

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 3712 of 2015 (L)

PETITIONER(S):

NISSAM BIN NAZAR,
S/O.ABDUL NAZAR, PELAYAMPARAMBIL HOUSE,
CHENNARA POST,
MANGALAM, TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL.

RESPONDENT(S):

1. J.M.COLLEGE OF ARTS AND SCIENCE,
PARANNEKKAD, POST TIRUR, PIN-676 101,
REPRESENTED BY ITS PRINCIPAL.
2. THE PRINCIPAL,
J.M.COLLEGE OF ARTS AND SCIENCE, PARANNEKKAD,
POST TIRUR, PIN-676 101.
3. THE MANAGEMENT COMMITTEE,
J.M.COLLEGE OF ARTS AND SCIENCE, PARANNEKKAD,
POST TIRUR, PIN-676 101,
REPRESENTED BY ITS CHAIRMAN.

*ADDL. R4 IMPEADED

R4. CALICUT UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
POST CALICUT UNIVERSITY - 676 110.

(*ADDITIONAL R4 IS IMPEADED AS PER ORDER ODATED 24/02/2015
IN I.A. NO. 2129/15)

BY SRI.SANTHOSH MATHEW, SC ,CALICUT UNIVERSITY &
R1-R3 BY ADV. SRI.K.K MOHAMED RAVUF.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: COPY OF THE MARKS STATEMENT ISSUED BY CEWNTRAL BOARD OF SECONDARY EDUCATION DATED 26/05/2014.
- EXT. P2: COPY OF THE IDENTITY CARD OF THE PETITIONER ISSUED BY THE 1ST RESPONDENT COLLEGE FOR THE ACADEMIC YEAR 2014-15.
- EXT. P3: COPY OF THE CERTIFICATE ISSUED BY THE CHAIRPERSON OF TIRUR MUNICIPALITY DATED 20/01/2015.
- EXT. P4: COPY OF THE COMMUNICATION ADDRESSED TO THE PETITIONER DATED 10/02/2012.
- EXT. P5: COPY OF THE PHOTOGRAPHS OF THE STRUCTURE PUT UP BY THE PETITIONER DATED NIL.
- EXT. P6: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT DATED NIL.

RESPONDENT(S) ' EXHIBITS :

- EXT. R1(A) : COPY OF THE DATED 23/01/2015 FILED BY ANUP KUMAR, ASSISTANT PROFESSOR, IN ENGLISH.
- EXT. R1(B) : COPY OF THE PROCEEDINGS OF THE STAFF COMMITTEE HELD ON 27/01/2015.
- EXT. R1(C) : COPY OF THE SUSPENSION ORDER DATED 28/01/2015.
- EXT. R1(D) : COPY OF THE REPORT OF THE ENQUIRY COMMITTEE.
- EXT. R1(E) : COPY OF THE PROCEEDINGS OF THE DISCIPLINARY COMMITTEE.
- EXT. R1(F) : COPY OF THE DISMISSAL ORDER DATED 29/01/2015.
- EXT. R1(G) : COPY OF THE PROCEEDINGS OF STAFF MEETING DATED 02/02/2015.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.3712 of 2015

Dated this the 10th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"a) Call for the records leading up to the decision of the respondents to suspend the petitioner from the college and quash the same by issuing a Writ of Certiorari or any other appropriate writ, order or direction.

b) Issue a Writ of mandamus or any other appropriate writ order or direction directing the respondents to permit the petitioner to continue his studies in the first respondent college.

And

c) Pass any other appropriate writ, order or direction which this Hon'ble Court may deem fit to issue and the petitioner may pray from time to time."

2. The learned counsel for the petitioner submits that, absolutely for no reason, the petitioner has been suspended from attending the classes and that the only reason is that the petitioner participated in the programme 'Run Kerala Run', organised by the State Government, joining hands with others concerned, in connection with the 'National Games', recently held

at Thiruvananthapuram.

3. The petitioner is stated as a regular student of the first respondent College, doing the second semester of B.Com Finance. It is also stated that, he has proven his mettle in various capacities, also by being the University Union Counselor elected for the year. He has got several other extra curricular activities as well. It was in the course of promoting a national cause, that the petitioner took part in the 'Run Kerala Run' event and hence he could not attend the class on 22.01.2015. This was to the chagrin of the Principal, who suspended the petitioner from the College for unauthorised absence. It is also pointed out that, no notice or order whatsoever was issued to the petitioner at any point of time. This in turn is sought to be intercepted by filing the writ petition.

4. A Counter Affidavit has been filed on behalf of respondents 1 to 3 pointing out that, there is absolutely no merit in the writ petition and that the actual facts and figures have not been brought on record. It is stated that, the petitioner seriously misbehaved with a girl student and when this was questioned by a Teacher, he was also physically assaulted on the next day,

leading to disciplinary proceedings. After considering the report of the Enquiry Committee, the disciplinary committee sought to impose the punishment of dismissal and accordingly, the petitioner stands dismissed. The version of the respondents, as evident from paragraph 3 of the Counter Affidavit, is in the following terms:

"(3) In fact, petitioner has misbehaved with one girl student on 22.01.2015 by trying to outrage her modesty. Anupkumar, Assistant Professor in English while passing through the varanda saw this, the girl student was screaming for help. The teacher rushed to the petitioner and strongly warned him. Even at that time he was not ready to obey the teacher. On the next day, in retaliation, the petitioner stopped the teacher at the gate and questioned the teacher about the incident on the previous day. In fury, he manhandled the teacher by pulling towards him by his collar. The teacher was reported this incident to me. A true copy of the complaint dated 23.01.2015 filed by Anup Kumar, Assistant Professor in English, is produced herewith and marked as Exhibit-R1(a). On the above basis, Disciplinary Committee convened on 27.01.2015 decided to suspend the petitioner and constituted an enquiry committee with one Shafi, Assistant Professor in English, Sajith, Assistant Professor in Commerce, Sangeetha Krishnadas, Assistant Professor in Commerce as members. A true copy of the proceedings of the Staff Committee held on 27.01.2015 is produced herewith and marked as Exhibit R-1(b). Though the suspension order was tried to be served on the petitioner, he refused to accept the same and therefore the order of suspension was published in the College Notice Board. A true copy of the Suspension Order dated

28.01.2015 is produced herewith and marked as Exhibit R-1(c). The petitioner was also told that if he had anything to say, he can submit the same before the Enquiry Committee. The Enquiry Committee filed a report to the disciplinary committee to the effect that the petitioner should be dismissed from the college as the continuance of such students will give a wrong message to other students and affect the morale of the teacher. A true copy of the report of the Enquiry Committee is produced herewith and marked as Exhibit-R1(d). The petitioner was asked to approach the committee at 2 O'Clock to receive the report after it was discussed by the staff committee. The disciplinary committee convened on 29.01.2015, approved the report and decided to dismiss the petitioner from the college. A true copy of the proceedings of the Disciplinary Committee is produced herewith and marked as Exhibit -R1(e). On the above basis, though the dismissal order was attempted to be served on the petitioner, since he refused to accept the same, the same was also published in the College Notice Board. True copy of the dismissal order dated 29.01.2015 is produced herewith and marked as Exhibit-R1(f). Thereafter the staff meeting convened on 02.02.2015, ratified the decision of the Disciplinary Committee to dismiss the petitioner from the College. A true copy of the proceedings of Staff Meeting dated 02.02.2015 is produced herewith and marked as Exhibit-R1(g)."

5. After hearing both the sides, this Court finds that, the case moulded by the petitioner and the relief sought for are not liable to be entertained.

6. In the above circumstances, interference is declined and the writ petition is dismissed without prejudice to the rights and

liberties of the petitioner to pursue other appropriate remedy, if any, in accordance with law. It is also made clear that, this Court has not mentioned any opinion with regard to the merits involved and all issues are left open.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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