

(2018) 12 CAL CK 0094
In the Calcutta High Court
Case No : Writ Petition No. 24916 (W) Of 2018

Tanmoy Bagchi & Ors

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 12-12-2018

Acts Referred:

West Bengal Prohibition of Ragging in Educational Institutions Act, 2000 — Section 6
All India Council for Technical Education Act, 1987 — Section 23

Citation : (2018) 12 CAL CK 0094

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : S.N. Arafin, Partha Chakraborty, Chayan Debnath, Bhaskar Prasad Vaisya, Suman Dey

Final Decision : Allowed

Judgement

Ten petitioners are before Court. They are senior students in M.B.C. Institute of Engineering & Technology at Burdwan. They want interference of Court to enable them to appear in ensuing semester examination already commenced, on compliance of necessary formalities on their part including payment of requisite fees and declaration of result of their efforts along with other candidates in usual course. Mr. Arafin, learned advocate appears on behalf of petitioners and submits, they have been meted out punishment of expulsion from hostel and debarred from taking ensuing odd semester examination on being suspended till 10th January, 2019. He submits, this is against provisions in section 6 of West Bengal Prohibition of Ragging in Educational Institutions Act, 2000. Section 6 is reproduced below:

"6. Expulsion of student - Without prejudice to the foregoing provisions of this Act, where a student complains of ragging by any other student to the head of the educational institution or to any other person responsible for the management of the educational institution, such head of the educational institution or person responsible for the management of the educational

institution shall forthwith inquire into the complaint and if, on such enquiry, the complaint is found to be true, he shall expel the student, who has committed the offence, from the educational institution."

There has been no finding till date and as such there should be interference or at list interim measure.

Mr. Vaisya, learned advocate, Additional Government Pleader appears on behalf of the Institute as well as State. He submits, All India Council for Technical Education (Prevention and Prohibition of Ragging in Technical Institutions, Universities including deemed to be Universities imparting technical education) Regulations, 2009 provide for action to be taken against students for indulging and abetting ragging in Technical Institutions such as his client Institute. These regulations were made in exercise of powers conferred by, inter alia, section 23 of All India Council for Technical Education Act, 1987. He relies on clause (a) in sub regulation 4 of regulation 8 which is set out below:

"4. a) Depending upon the nature and gravity of the offence as established the possible punishments for those found guilty of ragging at the institution level shall be any one or any combination of the following:-

- (i) Cancellation of admission
- (ii) Suspension from attending classes
- (iii) Withholding/withdrawing scholarship/fellowship and other benefits
- (iv) Debarring from appearing in any test/examination or other evaluation process
- (v) Withholding results
- (vi) Debarring from representing the institution in any regional, national or international meet, tournament, youth festival, etc.
- (vii) Suspension/expulsion from the hostel
- (viii) Rustication from the institution for period ranging from 1 to 4 semesters.
- (ix) Expulsion from the institution and consequent debarring from admission to any other institution.
- (x) Collective punishment: when the persons committing or abetting the crime of ragging are not identified, the institution shall resort to collective punishment as a deterrent to ensure community pressure on the potential raggars."

He hands up resolution of meeting of Anti-Ragging Committee dated 3rd December, 2018 to submit, due punishment depending on nature and gravity of offence has been meted out as per enquiry report. The enquiry was conducted where petitioners as well as the victims were given opportunity of hearing. There should be no interference as mechanism in place had duly worked to address and prevent incidents of ragging.

Court has perused synopsis of report of enquiry committee. It appears that allegations were watered down to be mainly that juniors were harassed by being asked to bring water, foodstuffs and smoking items for seniors. 40 junior students said this. 26 junior students did not take part in Test Identification Parade. 33 junior students want understanding with the seniors. 4 junior students alleged their mobiles were taken away. 6 junior students identified seniors in Test Identification Parade and 7 junior students complained they have been physically assaulted. None mentioned they were stripped as they had earlier alleged.

The impression as formed in mind of Court is, junior students had brought serious allegations against senior students and thereafter partially retracted them. This retraction is in respect of serious allegation of stripping. A prima facie case appears, of senior students being in peril by operation of mechanism in place. There must be finding against petitioners but meantime they are to be allowed to sit for odd semester examination commenced today. To that end compliance by them of all formalities must be facilitated by the Institute simultaneously and not as condition precedent for taking the examination.

Hearing is adjourned awaiting findings arrived at by the authority, to be informed to Court.

This order, including interim measure directing petitioners to be allowed to take odd semester examination already commenced, has been dictated in Court in presence of parties. The Institute is expected to act accordingly. Liberty to learned advocates to communicate gist of this order.

List on 16th January, 2019 under heading 'for orders'.