

(2013) 12 KL CK 0071

In the High Court Of Kerala

Case No : Writ Petition (C) No. 17148 of 2012

Prakash N.

APPELLANT

Vs

Principal, Government Law College, Ekm and Others

RESPONDENT

Date of Decision : 18-12-2013

Acts Referred:

Citation : (2014) 1 KHC 129 : (2014) 1 KLJ 734 : (2014) 1 KLT 232

Hon'ble Judges : Manjula Chellur, C.J;A.M. Shaffique, J

Bench : Division Bench

Advocate : P. Vijayaraghavan, State Attorney, Varughese M. Easo, Vivek Varghese P.J., Dr. P. Leelakrishnan, T.A. Shaji, Standing Counsels, M.G. University, Girija Gopal, Government Pleader, Joseph Rony Jose, Asok M. Cherian, S. Kannan, K.S. Sangeetha and R. Rohith, for the Respondent

Final Decision : Disposed Off

Judgement

A.M. Shaffique, J.—This writ petition is filed by a student of Government Law College, Ernakulam, as pro bono publico seeking the following reliefs.

- i) Declare that the functioning of units by respondents 2 to 4 in the campus of Government Law College, Ernakulam is illegal.
- ii) Declare that the strike for indefinite period called for by the 2nd respondent on the issue covered by Ext. P4 is illegal.
- iii) Issue a writ of mandamus or any other appropriate writs, directions or orders directing respondents 5 and 6 to see that the members of the 2nd respondent union do not disrupt the proper functioning of classes in the Government Law College, Ernakulam by way of illegal strike for indefinite period on the issue covered by Ext. P4.
- iv) Issue a writ of mandamus or any other appropriate writs, directions or orders directing respondents 5 and 6 to see that classes are not lost on account of illegal strike by respondents 2 to 4 in the campus of Government Law College,

Ernakulam.

The main contention urged by the petitioner is that though a Division Bench of this Court in Sojan Francis Vs. M.G. University, had issued guidelines banning political activities within the college campus which prevents the students from carrying on the right of education and later upheld the rights of private management and educational agencies in prohibiting the functioning of the students organisation within the campus, in Kerala Students Union Vs. Sojan Francis, similar activities are being carried on in the college managed by the first respondent. The petitioner points out the incidents on 2nd July, 2012 and 4th July, 2012. According to him, the college authorities have not taken any action in this regard and the fundamental right of the students for education cannot be obstructed by the activities of a few students, who have allegiance to student political organisations. The petitioner also relies upon the judgment of this Court in S.N.M. College Vs. S.I. of Police, , Manu Wilson and Others Vs. Sree Narayana College and Others and Harpal Singh Vs. Devinder Singh and another, in order to contend that the indefinite strike called for by the 2nd respondent is illegal.

2. According to the petitioner, on 2nd July, 2012 when the college started functioning, the very first day of the beginning of classes, there was strike by the 2nd respondent Union. Their demand was that the Principal should suspend a teacher, who allegedly consumed alcohol and has beaten a women student. On 4th July, 2012 also 2nd respondent organised a strike demanding resignation of Vice Chancellor of Mahatma Gandhi University.

3. Statement is filed on behalf of the 1st respondent inter alia stating that, on 22/06/2012, some untoward incidents happened in the campus in which four students were allegedly involved in consumption of alcohol inside the campus. When they were questioned by the Faculty-in-Charge of the Principal, he was showered with abusive language by one of the students. Further they caused obstruction to the discharge of lawful duties by the Principal. On 23/06/2012, those students were suspended and necessary disciplinary action was initiated. An enquiry committee was formed and after enquiry it was reported that those students were guilty of the charges levelled against them. The Staff Council discussed the report on 17/07/2012 and it was decided to take deterrent action and the delinquents were suspended from the college. From 18/07/2012, one Nobel Kumar, Union President of 2nd respondent started resorting to strike, for which permission was denied. They interrupted eight batches of LL.B. classes and two batches of LL.M Classes. On 23/07/2012, some students under the leadership of Nobel Kumar closed both the gates of the college and interrupted the smooth functioning of the college. Ext. R1(c) is the notice issued by the 1st respondent to Nobel Kumar on 23/07/2012. Thereafter on receipt of the notice, the 2nd respondent Union under the leadership of Nobel Kumar organised strike in the college on 23rd to 27th July, 2012 totally disrupting the smooth working of the college. The 2nd respondent started indefinite strike on 20/07/2012 and on 23/07/2012, the Principal of the college was gheraoed in her Chamber. The news

item appeared on 24/07/2012 in the New Indian Express daily. Ext. R1(b) is the news item and Ext. R1(b) is the photograph. The Principal further submits that the working of the college was badly affected on account of the action of the 2nd respondent. Hence it is stated that a complete ban of political activities should be imposed in the college.

4. During the pendency of the above writ petition, this Court by order dated 22/07/2013 directed the Principal of the Law College, Ernakulam and City Police Commissioner, Kochi to be present before this Court on 23/07/2013. Both of them were present before this Court on 23/07/2013. On the said date, this Court directed the Principal Secretary, Higher Education Department to be present before this Court on 05/08/2013. The City Police Commissioner's presence was dispensed with until further orders. On 05/08/2013, the Principal of the Government Law College, Ernakulam and the Additional Chief Secretary was present before this Court. The Additional Chief Secretary has explained the steps taken by the State Government and at what stage the matter is pending before the Larger Bench of the Supreme Court in pursuance of a reference relating to Lyngdoh Committee's report. He had also stated that the Government is ready to give all support to maintain law and order in the college. Though notice was ordered to the student organisations in the college and certain students, none appeared.

5. Having regard to the nature of the contentions urged, we are shocked to see the sad state of affairs in the Government Law College at Ernakulam. A student organisation is preventing the proper functioning of the college despite directions issued by this Court in various judgments. Right to education is now a fundamental right and is forming part of right to life coming under Article 21 of the Constitution of India. Any prevention of that right in a democratic society is clear violation and infringement of such Fundamental Right. The demonstrating political student unions will have to take into consideration the plight of other students, who are studying in the same college. It is not merely attending classes that provides education to the students. They have to form themselves into better citizens and the future of the Nation is in their hands. Of course, the students are to be equipped with the socio-political features of the State and they are competent to take into consideration the relative factors either economic, social or political during their education. But the fact remains that preventing the personal liberty of fellow human beings is an infringement to the right to life protected under Article 21 of the Constitution. As we find, on several days, the 2nd respondent Union had conducted strike in the college, to recall the order of suspension against a few students, against whom disciplinary action had been taken by the authorities. The Principal of the college was gheraoed in her cabin as evident from Ext. R1(b). It is high-time that such sort of hooliganism and vandalism are prevented. Every citizen has the right to demonstrate or to conduct dharna, but it should be in a peaceful manner. It should not be inside the office room of an officer. It should not be around the table of the Principal of a College. It has to be done only outside the premises of the office. While

conducting such demonstrations, if it involves violent acts, vandal acts and infringing the personal liberty of a fellow human being, one can only picture such acts as uncivilised. Persons who indulge in such activities should ask themselves whether they will permit such vandalism, such violence against them or against any of their family members or friends. It is high-time that the student unions should behave in a more civilised fashion, while nurturing their political ideologies and activities. They should behave with self-restraint and taking into consideration the emotions of other students, parents, the Principal, faculty members, staff of the college etc. We are totally alarmed by the nature of activities that is happening in the college and we only hope that the members of student unions would show a better degree of responsibility, care and circumspection in their approach. Since already appropriate directions have been issued by this Court in Sojan Francis case, we do not think that further directions are required to be issued in the matter. However, having regard to the fact that Government had offered all necessary support to the college, we direct the Government to take necessary steps to ensure that the functioning of the college is not affected on account of such activities of the student unions. If the Government is of the opinion that they are unable to control the illegal activities of the student unions including that of the 2nd respondent, it should take appropriate steps to prevent the functioning of student organisations in the college.

The writ petition is disposed with the above directions.