the class hours, in the presence of other students shouted at them in the most offensive, repulsive and rude manner, addressing them as "Thendi pillar", "Mandabudhi" , "Kazhuthakal", "Pottanmar" , "Mandippulla Pillaru", "Kallan", "Kalli" etc.

That you in the most disrespectful, derogatory and disparaging manner, described the teachers as "Mandan", "Pongan", "Pottan" etc.It is further alleged that as a teacher your unruly behaviour and demeanour, and the most inappropriate, improper and abusive language, used regularly and repeatedly by you against the students, cause anxiety, worry, concern and stress to the students attending your class, and they are unable to attend the class in a calm, composed and peaceful atmosphere.

That ignoring the request of Professor Shyamlal, Head of the Faculty of Additional Languages, who had requested you to avoid combined classes as it would cause inconvenience to the students and create a situation where the teachers would find it difficult to verify the attendance of the students going for other extra – curricular activities; and requested your cooperation and support, you insisted on combined classes of the students from different batches in total disregard of the request of Shri Shyam Lal and without paying any attention to the same, unilaterally and in a totally arbitrary, impolite and ungracious manner, continued to conduct classes combining students from different batches.

That when this was brought to the notice of the Principal by Shri. Shyamlal, the management, by notice instructed you not to conduct classes by combining students from different batches as this would cause total uncertainty and

inconvenience to other teachers and students, and accordingly instructed you to conduct classes for each batch separately, but you totally discarded the instructions given by the management and continued to conduct the classes combining the students from different batches.

13. The Management examined MWs 1 to 8 and marked documents Exts.M1 to M21. The petitioner examined herself as WW1 and marked Exts.W1 to W10(b) documents. The enquiry officer marked Exts.E1 to E11 documents. Seven documents were produced by the Management as per the request of the petitioner. After conducting a confronted enquiry, the enquiry officer gave Ext.P9 enquiry report. In Ext.P9 enquiry report, the enquiry officer concluded that the allegations against the petitioner are proved. It is clear from Ext.P10 that the petitioner was served with a copy of the enquiry report and was required to show-cause. It was after considering the reply submitted by the petitioner that Ext.P12 order was passed terminating the petitioner from service.

14. The petitioner has a specific case that no charge sheet was issued on the petitioner and the allegations made in Ext.P3 suspension order are vague. If clear charges are made in a suspension order, the management is not bound to issue another charge sheet separately. The question is whether Ext.P3 can be treated as a legally valid charge sheet.

15. The charges against the petitioner as seen in Ext.P3 and as quoted in paragraph 11 above, would indicate that though the charges are descriptive, material particulars necessary in a charge sheet are conspicuously absent. The charges do not indicate the date or time of the incidents forming cause of the charge sheet. It is alleged that the petitioner has shouted to students and has described the Teachers in a most disrespectful, derogatory and disparaging manner. The charges do not indicate as to at which students the petitioner has shouted. The charges do not indicate in respect of which Teachers, the petitioner has made remarks disrespectfully and derogatorily.

16. Another charge states that the petitioner disregarded the request of Professor Shyamlal to avoid combined classes and the petitioner unilaterally and arbitrarily continued to conduct classes combining students from different batches. It is alleged that the petitioner discarded the instructions given by the management in this regard. The charge sheet does not indicate on which dates the petitioner has taken combined classes against the directions and on which dates or the manner in which the petitioner was required not to conduct classes by combining students from different classes.

17. If an employee is not told clearly and definitely what the allegations are on which the charges are founded, the employee cannot possibly discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him. It was so held by the Hon'ble Apex Court in *Surath Chandra Chakrabarti v. State of West Bengal* [(1970) 3 SCC 548].

18. The Hon'ble Apex Court in *Sawai Singh v. State of Rajasthan* [(1986) 3 SCC

454] held that the deficiencies which vitiates a vague charge sheet cannot be allowed to be supplemented by recourse to evidence at a later stage.

19. The counsel representing the College submitted that the petitioner had participated in the domestic enquiry and was given full opportunity. The petitioner could have gathered all information regarding the facts forming the basis of the charge sheet during the enquiry proceedings. The petitioner did not take any steps in that regard.

20. The defence of the respondents cannot be accepted. An employee faced with a vague charge that he/she is guilty of a described type of misconduct would be extremely hard put to defend himself/herself against the charge unless he/she is informed such particulars as would enable him/her to give an effective reply and demonstrate that the charges are false or otherwise not acceptable.

21. A Division Bench of this Court in the judgment in V.M. Karunakaran (supra) has also held that the requirement that the charge sheet must be precise and must contain a statement of imputations constituting the foundation of misconduct, is a basic principle of natural justice. This is a fundamental stipulation, the non-compliance of which would vitiate the enquiry. For the afore reasons, I find that the domestic enquiry conducted against the petitioner is vitiated.

22. I find that the punishment of termination imposed on the petitioner is unsustainable for other reasons also. Statute 73 of the Mahatma Gandhi University Statutes, 1997 prescribes the penalties which may be imposed on Teachers of Private Colleges. Statute 73 reads as follows:

73. Penalties: The following Penalties may, for good and sufficient reasons and hereinafter provided, be imposed on teachers of private colleges, namely:-

(i) Censure;

(ii) Withholding of increments or promotion;

(iii) (a) Recovery from pay of the whole or part of any pecuniary loss caused to the private college by his negligence or breach of orders;

(b) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld where such an order cannot be given effect to.

Explanation - In cases of stoppage of increments with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld may be recovered.

(iv) Reduction to a lower rank in the seniority list or to a lower grade or post or time scale or to a lower stage in a time-scale;

(v) Compulsory retirement;

(vi) Removal from the private college which shall not be a disqualification for future employment;

(vii) Dismissal from the private college which shall be a disqualification for future employment in any of the institutions maintained by or affiliated to the University.

"Termination" is not one of the penalties that can be imposed by the Manager on Teachers of Private Colleges. If the respondents intended to retrench the petitioner from service, the management could have imposed the punishment of "removal from the Private College, which statutorily shall not be a disqualification for future employment". If the management wanted to impose a graver punishment, the management could have imposed "dismissal from the Private College", which shall be a disqualification for future employment in any of the institutions maintained by or affiliated to the University. The punishment of "termination" is not contemplated by the Statutes and its consequences are not defined. The punishment imposed on the petitioner is illegal and unsustainable for the said reason.

23. The counsel for respondents 5 and 6 would vehemently argue that since the petitioner has an alternate remedy against Exts.P3 and P12 under Section 63 of the Mahatma Gandhi University Act, the writ petition should not be entertained. As the very charge sheet issued to the petitioner is vitiated and the punishment imposed on the petitioner is legally unsustainable, I do not find it a fit case to drive the petitioner to the Tribunal for availing alternate remedy.

The writ petition is therefore allowed. Exts.P3 notice of suspension and P12 order of termination are set aside. Respondents 5 and 6 are directed to reinstate the petitioner in service with consequential benefits.