

(2006) 12 KL CK 0006

In the High Court Of Kerala

Case No : Writ Petition (C) No. 22222 of 2006

S.N.M. College

APPELLANT

Vs

S.I. of Police

RESPONDENT

Date of Decision : 15-12-2006

Acts Referred:

Constitution of India, 1950 — Article 19(1)
Mahatma Gandhi University Act, 1985 — Section 10(17)
Mahatma Gandhi University Students Code of Conduct Rules, 2005 — Rule 4(6), 5
Penal Code, 1860 (IPC) — Section 143, 147, 149, 447

Citation : (2007) 1 ILR (Ker) 5 : (2007) 1 KLT 282

Hon'ble Judges : K.S. Radhakrishnan, J;K. Padmanabhan Nair, J

Bench : Division Bench

Advocate : K.B. Gangesh and Anil George, for the Appellant; Basant Balaji, Government Pleader, B. Premod and N.A. Ali, for the Respondent

Judgement

K.S. Radhakrishnan, J.—this Court in Sojan Francis v. M.G. University 2003 (2) KLT 582 declared that the guidelines banning political activities within the college campus and forbidding the students from organising or attending meetings other than the official ones within the campus is not designed to prohibit any of the fundamental rights of the students guaranteed under Article 19(1)(a) or (c) of the Constitution of India. Later after hearing all the students organisations of the State like Students Federation of India (SFI), Kerala Students Union (KSU), Akhila Bharathiya Vidyarthi Parishat (ABVP) etc., this Court in Kerala Students Union Vs. Sojan Francis, upheld the rights of the private managements and the educational agencies in prohibiting the functioning of students organizations like SFI, KSU, ABVT etc. within the campus either directly or through their member-students and also the prohibition of strike, gherao, dharna, bandh, hartal etc. within the campus either directly or through their member-students. this Court had recorded the affidavit filed by the Principal Secretary to the Education Department and stated as follows:

Measures suggested by the State Government are to be welcomed while

upholding the right of the Managements to stall organizational activities of students organizations like SFI, ABVP, KSU etc. directly or through their member students within the campus. Strike, dharna, gherao etc. indulged in by the students within the campus can also be prevented and State Government and the Universities have got a legal obligation to protect the rights of not only the Management, Principals and the teaching faculty of the affiliating colleges but also that of Government owned colleges and educational institutions and to take appropriate measures to enforce those rights.

This Court later took judicial notice of the fact that some of the Universities and affiliated colleges are strictly following the directions of this Court and few others are not. One of such cases is before us for determination.

2. This Writ Petition has been preferred by the Manager of S.N.M. College, Maliankara and its Principal so also the Principal of S.N.M. Institute of Management and Technology, Maliankara for a direction to the police to give adequate protection to the life and property of the students and staff of the colleges and to render necessary assistance to prevent outsiders from entering the college campus and also to prevent the attempt of the respondents 3 to 7 to set up their respective units or perform any kind of political activity within the college campus including disrupting of classes by way of agitation and threatening the students to join their respective unions and also for a direction to give adequate protection to the movable and immovable properties of the colleges and also for other consequential reliefs.

3. S.N.M. College, Maliankara, a private aided college, is affiliated to M.G. University and S.N.M. Institute of Management and Technology, Maliankara is a self financing Engineering college owned by the above mentioned educational agency. Political activities by the students organizations are banned in the college campus. Following the decision of this Court in Sojan Francis Vs. M.G. University, , Mahatma Gandhi University has framed Mahatma Gandhi University Students" Code of Conduct Rules 2005 in exercise of the powers conferred u/s 10(17) of the Mahatma Gandhi University Act, 1985. Rule 5 of the said Rules reads as follows:

5. Prohibition on political activity inside the campus.

(a) No student of a college shall get himself involved in any political activity by himself or abet the said activity to be carried on by fellow students inside the campus in any manner whatsoever and any such activity is hereby banned inside the campus.

(b) Taking part in any political activity by organizing students or to cause gatherings inside the college campus for the purpose of doing any activities as defined in Rule 4(6) shall constitute serious indiscipline. Every member of such a gathering shall be individually liable and responsible for the gross indiscipline in this regard and the Principal shall have the power to take disciplinary action against students who indulge in the aforesaid activities.

(c) It shall constitute gross indiscipline to call for and appeal to strike based on policies and ideologies that may be preached by the political parties or their sister organizations or students wings. The participants in the strike as aforesaid shall be dealt with by the disciplinary authority and they shall be imposed appropriate punishment as provided in these rules.

(d) No student of a college shall stage or indulge in any activity like Dharna, Gherao, obstructing entry to and from any class room, office, hall or other places inside the campus and such activities shall be treated as misconduct.

(e) No student shall shout slogans inside the class rooms, office or any other place inside the campus and obstruct and interfere or to cause disturbance and nuisance to the ordinary functioning of the institution.

These activities shall be treated as misconduct.

Petitioners submit that in spite of the Bench decision of this Court and in spite of the Conduct Rules framed by the University, certain students claiming to be members of the SFI attempted to start their unit within the SNM College campus with the aid of outsiders like respondents 3 and 4 during the current academic year. Petitioners allege that respondents 3 and 4 have come to the college and threatened various students including new comers to join their unit. Politics was banned in S.N.M. College, Maliankara in the year 2004 and there was no political activities in S.N.M. Institute of Management and Technology. But still the S.F.I is trying to set up their unit within the campus. Following the footsteps of SFI members of other Unions like KSU and ABVP have also started forceful inclusion of students into their fold. Petitioners allege that attempts are being made with the active connivance of outsiders who owe allegiance to their respective parent political parties.

4. The lecturer in charge of Principal of S.N.M. College on 26.7.2006 received a complaint from a first year B.A. Economics student by name Febin M.V. alleging that on 25.07.2006 he was threatened and manhandled by certain students claiming to be the members of SFI. Threat was made because of his reluctance to join their Union. Since complaint was brought to the knowledge of the Principal in-charge, the complainant and his friends were manhandled by certain outsiders under the leadership of the third respondent who claimed to be the Taluk Secretary of S.F.I. Principal in-charge forwarded the complaint to the first respondent and police came to the scene, but instead of taking action against the intruders into the college as well as to stall the attempts made by the students organization they were trying to compromise the issue without enforcing the judgments of this Court and the rules framed by the University. Police was totally inactive and took no steps to uphold the direction given by this Court and the rules framed by the Mahatma Gandhi University.

5. The third respondent on 2.8.2006 the third respondent claiming to be the Taluk Secretary of SFI met the second petitioner and informed that his Union would conduct a meeting in the college auditorium during lunch break on

3.8.2006. Second respondent did not accede to that request and immediately forwarded a complaint to the police intimating the threat from the third respondent. No effective action was taken by the police. The Principal again on 4.8.2006 preferred a written complaint to the first respondent requesting him to take action against outsiders who illegally entered the college. Due to the constant threat from respondents 3 to 5, the complainant Febin M.V. obtained T.C. from the college and left the college. Petitioners further submit that on 7.8.2006 certain outsiders under the leadership of respondents 3 and 4 came to the college during lunch break and forcefully conducted a meeting of SFI in the college auditorium after closing the doors of the auditorium from behind. The matter was immediately reported to the police by the second petitioner but the police came long after the meeting was over. Due to the forceful attempt of respondents 3 to 5 to set up their unit in the college, respondents 6 and 7 are also making similar attempts to set up their respective units in the college in gross violation of the judgment of this Court and the rules framed by the University. Petitioners further submit that due to the high handedness and illegal activities of the members of SFI, outsiders claiming to be the leaders of KSU and ABVP, are illegally conducting demonstrations within the college campus and disrupting classes.

6. Counter affidavit has been filed on behalf of respondents 3 to 5. Affidavit is sworn to by the Taluk Secretary of the SFI. It is stated in paragraph 3 that the unit of the SFI is functioning in the campus from the very beginning of the Institution itself and there has been no change in the scenario till now with regard to the functioning of the organization. It is also stated that the Union meetings are conducted in the campus as usual after seeking permission from the Management. Further it is stated that active politics have been there from the very establishment of both the institutions. Further it is stated that SFI used to conduct their meeting in the college auditorium and the meetings are conducted after getting permission from the Management. Though notice was received no counter affidavit has been filed by the respondents 6 and 7.

7. Learned Government Pleader stated that on 7.8.2006 a telephone message was received from the college stating that outsiders had trespassed into the college and the police reached the place immediately but no untoward incident was noticed. Later a case was registered as crime No 326/06 under Sections 143, 147, 447 read with Section 149 I.P.C on the basis of the written complaint and the accused was arrested except one Shiny. Statement was also recorded from Jaison, final year B.A and Sujith, 2nd year B.Sc. regarding manhandling. Since the offence was non-cognizable no crime was registered. It is also stated that now there is no law and order situation for police intervention.

8. We find in spite of the declaration of law laid down by this Court in Sojan Francis" case, supra that private managements and educational institutions have the right to prohibit political activities within the college campus and forbid students from organizing or attending meetings other than the official ones,

those directions are not being followed in some of the colleges just like in the present case. Students organizations even after the guidelines laid down by this Court in Sojan Francis's case, *supra*, are still creating disturbances in the college campus. We make it clear as and when complaint is received from the Management or Principal of an educational Institution in the State the police has got a duty to act and see that those students organization be kept away from the college campus. Students Unions have no right to set up their units within the college campus. Students Federation of India or other Students Unions have no right to start their Union activities within the college campus since they are bound by the judgment of this Court. If the Union starts any such activities within the college campus in violation of the decision of this Court reported in Kerala Students Union Vs. Sojan Francis, and the rules framed by the University, the Management can approach the police officials who will see that such attempts are averted failing which appropriate action would be taken for contempt of court proceedings.

9. This Writ Petition is disposed of with a direction to the Director General of Police to see that the judgment of this Court in Kerala Students Union Vs. Sojan Francis, and the Conduct Rules framed by the M.G. University are scrupulously followed. Respondents 1 and 2 would give adequate and effective protection to the petitioners as and when requested.

Communicate a copy of this judgment to the Director General of Police, Kerala State, Trivandrum for appropriate follow up action.