

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.03.2016

PRONOUNCED ON : 12.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8867 of 2016

Mr.Haliq Alavudeen

... Petitioner

Vs.

1.The Registrar,
Bharath University,
No.173, Agaram Road,
Selayur, Chennai-600 073.

2.The Dean,
Sree Balaji Medical College & Hospital,
No.7, Works Road,
Chromepet,
Chennai-600 044.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 25.02.2016 for revoking the suspension order dated 07.11.2015 passed by the second respondent.

For Petitioner : Mr.S.Senthilkumar

For respondents : Mr.V.Ramesh (For R2)

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 25.02.2016 for revoking the suspension order dated 07.11.2015 passed by the second respondent.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner, inter alia, as follows:-

The petitioner is studying MBBS, II year, in the 2nd respondent-Medical College. He has successfully completed first year MBBS, in which he secured 80% of marks. When he entered into the second year MBBS, he has been falsely

implicated in a criminal case in Crime No.3328/2015 for the alleged offence under Sections 147, 342, 323, 364(A) and 506 (ii) IPC. The complaint was lodged by one Riyasudeen, who is the father of one Mr.Ajmal Aslam. The said Ajmal Aslam is also studying with the petitioner in the 2nd year MBBS. The allegation against the petitioner is that on 27.10.2015, the petitioner along with other students kidnapped the said Ajmal Aslam. But, according to the petitioner, on the date of alleged kidnapping, the petitioner was attending the college. The attendance register would reveal that on the date of alleged occurrence, the petitioner was attending the college. The entire kidnapping drama was planned and made by the said Ajmal Aslam, in order to grab money from his parents, for the purpose of spending money lavishly for enjoying luxurious life. The petitioner has not participated in the kidnapping drama. The petitioner was granted Anticipatory Bail by this Court vide order dated 01.12.2015 in Crl.O.P.No.27227 of 2015. Since the petitioner has been implicated in the said criminal case, the 2nd respondent has passed an order dated 07.11.2015 placing the petitioner under suspension. The petitioner has given representation to the 2nd respondent requesting to revoke the suspension order. Since the petitioner's representation was not considered, the petitioner has come forward with the present writ petition.

3.The 2nd respondent has filed a counter, stating that the petitioner was absent from college as early as from 29.09.2015. The 2nd respondent received various complaints against the petitioner; hence, the 2nd respondent had sent a notice to the father of the petitioner on 04.11.2015 asking him to come and meet the 2nd respondent on 09.11.2015. On 07.11.2015, the College had passed an order placing the petitioner under suspension with immediate effect. The 2nd respondent had also issued a notice to the father of the petitioner calling upon him to appear before the 2nd respondent on 30.11.2015, informing him that his son has been absent from 29.09.2015; but there was no response from the father of the petitioner. While so, on 02.02.2016, the Inspector of Police, Chrompet Police Station, by his letter, had informed the College about the kidnapping incident and involvement of the students belonging to the college, including the petitioner. Hence, the suspension order dated 07.11.2015 was directed to be continued, until further orders. It is further stated by the 2nd respondent that neither the petitioner nor his father had met the 2nd respondent, pursuant to the notices dated 04.11.2015 and 26.11.2015. However, on 25.02.2016, the petitioner had submitted a letter seeking to revoke the suspension order dated 07.11.2015 and 02.02.2016, stating that he was not involved in the case of kidnapping of the said Ajmal Aslam. The college had also initiated disciplinary proceedings against another student, who was also involved in the kidnapping incident. The conduct and character of the

petitioner is nothing but an offence against the society. Thus, the 2nd respondent sought for dismissal of the writ petition.

4. Heard both sides and perused the materials available on record.

5. It is the only submission made by the learned counsel for the petitioner that in similar case, in W.P.No.4239 of 2016 (S.Vigneshwar Vs. Bharath University and another), this Court by accepting the affidavit of undertaking given by the petitioner/student allowed the writ petition; hence, by following the same, the present writ petition could be allowed.

6. But, I find that the said order was passed, since the respondent-College had consented to accept the affidavit of undertaking given by the petitioner/student in that case. But, so far as the present case is concerned, it is the specific stand of the 2nd respondent that inspite of the notice sent for enquiry, neither the petitioner nor his father has come forward to attend the enquiry; that is not the state of affairs in the above referred case. Further, it is the case of the 2nd respondent that the petitioner herein is actively involved in the alleged offence.

7. In my considered opinion, the order passed in W.P.No.4239 of 2016, cannot be considered as precedent to allow the present writ petition, since the order was passed in the said writ petition pursuant to the consent given by the respondent-College to accept the affidavit of undertaking given by the petitioner in that case. Further, the factual aspect of the present case would show that though the 2nd respondent issued notice for enquiry, neither the petitioner nor his father has chosen to attend the enquiry. Under such circumstances, this Court can not show any indulgence to the petitioner. Hence, the writ petition is liable to be dismissed.

In fine, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

SSV

To,

1.The Registrar,
Bharath University,
No.173, Agaram Road,
Selayur, Chennai-600 073.

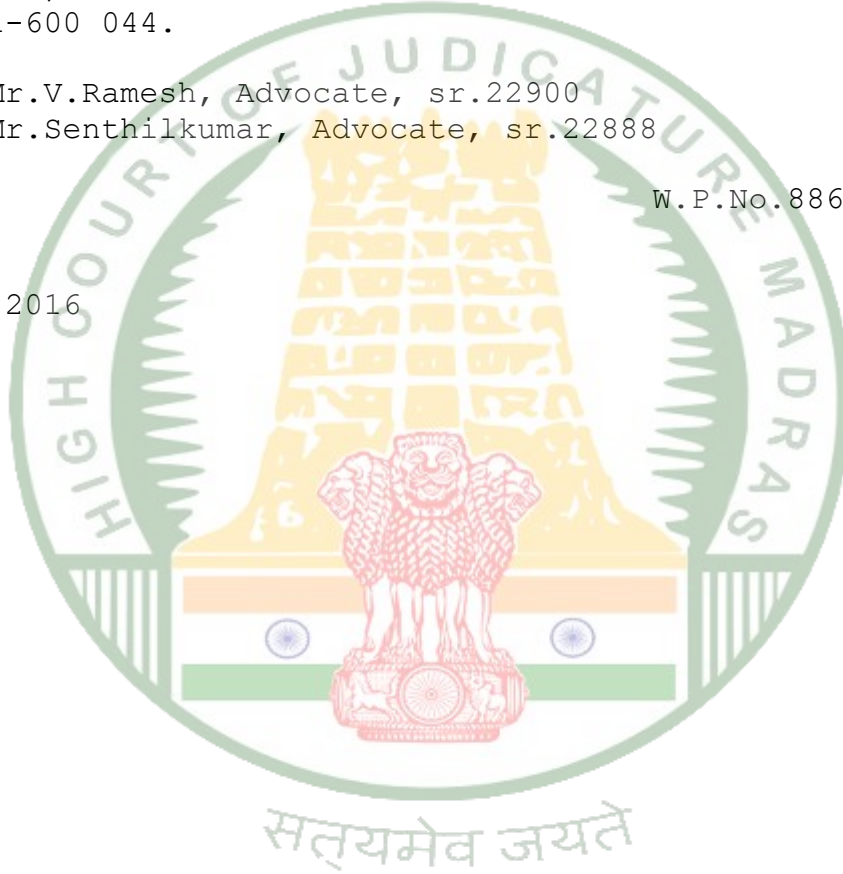
2.The Dean,
Sree Balaji Medical College & Hospital,
No.7, Works Road,
Chromepet,
Chennai-600 044.

+1 cc to Mr.V.Ramesh, Advocate, sr.22900

+1 cc to Mr.Senthilkumar, Advocate, sr.22888

W.P.No.8867 of 2016

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