
(2003) 10 KL CK 0060
In the High Court Of Kerala
Case No : Writ Petition (C) No. 29634/03

Vijayakumar

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 10-10-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 143, 147, 149, 294, 34

Citation : (2004) 3 CivCC 124 : (2004) 2 ILR (Ker) 88 : (2004) 2 KLT 627 :
(2004) 3 RCR(Criminal) 471

Hon'ble Judges : K.K. Denesan, J; Cyriac Joseph, J

Bench : Division Bench

Advocate : K.L. Narasimhan, for the Appellant; P.V. Lonachan, Government
Pleader and P.M. Mohammed Shiraz, for the Respondent

Judgement

Cyriac Joseph, J.—The petitioner in this Writ Petition filed under Article 226 of the Constitution of India is the Principal of the N.S.S. College, Pandalam (hereinafter referred to as "the College"). He prays for a writ of mandamus or other appropriate writ, direction or order to respondents 1 to 4, namely, the State of Kerala, the Sub Inspector of Police, Pandalam, the Circle Inspector of Police, Pandalam and the Deputy Superintendent of Police, Adoor to give necessary, adequate and meaningful protection to the petitioner and the properties of the college against any demonstration or violent action on the part of respondents 5 to 10 consequent on the removal of respondents 5 to 9 from the register of the College. Respondents 5 to 9 are students of the college and respondent No. 10 is a former student of the college.

2. According to the averments in the petition a section of the students has been creating disturbance to the smooth running of the college. Respondents 5 to 10 have been organising strike and violent activities inside the college premises. They are also involved in destruction of the properties of the college. The 10th respondent who is a former student of the college and the Vice Chairman of the Kerala University Students Union forcibly entered the room of the Principal on

30th June 2003 and demanded an explanation from him for banning politics in the college campus. The petitioner told him that in order to ensure peaceful atmosphere in the college campus and proper conduct of classes it was necessary to maintain discipline and that no demonstration would be allowed inside the college campus. The petitioner also told him that the students could organise peaceful and legal demonstration outside the premises of the college without affecting the functioning of the college. Then the 10th respondent abused the petitioner using filthy and indecent language. The petitioner brought the said conduct of the 10th respondent to the notice of the College Council at its meeting held on 1st July 2003 and the College Council passed a resolution condemning the behaviour of the 10th respondent. The said resolution was sent to the Vice Chancellor, University of Kerala and the Chairman, Kerala University Students Union. On 11th July 2003 some students under the leadership of the 5th respondent started a campaign and "bucket collection" of money during class time. When the petitioner objected to it the 5th respondent along with his friends trespassed into the Principal's room and shouted slogans using obscene language and attempted to assault the petitioner thrice. Then the staff and the security persons intervened and saved the petitioner from physical attack of the 5th respondent and his friends. But they locked the petitioner and the staff inside the room and demonstrated outside shouting slogans using obscene language. They did not allow anybody to enter the Principal's room or to get out of the room. After an hour the third respondent, Circle Inspector of Police, Pandalam arrived, removed the students and released the petitioner and the staff. Again on 16th July 2003 respondents 5 to 10 physically obstructed the functioning of the college and prevented the regular students from attending classes. They organised violent demonstration inside the college campus with the aid of local politicians. They "picketed" the Principal's room and raised provocative slogans and threatened to burn the petitioner and his office. They also forcibly entered the Principal's room. Hence the petitioner was compelled to submit Ext.P-2 petition dated 16th July 2003 to the second respondent Sub Inspector of Police, Pandalam requesting for police protection for conducting admission to the 1st year B.Sc./B.A./B.Com. classes scheduled on 17th, 18th and 21st July 2003. He also submitted Ext.P-3-petition dated 16th July 2003 to the third respondent Circle Inspector of Police, Pandalam making an identical request.

3. On 22nd July 2003 the Staff Council of the college ordered an enquiry into the above-mentioned incidents on 11th July 2003 and 16th July 2003. A Commission of Enquiry was constituted to enquire into the charges against respondents 6, 7, 8 and 9 and another Commission of Enquiry was constituted to look into the omissions and commissions on the part of the 5th respondent. The Commission of Enquiry against respondents 6 to 9 consisted of three Professors who are Heads of the Departments of English, Economics and Chemistry. The Enquiry Commission submitted its report on 25th August 2003 holding respondents 6 to 9 guilty of the charges against them. The Commission also found that respondents 6 to 9 had caused damage to the college properties worth Rs.

25,000/- . The Commission recommended to place the matter before the College Council for appropriate action. The Commission of Enquiry against the 5th respondent consisting of Dr. G. Gopikuttan, Sri. N. Gopinatha Pillai and Sri S. Janardhana Kurup found the 5th respondent guilty of the charges and recommended to the College Council to take appropriate action. On a consideration of the above-mentioned reports of the Enquiry Commission the College Council which met on 26th August 2003 felt that allowing respondents 5 to 9 to continue their studies in the college would be a serious threat to the properties and the smooth functioning of the college and hence directed the petitioner to take firm action against them. On the basis of the above decision of the College Council the petitioner issued notice to respondents 5 to 9 requiring them to show cause why they should not be removed from the rolls of the college. The explanations submitted by the students were considered by the College Council and the College Council at its meeting held on 16th September 2003 recommended to remove respondents 5 to 9 from the rolls of the college. Accordingly it was decided to remove their names from the admission register of the college and the said decision was published in the College Notice Board on 16th September 2003. The petitioner alleges that according to his information respondents 5 to 9 with the active support and assistance of respondent No. 10 and their local political associates have decided to physically attack the petitioner and to cause extensive damage to the college properties. According to the petitioner there were secret meetings in and around the college premises by the said respondents and they have organised people to attack the petitioner and the students who are not interested in the illegal violent activities organised by the said respondents and also to damage the properties of the college. In such circumstances the petitioner submitted Ext.P-5 petition dated 16th September 2003 to the third respondent, Circle Inspector of Police, Pandalam requesting for police protection. A similar petition was submitted to the 4th respondent Deputy Superintendent of Police, Adoor also.

4. Notice of this Writ Petition was served on all the respondents by special messenger. The 6th respondent has filed a counter-affidavit on behalf of respondents 6 and 10. The third respondent, Circle Inspector of Police, Pandalam also has filed a counter-affidavit.

5. According to the averments contained in the counter-affidavit filed on behalf of respondents 6 and 10 the entire students of the college have united against the authoritarian attitude of the petitioner and there is strong resentment among students against the petitioner who took charge as Principal only this year. The petitioner had announced an unprecedented step of collecting Rs. 2,000/- from each first year student of the college towards College Development Fund and the amount was sought to be collected in the name of the management. The students opposed the coercive collection of the amount on the ground that the amount demanded was too high, that there was no exemption to SC/ST students or students belonging to economically weaker classes and that the amount should be collected only by the Parent Teacher Association of the college and not

by the Manager who may divert the amount to other colleges under the same management. On account of the strong opposition of the students the amount could not be collected and the petitioner was enraged due to his failure to collect the amount for the management. The College Unit of the Students Federation of India has been awarding mementos to outstanding students of the college in each department every year. Last year the prizes were distributed by the then Principal of the College. However this year the petitioner refused permission to conduct the function on the ground that politics is banned in the college. The petitioner forcibly prevented the function scheduled to be held on 15th July 2003. This led to resentment among students and the students picketed the office of the Principal in a peaceful manner. It was after the intervention of the Circle Inspector of Police that the petitioner agreed to permit the students to conduct the function. On 16th July 2003 the students of the college organized demonstration and strike to protest against police brutality against the striking students and political leaders. During the said strike some students broke a few window panes of the college and there was heated exchange of words between the students and the petitioner. Apart from this there was no law and order problem in the college. But on account of the above incident the petitioner targeted respondents 5 to 9 as the culprits though they were not involved in the incident. They were implicated by the petitioner as they had opposed the illegal and authoritarian activities of the petitioner. Respondents 5 to 9 were suspended and enquiry was conducted. They came to know about the decision to remove their names from the rolls of the college only from the Writ Petition. It is contended that the entire process of enquiry and imposition of punishment is arbitrary and illegal. It is alleged that the teachers of the college are dead against the students and their organisations on account of the role played by the student organisations in bringing the culprits to book in the case of the rape of a girl student of the college by four teachers of the college four years ago. The allegation that the 10th respondent trespassed into the chamber of the Principal on 30th June 2003 and abused the Principal is denied in the counter-affidavit. It is stated that the 10th respondent who is a former student of the college and currently the Vice Chairman of the Kerala University Union used to visit the college in connection with his duties as the Vice Chairman of the University Union. The allegation that the petitioner was abused and physically threatened by the students on 11th July 2003 also is denied. It is stated that the students conducted only peaceful demonstration and dharna outside the office of the Principal against the arbitrary decision of the Principal prohibiting the function to felicitate the outstanding students of the college. Though it is admitted that demonstration was held by the students on 16th July 2003 it is denied that respondents 5 to 9 threatened the Principal and forcibly entered his chamber. It is admitted that disciplinary action was taken against respondents 5 to 9. But it is alleged that the petitioner wants to gag the students into submission and that is the reason for filing this Writ Petition.

6. According to the averments in the counter-affidavit filed by the third

respondent Circle Inspector of Police, on receipt of a petition from the petitioner on 11th July 2003 the third respondent along with policemen reached the college and found that the petitioner was locked inside his room by the students. The police opened the door and rescued the petitioner. It was due to the timely intervention of the third respondent that physical assault on the petitioner was avoided. The students were later arrested and released on bail and Crime No. 237 of 2003 was registered by the Additional Sub Inspector of Police, Pandalam on 11th July 2003 under Sections 143, 147, 342, 506(i), 294(b) read with Section 149 I.P.C. against respondents 5,6 and 10. On getting report about the incident of harassment of the petitioner by the students on 16th July 2003 the third respondent reached the college and averted untoward incidents. Based on the incident on 16th July 2003, Crime No. 244 of 2003 was registered against respondents 5 to 8 under Sections 342, 506(i), 427 and 34 I.P.C. It is stated that the third respondent was a witness to the abuse of the Principal by the students in most filthy language. It is also stated that the police is keeping a close vigil and the Principal was directed to immediately inform the police as and when any untoward incident takes place. The police is taking utmost care to avoid confrontation between the students and the petitioner. It is also stated that usually the police will not enter the college campus and hence a direction may be given by this Court to the police to enter the premises of the college if situation warrants.

7. We have heard the learned Counsel for the parties and have considered the averments contained in the Writ Petition and the counter-affidavits. From the materials placed on record it is abundantly clear that the atmosphere in the college is not conducive for the smooth functioning of the college and the proper conduct of classes. Tension prevails in the campus. In spite of the denials and explanations offered in the counter-affidavit filed on behalf of respondents 6 and 10, the averments contained in the counter-affidavit of the third respondent show that the Principal of the college was abused by the students in most filthy language, that he was locked up inside his room by the students, that he was rescued by the police from such illegal confinement and detention and that he was saved from physical assault due to the timely intervention of the police. In the counter-affidavit filed on behalf of respondents 6 and 10 it is admitted that the students had organised strike, demonstration and dharna inside the college campus and in front of the Principal's office. It is also admitted that damage was caused to a few window panes of the college. The prevailing situation in the college is such that the police is admittedly keeping a close vigil and has kept police surveillance outside the gate of the college. In fact the police has even sought direction from this Court to enter the premises of the college if situation warrants.

8. In this case, at present we are not concerned about the reasons or justification stated by respondents 6 and 10 for organising strike, demonstration and dharna inside the college campus. Admittedly the alleged attempt to collect an amount of Rs. 2,000/-from each first year student of the college towards

College Development Fund did not succeed. Hence it cannot be a reason for organising any further strike or demonstration. If the students are aggrieved by the disciplinary action taken against them, they can challenge it before the appropriate forum in accordance with law. Regarding the incidents on 11th July 2003 and 16th July 2003 crimes have been registered by the police against the offenders and the cases are under investigation. In such circumstances in this Writ Petition we are now concerned only about the request of the petitioner for police protection for himself and the properties of the college and for the smooth functioning of the college and proper conduct of classes. In the prevailing situation in the college and in the light of the attitude of the students as reflected in their counter-affidavit, the petitioner is fully justified in approaching this Court for directions to respondents 1 to 4 to afford police protection to the petitioner and the college.

9. Whether the students have a right to strike and boycott classes is an important and relevant question on which views may differ. But there cannot be any difference of opinion as to whether the students on strike have any right to cause obstruction and disturbance to the conduct of classes or to prevent other students from attending classes. In our view; the students on strike have no right to cause any sort of obstruction and disturbance to the conduct of classes or to prevent other students from attending classes. Demonstrations, "dharna" and similar activities inside the college campus will definitely cause obstruction and disturbance to the conduct of classes and will prevent the teachers from conducting classes and other students from attending classes. The students who are not on strike have a right to attend classes without being prevented or disturbed by others. It is part of their right to education. It cannot be allowed to be infringed. Therefore even if the students on strike want to hold agitation, demonstration, "dharna", etc., they may hold it only outside the college campus so that no sort of obstruction or disturbance is caused to the smooth functioning of the college and the conduct of classes and the rights of the other students are not violated. We are also of the view that the activities inside the college campus can be regulated and controlled by the Principal for ensuring discipline and peace in the campus. The Principal is expected to function as the parent or guardian of all the students of the college. The right of the Principal to grant or refuse permission to conduct meetings or functions inside the college campus has to be upheld in the interest of discipline and the welfare of the students. We are pained to note the allegation that the petitioner was abused by some of the students in a most filthy language and that he was locked up in his room by the students and that he was rescued only with the intervention of the police. If the allegation is true it is the height of indiscipline and misconduct on the part of those students. We are also of the view that students indulging in criminal activities inside the college campus are liable to be dealt with just like any other offender and if the situation warrants the police can enter the college campus without anybody's request or permission in order to prevent such criminal activities or to take action against persons who commit criminal offences. No special treatment

can be meted out to them on the ground that they are students or that the offence is committed inside the college campus. However considering that the college is a "temple of learning" any action of the police inside the college campus shall, as far as possible, be with the knowledge of the Principal. In the name of strike or agitation or protest the students have no right to physically attack the Principal or the staff or the other students or to damage properties of the college. Anybody who damages the property of the college should be made liable to compensate such loss.

10. In the above circumstances, the Writ Petition is disposed of in the following terms:

(i) If any serious threat or danger to the life of the petitioner is brought to the notice of respondents 2 to 4, they shall take immediate and effective action to grant necessary protection to the petitioner.

(ii) If respondents 5 to 10 or their supporters indulge in any violent or illegal activities inside the college campus or cause any damage to the properties of the college and if the matter is brought to the notice of respondents 2 to 4 they shall take immediate and effective action against the offenders in accordance with law.

(iii) If any obstruction or disturbance is caused by respondents 5 to 10 or their supporters to the smooth functioning of the college and the peaceful conduct of classes and if information in that regard is received, respondents 2 to 4 shall take immediate and effective action to remove such obstruction and to facilitate the smooth functioning of the college and the peaceful conduct of classes.

(iv) Respondents 2 to 4 shall ensure that proper and effective investigation is conducted in Crime Nos. 237/03 and 244/03 of Pandalam Police Station and final reports are filed in Court as expeditiously as possible.