
(2011) 03 KL CK 0104

In the High Court Of Kerala

Case No : Con. Case (C) . No. 1321 of 2010 (S)

Subin K. Rajan

APPELLANT

Vs

B. Ashok Kumar

RESPONDENT

Date of Decision : 17-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0104

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : Thomas Abraham, for the Appellant; V.A. Muhammed, for the Respondent

Judgement

T.R. Ramachandran Nair, J.—The Contempt of Court Case is filed by the Petitioner alleging non-compliance of the interim orders passed by this Court as per Annexure-1 and Annexure-2.

2. When the matter was posted for hearing, the Writ Petitions were also called for and accordingly the learned Counsel for the parties and the learned Standing Counsel for the University, have been heard.

3. The interim order passed in W.P.(C) No. 22584/09 is by way of a direction to the 2nd Respondent to permit the Petitioner to attend and complete the project and to assess the internal examinations and award the marks. Even though a petition was filed to vacate the interim order, that was also rejected by Annexure II order. The Petitioner in the Contempt of Court Case contends that in the light of the interim orders the College authorities had to permit him to attend the project work and they Coc. 1321/10 and con. cases-2 had to assess the internal examination also; but the same is deliberately being disobeyed.

4. In the affidavit filed by the Respondent, the stand taken is that the proceedings of the University cancelling the dismissal of the student from the College have been challenged in W.P.(C) No. 22086/10 wherein an interim order has been passed by this Court. It is also pointed out that at the time of dismissal

he was undergoing his 5th Semester.

5. The learned Counsel for the student Shri Thomas Abraham submitted that the interim order passed in W.P.(C) No. 22086/10 filed by the Principal has already been vacated. It is also submitted that even though he was suspended on 4.12.2007 when he was undergoing the 5th Semester course, pursuant to mediation, the suspension was withdrawn later and he was allowed to attend the 6th Semester course which commenced on 9.1.2008. It is also submitted the project was started on 15.1.2008 and it continued till February, 2008 and public examination was held in March 2008. Exhibit R3(i) is the mark list issued for the 6th Semester examination. It shows that internal marks are not given and the column in respect of the Coc. 1321/10 and con.cases-3-project work is shown as "absent". It is in these circumstances that the Petitioner prays that a direction may be issued to award internal marks and to assess the project works.

6. The stand taken by the Principal is that since the Petitioner had not attended the classes, the project work cannot be Assessed and the internal mark cannot be awarded also.

7. It is the submission of the learned Counsel for the student Shri Thomas Abraham that in all the internal examinations, the Petitioner was awarded good marks and the Petitioner had attended the 6th Semester classes also.

8. The learned Standing Counsel for the University submitted that actually it was due to the adamant stand of the College that the Petitioner could not continue the studies in spite of the direction issued by the University and that the challenge against the action of the University has no merit also.

9. There cannot be any dispute that the Petitioner has already completed the entire course. Therefore what is required is only to Assess the project work and to award the internal mark. Since the College authorities have refused to admit the student, at this stage, he need not be driven to get admission in any Coc. 1321/10 and con.cases-4-other College for assessing the project work. Therefore, for ensuring justice, there can be a direction to the Petitioner in W.P. (C) No. 25584/09 to submit the project report to the University can normalise the marks in that regard also. This arrangement can be made since the student need not suffer further as it is not due to his fault that he was not able to get re-admission in the College at the appropriate time.

10. In that view of the matter, there will be a direction to the Petitioner to file an appropriate representation along with the Project Report before the University and the University will thereafter assess the project work and award appropriate marks for the Project as well as normalisation marks for the internal assessment. The University will pass appropriate orders within a period of two months from the date of receipt of the representation and details of the project work by the Petitioner. Coc. 1321/10 and con. cases-5 The above will be treated as further order in modification of the interim order passed in the Writ Petitions. The Contempt of Court Case is closed in the light of the above order.

Writ Petition Nos. 22584/09 and 22086/10 will be posted for hearing, in the 2nd week of June, 2011.