

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

W.P.(C).No.32659 of 2014 (F)

PETITIONER(S):-

LIBIN ABRAHAM, AGED 24 YEARS,
S7 B.TECH, EC, CAARMEL ENGINEERING COLLEGE, PERUNAD,
RANNI.

BY ADVS.SRI. M.SHAJU PURUSHOTHAMAN
SRI. K.S.RAJESH.

RESPONDENT(S):-

1. MAHATMA GANDHI UNIVERSITY,
KOTTAYAM -686 001 , REP BY THE REGISTRAR.
2. THE EXAMINATION CONTROLLER
MAHATMA GANDHI UNIVERSITY - 686 001.
3. THE PRINCIPAL, CAARMEL ENGINEERING COLLEGE ,
PO KOONAMKARA, ERUNAD, RANNI \, PIN 689 711
4. THE VICE PRINCIPAL
CAARMEL ENGINEERING COLLEGE , PO KOONAMKARA, ERUNAD,
RANNI, PIN 689 711

R1 & R2 BY STANDING COUNSEL SRI.VARUGHESE M.EASO.
R3 & R4 BY ADVS. SRI.CHERIAN GEE VARGHESE
SRI.P.HARIDAS
SMT.S.SIKKY
SRI.P.C.SHIJIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXHIBIT P1 COPY OF THE ORDER OF SUSPENSION ISSUED BY THE
IST RESPONDENT DATED 23/10/2014.
- EXHIBIT P2 COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER
DATED 2/10/2014.
- EXHIBIT P3 COPY OF THE APPLICATION FOR CONDONATION OF SHORTAGE
DATED 24/10/2014.
- EXHIBIT P4 COPY OF THE COMPLAINT SUBMITTED TO THE EXAMINATION
CONTROLLER OF THE UNIVERSITY DATED 12/11/2014.

RESPONDENT(S)' EXHIBITS:-

- EXHIBIT R3(a) TRUE COPY OF PETITIONER'S EXPLANATION
DATED 31.10.2014.
- EXHIBIT R3(b) TRUE COPY OF THE ENQUIRY REPORT ALONG WITH
THE STATEMENTS.
- EXHIBIT R3(c) TRUE COPY OF THE ATTENDANCE SHEETS (HOURWISE)
DATED 04.11.2014.
- EXHIBIT R3(d) TRUE COPY OF THE ATTENDANCE SHEETS DATED 04.11.2014.
- EXHIBIT R3(e) TRUE COPY OF THE RELEVANT PAGES OF REGULATIONS 2014.

vku/-

(true copy)

K. Vinod Chandran, J

W.P.(C).No.32659 of 2014-F

Dated this the 20th day of January, 2015

JUDGMENT

The petitioner is aggrieved with the suspension of the petitioner effected by the 3rd respondent-College as per Exhibit P1.

2. The petitioner was a 7th semester student of B.Tech (Electronic and Communication). Following an incident wherein the petitioner was alleged of misbehaviour with senior staff members, the petitioner was suspended as per Exhibit P1. The petitioner gave an explanation to Exhibit P1, by Exhibit P2, contending that the petitioner was not at all involved in the incident. The petitioner was standing outside the campus when some other students blasted fire crackers, for which the petitioner was proceeded against without any cause, is the contention. It is pertinent to note that the petitioner did not approach this Court immediately after the suspension order.

3. Exhibit P1 also contemplated an enquiry by the College. The enquiry proceedings were proceeded with and the College, which entered appearance herein, has produced Exhibit R3(b), the report filed by the Committee constituting three Professors who were the Heads of three respective Departments.

The allegation was that fire crackers were blasted, causing obstruction in the main gate thus obstructing the passage of the College bus. When the College authorities sought to clear the way, the petitioner misbehaved with the staff members were the allegations found in the enquiry report. The enquiry report is dated 05.11.2014. Despite the report having been produced, the petitioner has not chosen to challenge the enquiry report before this Court.

4. The petitioner has approached this Court with the above writ petition only to permit him to be participated in the 7th semester examinations, for which he had admittedly attendance shortage. The petitioner sought for a direction to consider Exhibit P4 application for condonation of shortage of attendance.

5. The learned counsel for the petitioner contends that the suspension itself is in violation of Mahatma Gandhi University Students' Code of Conduct Rules, 2005. The power conferred on the Principal, *inter alia* of an affiliated college, to suspend a student is only when a misconduct as referred to in Rule 5 of the said Rules is occasioned. A reading of Rule 5 indicates that none of the aforesaid misconducts has been alleged against the petitioner, argues counsel.

6. Primarily it is to be noticed that the above Rules have been framed with a view to maintaining and enforcing good conduct inside “the class rooms and campus in the affiliated colleges, Departments of teaching and Research and self financing schools of the Mahatma Gandhi University”. However, it cannot be said that an institution cannot have its own procedure by which discipline could be ensured in such institutions. It cannot at all be said that a gross act of misbehaviour with the teachers, cannot be proceeded against by an educational institution for reason of it being not categorised as a misconduct by the University.

7. Further, sub-rule (e) of Rule 5 reads as follows:

“5. Prohibition on Political Activity inside the campus.-

xxx

xxx

xxx

(e) No student shall shout slogans inside the class rooms, office or any other place inside the campus and obstruct and interfere or to cause disturbance and nuisance to the ordinary functioning of the institution.

These activities shall be treated as misconduct”.

The allegations noticed above, as seen from the enquiry report, clearly indicate that there is a misconduct as indicated in Rule 5(e).

8. Moreover, the specific incident, which was alleged, has been admitted by the petitioner as per Exhibit R3(a). It is to be noticed that the petitioner was suspended from the College on 23.10.2014 and has approached this Court after about two months, contending that the suspension is bad and seeking attendance shortage when, obviously, for two months he had not attended the classes. In such circumstance, this Court is not inclined to entertain the above writ petition or grant any of the reliefs prayed for.

9. The learned counsel appearing for the 3rd respondent would contend that the specific allegation against the petitioner herein was that the petitioner has misbehaved towards senior staff members, for which the Enquiry Committee recommended dismissal from the College. With respect to the other students involved, a different punishment was also recommended by the Enquiry Committee. However, in view of the pendency of the above writ petition, the learned counsel appearing for the 3rd respondent would contend that the Principal has not passed any order dismissing the petitioner. It is also submitted that the 7th semester examinations are already over and the petitioner, going by his internal marks, could not

have been definitely qualified in the 7th semester examinations.

10. The 7th semester examinations being already over, the only option available to the petitioner is to either face the disciplinary proceedings or re-admit himself to the 7th semester and continue the course from the stage at which it has been discontinued. In such circumstance, if the petitioner submits an apology before the Principal within a period of two weeks and seeks for re-admission, the petitioner shall be granted such re-admission by the 3rd respondent, after obtaining necessary sanction from the University, to the next commencing 7th semester . However, if the petitioner does not comply with the aforesaid directions, the 3rd respondent would be entitled to proceed in accordance with law on the basis of the Enquiry Committee report and the petitioner would be entitled to challenge the same in appropriate proceedings.

The writ petition is dismissed with the above observation.

Sd/-
K.Vinod Chandran,
Judge

vku/

(true copy)