

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.19422 of 2017
and
WMP. Nos.20943 to 20945 of 2017

R.Mohamed Ajmal Aslam
S/o.Dr.Reyasudeen

... Petitioner

Vs.

1. The Registrar
Bharath University
Selaipur, Chennai-600 073.

2. The Controller of Examinations
Bharath University
Selaipur, Chennai-600 073.

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

4. The Principal
Sree Balaji Medical College & Hospital
No.7, Works Road, New Colony,
Chromepet, Chennai-600 044.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Certiorarified Mandamus, calling for the records

pertaining to the impugned order dated 10.07.2017 in Ref.No.4358/SBMC/Comp./2017 issued by the 3rd respondent and consequently quash the same and permit the petitioner to continue his course by permitting him to write the examinations.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Mr.Venkatesh Mahadevan
Standing counsel for R1 & R2
R3 & R4 - No appearance

ORDER

The petitioner, a student in MBBS Course at the fourth respondent college, has approached this Court and challenged the order of suspension dated 10.07.2017 issued by the third respondent, pending enquiry in pursuant to an alleged act of damaging the glasses of Department notice board and few chairs and stand of Audio Visual in Demo Room of Microbiology.

2. This Court, while entertaining the writ petition on 28.07.2017, issued an interim direction, directing the respondents to permit the petitioner to take part in the University Examination and further directed the respondents not to publish the results of the petitioner until further

orders from this Court. The said interim order was passed by considering the submission made to that effect that the impugned order is not simply an order of suspension, pending enquiry and on the other hand, it is an order of punishment itself, as the petitioner through the said proceeding, was also debarred from appearing in the second year University Examinations, which was scheduled to be held in the month of August 2017. Therefore, by considering the fact, that the said order, preventing the petitioner from appearing in the University examination, came to be passed in violation of principles of natural justice, without providing an opportunity of hearing to him, this Court has passed the interim order as stated supra.

3. Consequent upon such interim order, it is stated that the petitioner was permitted to take part in the examination and the results are withheld, as ordered by this Court.

4. A counter affidavit is filed by the first respondent, wherein it is contended that the act of the petitioner has driven the college to suspend him as well as to impose such punishment.

5. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the first and second respondents who got instructions from the learned standing counsel for the third and fourth respondents as well, who is said to be unwell.

6. Mr.Venkatesh Mahadevan, learned standing counsel appearing for the first & second respondents produced a copy of the enquiry report dated 31.08.2017, wherein it was observed that the petitioner has accepted that it was his fault and he did the damage out of anger. It is further seen that the enquiry committee in the said report suggested that the student should be given counselling to prevent the occurrence of similar episode in future. Thus, the learned counsel for the first and second respondents after referring to the finding of the enquiry report, further submitted that as the damages caused to the properties of the Institution would be to the tune of one lakh rupees approximately, the petitioner must be suitably directed to compensate the same to the Institution.

7.Mr.V.R.Kamalanthan, learned counsel appearing for the petitioner submitted that the petitioner will pay a sum of Rs.50,000/- (Rupees fifty thousand only) as the compensation to the college and therefore, the said amount can be accepted by the college as a full and final settlement and consequently, the petitioner may be permitted to continue the course.

8. The learned counsel appearing for the first & second respondents, after taking instructions from the learned standing counsel for the third and fourth respondents and also from the third respondent over phone, has fairly accepted the said proposal and submitted that the petitioner may be directed to pay a sum of Rs.50,000/- towards the damages to the third respondent college as a full and final settlement.

9. Considering the above stated facts and circumstances and considering the fact that an amicable solution has been arrived between the parties as stated supra, this writ petition is allowed and the impugned order of suspension is set aside in the following terms:

(a) The petitioner shall pay a sum of Rs.50,000/- (Rupees fifty thousand only) to the third respondent college as a full and final settlement, within a period of seven days from the date of receipt of a copy of this order.

(b) On receipt of such amount, the third respondent college shall issue a receipt to the petitioner for the said amount.

(c) The petitioner should also give an affidavit of undertaking before the third respondent college stating that he will not indulge any such activities in future and he would complete the course by observing strict discipline in the college.

(d) On receipt of such amount and also after taking an affidavit of undertaking from the petitioner as stated supra, the third respondent college shall permit the petitioner to continue the course without any hindrance.

(e) If the petitioner indulges in any such activities in future, it is open to the college to take appropriate disciplinary action against the petitioner.

(f) In view of the order passed in this writ petition, the respondents are directed to publish the results of the petitioner, as and when it is made ready.

No costs. Consequently, connected miscellaneous petitions are closed.

11.09.2017

Speaking/Non-speaking order
Index : Yes/No

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Note: Issue order copy on 13.09.2017

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K.RAVICHANDRABAABU,J.

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To

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