

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9889 OF 2017

Adwait Amrish Goel

Age : 21 years, Occ : Student,
R/o. 1102, Gundecha Premier,
Thakur Village, Kandivali (E),
Mumbai-400 101.

.....Petitioner

: V E R S U S :

1. Mukesh Patel School of Technology
Management & Engineering
Through its Dean,
Behind Homeopathy College,
Bhakti Vedant Swami Marg,
JVPD Scheme, Vile Parle (W),
Mumbai-400 056.

2. Narsee Monjee Institute of
Management Studies (NMIMS)
Through its Chancellor
V.L. Mehta Road, Vile Parle (W),
Mumbai-400 056.

.....Respondents

Mr. Mihir Desai, Senior Advocate i/by. Mr. Kuldeep U.

Nikam, Advocate for the petitioner.

Mr. A.P. Singh i/by. M/s. S.K. Srivastav and Associates,

Advocate for respondents no.1 and 2.

Ms. Kavita N. Salunke, AGP for respondent no.3.

CORAM :- B.R.GAVAI &

SANDEEP K. SHINDE, JJ.

DATE :- 10TH OCTOBER, 2017.

JUDGMENT (PER CORAM :- SANDEEP K. SHINDE, J) :

1. Rule. Rule made returnable forthwith. Heard by consent.

2. The issue that fell for consideration in this petition is whether a student could be expelled from the Institute on account of registration of a crime against him not arising out and/or in relation to Institute and/or students of Institute but otherwise. The petitioner claims to be a meritorious student who had secured 92% marks in the 10th

Standard and 81.4% marks in the 12th Standard examination. He got admission for the course of B. Tech (Computer Engineering) in the respondent no.1 Institute. He cleared his first semester with cumulative grade point average of 2.94/4 with better performance in the second semester, third semester and the fourth semester. The respondent, Institute considering his meritorious career had nominated him for the TEM Summer School event which was conducted from June, 26 to 13th July 2017. On 15th June, 2017 Crime No. 262 of 2017 was registered at Santa Nagar Police Station under Sections 376(2)(N), 417 , 323 and 504 of the Indian Penal Code wherein it is alleged that the petitioner committed a sexual assault on the complainant on the pretext and promise that he would marry her. It is alleged, promise was turned out to be false, which prompted her to lodge the subject FIR. The petitioner was arrested but released on bail on 31st July, 2017. On 2nd August, 2017 respondent no.2 suspended him with immediate effect till further orders which was followed by

order dated 5th August, 2017 whereby the petitioner was expelled from the Institute with immediate effect. The petitioner is challenging the order dated 2nd August, 2017 and order dated 5th August, 2017 whereby he was suspended followed by expulsion from the Institute with immediate effect.

3. Respondent no.2 is the deemed University and it follows its own Rules and Regulations, then approved by the Board of Management. The respondent Institute filed Affidavit-in-reply sworn by Dr. Meena Chintamaneni. In para-8 of the reply it is stated as under :-

“8. I say that in Clause 2.12.5 of the Student Resource Books provides that students indulged in sexual harassment will also be liable to disciplinary actions as per University norms. Clause 2.15 of the Student Resource Books provides that the Institute shall not tolerate any act of indiscipline, misbehavior, indulgence into unethical practices including possession and consumption of use of drugs, alcoholic drinks, harassment, if any, violence, non-obedience, non-compliance etc. by any student. I crave leave to refer to and rely upon the said Student Resource Book when produced.

4. Heard Learned Counsel for the petitioner and learned Counsel for the respondent Institute.

It appears that before expelling the petitioner, he was not afforded any opportunity either by issuing any show cause notice or otherwise. The Institute admittedly acted upon the FIR registered against the petitioner and expelled him from the Institute obviously without holding any enquiry. In other words, the petitioner has been punished and kept away from pursuing the further studies without hearing him. Thus, the order of the respondent, Institute was in violation of principles of natural justice. We are also of the view that, registration of a crime cannot be taken as a gospel truth and held out to be a foundation to expel the petitioner. It is not the case of the Institute that the petitioner has indulged into illegal activities in the campus in relation to its students and/or Institute. Nodoubt, the offence registered against the petitioner is serious in nature, however, the alleged incident was neither indiscipline, harassment, misbehaviour nor amounting to

indulgence in unethical practices as defined in Clause-2.15 of the Students Recourse Book. Respondent no.2 expelled the petitioner from the Institute merely on the ground that FIR is being registered against him by the complainant who is no way concerned with the Institute. In the circumstances, we are of the view that, the petitioner cannot be deprived of his career by expelling him from the Institute. In our view, if the impugned orders are not quashed, would certainly harm his career, which cannot be compensated in terms of money or otherwise. The petitioner cannot therefore be made to suffer the consequences merely on the basis of the allegations made against him and that too, before trial. That save and except, the FIR being registered against the petitioner, there is no material brought on record by the respondent, Institute to show that he is required to be dealt in terms of Clause-2.12.5 of the Students Resource Book as stated in para-8 of their Affidavit.

5. Thus, in view of the facts of the case and for the

reasons stated hereinabove, the order dated 2nd August, 2017 suspending the petitioner from the Institute and order dated 5th August, 2017 expelling him from the Institute are hereby quashed and set aside. Rule is made absolute in terms of prayer clause (a).

5. Needless to state, that the respondents no.1 and 2 shall permit the petitioner to forthwith resume studies. Needless further to state that, the respondents no.1 and 2 shall condone the deficiency in attendance, if any, for the period between the date of the impugned order and the date on which the petitioner is permitted to resume the studies.

(SANDEEP K. SHINDE, J)

(B.R. GAVAI, J)