

**(2015) 07 MAD CK 0269**

**In the Madras High Court**

**Case No :** Writ Petition Nos. 9808, 9887, 9895, 15658 to 15660 of 2015 and  
M.P. Nos. 1 and 2 of 2015

V.S. Babaramesh

APPELLANT

Vs

Central Board of Secondary Education, Ministry of Human  
Resources Management and Others

RESPONDENT

---

**Date of Decision :** 15-07-2015

**Acts Referred:**

Constitution of India, 1950 — Article 12, 226

**Citation :** (2015) 07 MAD CK 0269

**Hon'ble Judges :** M. Sathyanarayanan, J

**Bench :** Single Bench

**Advocate :** R. Yashod Varadhan, Senior Counsel for C. Veeraraghavan, for the Appellant; Su. Srinivasan, Assistant Solicitor General for Central Govt., Advocates for the Respondent

**Final Decision :** Dismissed

---

## **Judgement**

M. Sathyanarayanan, J—By consent, all these writ petitions are taken up for final disposal. The issue involved in these writ petitions is one and the same and hence, common order is passed in these writ petitions.

2. Each of the writ petitioners, in the capacity as the natural guardian, has sworn to the affidavit filed in support of these writ petitions. The deponents would state among other things that their sons had completed IX standard and at present studying in X standard in the third respondent school, namely "The Lawrence School", Lovedale, Ootacamund, Nilgiris District and they received a call from the Deputy Headmistress of Lawrence School on 09.03.2015 informing them about certain incidents which involve their sons and they were directed to appear before her on 17.03.2015 and accordingly, they appeared and they were informed that their sons had crossed the school bounds and returned to the school sometime thereafter. It is further stated that they had discussions with the Deputy Headmistress, House Masters and Human Resources Expert of the

third respondent and to their shock and surprise, the third respondent insisted them to apply for Transfer Certificate to take their sons out of school. The petitioners would further submit that by asking their sons to leave the school while undergoing studies in X standard, may affect their career and inspite of tendering apology and also undertaking that such kind of incidents will not occur in future, the third respondent failed to take into consideration of the same. In this regard, representations were also submitted for reconsideration of the decision and since it failed to evoke any kind of response, they came forward to file these writ petitions.

3. Mr.R.Yashod Varadhan, learned Senior Counsel appearing for the petitioners has drawn the attention of this Court to Rule 8(vi) of the Examination Bye-laws for Central Board of Secondary Education and would submit that as per the said Rule, Heads of the institutions are requested to desist from issuing Transfer Certificates to students especially in Classes IX to XII to show high achievement record and more number of students would be forced to leave the school except on the grounds as stated in amended Rule 8(vi). It is the further submission of the learned Senior Counsel appearing for the petitioners that in flagrant violation of the said Rule, the petitioners herein/parents of the students were compelled to apply for Transfer Certificates to take their wards out of school and in that event, they may not be able to pursue their studies in X standard in some other school for the reason that standards IX and X are integrated and any break in studies would definitely ruin the career and welfare of the particular student and prays for appropriate orders.

4. The Regional Officer, Central Board of Secondary Education, Regional Office, Chennai-40, namely the second respondent herein, has filed a counter affidavit stating among other things that insistence on the part of the third respondent to receive the Transfer Certificates of the sons of the writ petitioners, other than the grounds mentioned in CBSE Examinations Bye-Laws is improper, subject to the proof of any violation of rules found after due enquiry and the continuance of the concerned students shall affect the discipline of students and necessary disciplinary action against the erring students is inevitable.

5. The third respondent has filed individual counter affidavits in all these writ petitions, stating among other things that the Lawrence School is a school of the Lawrence School (Lovedale) Society, an autonomous body run by a Board of Governors nominated by the Government of India, Ministry of Human Resources Development and the school does not receive any grant/aid from the Government and is funded solely from it's own resources and it also functions completely independent of the Government of India or the Ministry of Human Resources Development and it is amenable to Article 12 of the Constitution of India and thereby, took a decision that the writ petition is not maintainable. The third respondent, on the merits of the case, would contend that the school is a co-educational fully residential school established about 156 years ago on an extent of 710 acres of land and at present is having a strength of 882 students.

In view of the danger a student could be exposed to by leaving the campus, no student is allowed to cross the bounds of the campus and any transgression has always been a serious violation, warranting immediate expulsion.

6. The third respondent would further state that at the time of admission, every student and parent is informed of the discipline expected to be maintained by the student, the general guideline laid down in the Student Code of Conduct (SCC) and the consequences of transgression and accordingly, every parent executes an agreement as a guarantor assuring strict adherence to the discipline of the school. As per Clause 3(D)(i) of the said agreement, Headmistress can at any time have the student removed for failure to accept the discipline of the school and his/her continued presence is detrimental to the interest of other students and similarly, Clause 3(D)(iii) provides that the student and the parents/guardian by signing the agreement clearly state that they have read, understood, agree and submit without reservation to the Rules and Regulations of the school including the misconduct specified therein and the punishment decided by the Headmistress. Clause 3(D)(iii)(g) of the said agreement provides that any dispute as to the effect or meaning of the agreement or in any way touching or arising out of the said agreement shall be referred to the sole Arbitrator of the Board of Governors of the Lawrence School and its decision shall be final and since the petitioners/parents of the students had executed an agreement to that effect, they are bound by the same.

7. It is stated by the third respondent that on 09.03.2015, a roll call was conducted at around 11.30 a.m. in the skating rink, where four boys of the IX standard were found missing and they returned to the school premises at about 11.45 a.m. and on enquiry, it was found that they broke the bounds, moved into the forest area, changed into the private sweatshirts, moved to the main road and took a bus to Ooty and after spending time at a restaurant in Ooty, they returned to the School. The students had also given individual letters accepting their delinquency and was apologized for their acts also. The act of indiscipline by the four students, their letters admitting the transgression and the report of the House Masters were considered by a Committee of Staff members of the school comprised of the House Masters and the Deputy Headmistress on 09.03.2015 and taking into consideration the serious nature of transgression, the Committee took an unanimous view keeping in mind the future of the children and took a decision asking the students to receive their Transfer Certificates and leave the school instead of expulsion. The petitioners/parents of the students were also informed and called for a meeting with the school authorities on 17.03.2015 and in that meeting, hearing was also given to them and the parents were also apprised of the serious nature of breach and advised them to withdraw their wards from the school with immediate effect. The parents/petitioners sought review of the disciplinary action and a review was also held by a Committee headed by the third respondent on 20.03.2015 and taking into consideration the serious nature of the transgression, a decision was taken that the students would have to leave the school in the interest of the discipline of the school. It is also

stated by the third respondent that any untoward incident involving a student breaking the bounds would occasion disastrous consequences to one and all and further that any leniency to such a serious act of indiscipline would foster further indiscipline among the students and keeping in mind such aspect only, a conscious decision was taken based on unanimous opinion that the students would have to leave the institution and therefore, the third respondent prayed for dismissal of these writ petitions.

8. The learned Senior Counsel appearing for the petitioners would submit that standards IX and X is integrated and asking the students to leave the school in the midway would definitely lead to disastrous consequences for the reason that they cannot join X standard in some other school and it is also extremely difficult for them to pick up the studies and consequently, their future hangs in balance. It is the further submission of the learned Senior Counsel appearing for the petitioners that the act of the third respondent in expelling the students during midstream is per se in violation of Rule 8(vi) of CBSE Examination Bye-Laws. Alternatively, it is pleaded by the learned Senior Counsel appearing for the petitioners that the punishment of expulsion is shockingly disproportionate to the delinquency/act of indiscipline on the part of the students and prays for reduction of the punishment.

9. Mr.G.Nagarajan, learned Standing Counsel appearing for the Central Board of Secondary Education (CBSE) would submit that in the event of any indiscipline, it is open to the school to take appropriate disciplinary action and in that event, CBSE will not interfere with the same.

10. Mr.C.A. Diwakar, learned counsel appearing for the third respondent/Lawrence School would submit that the school is located in the midst of forest area and anybody crossing the bounds of the school without prior permission/authorization has to reach the main road through forest area only and wild animals are roaming inside the forest area and if any mishap happen, the school would be fully held responsible and that is why, the act of leaving the school/transgressing the boundaries of the school is considered as serious act of indiscipline. The learned counsel appearing for the third respondent has also drawn the attention of this Court to the agreement executed by the petitioners herein and would submit that the petitioners are very well aware of the clauses of the agreement executed by them at the time of admitting their wards in the school and as such, they cannot make any complaint in that regard. The school authorities, before advising the parents to take their wards out of school, have given full and reasonable opportunities to put forward their case and it was scrutinized by the concerned Committee, which took a unanimous decision and in the review filed by the parents, entire materials were also gone into and taking into consideration the future and welfare of the students and all other relevant aspects, a decision has been taken to issue Transfer Certificate and ask the concerned students to leave the school. It is also the submission of the learned counsel appearing for the third respondent that it is also open to the school to

issue Transfer Certificate with adverse comment and expel the concerned students, but it has not done so by taking into consideration the future career of the students. The learned counsel appearing for the third respondent would further submit that the Principal/Head of the Institution is having a primary responsibility to see to that discipline is maintained in the educational institution as well as in the efficiency of teaching and the master-pupil relationship is different from master-servant relationship and therefore, decision taken by the third respondent school may not be interfered by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. The learned counsel appearing for the third respondent, in support of his submissions, placed reliance upon the decisions in (i) Headmaster, Poilkav High School, P.O. Edakkulam Quilandy Vs. Murali A. and Others, AIR 1995 Ker 21 : (1994) 2 ILR (Ker) 684 and (ii) The Principal, Sree Narayana College Vs. Vice-Chancellor, University of Kerala and Another, AIR 1996 Ker 369 .

11. The learned Senior Counsel appearing for the petitioners, in response to the submission made by the learned counsel appearing for the third respondent, has placed reliance upon the judgment dated 16.04.2015 made in W.A.(MD).No. 309 of 2015 and would submit that in that case, original decision to rusticate the students for a period of one year was substituted by a decision not to permit them to attend further classes, which has already been over with a special examination being held for them separately and in the light of the same, the decision of the third respondent may be reviewed and the students may be imposed with lesser punishment other than giving them Transfer Certificates and leave the school.

12. This Court paid its anxious consideration and best attention to the submissions made by the learned Senior Counsel appearing for the petitioners and the respective learned counsel appearing for the respondents and also perused the materials placed before it.

13. It is an admitted fact that the petitioners/parents of the students, at the time of admitting their wards in the third respondent school, had executed an agreement and it is relevant to extract the following clauses of the said agreement:

a) That in consideration of the student being admitted by the Governors to Lawrence School, Lovedale for the purpose of the aforesaid education at the request of the guarantor, he/she, the Guarantor, covenants with the Governors that the student will attend Lawrence School, Lovedale regularly and will observe and comply with all the rules and regulations thereof for the prescribed period, and that he/she, the Guarantor, shall pay to the Governors regularly and promptly and whenever called upon to do so, all the fees and other costs, as prescribed.

d) That the Headmistress can, at any time, in the interest of the school, have the student removed if, in the Headmistress's sole discretion, the student has failed

to accept the discipline of the school and his/her continued presence is detrimental to the interest of the other students and/or the Student fails to come up to the academic standards of his/her class and when detention in the same class would make the Student too tired for his/her class.....

(iii) The student and his parent/guardian by signing this agreement, clearly state that they have read, understood and agree, and submit to without any reservations the rules and regulations of the school including the misconducts specified therein and the punishments to be decided by the Headmistress.

(f) That the Governors will not be liable for any damages/charges on account of injuries, fatal or otherwise, which may be sustained by the Student, at any time during his/her stay in School, while taking part in studies, sports and extra-curricular, or any other form of activity of the School, within or outside the School premises. All expenses that may be incurred in the treatment of such injuries will be borne by the parent/guardian as provided in the rules of Lawrence School, Lovedale.

14. The third respondent school has also framed Students Code of Conduct (SCC) and as per the said Code, the Management of Lawrence School does not endorse nor shall it tolerate any form of Corporal Disciplinary Action for violation of the SCC. It is relevant to extract the following clauses in the SCC:

#### Disciplinary Procedures

The Management at LSL understands that each and every act of violation or unsuitable behaviour by Students has to be dealt with great care and specific action, including necessary counselling of the Students. Any disciplinary action should be proportionate to the violation.

At no point shall any disciplinary procedure be adopted without first giving an opportunity to a violator of being heard.

In order to treat each instance of inappropriate behaviour by Students the following procedures shall be adopted:

1. In all cases of harassment (sexual abuse, bullying etc.) the Policy on Prevention of Harassment as per CBSE guidelines shall be the prevailing document and the procedures outlined therein shall be followed.

2. Card System: A Card System shall be adopted for certain violations of the SCC. At each instance a card may be issued to a Student only after having recorded the violation in writing in the House Anecdotal register and giving the Student an opportunity of being heard.

a. Prefects Card : The Prefectorial System at LSL is a means to assist the Staff in ensuring discipline through the School. The Prefects in consultation with the HSM may exercise limited authority through the Card System for violations of the SCC.

b. House Masters/House Mistress Card: Depending on the seriousness of the

violation, the House Masters/House Mistress may also give a card for specific violation of Dormitory/ Dining Hall behaviour. In any event two Prefect(tm)s card shall automatically result in one House Masters/ House Mistress Card.

C. Deputy Head mistress Card: With specific regard to violations of classroom behaviour and Academic misconduct, the DHM may issue a card upon being informed of such violation by a member of the Staff.

d. Headmistress Card: The HM card may be issued in cases of habitual violations and where at least three House Masters / House Mistress Cards and/or two DHM Cards have been issued. Once the HM card has been issued the same shall be recorded in the Student file and shall form part of the School record of the Student.

All violations of the SCC by the Prefectorial Body shall be dealt with by the Headmistress/ Deputy Headmistress directly in consultation with the respective MICs/House Masters/House Mistress.

3. Corrective and Counselling Procedures : Not all violations of the SCC require disciplinary action. In certain instances a violation may warrant certain corrective action and counselling may be imperative to rectify the inappropriate behaviour. The corrective action as recommended by the disciplinary committee shall be followed for all instances where disciplinary action may not be required.

4. Staff Intervention : It shall be the duty of all Staff Members to report any violations of the SCC that they may have noticed to the respective House Masters/House Mistress. In cases of classroom violations and depending on the seriousness of the violation the Staff Members may report the violation directly to the Deputy Headmistress. Poor academic achievement shall NOT be regarded as a violation of the SCC and only counselling and remedial measure may be used in such cases.

## 5. Hearings and Appeals Process

Any Student who may violate the SCC shall be necessarily given a fair chance of being heard prior to any disciplinary action. The Student may also appeal any disciplinary action taken against them. The appeals process shall be as under:

All appeals shall be made in writing to the respective authorities. The appellate authority shall also record the reasons for overturning/accepting any disciplinary action taken against a Student. The final authority for all appeals shall be the Headmistress.

## Adoption and Effective Date

This Student Code of Conduct approved on this 22nd day of May, 2014 by the Board of Governors shall be in effect from 1st day of August, 2014 and supersedes all prior policies and documents related to student behaviour and violations as may have been in force.

15. A roll call was conducted at around 11.30 a.m. on 09.03.2015 in the skating rink and it was found that the sons of the petitioners herein, who were studying in IX standard were not present and later on, they returned to the school from the school hostel at about 11.50 a.m. and on that day, they had private dress/sweatshirts in their possession. An enquiry was conducted and found that they had moved towards the school hostel and then moved into the forest area and changed into private sweatshirts and from there they had reached the road and took a bus route to Ooty wherein they spent their time in a restaurant, namely "Chick-King" and then returned to the school. Each of the student had also given a written letter/statement admitting their act and apologize for the same with an undertaking that they will not repeat the same once again in future. Immediately, the parents of the wards/petitioners were summoned on 09.03.2015 calling upon them to meet the school authorities on 17.03.2015 and in the interregnum, meeting was held on the very same day wherein four members of the staff took an unanimous decision that the transgression of bounds was a serious offence and keeping in view the future of the students, all of them opined that they should be expelled, but should be issued with Transfer Certificates and asked to leave the school. The Headmistress was also informed of the decision of the members of the staff and she has also concurred with it and communicated to the parents, when they met her on 17.03.2015. On 17.03.2015, the parents had a meeting with the HR consultant Mr. Karthikeyan, Mr. Jaswanth Singh Sisodiya (HSM Vin), Mr.B.Suresh (HSM Nil) and the Deputy Headmistress and the decision was also communicated to the parents with an advise to withdraw their wards from the school with immediate effect. The parents/petitioners herein, taking note of the said decision, again appealed to the school authorities to reconsider their decision and they were informed that the Committee would meet again to take final decision and the matter would be communicated to them within a week. Review meeting was also held on 20.03.2015 to review the disciplinary action initiated against the sons of the petitioners and six staff members were present and all of them opined that the offence of cutting school bounds was considered by all as a serious breach of SCC and approved the decision of asking the students to leave the school and the parents were also informed of the same.

16. This Court has taken note of the submission made by the learned counsel appearing for the third respondent that the school is located in the midst of forest area and the students who have crossed the bounds of the school had to go through the forest area before reaching the main road and wild animals are roaming inside the forest and if he/she comes in contact with the said animals, his/her life would be in danger and fortunately it did not happen while the students went out of the school. The students took the bus route to Ooty and if any mishap happened during their journey, the school would be held responsible. Therefore, in the light of the said facts and circumstances only, the third respondent considers that act as serious act of indiscipline.

17. The judgments relied on by the learned counsel appearing for the third

respondent lay down the proposition that it is the primary responsibility of the Head of the Institution to see that discipline is maintained in the college and after placing reliance upon the decision in *P.M. Unni Raja and Others Vs. Principal, Medical College, Trivandrum and Others*, AIR 1983 Ker 200 : (1983) 2 ILR (Ker) 754 which has held that the essence of the matter is that the head of the institution should in law be presumed to possess an inherent right to do such acts as are necessary in his opinion to maintain discipline in the institution and this right is incapable of an exhaustive identification. To limit it within defined confines would be to erode into his authority and fetter his discretion and to deny his right to the head of the institution would be sound the death-knell of discipline in the institution which is already a casualty, by the combination of diverse forces, from within and from without.

18. As regards compliance of principles of natural justice, reliance was also placed upon the judgment in *Sudheer v. Headmistress, H.S., Panoor* [1975 Ker LT 834] wherein it has been held as follows:

"A pupil against whom disciplinary action has been taken by the head of an educational institution cannot insist that principles of natural justice should be strictly complied with. There is a substantial difference between an enquiry in a disciplinary action against a civil servant and that in a disciplinary action against a pupil of an educational institution. When in the former strict compliance of the principles of natural justice is imperative, in the latter if the pupil has been given a fair chance to answer the charges that is sufficient. The question is whether there has been fair play. If the head of an educational institution had not in any way acted unfairly there is no reason why the action taken cannot be sustained. In this case pupils were informed of the charges against them. Then an enquiry was conducted by a staff committee. The pupils participated in the enquiry and gave statements. The decision was taken with the approval of the staff council. The pupils' guardians were informed of the action proposed to be taken. Only thereafter the pupils were dismissed. This is more than sufficient compliance with the principles of natural justice in a disciplinary action against pupils by the head of an educational institution."

19. In *Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others*, (1991) 2 JT 296 : (1991) 1 SCALE 187 : (1991) 2 SCC 716 : (1991) 1 SCR 773 ., it has been held that the power of judicial review in case of student indiscipline is very limited and in such cases, the High Court does not sit in appeal over decisions of the school authorities.

20. In *A. Maharaja Vs. The Anna University and Pandiyan Saraswathi Yadhav Engineering College* , the facts of the case read that the petitioners along with their friends went out of the college at about 10.00 a.m. on a particular day and returned at 3.00 p.m. and they have signed in the outgoing and incoming registers maintained by the hostel warden to attend a treat given by one of their friends for a birthday party and since they came later, the mess people refused to serve food and there was a wordy quarrel and the mess master came there

and directed the workers to give food and they had their lunch. When the warden came to the mess, he seized their cell-phones which contained a photograph saying "cheers" while having drinks. The petitioners therein were suspended and immediately all of them gave letters of apology stating that such incidents would not happen in future. The parents of the students were also summoned and they met them and they were instructed to advise their wards properly and later on the Principal had issued Transfer Certificates with an endorsement "Discontinued" and it was put to challenge in the said writ petition. The learned Judge, while dealing with the said case, also placed reliance upon the decision in *Headmaster, Poilkav High School, P.O. Edakkulam Quilandy Vs. Murali A. and Others*, AIR 1995 Ker 21 : (1994) 2 ILR (Ker) 684 has observed as follows:

"From the above judgments, it is well settled that if a student, does not maintain discipline which is expected from him, it is not required for the college to retain him in the college. Insofar as the procedure to be followed in the matter of conducting an enquiry into misconduct or indiscipline of a student, Courts have consistently held that it is not required to have a detailed enquiry as that of a departmental proceeding in service matters. It is the consistent view of the Courts that the power of the educational institutions should not be disturbed in trying to maintain discipline in the institutions and it is suffice, that there is substantial compliance of the principles of natural justice."

21. This Court can take judicial notice of the fact that adherence of discipline among students has become a casualty and a teacher practically cannot do anything to discipline a student. The judgments cited above lay down the proposition that the discipline to be enforced in an educational institution is very important as it shapes the career and future welfare of the students. Insofar as compliance of principles of natural justice is concerned, it has been held that a pupil against whom disciplinary action has been taken by the head of an educational institution cannot insist that principles of natural justice should be strictly complied with and there is a substantial difference between an enquiry in a disciplinary action against a civil servant and that in a disciplinary action against a pupil of an educational institution.

22. The decisions relied on by the learned counsel appearing for the petitioners has no application to the facts of this case for the reason that the institution, namely Vivekananda College was inclined to show more compassionate approach and taking note of the same only, such a decision came to be rendered and in the case on hand, the third respondent stood its ground to ask the parents to take their wards out of school by getting the Transfer Certificates.

23. The terms of the agreement executed by the parents in favour of the students as well as the Students Code of Conduct (SCC) would read that the school does not endorse nor shall it tolerate any form of Corporal Disciplinary Action for violation of the SCC. The parents of the students/petitioners herein were given fair and reasonable opportunities to put forward their case and their plea for review was also considered in proper perspective and unanimous

decision was taken to ask the parents to take the wards out of school with Transfer Certificates.

24. It is to be remembered at this juncture that it was also open to the school authorities to expel them by making adverse comments in the Transfer Certificate, but taking into consideration the interest, welfare and future career of the students, such a course was not resorted to. This Court is in entire agreement with the submission made by the learned counsel appearing for the third respondent that the students after transgressing the boundaries of the school, had moved into the forest area and took a bus and reached Ooty and spent their time and thereafter, returned to the school and during that time, if any mishap had happened in the form of attack by wild animals/accident, the school authorities would have been held fully responsible and might have resulted in the image/reputation of the school, being tarnished.

25. This Court, on going through the materials placed before it, is of the view that principles of natural justice have been complied with. It is well settled position of law that in a disciplinary proceeding under service jurisprudence, jurisdiction to interfere with the quantum of punishment is very limited. The present case involves disciplinary action pertaining to students and the decision cited above lay down the proposition that principles of natural justice need not be strictly complied with. This Court, taking into consideration the plea made by the learned counsel appearing for the petitioners about the career of the students, has scanned and analyzed the materials and is of the view that the decision taken by the third respondent school does not warrant interference in the present facts and circumstances.

26. In the result, all these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.