

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

W.A.No.778 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

The writ appeal is directed against the order dated 17.07.2014 in W.P.No.11287 of 2014.

Petitioner is the appellant. The writ petition was filed with a prayer to issue writ of Mandamus declaring the action of 2nd respondent in issuing letter dated 25.03.2014 suspending the appellant from college until the criminal case filed against him is decided and consequently to direct the 2nd respondent to allow the appellant to attend referred classes and take the MBBS final year Part II exams, as illegal, unconstitutional and arbitrary.

The appellant joined in MBBS course in the 2nd respondent College in the year 2005 and ever since prosecuting the study. According to appellant, he has been falsely implicated in criminal cases registered under Sections 406 and 420 IPC by the CCS Police, Hyderabad. The alleged ground for implicating the appellant is that the appellant is trying to offer assistance for doing mall practice to the students who appear for EAMCET 2010.

Admittedly, the appellant was arrested and later released on bail. The appellant was suspended from college and debarred from appearing in examination. It is matter of record that the appellant was again arrested by the CBI on the allegation that the appellant was involved in leaking question paper for post graduate medical entrance examination conducted by PGIMER Chandigarh.

Second respondent College basing upon the latest arrest, again suspended the appellant from attending the classes. The appellant claims to have filed W.P.No.13995 of 2013 and the writ petition was disposed of through order dated 02.01.2014 as follows:

“Therefore, having regard to the facts and circumstances of the case and in view of my aforesaid discussions, the writ petition is disposed of with the following directions:

1) That the petitioner shall be barred from gaining any entry to any of the hostels attached to the 2nd respondent-medical college;

2) that the petitioner shall not gain entry - on his own or invited upon - either to the hostels of any other infrastructural facilities available threat such as library or sports and games facilities. However, access of the petitioner to the college/hospitals/ departmental library and the laboratories cannot be barred;

3) that the petitioner shall be permitted to attend the referred classes all over of final MBBS course for securing required attendance, and the petitioner shall be permitted appear for the internal examinations and any examinations that would be

conducted by the 1st respondent-University;

4) that for any reason, if the petitioner were to stay away from the college for a period of three days or more, continuously, he can do so only after obtaining the prior permission from the Principal of the College duly disclosing the compelling reasons for such intended absence. It shall be legitimate to the 2nd respondent to deny permission if, in his opinion such an intended absence is not otherwise justifiable.”

The 2nd respondent permitted the appellant to attend the college from 13.03.2014.

The 2nd respondent through impugned letter informed the appellant as follows:

“With reference to the subject mentioned above,
I am issuing this suspension order to you from attending theory/clinical classes from today i.e., 25.03.2014.

That you were in criminal cases of leakage of EAMCET examination papers of 2010 and MBBS PG entrance examination papers of 2012 in Chandigarh as accused. You have been arrested and released on bail.

That you have been suspended from Santhiram Medical College on above two occasions. You approached Hon’ble High Court of A.P., at Hyderabad and got admission in college on the orders of

Hon'ble High Court of A.P., at Hyderabad.

That news published in Eenadu Daily News Paper dated 02.02.2014 and Andhra Jyothi Daily News paper dated 02.02.2014 is clear that again you have been accused criminal case of leakage of examination papers of V.R.O and V.R.A. The said news further clears that you selected the said activity of leakage as your profession. It is also learnt that you are released on bail.

That Santhiram Medical College, Nandyal had taken a decision not to permit you to attend referred classes of MBBS Final Year Part – II in the College, since your presence in the college is affecting the career of other students and polluting academic atmosphere in college.”

Hence, the appeal.

The 2nd respondent filed counter affidavit and in detail stated the criminal cases pending against the appellant. The 2nd respondent justifies that the impugned communication is issued in accordance with the applicable rules and that the appellant in spite of getting so many opportunities has not stopped either copying or indulging in malpractices. The impugned letter is issued having regard to the fact that the appellant is again involved in the malpractice of VAO/VRO exams conducted by the Government and the appellant was arrested. The 2nd respondent with a view to maintaining the standards and discipline in the medical college was compelled to debar the appellant from attending the referred classes. According to 2nd respondent having regard to the conduct of appellant, the grounds urged in the writ petition are either incomplete or untenable and no exception can be taken to the communication dated 25.03.2014.

Before advertng to the findings recorded by the learned Single Judge, we are compelled to observe that from the material available on record, it is to be held that the appellant is consistently involving malpractices when common entrance examination for MBBS, PG, VAO/VRO are conducted. The appellant is shown as accused in the criminal cases registered against these malpractices and it was felt

by the college that the presence of appellant is not conducive to the atmosphere in the college. Having perused the material and admitted circumstances, we are of the view that in the larger interest of student community and to prevent corruption or dilution of standards in the campus, the impugned letter could be justified. The learned Single Judge has considered the grievance of appellant from yet another perspective and recorded these findings:

“A perusal of the record discloses that the petition in several crimes of similar nature and already this Court has shown indulgence and granted relief to the petitioner twice and again he is involved in this crime. In view of the allegations levelled against the petitioner, and the contention of the second respondent-college that the petitioner is spoiling the atmosphere of the college, this Court is of the view that this is not a fit case where this Court should exercise its extraordinary jurisdiction under Article 226 of the Constitution of India and grant the relief to the petitioner.”

For the reasons recorded by us and also the view expressed by the learned Single Judge, there is no material in the appeal.

Appeals fails and is accordingly dismissed.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 04.09.2015

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