



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.02.2018

DELIVERED ON: 23.02.2018

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CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A. (MD) No.1460 of 2017

and

C.M.P (MD) No.11270 of 2017

M.Palanisamy

: Appellant/Petitioner

Vs.

1. The State of Tamil Nadu,
The Director of Legal Studies,
Directorate of legal studies,
Purosaivakkam High Road,
Chennai.

2. The Principal,
Government Law College,
Trichy.

: Respondents/Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in W.P(MD)No.4741 of 2015, dated 10.07.2015.

Prayer in WP(MD). 4741/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandmus, calling for the records connected with the order in Se.Mu.Aa No. 714/A3/2014 dated 06.03.2015, on the file of the Second Respondent and quash the same as illegal , consequently directing the respondents to re admit the petitioner in III Year B.A B.L. Degree Course in 2014-2015 academic year in the second respondent college and allow the petitioner to continue his studies.

For Appellants : Mr.T.Lajapathi Roy

For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader

**JUDGMENT**

(Judgment of the Court was delivered by **R. HEMALATHA, J.**)

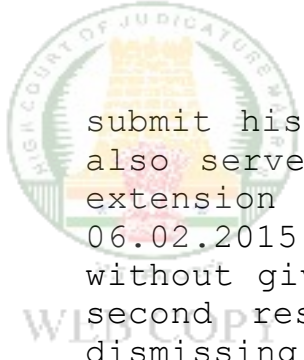
This is a writ appeal filed under Section 15 of the Letters Patent Act, to set aside the judgment of the learned Single Judge passed in W.P.(MD)No.4741 of 2015 dated 10.07.2015.

2.The appellant is the petitioner in W.P(MD)No.4741 of 2015 on the file of this Court. He had filed the above writ petition to quash the order of the second respondent, namely, the Principal, the Government Law College, Trichy dated 06.03.2015, in and by which the appellant was dismissed from the law college, Trichy. He had also sought for a direction to the respondents to re-admit him in the third year B.A.,B.L., degree course for the academic year 2014-2015 in the second respondent college.

3.The petitioner in his writ petition, among other things, has contended that he is doing third year in the five year B.A.,B.L., degree course in Trichy Law College and that he would participate whenever there is a protest for the welfare of the students. Since one Mrs.Krishnaleela, the Assistant Professor/Deputy Warden of ladies hostel of the college exceeded her limit under the guise of checking girl students to find out whether they have mobile phones in their hostel rooms, the entire college went on strike and the appellant also extended his fullest cooperation for the aforesaid protest. Enraged over this, the Assistant Professor / Deputy warden lodged a complaint with the Commissioner of Police, Trichy and the Inspector of Police Cyber Crime, Trichy, through the Principal, Law College, Trichy and the First Information Report was registered in Crime No.65/2014 of Cantonment All Women Police Station on 10.11.2014.

4.The main allegation in the FIR is that the Deputy Warden received some obscene messages and calls to her mobile phone on 14.09.2014 from the mobile phone No.9543642926 and on 17.12.2017, the petitioner and another student by name Saravana Bava were arrested at the college gate as it was found that the alleged obscene messages were sent by using the SIM Card of the appellant and both of them were remanded to judicial custody by the learned Judicial Magistrate No.II, Trichy. Subsequently, they were enlarged on bail. In the mean while, one Siva Guru the appellant's room-mate confessed before the college authorities with regard to the sending of obscene messages.

5.According to the appellant, the said confession of the said Siva Guru would clearly go to show that he is the person who sent the messages to Mrs.Krishnaleela, the Deputy Warden and that ~~in the said fact~~, the appellant, to his shock and surprise was given a show cause notice dated 02.02.2015 calling upon him to



submit his explanation within 48 hours. Show cause notices were also served on the students Saravana Bava and Thirumani. After extension of time, the petitioner submitted his reply on 06.02.2015. However, without conducting any personal enquiry and without giving any opportunity to put forth their contentions, the second respondent had straightaway passed the impugned order, dismissing the appellant and three other students from the college.

6.The further contention of the appellant is that the act of the second respondent is in violation of principles of natural justice and that since the imposition of capital punishment of expelling him from the college is arbitrary, it is liable to be set aside. It is also contended by him that when the investigation of the criminal case is not completed, the second respondent cannot pass the impugned order.

7.The second respondent in his counter has contended that Mrs.Krishnaleela is working as an Assistant Professor of law and also Deputy warden of the ladies hostel of the Government Law College, Trichy since 2009. It is further averred by him that the said Assistant Professor got information that two girl students namely, Ms.Vaishnavi and Ms.Radhika of third year B.A.,B.L., were using mobile phones. On 11.09.2014, the parents of the students were asked to meet the Principal and accordingly, the parents of the girl students met the Principal on 12.09.2014 and it came to light that Ms.Vaishnavi was not given any mobile phone by her parents and it was given by a student namely, Siva Guru of third year B.A.,B.L., without the knowledge of her parents. It is also contended that on coming to know that several students were using mobile phones clandestinely, a meeting was held in the hostel on 13.12.2014, to verify the fact as to who are all the persons using the mobile phones. In fact, the college authorities wanted to enlighten the students about the ill effects of the practice of using mobile phones, due to which an agitation was called for by the students on 15.10.2014. The students actually wanted permission to use mobile phones in the hostel. However, the said issue was settled amicably.

8.In the mean while, Mrs.Krishnaleela, the Deputy Warden lodged a complaint through the Principal with the Commissioner of Police, Trichy and the Inspector of Police, Cyber Crime contending that she received obscene messages from the mobile phone No.+919543642926. She had also mentioned in her complaint that she was threatened continuously through several SMS. All those messages were vulgar and obscene. The Deputy Warden also filed another complaint on 16.09.2014 in continuation of her earlier complaint alleging that a fake account was opened with her mobile phone. Before, the Inspector of Police, Cyber Cell investigated the matter and forwarded the complaint to All Women Police Station, Cantonment. Thereafter, a separate departmental

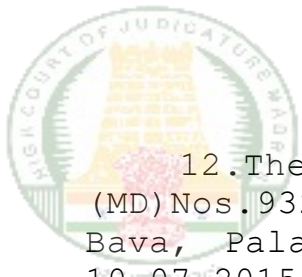


enquiry committee was constituted by the second respondent to enquire into the complaint.

9. In the meanwhile, after preliminary investigation, the police registered an FIR in Crime No.65 of 2014 for the offences punishable under Section 354 (d) IPC r/w. Section 4 of the Women Harassment Act, 1998 and Section 67 of the Information Technology Act, 2008. On 17.12.2014, the appellant and another student by name Saravana Bava were arrested and subsequently enlarged on bail. The second respondent sent a show cause notice to Palanisamy and Saravana Bava and both of them appeared in person and also submitted their written explanation on 05.01.2015. After enquiry, an interim report was submitted on the basis of which Siva Guru, the student / room-mate of the present appellant was suspended from the college. The final enquiry report revealed that Palanisamy, the present appellant, Saravana Bava, Siva Guru and Thirumani who are staying together had been indulging in the activities mentioned in the complaint of the Deputy Warden.

10. It is also contended in the counter that during the enquiry, Siva Guru confessed of having committed the offences and also admitted that he was in possession of the mobile phone from which obscene messages were sent to the Deputy Warden. He had also confessed that he destroyed all those messages on the instructions of Palanisamy, the present appellant and Saravana Bava, while they were in judicial custody. Therefore, the second respondent came to the conclusion that there is a clinching evidence against them as per the findings of the enquiry committee and accepted the report of the enquiry committee.

11. According to the second respondent, the misconduct of the petitioner is very serious in nature, unbecoming of a student and also a disgrace to the society. Taking into account the safety and security of the female students and faculty members, the second respondent took a decision to expel the students including the present appellant from the institution. According to him, a show cause notice dated 02.02.2015 was served on the petitioner and copies of documents pertaining to the disciplinary proceedings were also issued to him as per his request. He would also contend that they were given sufficient opportunity to submit their reply to the show cause notice and that the appellant submitted his explanation on 06.02.2015. The specific contention of the second respondent is that the petitioner was given ample opportunity and that there is no violation of principles of natural justice. According to the second respondent, final orders of expulsion of the appellant was passed, not merely for having friendship with Siva Guru, but for the proved misconduct on his part. The enquiry committee had also found that the present appellant along with his friends Thirumani, Siva Guru and Saravana Bava conspired together to do these illegal activities which cannot be relished at any point of time.



12.The learned Single Judge took up the writ petitions in W.P. (MD)Nos.9323 and 4740 to 4742 of 2015 filed by Siva Guru, Saravan Bava, Palanisamy and Thirumani and passed a common order dated 10.07.2015.

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13.The learned Single Judge dismissed the writ petitions filed by all the four students namely Siva Guru, Thirumani, Saravana Bava, Palanisamy on the following grounds:

i)In this Country, a teacher is considered as equal to God and since a Guru removes the darkness and ignorance from the minds of the students they are placed in high pedestal.

ii)The legal profession is already under severe criticism due to the illegal activities of the lawyers in the state and if the persons like the petitioners are allowed to become lawyers, a situation may arise where women members of the Bar cannot attend the Court and the entire system would be ruined.

iii)The act of the petitioners in the present case should be dealt with an iron hand, otherwise there cannot be any self discipline and apart from the fact that such an indisciplined student is not only an undesirable element who spoils his own future but also his conduct and character will have deleterious effect on others as well.

iv)As it is found on facts that there was an enquiry satisfying the requirements of the principles of natural justice, this Court cannot interfere with the findings of the enquiry committee under Article 226 of the constitution of India.

v)As per the dictum laid down in

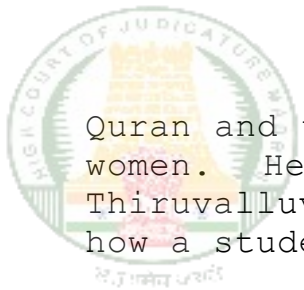
a) **Leo Francis Xavious Vs. The Principal, Karunya Institute of Technology, Coimbatore and another** reported in **AIR 1993 Madras 233.**

b)**Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S.Gandhi and others** reported in **(1991) 2 SCC 716**, the power of judicial review in case of students indiscipline is very limited and in such cases the Court cannot sit in appeal over the decisions of the college / school authorities and Article 226 of the Constitution of India cannot also be invoked when there was no violation of principles of natural justice.

vi)The petitioner by such a shameful act has brought disrespect to his parents, teachers, professional course and themselves also.

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

14.The learned Single Judge has also cited verses from the



Quran and the Bible regarding the respect which should be given to women. He has also quoted Mahatma Gandhi, Dr.S.Radhakrishnan and Thiruvalluvar to emphasis how a teacher should conduct himself and how a student should conduct himself.

15.At the outset, it may be observed that the present appeal is filed by Palanisamy, who is the petitioner in W.P.(MD)No.4741 of 2015. The others have not filed any appeal against the orders passed by the learned Single Judge.

16.Mr.T.Lajapathi Roy, the learned counsel appearing on behalf of the appellant urged this Court to take a lenient view since the appellant is a student. At this juncture, it is relevant to point out that the present issue is relating to misconduct on the part of a student.

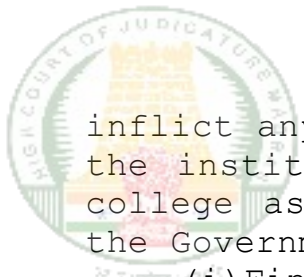
17.The learned Counsel appearing for the appellant would also contend that the Principal of the Tiruchirappalli Law College has got no powers to take action against a student for an alleged misconduct as per the Tamil Nadu Dr.Ambedkar Law University Statutes. Chapter IV deals with the authorities of the University and Rule 5(r) of Chapter IV reads as follows:

"5(r).subject to the provisions in the Laws to take cognizance of any misconduct by any student in a college, or in a hostel or approved lodging, or by any student, who seeks admission to a University course of study brought to the notice of the Syndicate by the Director of Legal Studies or by the responsible authorities of the College, or hostel concerned, or by a member of the Academic Senate or Syndicate, or by the Registrar of the University, or by a Chairman of a Board of Examiners, or a Chief Superintendent at any Centre of examinations, and to punish such misconduct by exclusion from any University Examination, or from any University Course in a college or in the University, or from any convocation for the purpose of conferring Degrees, either permanently or for a specified period or by the cancellation of the University Examination for which he/she appeared, or by the deprivation of any University scholarship held by him/her or by cancellation of any University Prize or Medal awarded to him/her."

18.The specific contention of the learned Counsel for the appellant is that the Principal of the Tiruchirappalli Law College has committed a gross error in dismissing the present appellant without any authority.

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

19.Per contra, the learned Special Government Pleader appearing for the respondents would contend that the Principal can



inflict any or all of the following punishments in the interest of the institution for the purpose of maintaining discipline in the college as per the handbook issued during the year 2015-2016 by the Government Law College, Tiruchirappalli.

(i) Fine

(ii) Reduction in the number of days in attendance

(iii) Suspension

(iv) Transfer

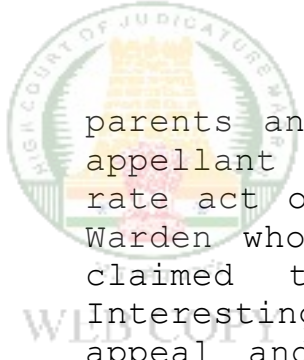
(v) Expulsion and

(vi) Any other punishment which may be deemed fit in the interest of the institution.

20. A perusal of the records and the submissions made by Mr. A.K. Baskara Pandian, learned Special Government Pleader appearing for the second respondent would make it clear that there is no violation of principles of natural justice as far as conducting of the enquiry. The appellant was given sufficient opportunity to submit his written explanation and was also given personal hearing. The enquiry committee has found that the appellant and the other students namely Siva Guru, Saravana Bava and Thirumani conspired together and had sent obscene messages to Mrs. Krishnaleela/the Deputy Warden, Trichy law college. During the enquiry, one of the four students, namely, Siva Guru had confessed with regard to sending of obscene messages to Mrs. Krishnaleela. He had also submitted his confessional statement before the enquiry committee. He has further averred in his confessional statement that he had destroyed all the messages as per the instructions of Palanisamy and Saravana Bava, who were arrested by the police and detained in prison. The appellant instead of regretting the incident for having been instrumental for sending such obscene messages has gone to the extent of contending that no enquiry was conducted by the college authorities.

21. The education system at all levels plays an important role in moulding a student. A few disruptive elements as in the instant case inflict injury on the system itself causing irreparable damage to themselves and other members. The student-teacher relationship is unique in more than one way as the trust and confidence reposed by the student on the teacher is rewarded in the form of rich knowledge from the teacher. The respective duties and responsibilities and line of control are clearly drawn on both sides and both are equally expected not to cross the Laxman Rekha. There were days when even a slightest protest by the students used to get snuffed out by the college management. In today's scenario more freedom is seen in colleges. But, such acts of extreme perversion cannot be tolerated.

<https://hcservices.courts.gov.in/hcservices/> In the instant case, the students were protesting against certain rules imposed by the college authorities. The hostel authorities do have more responsibility as they do the role of



parents and try to make the hostel a home away from home. The appellant along with three of his friends resorted to such third rate act of sending obscene and lewd text messages to the Deputy Warden who is a female in the instant case. The appellant has claimed that his SIM card was misused by his friends. Interestingly, the other three petitioners have not preferred appeal and one of them had confessed of having committed the offensive act. In our country where respect of women is professed by all religions, the scant respect shown by the appellant towards his Deputy Warden speaks volumes of his pervert mind. The appellant being just in the third year of the five year integrated law course frightens us as to imagine what damage he could cause to the society when he grows up. The contents of his message is nothing short of sexual harassment. He not only disrespected his teacher but also a respectable women by making such lewd remarks.

23.The second respondent in the facts and circumstances of the present case had adequately punished the appellant by expelling him from the college. Therefore, this Court strongly opines that the punishment of dismissal from the college is not shockingly disproportionate. There can be no difference seen between a parent and a teacher and in fact, the teacher is the guardian of every student in the college and such intolerable misbehaviour towards a teacher is equal to such a misbehaviour towards his parents. We value modesty of a female teacher more than the future of a student with such rotten thoughts.

24.The findings given by the second respondent Principal is based on facts and as rightly pointed out by the learned Single Judge, this Court cannot sit in appeal over the orders passed by the second respondent. It is settled that in a disciplinary proceeding against a student on the ground of misconduct, the principles of natural justice must be observed. There would be a sufficient compliance of the requirements of natural justice if;

i)the delinquent student is informed of the charge or the case he has to meet.

ii)He is given an adequate opportunity of meeting such charges and the materials used against him and of studying his own case.

25.The contention of Mr.T.Lajapathi Roy, learned counsel appearing for the appellant that the Principal had passed an order of expulsion without any authority as per Rule 5(r) under Chapter IV of the Tamil Nadu Dr.Ambedkar Law University Statute cannot be accepted since this plea has not been taken by the appellant either at the stage of enquiry or in the writ petition filed by him. Any objection as to the jurisdiction, should have been raised at an earlier stage of the proceedings. However, the Tamil Nadu Dr.Ambedkar Law University Statute does not take away the rights of the Principal in inflicting punishment on a student, in the interest of the institution for the purpose of maintaining

discipline in the college.

26. In the instant case, it is clear that there is no violation of principles of natural justice and as already observed, the appellant was given opportunity to put forth his contentions and one of the students had also confessed of having committed the offence. The High Court can interfere with the punishment inflicted upon the appellant, only if the penalty shocks the conscience of the Court. Furthermore, the punishment inflicted on the appellant cannot be said to be disproportionate to the offence committed by him and this Court under Article 226 cannot sit as a Court of appeal in the matter of quantum of punishment. Therefore, the order of the learned Single Judge does not warrant any interference by this Court.

27. In the result, the writ appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Legal Studies,
Directorate of legal studies,
Purosaivakkam High Road,
Chennai.

2. The Principal,
Government Law College,
Trichy.

+ 1 cc TO Mr. T. Lajapathi Roy , Advocate in SR No. 51202
+ 1 cc TO The Special Government Pleader in SR No. 51272

MR

AE/KK/SAR3/12.03.2018/9P/5C

JUDGMENT MADE IN
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and
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