
(2006) 04 MAD CK 0236

In the Madras High Court

Case No : Writ Petition No's. 6059 and 6060 of 2006

S.K. Manikandan and E. Charles

APPELLANT

Vs

Saint Michael's Polytechnic College and The Director of
Technical Education

RESPONDENT

Date of Decision : 03-04-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 2 LW 763 : (2006) 3 MLJ 52

Hon'ble Judges : D. Murugesan, J

Bench : Single Bench

Advocate : McGan Law Firm, for the Appellant; R. Parthasarathy, for Respondent 1 and G. Kavitha Govt. Advocate for Respondent 2, for the Respondent

Final Decision : Dismissed

Judgement

D. Murugesan, J.—As the issues raised in both the writ petitions are one and the same, they are taken up together for disposal.

2. The averments made in the affidavits are as under:-Both the petitioners are the students of St.Michael's Polytechnic College, Vellanur, Avadi

undergoing the second year course in Electronics Communication Engineering and Automobile Engineering respectively. According to the

petitioners, even during the college hours, the third year students of the college obstructed the petitioners' entry into the college and they were

subjected to ragging. On 1.12.2005 at about 9.00 a.m., when both the petitioners entered into the college premises, the senior students threatened

them and their classmates and forcibly took them to the toilet and manhandled. The petitioners immediately made a complaint to the Administrative

Officer of the college and the Administrative Officer informed the petitioners that

the college is not in a position to take action against the senior students. As no action was taken by the college, the petitioners again represented that they would prefer a complaint to the police officials and in the event of doing so the reputation of the college would get tarnished. Thereafter, he announced the suspension of 30 students including the petitioners. On 2.12.2005, it was found in the notice board that when the other students were suspended, the petitioners were alone dismissed from the college. On enquiry with the Administrative Officer and the Principal of the college, they were informed that as they expressed their intention to prefer a police complaint against the senior students, they had been dismissed. Before ordering dismissal, they were not given notice and no enquiry was conducted. The petitioners made representations on 20.1.2006 to the Director of Technical Education once again reiterating their earlier complaint against the senior students for indulging in ragging and the inaction on the part of the college to take action against them. The said representations have not been considered. Hence, the petitioners were constrained to approach this Court by way of the above writ petitions.

3. On 2.3.2006, considering the allegation of the petitioners that they were not permitted to attend the college only because they had expressed their willingness to lodge a complaint against the senior students for ragging, this Court directed the petitioners to attend the classes.

4. The first respondent college has filed W.V.M.P.Nos.585 & 586 of 2006 to vacate the interim direction. In support of the said petitions, it is alleged that on 30.11.2005, a third year student by name A.Pradeep Gandh made an oral complaint to the Principal that certain second year students viz., S.K.Manikandan, E.Charles and Christopher had teased and ragged him on that day. Subsequently on 1.12.2005, when the third year Electrical and Electronics engineering students were proceeding to the wiring lab for their practical at around 8.55 a.m., a group of second year students including the petitioners were waiting outside the lab, when the second year students had no business to be outside the wiring lab as it was not part of their course or curriculum and that they were required to be in their class at 9.00 a.m. which is situate at the other end of the college. The second year students teased and intimidated the third year students and one of the third year students by name Divakar was also

physically assaulted by the petitioners which resulted in a clash between the third year and a bunch of second year students outside the lab and the same went out of control in spite of the best efforts by the Technical Assistants B.Ramesh and S.Anandan. A few of the third year students belonging to Automobile engineering immediately approached Thiru V.Praveen Raj, English Instructor of the college, who was then available in the staff room and informed about the ongoing quarrel between the students. When the said teacher rushed to the scene, he noticed that Manikandan and Charles were running from the area. By the time the Principal of the college also arrived at the scene and the petitioners were taken to the wiring lab to identify the third year students who had exchanged blows with the second year students. Thereafter, it was ascertained that 19 students belonging to the second and third year were involved in the clash outside the wiring lab.

5. As the matter related to gross indiscipline, a circular was issued on 1.12.2005 by the Principal of the college that an enquiry committee consisting of the following persons was constituted viz., Mr.A.Natarajan, Administrative Officer, Mr.B.Ramesh, Technical Assistant and Mr.S.Anandan, Technical Assistant. Pursuant thereto, the enquiry committee issued circulars on 1.12.2005 itself which was pasted in the notice board of the college stating that the enquiry will be conducted at 2.00 p.m. on 1.12.2005 at the college office and the said circular further required all the 19 students to be present in the college office for the purpose of enquiry. A preliminary enquiry was held at 2.00 p.m. on the said date which went for an hour and due to impending threat of heavy rains, the committee postponed the hearing to 2.12.2005 and required all the 19 students to bring their parents on 2.12.2005 for the enquiry. In the meantime, the committee also obtained letters in writing from the various students as to the incident that had happened on 30.11.2005 and 1.12.2005. M/s M.Ramkumar and D.Divakar studying in third year came forward to give their written version. As the enquiry was postponed to 2.12.2005 and due to the threat of heavy rains, all the students of the college were allowed to leave the college at 2.40 p.m. instead of the routine closing time of 3.45 p.m.

6. The first respondent college also runs a fleet of 13 buses to transport their students from the college to their houses and vice versa. Out of 13

buses, 3 buses bearing route nos.M-1, M-2 and M-5 go via Red Hills and in the said 3 buses, both the male and female students were on board.

When the said buses were nearing SIDCO estate main road, they were intercepted by both the petitioners along with some other hooligans.

Number of third year students were dragged out of the buses and were beaten up. Two of the staff members viz., P.Jaishankar and

M.Manikandan who were present in Bus No.5 were also beaten up. The incident was reported by the third year students to the Principal of the

college as well as the enquiry committee.

7. On 2.12.2005, the enquiry committee commenced the hearing around 9.00 a.m. However, both the petitioners did not participate in the enquiry

and did not also attend the college on the said date. After considering the explanation offered by the other students, no further action was taken

against them. As the incident happened only because of the petitioners and other outsiders who have waylaid the buses and had beaten some of

the third year students and other staff members of the college, both the petitioners were dismissed from the college. Hence, the first respondent had

prayed for vacation of the interim direction.

8. Learned counsel for the petitioners would challenge the orders on the ground of violation of the principles of natural justice. According to the

petitioners, before they were dismissed from the college, they were not given opportunity. He would also submit that in any event the staff

members viz., B.Ramesh and S.Anandan, Technical Assistants, who have also given complaint, ought not to have been included in the committee.

9. In the matter of maintaining discipline, the educational institution must be given a right of exercising such power and the right of the Principal to

maintain peaceful atmosphere should be preserved and upheld. The administrative authorities before taking an extreme decision to dismiss the

students must give the students a reasonable opportunity. However, such opportunity cannot be stretched to a full-fledged enquiry as normally

required to be conducted for disciplinary matters in service law. The learned counsel would strenuously contend that in the absence of reasonable

opportunity, the impugned orders suffer for non-compliance of the principles of natural justice. In this context, it must be observed that since the

rules of natural justice are not embodied rules, it is not possible to precisely

define the parameters of natural justice. The principles of natural justice are applicable in all force not only to the quasi-judicial proceedings but also to the administrative actions. While considering the scope of the rule of natural justice, the Supreme Court in *Union of India (UOI) and Another Vs. P.K. Roy and Others*, has observed as follows:-

The extent and application of the doctrine of natural justice cannot be imprisoned within the strait-jacket of a rigid formula. The application of the doctrine depends upon the nature of the jurisdiction conferred on the administrative authority, upon the character of the rights of the persons affected, the scheme and policy of the statute and other relevant circumstances disclosed in the particular case.

In the decision in *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, , the Supreme Court has observed as follows:-

What particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the enquiry is held and the constitution of the Tribunal or body of persons appointed for that purpose.

Whenever a complaint is made before a Court that some principle of natural justice had been contravened, the court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case.

In *Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others*, , the Supreme Court observed ""the omnipresence and omniscience of the principles of natural justice, act as deterrence to arrive at arbitrary decisions in flagrant infraction of fair play.

But the applicability of the principles of natural justice is not a rule of thumb or strait-jacket formula as an abstract proposition of law. It depends on the facts of the case, nature of enquiry and the effect of the order/decision on the right of a person and attendant circumstances"".

10. In matters relating to the internal discipline of educational institutions, under the guise of observing principles of natural justice, a rigid and mechanical insistence of full-fledged enquiry of examination and cross-examination of witnesses may not be conducive for the effective functioning and preservation of structure of educational institution. The Supreme Court in *Harinath Mishra and Ors. v. The Principal, Rajendra Medical*

College, Ranchi and Ors. 1974 (1) SCJ 223 has pointed out that the educational institution have to devise a just and reasonable plan of enquiry

which on the one hand would not expose the innocent students who were victims of harassment by the delinquent students and on the other hand

secure reasonable opportunity to the delinquent student, who is the accused of certain acts of misconduct.

11. Coming to the facts of this case, it is seen that in the counter affidavits, it is clearly mentioned that after the incident that had happened on

30.11.2005 and 1.12.2005, an enquiry was called on 1.12.2005 and the complaint given by not only the students but also by one of the parent

was considered. Before such enquiry, all the 19 students including the petitioners were informed of the purpose for which the enquiry is conducted.

This is one part of the incident.

12. As the enquiry could not be completed on the same date due to incessant rains, it was adjourned to the next date. After the enquiry was

adjourned, the subsequent incident of waylaying the buses in which not only the male students but also the female students were on board. Some of

the third year students were pulled down by the petitioners and some outsiders and were beaten up. Further two of the staff members who

travelled in the bus were also beaten. All these complaints were placed before the committee and for answering the same before the committee,

none of the petitioners appeared. When the petitioners did not appear before the enquiry, they cannot now contend that they were not given

opportunity. As already observed, a detailed enquiry before any order of punishment is imposed on a student is not required in the matter of

preserving discipline in the educational institution. Suffice for an enquiry conducted wherein all the students and other persons aggrieved are present

and their submissions are recorded. A perusal of the statements given by not only the third year students but also the two staff members of the

college as well as the letter of a parent dated 13.12.2005 informing the college that since his son had given complaint against the petitioners, they

are calling them over phone and threatening with dire consequences of their life is an adding factor to the gross indiscipline of the peititoners. Only

on the basis of the above serious allegations, the petitioners were dismissed from the college. In my opinion, such action cannot be interfered with

by this Court, as it would amount to interfering in the management of the college in maintaining the administration of discipline in the college.

13. It is next contended by the learned counsel for the petitioners that the inclusion of the two Technical Assistants by names Thiru B.Ramesh and

Thiru S.Anandan in the enquiry committee had vitiated the entire enquiry as they had given complaint against the petitioners and that they were

asked to sit over their own complaint. In this regard, it must be pointed out that on 1.12.2005 at about 9.00 a.m., the petitioners had assembled in

front of the wiring lab meant for third year students and quarreled with the students, which was witnessed by both the above two Technical

Assistants and in this regard they have intimated the same to the Principal. No doubt to this extent, both of them cannot function as committee

members as to the alleged incident occurred on 1.12.2005 at 9.00 a.m. However, the fact remains that after the enquiry held on 1.12.2005, it was

adjourned at 3.30 p.m. for continuance on the next day. Thereafter, it is alleged that both the petitioners had indulged in violence by waylaying the

college buses and assaulted the staff members and scared the students including female students. For this an enquiry was conducted on the next

day. The incident for which the enquiry was conducted has nothing to do with the complaint given by both the Technical Assistants on an earlier

occasion. In fact, number of students had given written statements to the Principal of the college. To quote a few, the statements of D.Divakar,

Final year student, R.Rajesh, III year student, N.Ramkumar, III year student, G.Kasirajan, Final year student, B.Harinarayanan, III year student,

A.Pradeep Ganth, III year student. In fact one K.Raja, F/o R.Rajesh, a final year student had given the following complaint viz., ""as my son

R.Rajesh was suspended for 2 weeks (2.12.2005 to 19.12.2005) because of misbehaviour. So in future any problem occurred by my son you can

dismiss my son. Please give one kind excuse for my son. The friends of Charles have threatened to cut and kill me. The above statements had been

considered and the decision was taken to dismiss both the petitioners. When the materials and the facts placed before the Court reveal the

involvement of both the petitioners in the incident that occurred in the afternoon of 1.12.2005, merely because the two Technical Assistants also

were included in the committee, the decision, in my opinion, is not vitiated on the ground of bias. In this context, it is also relevant to point out that

the petitioners have not even pleaded the ground of bias against those two Technical Assistants and no specific averments to sustain the ground of bias have been made.

14. That apart, when both the petitioners have complained to the Director of Technical Education on the ground that they were dismissed

arbitrarily for no fault of theirs, the officials of the Directorate of Technical Education visited the college on 2.2.2006 and roughly about 50 students

and their parents were orally enquired. The committee consisted of Mr.L.Jayachandran, Joint Director of Technical Education,

Mr.Balasubramanian, Principal, Textile Technology, Taramani, Mr.B.Nandagopal, Principal, Murugappa Polytechnic college, Chennai,

Mr.Dhandapani, Superintendent, Directorate of Technical Education. In the enquiry the committee found the charges are proved and the

committee unanimously resolved to uphold the stand taken by the Principal and the management. The decision of the committee was also

communicated to the Principal of the college by the proceedings of the Commissioner of Technical Education dated 2.3.2006. From the above, it

is seen that though proper opportunity was given to the petitioners to attend the enquiry on 2.12.2005, they did not avail the opportunity and the

allegation of bias has not been established, except a statement made at the Bar. Having regard to the enquiry conducted at the instance of the

educational authorities at the level of Director of Technical Education holding the misconduct as proved, I am not inclined to interfere with the

impugned orders of dismissal. Accordingly, the writ petitions fail and the same are dismissed. No costs. Consequently, W.V.M.P.Nos.585 and

586 of 2006 are also dismissed.