

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.09.2017

Coram

The Honourable Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.21004 of 2017

and

W.M.P. Nos.21893 and 21894 of 2017

K.Vasudevan

..... Petitioner

Vs.

1.The University of Madras,
Rep. by its Registrar,
Chepauk,
Chennai 600 005.

2.The Pachaiyappa's College,
Rep. by its Principal,
EVR Periyar High Road,
Shenoy Nagar,
Chennai 600 030.

3.The Deputy Commissioner of Police,
EVR Salai, Kilpauk,
Chennai-10.

4.The Inspector of Police,
G3 Police Station,
Kilpauk,
Chennai 600 010.

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records pertaining to the Order No.D.No.232/2017 dated 17.07.2017 issued by the second respondent, quash the same and to direct the second respondent to permit the petitioner to continue to pursue and complete the B.A. Philosophy degree course.

For Petitioner : Mr.V.Raghavachari
for Mr.S.Jimraj Milton

For Respondents: Mr.R.Gopinath for R1
Standing Counsel
Mr.N.Baaskaran for R2
Standing Counsel
Mr.A.Kumar for R3 and R4
Special Government Pleader

ORDER

The petitioner is a student at Pachaiyappa's College, Chennai in B.A. Philosophy degree course. He is in the third and final year of the said course. He is aggrieved against the order dated 17.07.2017, issued by the second respondent expelling him from the college with immediate effect based on the charges referred to in the impugned memorandum.

2.The main grievance of the petitioner is that the impugned order of expulsion was passed in violation of the principles of natural justice. Learned counsel for the petitioner further pointed out that after issuing the impugned order of expulsion on 17.07.2017, the second respondent college has issued a Memorandum dated 18.07.2017, suspending the petitioner and 34 other students pending enquiry and also directing them to appear before the Enquiry Committee on 25.07.2017. Therefore, it is contended on behalf of the petitioner that when the second respondent has chosen to conduct the enquiry on 25.07.2017 and suspended the petitioner pending such enquiry through the said memorandum dated 18.07.2017, there is no justification in passing the order of expulsion one day prior to the said proceedings, which is impugned in this writ petition. Therefore, it is contended that even before conducting an enquiry and taking a decision pursuant to the report to be submitted by the enquiry Committee, the impugned punishment of expulsion is imposed on the petitioner, which cannot be sustained. It is further stated by the petitioner that he is not given a reasonable opportunity to participate in the enquiry.

3.On the other hand, a counter affidavit filed by the second respondent, after narrating various allegations against the petitioner as well as pendency of several F.I.Rs. against him before the concerned police station, proceeded to state that the petitioner refused to appear before the College Committee, even though an opportunity was given to him to do so.

Therefore, it is contended on behalf of the respondent college that the petitioner was given full opportunity, which he failed to utilise and therefore, he cannot seek any indulgence before this court.

4. Heard Mr.V.Raghavachari, learned counsel appearing on behalf of the petitioner, Mr.R.Gopinath, learned Standing Counsel for the first respondent, Mr.N.Baaskaran, learned Standing Counsel for the second respondent and Mr.A.Kumar, learned Special Government Pleader for the respondents 3 and 4.

5. The petitioner has challenged the order of expulsion, admittedly passed on 17.07.2017. Of course, certain charges are referred to in the impugned memorandum, against the petitioner over which this court, at this stage, is not inclined to express any view. But at the same time, it is an admitted fact that the very next day, a memorandum dated 18.07.2017 was issued by the second respondent college, placing the petitioner under suspension pending enquiry and also calling upon him and other students to attend the enquiry on 25.07.2017. Therefore, it is evident that the college has chosen to conduct an enquiry on 25.07.2017 and pending such enquiry, suspended the petitioner and others on 18.07.2017. When such being the subsequent development, I do not find any justification on the part of the 2nd respondent in passing the order of expulsion on the previous day i.e., 17.07.2017, which is impugned in this writ petition. Needless to say that the impugned order of punishment cannot be passed before holding an enquiry and taking a decision based on the report to be submitted by the enquiry Committee. Therefore, I find that the impugned order of expulsion dated 17.07.2017, cannot be sustained in the eye of law and hence, the same is liable to be set aside.

6. Though it is contended that the petitioner has not utilised the opportunity by taking part in the enquiry conducted by the 2nd respondent college, in order to give him one more opportunity, this Court is of the view that the second respondent can hold an enquiry afresh based on the charges levelled against the petitioner also by giving him an adequate opportunity of hearing. Needless to say that based on the outcome of the enquiry, it is for the respective parties to work out their further course of action accordingly.

7. Thus, the writ petition is allowed and the impugned order of expulsion is set aside and the matter is remitted back to the second respondent college for conducting a fresh enquiry within a period of two weeks from the date of receipt of a copy of this order, after giving due notice to the petitioner by specifically indicating the date of such enquiry and giving due opportunity

of hearing. The petitioner shall take part in the enquiry and put forth his case before such Committee. Based on the report submitted by the Enquiry Committee, it is for the respondent college to pass appropriate orders and communicate the same to the petitioner within a period of two weeks thereafter. Till a final order is passed by the Disciplinary Authority, the order of suspension passed against the petitioner shall continue. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vri

To

- 1.The University of Madras,
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 - 4.The Inspector of Police,
G3 Police Station,
Kilpauk,
Chennai 600 010.
- +1cc to Mr.N.Baaskaran, Advocate sr.68418

+1cc to Jim Raj Milton, Advocate sr.68567

W.P.No.21004 of 2017

ss(20/9/2017)