

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.19096 of 2016

And

W.M.P.Nos.16637 and 19850 of 2016

S.Harish Kumar

... Petitioner

Vs.

- 1 Hindustan Institute of Technology & Science
(Deemed to be University established
under section 3 of UGC Act, 1956)
Rep. by its Registrar,
1, Rajiv Gandhi Salai (OMR),
Padur, Kelambakkam,
Kancheepuram District,
Chennai-603 103.
 - 2 University Grants Commission (UGC)
Rep. by its Chairman
Bahadur Shah Zafar Marg
New Delhi-110 002.
- Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent culminating in the impugned proceedings dated 06/05/2016, quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.P.Muthusamy

For Respondents : Mr.K.Doraisamy for R1

Senior Counsel

Assisted by Mr.Kandan Doraisamy

Mr.P.R.Gopinathan for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner is studying II year B.E. (Mechanical Engineering) in the first respondent Institution and according to him, there was a clash among the students and to the shock and surprise, he received the impugned order through e-mail on 26.05.2016 informing him that an Enquiry Committee has been constituted by the first respondent and the said Committee in turn, had identified 16 students including the petitioner, guilty of various charges and subsequently, the petitioner was expelled from the institution and the caution deposit was also forfeited.

3.Mr.P.Muthusamy, learned counsel appearing for the petitioner has drawn the attention of this Court to the impugned order and would submit that admittedly, before expelling the petitioner, the first respondent did not afford any fair opportunity whatsoever to the petitioner and it is in gross violation of the principles of natural justice and prayed for appropriate orders.

4.Per contra, Mr.K.Doraisamy, learned Senior Counsel appearing for the first respondent has invited the attention of this Court to the counter affidavit and would submit that notice of enquiry was issued to the father of the petitioner on 09.04.2016 wherein, it has been stated that on 07.03.2016 at 10.30 a.m., a section of students started pelting stones on the buildings which resulted in damage of furniture, glasses, computers, cars etc. and in the preliminary enquiry it was found that the petitioner was also involved in causing damage to the said properties and accordingly, he was called upon to appear before the enquiry committee headed by Dean (Student Affairs) - Chairman. Accordingly, the mother of the petitioner along with the petitioner appeared before the enquiry committee and she was shown footages taken through CC TV cameras and they accepted the same and thereafter, the petitioner as well his mother subscribed their signature and therefore, it is not open to the petitioner to contend that no fair and adequate opportunity has been given to him before expelling him from the institution.

5.It is the further submission of the learned Senior Counsel appearing for the first respondent that the scope of interference under Article 226 of the Constitution of India, in respect of a student, in disciplinary matter is very very limited and considering the fact that damage has been caused to the first respondent institution, encouraging such kind of activities, may create adverse impact and therefore, prays for dismissal of the writ petition.

6.This Court has carefully considered the rival submissions. The discretion of this Court to interfere with the findings of the disciplinary authority in case of students involved in

activities other than studies, is very limited and keeping in mind the well settled position, this Court has carefully gone through the materials placed before it.

7.A perusal of the communication dated 09.04.2016, sent by the first respondent to the father of the petitioner would disclose that the specific details of the mis-conduct/delinquency committed by the petitioner had not been indicated.

8.It is the vehement and forcible submission of the learned Senior Counsel appearing for the first respondent that the petitioner along with his mother appeared before the enquiry committee and they have been shown all materials including footages taken through CC TV cameras and they have also subscribed their signatures and hence, fair opportunity has been afforded to him and the principles of natural justice having been adhered to. But, the minimum basic requirement is to put the petitioner on notice as to the specific mis-conduct or delinquency committed by him and to elicit his response and thereafter, by adhering to the principles of natural justice, orders are to be passed.

9.However, a perusal of the materials placed before this Court would disclose that prima facie, the course has not been adopted. No doubt, the alleged incident appear to be serious in nature and however, in the light of the fact that the petitioner has not been afforded with opportunity of meeting specific allegations, the impugned order warrants interference.

10.Therefore, this writ petition is partly-allowed and the impugned order, dated 06.05.2016 is set aside and the matter is once again remanded to the first respondent, who shall issue charge memo which contains specific details of the allegations and elicit the written response from the petitioner and thereafter, conduct enquiry by adhering to the principles of natural justice and pass orders in accordance with the norms and regulations as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order. It is needless to state that the petitioner is also expected to extend his maximum co-operation for early completion of enquiry in his own interest. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

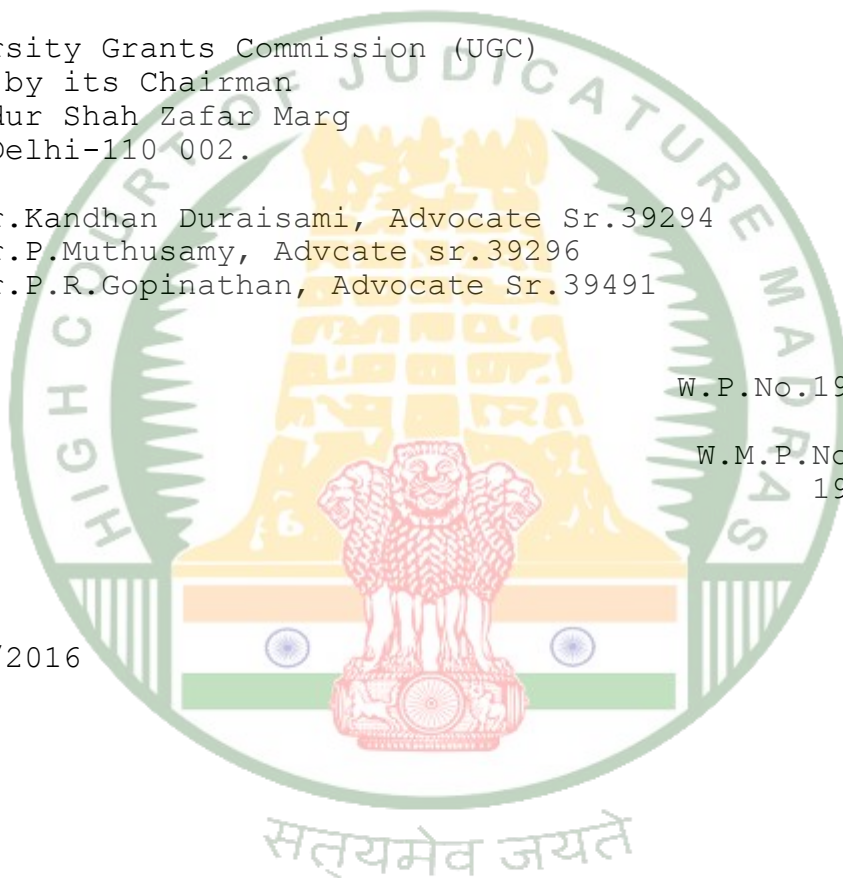
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+1cc to Mr.Kandhan Duraisami, Advocate Sr.39294
+1cc to Mr.P.Muthusamy, Advcate sr.39296
+1cc to Mr.P.R.Gopinathan, Advocate Sr.39491

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