

(2022) 01 KL CK 0068
In the High Court Of Kerala
Case No : Writ Petition (C) No. 803 Of 2022

Sahal Muhammed.M.

APPELLANT

Vs

APJ Abdul Kalam Technological University

RESPONDENT

Date of Decision : 12-01-2022

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 325, 341, 506
Prohibition of Ragging Act, 1998 — Section 4

Citation : (2022) 01 KL CK 0068

Hon'ble Judges : Raja Vijayaraghavan V, J

Bench : Single Bench

Advocate : K.Siju, S.Abhilash, Anjana Kannath, T.S.Sreekutty, Elvin Peter, Nisha George

Final Decision : Disposed Of

Judgement

Raja Vijayaraghavan V, J

1. The petitioners herein are final year B.Tech students of the TKM College of Engineering, Kollam. It appears that in respect of an incident involving

ragging of junior students which took place on 27.11.2021, they were suspended from the College pending disciplinary proceedings. A Crime has been

registered against the petitioners at the Kilikolloor Police Station as FIR 1151/2021 under Sections 341, 323, 506, 325 r/w Section 34 of the IPC and

under Section 4 of the Prohibition of Ragging Act, 1998.

2. The petitioners contend that they were suspended pending enquiry by order dated 30.11.2021. A preliminary enquiry was conducted after issuance

of a show-cause notice and Ext.P2 is the report. Thereafter, an Enquiry Officer was appointed to conduct a detailed enquiry. It is proceeding at a

very slow pace and the next hearing is on 14.1.2022.

3. The petitioners contend that the 7th-semester examinations are scheduled to be held from 27.01.2022 and due to the order of suspension passed

against them, they were prevented from appearing for the first series of internal examinations. The second series of internal examinations is scheduled

to be held between 11.1.2022 to 14.1.2022. The petitioners were also not able to participate in the lab test and the seminars in view of the order of

suspension. It is contended that as per the University stipulations, the marks secured by the students have to be uploaded on or before 17.1.2022.

4. The petitioners contend that they have already approached this Court seeking to quash the criminal proceedings and according to them the victims

of the Crime have already filed an affidavit stating that they do not intend to pursue criminal prosecution against the petitioners. The criminal

proceedings however have not been quashed to date.

5. Raising their grievances and seeking directions to the College authorities to permit the petitioners to partake in the examinations, they have

submitted Ext.P5 representation before the University. However, no action has been taken. It is in the afore circumstances that the petitioners are

before this Court seeking the following reliefs:

i) To issue a writ of mandamus or other appropriate writ, order or direction commanding the 3rd respondent to permit the petitioners to clear the internal examinations,

lab test and seminar so as to enable them to attend the 7th semester university examinations scheduled by the 1st respondent university from 27.1.2022.

ii) To direct the 1st respondent to extend the time for uploading internal marks and attendance of the petitioners so as to enable them to attend the 7th semester

university examinations scheduled from 27.1.2022.

iii) To issue a writ of mandamus commanding the respondents 1 and 2 to issue necessary directions to the 3rd respondent to conduct internals, lab test, seminar etc.

to the petitioners in a time bound manner so as to enable them to attend 7th semester university examination.

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6. This writ petition was filed on 10.01.2022 and the same came up for admission on 11.01.2022. This Court, after hearing the submissions of the

learned counsel appearing for the petitioners, had passed the following order and the case was posted to 12.01.2022.

2. It is submitted by Sri.Siju Kamalasanan, the learned counsel appearing for the petitioners, that the petitioners were suspended on 30.11.2021, pending an enquiry for allegedly indulging in ragging. It is contended that the issues between the students have been resolved and proceedings are pending before this Court

for quashing the criminal proceedings initiated against them. The enquiry, however, is being delayed and the next hearing is on 14.1.2022. It is submitted that the VII

Semester B.Tech Examination is scheduled to be held on 27.1.2022 and the petitioners are required to upload the marks for the internal examinations, seminars, lab

tests etc. on or before 13.1.2022. As the petitioners are undergoing suspension, they have not been permitted to take part in the internal examinations. The interim

prayer sought for is for a direction to the 3rd respondent to take necessary steps to conduct internals, lab tests and seminars and award the marks so that the same

can be uploaded before the last date.

3. For consideration of the interim prayer, the version of the 3rd respondent will also have to be considered. In order to expedite the matter, the petitioners are permitted to take out notice by special messenger. The petitioners may also take out notice by email, attaching a copy of the writ petition as well as a copy of this order to the email ID of the 3rd respondent, the Principal of the College. 2.

7. Sri. George Poonthottam, the learned senior counsel entered appearance for the 3rd respondent and Sri. Elvin Peter appears for respondents 1 and

2.

8. Sri. George Poonthottam would refer to Exts.P2 and P4 and it is submitted that serious allegations have been levelled against the petitioners. They

had manhandled junior students and the police have also registered a crime under the Prohibition of Ragging Act. The enquiry proceedings are still on

and it cannot be said at this stage that the petitioners are innocent. It is submitted that maintenance of discipline in the College is the foremost

consideration of the 3rd respondent and this Court will not be justified in interfering with the action of the College particularly, in the facts and

circumstances presented in this case. It is submitted that the petitioners have not attended the College from 30.11.2021 and as the last date for

concluding the exams is on 14.1.2022, it is next to impossible for the College authorities to conduct the internals, lab tests and seminars within such a

short period, even if a lenient view is taken. Furthermore, for carrying out the lab tests, the students will have to be permitted to enter into college

premises, which, in the peculiar facts and circumstances, is not possible. The learned senior counsel asserts that the offence of ragging cannot be

viewed lightly and even according to the petitioners, the criminal proceedings are still live and pending. It is submitted that appropriate action can be

taken only after the conclusion of the enquiry and not before.

9. The learned Standing Counsel appearing for the University submits that in so far as the registration of crime and the stand taken by the College is

concerned, it is for the College to take the appropriate decision. However, in so far as the uploading of the marks of the lab tests, seminars and the

projects are concerned, the same has to be done on or before 17.01.2022. According to the learned counsel, the petitioners are themselves to be

blamed for the delay in approaching this Court and waiting for the last moment.

10. I have considered the submissions advanced. I have no doubt in my mind that serious allegations are raised against the petitioners for assaulting

fellow students. The petitioners are under suspension from 30.11.2021. The records reveal that the enquiry is now posted on 14.1.2022. The I internal

examinations were held much earlier and for those students who could not appear for the I internals, the re-examinations have been scheduled to be

held from 11.1.2022 to 14.1.2022. This writ petition was filed on 10.1.2022. Obviously, there is delay and laches on the part of the petitioners in

approaching this Court. As rightly submitted by the learned senior counsel appearing for the 3rd respondent, the duty to maintain discipline in the

college is with the Principal. This Court will not be justified in directing the College authorities to conclude the lab test, seminars and internals of the

petitioners within a period of one day and to upload the details with the University on or before 17.1.2022 and this Court is of the view that only the

Principal can take a decision in this matter.

11. The learned counsel appearing for the petitioners relies on the Hand Book of BTech students issued by the APJAKTU and submits that in

exceptional cases, the College can make arrangements to conduct the lab tests, seminars and internals after 14.1.2022 and permit the petitioners to

attend the examination on 27.01.2022. I am firmly of the view that the principal is the authority to take a decision as to whether, internals, lab tests and

seminars of the petitioners can be held within the time stipulated by the University. There is no reason for this Court to suspect that the 3rd respondent

shall not look into the gravity of the allegations, the difficulties that the students are likely to face and the need to maintain overall discipline in the

college before taking a decision.

12. In that view of the matter, I direct the petitioners to approach the 3rd respondent and make a representation to consider their cause

sympathetically today itself. The 3rd respondent shall look into the relevant aspects as directed above and take a decision as expeditiously as possible

keeping in mind the time constraints.

This writ petition is disposed of.