

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8870 OF 2014

1. Rahul Ganesh Davhale,
Age : 22 years, Occu. : Education,
R/o At Post Shara, Tq. Lonar,
Dist. Buldhana, at present
Sai Nagar, CIDCO, N-7,
Aurangabad.

2. Rahul Subhash Jaybhaye,
Age : 22 Years, Occu. : Education,
R/o At Post Lonar, Tq. Lonar,
Dist. Buldhana, at present,
Sai Nagar, CIDCO, N-7,
Aurangabad.

.. Petitioners

Versus

1. The State of Maharashtra,
Through the Secretary of Higher
Education Department,
Mantralaya, Mumbai.

2. The Principal,
Jawaharlal Neheru Engineering
College, Aurangabad.

3. Chairman of Inquiry Committee,
Anti Ragging Committee,
Jawaharlal Neheru Engineering
College, Aurangabad.

4. Mahatma Gandhi Mission Campus,
CIDCO, Aurangabad,

Through its Chairman/General Secretary,
Shri Baburao Kadam.

.. Respondents

Shri S. B. Talekar, Advocate h/f Ms Maya R. Jamdhade, Advocate for Petitioners.

Shri D. B. Bhange, A.G.P. for the Respondent No. 1.

Shri Nitin K. Chaudhari, Advocate h/f Shri Vikram S. Kadam, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.**

DATE : 10TH MARCH, 2015.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Action is taken against the petitioners under the provisions of the Anti Ragging Act, whereby the Anti Ragging Committee has passed an order suspending the petitioners from college for a period of one year.

2. Mr. Talekar, the learned counsel for petitioners canvassed submissions on the grounds of non observance of principles of natural justice. The learned counsel submits that, the petitioners at no material point of time were given copy of report. The depositions were recorded by the squad behind the back of petitioners. The petitioners were not allowed to cross examine the witnesses. The learned counsel further submits that, the Anti Ragging Squad and Anti Ragging Committee is not properly constituted. The names of the members of the squad and committee as notified on the official website and the members of

the squad and committee who had conducted the enquiry and had passed the order are not the same, on this count itself the order is illegal. The learned counsel further submits that, the regulations framed by AICTE are not in consonance with the Anti Ragging Act and they do not have the force of law. The regulations cannot override the legislation by the State. According to the learned counsel, even the act complained does not come within the ambit and purview of definition of ragging as is laid down under the Act. Initially action was taken by the management of the college and subsequently for the same act the anti ragging committee has taken the action. The same is illegal. The learned counsel relies on the judgment of the Apex Court in a case of **Union of India and others Vs. Sanjay Jethi and another** reported in *[(2013) 16 SCC 116]*. Mr. Talekar, the learned counsel further relies on the judgment of the Apex Court in a case of **Bihar State Government Secondary School Teachers Association Vs. Ashok Kumar Sinha and others** reported in *[(2014) 7 SCC 416]* to contend that the subordinate legislation cannot nullify the parent legislation.

3. Mr. Choudhari, the learned counsel submits that, the application of principles of natural justice depend upon the facts and circumstances of each case. Neither cross examination, nor the opportunity to lead evidence by the delinquent is an integral part of an enquiry by the squad and the committee. When the

statute does not prescribe any procedure for the same. The learned counsel relies on the judgment of the Apex Court in a case of **K. L. Tripathi Vs. State Bank of India and others** reported in ***[AIR 1984 SC 273]***. The learned counsel submits that, the petitioners were given right to adduce the evidence. Their statements are recorded in which they have also accepted the acts complained against them. The statements of witnesses are also recorded. The petitioners as such cannot complain about the violation of principles of natural justice.

4. The learned counsel submits that, the regulations are framed by AICTE. The AICTE has power to frame regulations and the same are not in contravention of the state legislature, but they supplement the state legislature. Action has been rightly taken. Though the anti ragging squad and committee has been constituted by the college, some of the members whose names were notified on the website, showed their inability to work and as such subsequently, fresh members were appointed. No illegality is committed in the same.

5. The learned counsel further submits that, the petitioners have alternate remedy available to challenge the said order before the Vice Chancellor. According to the learned counsel anti ragging measures have to be strictly implemented. The Anti Ragging Act has to be construed strictly. The regulation is

meant to curb the activity of ragging and as such no latitude can be given to such persons. The learned counsel relies on the judgment of the Apex Court in a case of **University of Kerala Vs. Council, Principal's Colleges, Kerala and others** reported in *[(2009) 7 SCC 726]*.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. There cannot be any dispute with the proposition that, if a liberal approach is taken and cases are decided on the sympathetic grounds, then the same would frustrate the very purport and the import of the Anti Ragging Enactment.

8. We have considered the complaint filed by the father of the victim, so also the evidence adduced before the Committee. Though the complaint is filed by the father narrating some incidents, however on going through the evidence recorded before the squad and the report submitted to the Committee, the incident complained would not attract the definition of Ragging. Ragging is defined under the provisions of Regulation 4 of the regulations which reads as under :

4. **What constitutes Ragging** : - Ragging constitutes one or more of any of the following acts :

- a. any conduct by any student or students whether by words spoken or written or by an act which has the effect of teasing, treating or handling with rudeness a fresher or any other student:
- b. indulging in rowdy or undisciplined activities by any student or students which causes or is likely to cause annoyance, hardship, physical or psychological harm or to raise fear or apprehension thereof in any fresher or any other student:

9. In the present case, it is not disputed that, the complainant and the petitioners were batch mates and were residing together for two and half years. The evidence which has come on record is about some theft, assault and about allegations and counter allegations about use of perfume, etc. The assault may be a ground of criminal offence. The evidence on record would fall short to bring the act complained within the purview of definition of ragging. The evidence on record would show that for almost two and half years all were residing together and on some petty reasons there was some assault and scuffle between them. Of course, we are stating all this on the basis of report submitted by the squad to the committee on the basis of evidence recorded. Ragging would involve something more than mere assault or scuffle amongst the batch mates on the ground of use of perfume, etc. The ragging would include a conduct by any student or students whether by words, spoken or written or by an act which

has the effect of teasing treating or handling with rudeness a fresher or any other student or indulging rowdy or undisciplined activities by any student or students which cause or is likely to cause annoyance, hardship, physical or psychological harm or to raise fear or apprehension thereof in any fresher or any other student, etc. In the present case, all were residing together for more than two and half years and even the complainant has attended marriage in the house of one of the petitioners. The act of the petitioners cannot strictly be said to come within the ambit and purview of definition of ragging. Of course, it would appear that, the respondent authorities have taken action in good faith and bonafide. Even otherwise, the petitioners have been suspended for more than one term. It appears that, the complainant had first registered F.I.R. and thereafter the authorities have taken cognizance of the complaint under the regulations bonafide and in good faith in the performance of their official function.

10. In the light of the above, the impugned order is quashed and set aside. In view of the fact that, we have set aside the impugned order on the ground that the evidence which is led and as per the report submitted by the squad to the committee, the same would not constitute ragging, we have not considered other submissions canvassed by learned counsel for respective parties including the status of the regulation and other submissions.

The writ petition accordingly is allowed in above terms.

Rule is made absolute in above terms. No costs.

Sd/-

[V. L ACHLIYA, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/March 15