



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)Nos. 1339 to 1343 of 2017

and

C.M.P(MD)Nos.9508 to 9512 of 2017

and

C.M.P(MD)Nos.9260 to 9263, of 2017

The Registrar,
Gandhigram Rural Institute Deemed University,
(Ministry of Human Resources Development,
Govt. of India), Gandhigram,
Dindigul District-624 302.

...Appellant in all
Writ Appeals/Respondent

Vs.

Hussain Mohammed Badhusa

..Respondent in W.A(MD).No.1339 of 2017 / Petitioner

Prabahakaran .. Respondent in W.A(MD).No.1340 of 2017 / Petitioner

Pradeep .. Respondent in W.A(MD).No.1341 of 2017/ Petitioner

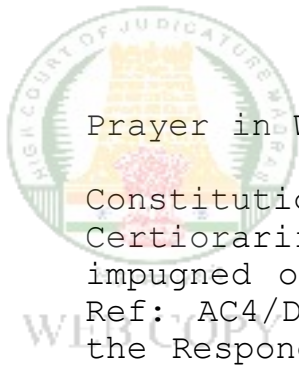
Sridhar .. Respondent in W.A(MD).No.1342 of 2017/ Petitioner

Manojkumar .. Respondent in W.A(MD).No.1343 of 2017/ Petitioner

COMMON PRAYER: Writ Appeals is filed under Clause 15 of the Letters Patent against the common order dated 29.08.2017 passed by this Court in W.P(MD)Nos. 12408 to 12412 of 2017.

Prayer in WP(MD). 12408/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the Respondent vide office proceedings in Ref: AC4/ Dis.com/2017-2018 /375 dated on 17.05.2017 on the file of the Respondent office and quash the same as illegal and consequently direct the Respondent to readmit the Petitioner in B.B.A.(Rural Industries & Management) at the Respondents institution to continue his studies within a stipulated time stipulated by this Honble Court.



Prayer in WP(MD). 12409/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the Respondent vide office proceedings in Ref: AC4/Dis.Com/2017-2018/375 dated on 17.05.2017 on the file of the Respondent to readmit the Petitioner in B.B.A.(Rural Industries and Management) at the Respondents institution to continue his studies within a stipulated time stipulated by this Honble Court.

Prayer in WP(MD). 12410/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the Respondent vide office proceedings in Ref: AC4/ Dis.com/2017-2018 /375 dated on 17.05.2017 on the file of the Respondent office and quash the same as illegal and consequently direct the Respondent to readmit the Petitioner in B.B.A.(Rural Industries & Management) at the Respondents institution to continue his studies within a stipulated time stipulated by this Honble Court.

Prayer in WP(MD). 12411/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the Respondent vide office proceedings in Ref: AC4/Dis.Com/2017-2018/375 dated on 17.05.2017 on the file of the Respondent to readmit the Petitioner in B.B.A.(Rural Industries and Management) at the Respondents institution to continue his studies within a stipulated time stipulated by this Honble Court.

Prayer in WP(MD). 12412/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the Respondent vide office proceedings in Ref: AC4/ Dis.com/2017-2018 /375 dated on 17.05.2017 on the file of the Respondent office and quash the same as illegal and consequently direct the Respondent to readmit the Petitioner in B.B.A.(Rural Industries & Management) at the Respondents institution to continue his studies within a stipulated time stipulated by this Honble Court.

(In All Writ Appeals)

For Appellant

: Mrs.S.Srimathy for
Mr.MA.P.Thangavel

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.R.Karunanidhi

COMMON JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent, all the Writ Appeals are taken up for final disposal and disposed of by this common judgment for the reason that these Writ Appeals are preferred against the common order dated 29.08.2017 made in W.P(MD)Nos.12408 to 12412 of 2017.

2. The respondents in these Writ Appeals had filed the said Writ Petitions praying for issuance of Writs of Certiorarified Mandamus, to call for the records relating to the impugned orders dated 17.05.2017 passed by the appellant/sole respondent in the Writ Petitions, in and by which, they were expelled, with a consequential direction, to direct them to readmit in First Year B.B.A(Rural Industries & Management) at the appellant/Institution.

3. The respondents/writ petitioners at the time of passing the order of expulsion dated 17.05.2017 by the appellant/Institution, had undergone the following courses:

S.No.	Register No.	Name of the Student	Name & Year of the Programme
1	16202018	Pradeep.S	1 Year BBA RIM
2	16202047	Prabhakaran.M	1 Year BBA RIM
3	16202028	Hussain Mohammed Badhusa	1 Year BBA RIM
4	16202015	Manojkumar.A	1 Year BBA RIM
5	16202012	Sridhar.G	1 Year BBA RIM

4. As per the allegations, the respondents/writ petitioners consumed alcohol inside the campus of Gandhigram Rural Institute Deemed University, Gandhigram and went to the hostel and the said misconduct occurred on 06.05.2017 at about 6.00 p.m. According to the appellant/University, they were caught red-handed by the Security Personnel and on seeing them, two of the respondents namely M.Prabhakaran and Hussain Mohammed Badhusa, fled away from the site and search of the place has also revealed that five empty bottles of liquor were available and the conduct of the respondents/writ petitioners in consuming alcohol inside the academic premises, is in gross violation of the Hostel Rules and Regulations and therefore, disciplinary proceedings has been initiated. The respondents/writ petitioners had submitted individual representations/statements admitting their mistake. A Disciplinary Committee was constituted by the appellant/University and it conducted a hearing on 15.05.2017 at 11.00 a.m. The Disciplinary Committee had the constitution of the Dean, Faculty of Rural Social Sciences, the Dean, Faculty of Rural



Development, the Dean, Faculty of Tamil, Indian Languages and Rural Arts, Dr.K.Velumani, Professor & Director, Centre for Women Studies, Dr.P.Anitha Pius, Warden, Ladies Hostel, Dr.A.Ramanathan, Warden, Boys Hostel, Dr.M.Soundarapandian, representing the Head of Department of Rural Institute Management and Dr.B.padmanabha Pillai, Dean Students' Welfare.

5. In the Disciplinary Committee meeting, except one of the writ petitioners namely A.Manoj Kumar, others attended the meeting along with their parents/guardian and the respondents/writ petitioners were afforded an opportunity to put forth their stand as to the said incident, which happened on 06.05.2017 and after taking into consideration of the sum and deliberation, the said Committee recommended expulsion of the writ petitioners forthwith and accordingly, the Registrar of the appellant/University has passed the impugned orders of expulsion on 17.05.2017 and challenging the same, the said students filed W.P(MD)Nos.12408 to 12412 of 2017.

6. The said Writ Petitions were entertained and the appellant herein/respondent has filed their counter-affidavit stating among other things that the student namely Sivasathriyan studying in Second Year B.Sc., (Agriculture), was addicted to drugs and on 04.05.2017, he collapsed in front of the entrance gate and he was taken to Government Hospital, Dindigul, where he was pronounced dead and the Doctors informed that he died of over dosage of drugs and in order to prevent such a kind of action, strict vigil was put in place and the respondents/writ petitioners were caught red-handed while consuming liquor inside the campus and on seeing the Security Personnel, two of them fled away from the site and all of them had also given individual statements/letters admitting their guilt and also the habit of consuming liquor and after affording a fair and reasonable opportunity, the Disciplinary Committee has concluded that they are guilty of misbehaviour and the Registrar of the appellant/University, after taking into consideration the overall facts and circumstances and other materials, has rightly reached the conclusion to expel them, for the reason that the paramount consideration while running an Educational Institution is the enforcement of discipline among the students and if any privilege is given, the reputation of the Institution will be in causality and hence, prays for dismissal of the Writ Petitions.

7. The learned Judge after considering the rival submissions and after taking into consideration all the materials, has found that no material made available to show that during enquiry, witnesses were examined and evidences were adduced and based on which, the finding came to be recorded. The learned Judge has also observed that the prime object of imposing punishment is to correct the fault of the students, by making them to realise their mistake and behave properly in future and also has taken note of the fact that the writ petitioners do not have any criminal background and had indulged in similar activities repeatedly. Therefore, taking



into consideration the overall facts and circumstances of the case, has set aside the orders of expulsion passed against the writ petitioners and has also observed that the said order came to be passed on peculiar facts and circumstances.

8. The appellant/University challenging the legality of the said common order, has filed the present Writ Appeals.

9. Mrs.S.Srimathi, learned counsel representing Mr.MA.P.Thangavel, learned counsel on record for the appellant/sole respondent in the Writ Appeals, would submit that in a matter of interfering with the quantum of punishment imposed on account of the conduct of the students, the scope of interference by this Court under Article 226 of the Constitution of India, lies in a very narrow campus and admittedly, the respondents/writ petitioners were caught red-handed while consuming liquor inside the campus and on seeing the Security Personnel, two of them ran away and all of them had given statements/letters accepting their guilt.

10. It is the further submission of the learned counsel appearing for the appellant that a fair and reasonable opportunity was also afforded by the Disciplinary Committee, which has been constituted to look into the matter and during hearing of the meeting, the respondents/writ petitioners along with their parents/guardians were present except one of them and taking into consideration the nature and gravity of the misconduct and also to maintain strict discipline among the students and also the reputation of the University, which is one of the leading Rural Universities, the order of expulsion came to be passed rightly and it ought not to have been interfered with lightly and hence, prays for dismissal of the Writ Appeals.

11. Per contra, the learned counsel appearing for the respondents/writ petitioners has invited the attention of this Court, to the counter-affidavit filed by the respondents/writ petitioners and would submit that the parents of the writ petitioners are daily wage earners and the respondents/writ petitioners all are the first entries from their family for the purpose of completing their graduation and consumption of alcohol inside the education premises was the first incident and immediately, on realising their mistake and responsibility, they had given statements and on instructions would assure that such a kind of incident or any other incident would not take place in future.

12. It is the further submission of the learned counsel appearing for the respondents/writ petitioners that already eight months elapsed from the date of passing of the order of expulsion and it is also causing untoward hardship and mental agony not only to the respondents/writ petitioners, but also to their parents, who are struggling to make both the ends meet and despite such a



hardship, they went upon to educate them and prays for leniency and confirmation of the order passed by the learned single Judge.

13. The learned counsel appearing for the respondents/writ petitioners in support of his submissions has placed reliance upon the judgment rendered by a Division Bench of the Karnataka High Court in *T.T.Chakravarthi Yuvaraj and others v. Principal, Dr.B.R.Ambedkar Medical College* reported in AIR 1997 KARNATAKA 261.

14. This Court paid its anxious consideration and best attention to the rival submissions and also perused the materials placed before it as well as the decision relied on by the learned counsel appearing for the respondents/writ petitioners.

15. The Karnataka High Court, had dealt with the aspect of disciplinary action, pertains to students and it is relevant to extract Paragraph Nos.8 and 15 of the said decision:

"8. In the absence of any clear conclusion as to abuse of such powers of discipline, the Courts will not interfere with the rules adopted. Within reasonable limits, the power of the Head of the Institution is plenary and complete and unless such rules and regulations are found to be unauthorised or is palpably unreasonable, the Courts will not annul or revise them nor will the Courts afford relief in the course of enforcement of such rules, unless those whose duty is to enforce them arbitrarily and for extraneous considerations. The wisdom of the policy manifested by the rules and regulations is a matter within the discretion of the college authorities and beyond interference by the Courts and with which except in extraordinary cases, the Courts will not interfere. As regards the right of hearing, the law is settled and stated to be that a college cannot dismiss the student except on a hearing in accordance with a lawful form of procedure, giving him the notice of the charge and an opportunity to hear the testimony against him, to question witnesses, and to rebut the evidence. While the students are at liberty to terminate their relationship with the Institution at any time, it does not follow that the college has similar right. The power to expel a student is an attribute of the governance of the educational institution. A college cannot arbitrarily dismiss a student. A contract comes into existence by reason of the admission of students and by payment of requisite fee between the student and the college, however, containing two implied conditions : (1) that no student shall be arbitrarily expelled



therefrom; and (2) that the student will submit himself to reasonable rules and regulations for the breach of which, in a proper case, he may be expelled, and that he will not be guilty of such misconduct as will be subversive of the discipline of the University or College. Where the authorities of a College or University act with discretion in expelling a student for violation of a reasonable rule or regulation, their action will not be interfered with or set aside by the Courts. Only where it is clear that such an action with respect to a student has not been an honest exercise of discretion, or has arisen from some motive extraneous to the purposes committed to that discretion, the Courts may be called upon for relief. The power to expel or suspend a student for violation of the lawful regulations and even in the absence of any powers vested by a statute, there is an inherent or implied power in the educational institution to promulgate the college discipline. Express statutory authority to suspend or expel a student does not alter the relative rights and duties of the college authorities and pupils. Such statutes merely give the authorities the power already inherent in them and leave it subject to the limitations. Although the discretion vested in the college authorities in this respect is very broad, they will not be permitted to act arbitrarily. It is the duty of every Principal or Teacher in-charge of a college or school to maintain discipline and good order therein and to require all pupils a proper performance of their duties. To enable such teacher or principal to discharge his duties effectively, he must necessarily have the power to enforce the discipline. Thus it follows that he must have the power to suspend or expel a pupil for any breach of discipline or for any misconduct injurious to the good administration of the school or morals of other pupils whether explicitly covered by rules or not.

15. It is no doubt true that when the charges are serious enough, the students must be given a fair opportunity. But that would again depend upon the circumstances in each case. We have already stated that the position of a Principal is that of a parent and therefore it is certainly inherent within the scope of the authority of the parent to punish a ward and not necessarily after observing a detailed enquiry as adverted to earlier. Therefore,



we agree with the findings recorded by the learned single Judge that the manner of conducting the enquiry or the conclusion reached by the Principal that the students concerned have been guilty of the charge of misconduct, are correct. We agree with the learned single Judge that there has been a fair enquiry in which the students also had an opportunity to participate by making their appropriate statements."

16. It is also to be noted at this juncture that the facts of the above said case would disclose that the appellants therein on 13.11.1995 at about 11.30 p.m., had consumed alcohol and came to the statute of Dr.B.R.Ambedkar installed in the College premises and desecrated it and several acts of misconduct were allegedly committed by some of the students and after concluding the disciplinary proceedings, they were expelled from the College. Several contentions were put forth on their behalf including the non-adherence of principles of natural justice.

17. The Division Bench of Karnataka High Court, having culled out the legal position, has also gone into the issue of quantum of punishment and observed as follows in Paragraph Nos.17 and 18:

"17. In inflicting appropriate punishment, certain aspects have to be borne in mind. When the relationship of the Head of the Institution and the student is that of a parent and child, the punishment imposed should not result in any retribution or give vent to a feeling of wrath. The main purpose of punishment is to correct the fault of the student concerned by making him more alert in future and to hold out a warning to other students to be careful, so that they may not expose themselves to similar punishment and the approach is that of a parent towards an erring or misguided child. In order to not to attract the criticism that the action is a result of arbitrariness, it has to be ensured that the penalty imposed is commensurate with the magnitude of the fault. Certainly one cannot rationally or justly impose the same penalty for giving a slap to the one imposed for homicide. Unless the disciplinary authority reaches the conclusion that having regard to the nature of the misconduct it would be totally unsafe to retain them in the college, the maximum penalty of expulsion from the college should not be imposed. If a lesser penalty can be imposed without jeopardising the interest of the college, the disciplinary authority cannot impose a maximum penalty of expulsion from the college. The concerned Head of the Institution must necessarily have an introspection and a rational faculty as to why lesser penalty cannot be



imposed. In doing so, it should also be borne in mind that when the maximum penalty is imposed total ruination stares one in the eye rendering such student a vagabond as being unwanted both by the parents and the educational institution. Frustration that would result would seriously jeopardise young life. Every harsh order results in bitterness and arouses a feeling of antagonism and many a time turn a student into an anti-social element and in that way it results in more harm than good to the Society.

18. Young and inexperienced these students are, came to the college campus on the night of 13-11-1995 perhaps with a view to have a drink, eat and make merry. We can visualise a situation when these students being in a group did exactly what they would not have done individually for they were egged upon to do so and for the fear that they should not be branded as cowards perhaps to project themselves as heroes however misguided they may be. Being influenced by alcohol and false sense of security of being in a group, they must have been led to the unfortunate events. As a result of heady youthfulness and under the evil influence of Bacchus the students might have lost their mental poise so as not to treat the bust of Dr. Ambedkar with reverence it deserved. Though the acts of the appellants are not condonable or excusable. We should not be oblivious to the realities of matter so as to impose the highest punishment by expulsion of appellants from the college. A student in the hands of Principal is a child in the hands of a parent and a parent would never want the career of a child to be completely destroyed by expulsion which necessarily renders him unfit for any other career either, for no college would be willing to grant them admission to enable them to complete their studies thereby leading to such frustration and disappointment or despondency which may lead even either to suicide or turn them into anti-social elements. Therefore, we are of the view that to permanently put an end to their career would not be an appropriate punishment considering the fact that they had not indulged in any violence or acted in any premeditated manner violating the college discipline as such but their spontaneous acts had resulted in showing disrespect to Baba Ambedkar. However, we think even Baba Ambedkar would not have ignored the famous statement made by portia in "Merchant of Venice" by Shakespeare that 'Justice should be tempered with mercy,' particularly when the students are in the position of those about whom -- Jesus Christ said -- "They know not what they do. Forgive them." On this understanding of the



matter, we are of the view that expulsion from the college would be a disproportionate punishment not commensurate with the charges against them. On the other hand, if they are debarred from the college for few years and allowed to rejoin the college thereafter, with passage of time heal all the hurt sentiments. With the passage of time the atmosphere in the college would also change and the other students too may accept them with their hurt sentiments assuaged. In the instant case the punishment imposed is thus strikingly disproportionate as to call for and justify interference in our hands. We cannot allow such punishment to remain, uncorrected in exercise of our powers under Art. 226 of the Constitution of India."

18. The Division Bench of Karnataka High Court in Paragraph No.18 observed that 'therefore, we are of the view that to permanently put an end to their career would not be an appropriate punishment considering the fact that they had not indulged in any violence or acted in any premeditated manner violating the college discipline and as such but their spontaneous acts had resulted in showing disrespect to Baba Ambedkar' and found that expulsion from the college would be disproportionate and therefore, modified the same by reducing the punishment and imposed punishment of expulsion for a period of three years from the date of the order made by the Principal of the said Institution.

19. In the case on hand, the facts narrated above would disclose that the respondents/writ petitioners had consumed alcohol inside the Institution and they were caught red-handed and it is not the case of the appellant/University that under the influence of alcohol, the respondents/students created any nuisance or law and order problem. It is also the specific stand of the learned counsel appearing for the respondents/students that most of them are the sons of daily wage earners and they are the first entries from their family undergoing a Course in a College and in the light of the observations made by the Division Bench of Karnataka High Court in Paragraph No.18 of the above cited decision, this Court is of the view that their education career should not be nipped in the bud.

20. It is also to be noted that the order of expulsion would be a permanent block to their education career and considering their economical and social background, it would be so cruel to impose such a major punishment.

21. The respondents/writ petitioners immediately after the incident had also given letters of regret and the learned counsel appearing for them on instructions would submit that in the event of readmission, the respondents/students would never indulge in such kind of activities and they may be permitted to pursue their academic career.



22. In the light of the above facts and circumstances and also the decision rendered by a Division Bench of the Karnataka High Court reported in AIR 1997 KARNATAKA 261, this Court is of the considered view that the following order would meet the ends of justice.

23. In the result, these Writ Appeals are partly allowed and the impugned order dated 17.05.2017 passed by the appellant/University, is modified and the respondents/writ petitioners are imposed with a punishment of expulsion, for a period of one year from the date of the impugned order dated 17.05.2017 passed by the appellant/University. No Costs. Consequently, connected Miscellaneous Petitions are closed.

24. This Court hope and trust that the respondents/writ petitioners alive to the situation that their parents, though they are daily wage earners, are showing much interest and despite undergoing great difficulty and suffering, taking out all efforts to educate them and realising the same, would study hard and well and perform their duty as good citizens.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

- 1.Hussain Mohammed Badhusa, S/o.Abdul Latheef
No.139, Velliah Ravathanoor
V.Puthukottai, Vendasandhur, Dindigul -624 710
 - 2.Prabhakran, S/o.Murugan,
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- +One cc to Mr.R.Karunanidhi, Advocate, SR.No.47512
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pm
RL/8CP/11P/SV/MMS/SAR2/22/2/2018

JUDGMENT MADE IN

W.A(MD)Nos. 1339 to 1343 of 2017