

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-11-2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.27460 of 2017

and

WMP.Nos.29347 & 29348 of 201

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  
Chennai-600 030.

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

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

5. Dr.Sampathraj

6. Dr.K.M.Umarajan

7.Dr.P.Aulmozhichelvan

8.Dr.V.Seenivasan

9.A.M.Jain College,  
Meenambakkam, Chennai.

(R9- Suo Motu impleaded)

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Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to call for the records pertaining to the order D.No.347/2017 dated 27.09.2017 issued by the 2nd respondent and quash the same and further 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.Jim Raj Milton

For Respondents: Mr.P.Gopinath (R1)  
Mr.Bhaskar (R2, R5 to R8)  
Mr.Tm.Pappiah (R3 and R4)  
Special Government Pleader  
Mr.Shakesphere (R9)

O R D E R

This Writ Petition has been filed challenging the order of the second respondent in D.No.347/2017 dated 27.09.2017 and further direct the second respondent to permit the petitioner to continue to pursue and complete the B.A.Philosophy degree course.

2.A student who is expelled from the second respondent college for certain misbehavior has approached this Court with this Writ Petition challenging the order of expulsion.

3.The case of the petitioner is that there was an agitation in the second respondent college on 17.07.2017, regarding the agricultural issue at Kadiramangalam village, in which it is alleged that the petitioner had also participated. An order was issued by the second respondent suspending 64 students including the petitioner on 17.07.2017. On 20.07.2017, the petitioner received the impugned Memorandum No.D.No.232/2017 dated 17.07.2017 signed on 18.07.2017 by the second respondent, expelling him from the college. A representation dated 25.07.2017 was made by all the college students to the Director of Collegiate Education seeking to permit all the students to continue their studies. Since the petitioner was sick on the said date, his mother made the representation through post. Challenging the suspension order, the petitioner filed W.P.No.21004 of 2017 and this Court set aside the order of suspension and directed the second respondent to conduct fresh enquiry. Without conducting any proper enquiry and without considering the representation of the petitioner dated 28.09.2017, an order of expulsion has been passed on 27.09.2017. The said order has been challenged before this court.

4.Heard Mr.V.Raghavachari learned counsel for the petitioner. Mr.P.Gopinath learned standing counsel for the first respondent, Mr.Bhaskar learned counsel appearing for the respondents 2,5 to 8 and Mr.Tm.Pappiah, learned Special Government Pleader appearing for the respondents 3 and 4 and Mr.Shakesphere learned counsel appearing for the ninth respondent.

5.The learned counsel for the petitioner would submit that the petitioner was expelled without any proper enquiry and no chance was given to the petitioner and therefore the order of expulsion has to be set aside. He would further submit that the petitioner alone has been targeted by the second respondent College and other students were admitted by the second respondent college after getting apology letter from them. Therefore, he seeks to set aside the order of expulsion.

6.On the other hand, Mr.Bhaskaran, learned counsel for respondents 2, 5 to 8 would submit that the petitioner alone was responsible for vitiation of peaceful atmosphere of the college, by having conspiracy with various organisations. He did not avail the opportunity of enquiry conducted and left with no other option, the petitioner was expelled from the College.

7.Mr.Gopinath, learned counsel for he first respondent would submit that unless required attendance is recorded, the students will not be permitted to write the fifth semester and allowed to go to sixth semester. The petitioner has got 14% of attendance and therefore, he cannot be permitted to write the 5<sup>th</sup> Semester examination and allowed to go to the 6<sup>th</sup> semester. Either for continuing in the same college or transfer to any other College also, requirement of minimum attendance, not below 50% is compulsory.

8.Taking into consideration the family circumstances of the petitioner viz., loss of his father at a young age and poor circumstances of the family and making livelihood from the earning of his mother who sells eatables in the Platforms, this Court requested Mr.Shakesphere, learned counsel for the A.M.Jain College to find out as to whether the petitioner could be transferred to A.M.Jain College, for which, the learned counsel rightly accepted and convinced the Management to accommodate the petitioner. However, the first respondent opposed admitting or transferring the petitioner to some other college. He would also submit that lack of attendance will not enable him to write the fifth semester and go for sixth semester course. He relied upon the rules regarding attendance as issued by University of Madras.

9.This Court is not inclined to deal with the matter on merits as this Court finds that the student is misguided by certain elements and that is the reason for what he is facing today. The matter requires to be considered compassionately for the following reasons:

(i) Loss of his father at a young age.

(ii) The poor status of his family i.e., making livelihood from the earnings of his mother who sells eatables in the Platform.

10.It is very difficult for a child to grow normally in these days, even when both the parents are alive. With poor family consideration and without father, it is easier for any child to get distracted or misguided. There are elements in the Society which are all targeting such children of the Society to brain wash and to go against the establishment. If any organization is interested in the development of weaker sections, that organization should give a helping hand to the person to come out of the crisis either monetarily or by providing moral support. Very unfortunately, many organizations are doing the contrary, by making students fight against the institution, like one which has happened in this case. This Court hopes organisations which are claiming themselves to be custodian or guarantors or leaders or guides of the neglected people should come forward with positive approach for a positive development of the affected persons.

11.Taking into consideration the reasons for suspension as well as expulsion from the second respondent college, this Court directed the petitioner to be present and convinced him about his responsibility towards his family first and that thereafter only he could exhibit his responsibility towards the Society. He also filed an affidavit dated 26.10.2017, stating his family circumstances, which reads as under:

"2. I state that I lost my father while I was studying 5th standard. My mother has educated me from the meagre income that she gets by vending food items.

3.I have an elder sister and younger sister. My younger sister has recently completed her plus two education."

12. He has also filed another affidavit dated 09.11.2017, paragraph of the said affidavit reads as under:

"1. I respectfully submit that I am the petitioner in the above said Writ Petition. I will strictly abide by the rules and regulations of the Institution. I will ensure that I will do everything in the best interest of the institution and will support every effort taken by the institution in maintain peace and tranquility on and off the campus."

13. The mother of the petitioner Mrs.K.Shanthi has filed a affidavit 10.11.2017, which reads as under:

"2. I humbly submit that I will ensure that my son K.Vasudevan strictly adheres to the rules and regulations of the Institution. Further, I undertake that I will oversee and guide my son's college education and will not permit him to participate in



activities that are not in the best interest of the College. Also, I will make sure that my son will do everything in the best interest of the institution and will support every effort taken by the institution in maintaining the peace and tranquility of the institution.

I fervently pray that my undertaking may be recorded and permit my son K.Vasudevan to continue with B.A., Philosophy 3rd year course in the institution as prescribed by this Court."

14. The problem which has been exhibited in this case is a human problem and it has also brought forth the problems faced by a child, who has been brought up by his mother without father. The petitioner should have more responsibility towards the mother of the family first and then only he can have devote time to the society. In view of the peculiar and extraordinary circumstances, he was misled and that is the reason for what he is facing today.

15. Though the Writ Petition is filed challenging the expulsion order, the question of going into expulsion does not arise as the second respondent college was magnanimous to give Transfer Certificate and conduct certificate to the petitioner so as to enable him to get admission in any other college.

6. Since, the ninth respondent has come forward to give a seat to the petitioner, the only question to be decided is with regard to the attendance of the petitioner which the petitioner lacks.

17. In normal circumstances, this Court would have dismissed the Writ Petition, if possible with costs. However, as already explained it is a very different case which has to be dealt with compassionately. The extraordinary circumstance is that the petitioner already got 14% of the attendance and he was prevented from attending the college and it is not as if he did not want to attend the college and due the suspension order he was prevented from attending the college, which order had also been set aside by this Court.

18. In these circumstances, this Court directs the University to condone the lack of attendance of the petitioner and permit him to write the fifth semester examination permitting him to undergo sixth semester.

19. Once the application has been made by the ninth respondent college to the University, the University shall not insist upon lack of attendance issue and accordingly the

transfer from one college to other beyond 06.10.2016 also should not be resisted.

20.This Court already recorded the handing over of conduct certificate,Transfer Certificate by Mr.Baskaran, learned counsel for the respondents 2, 5 to 8 to the petitioner. The petitioner is also permitted to join the ninth respondent College. Hence, the University shall admit the petitioner irrespective of time limit fixed by University for fresh admission and readmission. The petitioner is directed to be transferred and permitted to rejoin the course.

This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

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  
Chennai-600 030.

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

4.The Inspector of Police  
EVR Salai, Kilpauk  
Chennai-600 010.

+ 1 cc to Mr.Shakesphere Advocate,SR.81589  
+ 1 cc to Mr.S.Jim Raj Milton Advocate,SR.81158  
+ 2 cc to Mr.R.Gopinath Milton Advocate,SR.80995  
+ 1 cc to Mr.Bhaskar, Advocate, SR.81395  
+ 1 cc to The Govt.Pleader, SR.81482

W.P.No.27460 of 2017

NR 05/12/2017