

(2015) 06 KL CK 0195
In the High Court Of Kerala
Case No : W.A. No. 1080 of 2015

Shamnad N.S. and Others

APPELLANT

Vs

Kerala University Thiruvananthapuram and Others

RESPONDENT

Date of Decision : 12-06-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 3 KHC 523 : (2015) 3 KLJ 281

Hon'ble Judges : Antony Dominic, J;S.P. Chaly, J

Bench : Division Bench

Advocate : K.P. Satheesan, Sr, P. Mohandas and Anoop V. Nair, for the Appellant; C.R. Sivakumar, Eldho Mathew, K.G. Nishamol, P. Sreelakshmi and Bechu Kurian Thomas, SC, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Antony Dominic, J—Petitioners are the 6th semester students of a self financing engineering college, the Principal of which is the 3rd respondent. They filed the writ petition challenging Exts. P1 and P2 orders, placing them under suspension following the misconduct that were alleged to have been committed by them. This led to an enquiry with opportunity to the appellants, which culminated in Exts. R3(F) and (G) orders of the Principal directing that they would be allowed to continue their course only if they clear at least 50% of the arrear papers in the 1st, 2nd, 3rd and 4th semesters. By the judgment under appeal the learned Single Judge declined to interfere with Exts. P1 and P2 and it is this judgment which is under challenge.

2. We heard the learned counsel for the appellants, Standing Counsel for the University and the learned counsel appearing for the 3rd respondent.

3. The contention raised by the counsel for the appellants is that as a result of the suspension they are unable to attend classes which eventually would prevent them from appearing for the 6th semester examination also. It is stated that

considering the fact that the misconduct alleged arose out of an altercation between the two groups of students and that too outside the college campus, not only that the disciplinary action was unwarranted, but also that the punishment now imposed is too harsh.

4. The impugned orders were issued following an act of indiscipline committed by the appellants. When the act of indiscipline of students come to the knowledge of the Principal of the college, it is upto the Principal to take appropriate action, either disciplinary or otherwise, for, he is the person responsible to administer the college and to ensure that the college retains an atmosphere conducive for its smooth functioning. In such a process, when the Principal initiates action which ultimately is intended to maintain discipline within the campus, it is not for the High Court in exercising powers under Article 226 of Constitution to sit in appeal over the same, unless an extreme case of arbitrariness or malafide is made out. In so far as this case is concerned, we are unable to see that any such grounds are made out. True, the incident appears to have taken place outside the campus. While according to the Principal, the incident happened at the gate, appellants contend that it was far outside the campus. In our view, even it is outside the campus, if the misconduct has the potential of having an impact on the discipline within the campus, the Principal is entitled to take action against the students and therefore the fact that the incident occurred outside the campus is not a reason to deprive the Principal of his power to take disciplinary action. So far as the plea that the punishment imposed is too harsh is concerned, in our view, having regard to the fact that the appellants have previous history of committing similar misconducts, if the Principal was satisfied that the punishment imposed was the appropriate one, that decision cannot be said to be erroneous one nor can such a punishment be said to be too harsh in a proceedings before this Court. For these reasons, we are unable to interfere with the impugned orders. At the same time, we note that Chapter 36 of the Kerala University Rules First Statute provides for an alternative remedy available to the students. Therefore, it will be open to the appellants to pursue the remedy before that forum in which event none of the findings of this Court shall stand in the way of an independent adjudication of the grievances. Appeal fails and it is accordingly dismissed.