



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.01.2018
PRONOUNCED ON:12.01.2018

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CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.19319 of 2017
and
W.M.P (MD) Nos.15634 and 15635 of 2017

Wosongam Ningshen

... Petitioner

Vs.

1.The Registrar,

The Gandhigram Rural Institute - Deemed University,
Gandhigram 624 302,
Dindigul District.

2.The Director,

MBA Programme,
The Gandhigram Rural Institute - Deemed University,
Gandhigram 624 302,
Dindigul District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the impugned order of the 1st respondent in AC4/Disci.Comm/2017-2018 dated 5.10.2017 issued to the petitioner and quash the same as illegal.

For Petitioner :Mr.R.R.Kannan
For Respondents :Mrs.S.Srimathy

ORDER

This writ petition has been filed challenging the order passed by the first respondent expelling the petitioner from the University.

2.Heard Mr.R.R.Kannan, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned counsel appearing for the respondents.

3.According to the petitioner, he is a permanent resident of Manipur State and he belongs to a Scheduled Tribe community. Earlier, he has joined B.B.A Course in the respondent Deemed University and completed the course in the year 2017. Thereafter, he joined MBA course in the respondent university in the first week of July 2017. He is academically brilliant and he has scored



high marks in the examination and for the past three years, there is no complaint against the petitioner and he is regularly attending the classes and having 80% attendance and staying in the hostel. On 14.09.2017, he was suffering from severe cough and fever and hence, he has taken tablets and cough syrup. At 10.00 p.m and R.Somathing, another student studying as days scholar in the same university visited to his room and he went along with him to send off him. At the entrance, the security personnel conducted breath analyzer test, and initially, the breath analyzer shown '0' in the meter and in the second attempt, it has shown as '0.04' in the metre and hence, the security personnel come to the conclusion that the petitioner has consumed alcohol. Thereafter, he was suspended from the hostel and a disciplinary committee was constituted and an enquiry was conducted by the disciplinary committee on 29.09.2017, where the enquiry committee advised him to admit his guilt, therefore, he has given a statement admitting that he has consumed liquor. Based on the enquiry report of the disciplinary committee, the first respondent has passed the impugned order expelling the petitioner from the university and also imposed a fine on his friend who accompanied him.

4.Challenging the said order, the present writ petition has been filed complaining that the enquiry was not conducted properly and a second show cause notice was not issued to him before imposing punishment and the punishment is also disproportionate to the gravity of the offence. The alleged admission of guilt is voluntary and based on that admission, the respondent ought not to have expelled the petitioner from the institute.

5.The respondents filed a counter affidavit contending that the petitioner on 14.09.2017 entered into the boys hostel at midnight under the influence of alcohol along with another days-scholar student and while they were leaving the hostel at midnight, the security personnel subjecting the petitioner to breath analyzer test which confirmed the presence of alcohol. Thereafter, he was suspended from the hostel for violating the hostel rules. The hostel warden requested the respondent to conduct an enquiry against the petitioner. Based on the above request, on 18.09.2017, the Dean of the Student Welfare, by proceedings dated 18.09.2017 constituted a disciplinary committee and a show cause notice was also issued to the petitioner and his friend R.Somathing to appear for the disciplinary committee on 20.09.2017. During the enquiry, the petitioner has given a written undertaking admitting the fact that he has consumed alcohol at about 5.00 p.m and went to the hostel to sleep. Based on his admission given by him, the disciplinary committee unanimously decided to expel the petitioner from the university. The first respondent has also stoutly denied the allegation of the petitioner that it is the disciplinary committee has advised him to write and submit explanation admitting his guilt and also

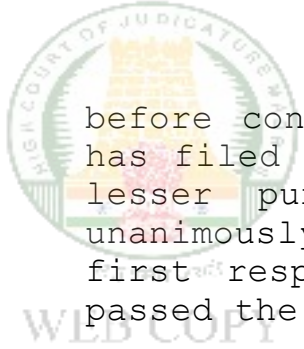


stated that the disciplinary committee never advised him to give any letter admitting his guilt.

6. It is further stated in the counter affidavit that the university has already come across similar situations like that of the petitioner. On 04.05.2017, a student by name, Sivasathriyan who was studying B.Sc. (Agri) died due to drug overdose. Subsequently, five other students were also apprehended for consuming alcohol and they were also dismissed from the university based on the enquiry conducted by the disciplinary committee. On 11.09.2017, 70 more students were apprehended by the hostel warden for consuming alcohol and they were also expelled from the hostel. In the above circumstances, in order to maintain discipline in the university, the university has taken stringent action against those who have misbehaved inside the campus by consuming liquor and drugs by expelling from the university. It is further stated that since the conduct of the petitioner will affect the other students and also affect reputation of the university, the first respondent has imposed capital punishment of expelling the petitioner from the university which is not disproportionate to the gravity of the offence.

7. Learned counsel appearing for the petitioner would contend that the disciplinary committee has taken a decision to expel the petitioner only based on the alleged letter given by the petitioner and the petitioner did not give the letter voluntarily but he has given letter only on the advise of the disciplinary committee. He would further contend that the petitioner never consumed alcohol but he has consumed only cough syrup which also contains alcohol and the authorities have come to the wrong conclusion that the petitioner has consumed alcohol, based on the reading of the breath analyzer, and no blood test was conducted to confirm that the petitioner has consumed alcohol. At any rate, the reading shown in the breath analyzer, cannot be taken into consideration to come to the conclusion that the petitioner has consumed alcohol. He would further submit that the enquiry was not conducted properly and the first respondent, without following the mandatory requirements, after receipt of the recommendation of the disciplinary committee without issuing a second show cause notice, has straight away passed the impugned order thereby expelling the petitioner from the university. Learned counsel appearing for the petitioner would further submit that the punishment imposed on the petitioner is totally disproportionate to the gravity of the offence.

8. Per contra, learned counsel appearing for the respondents submitted the respondent university has followed due process of law before passing the impugned order. Based on the request made by the hostel warden, a disciplinary committee was constituted as per the university regulations and the disciplinary committee has also issued a show cause notice to the petitioner



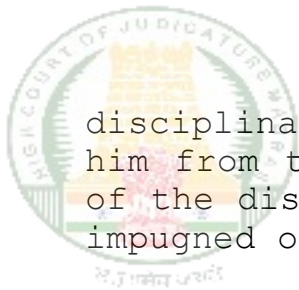
before conducting enquiry and during the enquiry, the petitioner has filed a written submission admitting his guilt and sought for lesser punishment. Therefore, the disciplinary committee has unanimously resolved to expel him and sent recommendation to the first respondent. Based on the same, the first respondent has passed the impugned order.

9. Learned counsel appearing for the respondent would further contend that the contention of the petitioner that he has given letter based on the advice given by the disciplinary committee is only an after thought. If at all the petitioner had compelled to give a letter, he would have retracted the same immediately. She would further submit that in order to maintain discipline in the university, the university has taken stringent action against those who have misbehaved inside the campus by consuming liquor and drugs by expelling from the university. Learned counsel appearing for the respondents would further submit that it is not the first occasion, the university has already come across situations like that of the petitioner. Since the conduct of the petitioner will affect the other students and also affect reputation of the university, in many occasions, students who were caught consumed alcohol expelled from the university.

10. I have considered the rival submissions made on either side and perused the entire records carefully.

11. It is a settled principle of law that in the matters of enforcement of discipline in the college/university, the Court must be very slow in interference and the principles of service law jurisprudence cannot be strictly applied to the disciplinary proceedings conducted by the college/university. Unless strict discipline is maintained in the educational institutions, the ultimate object of imparting quality education as well as character building of their students would be lost.

12. In the instant case, the allegation against the petitioner was that he was found in an intoxicated condition inside the university campus. While he was leaving hostel in the midnight, the security personnel subjected him to breath analyzer test. It was proved positive. Thereafter, he was suspended from the hostel and based on the request made by the hostel warden, a disciplinary committee was constituted and enquiry was conducted as per the regulations framed by the university relating to the disciplinary proceedings against the students. Then a show cause notice was issued to the petitioner and during the enquiry, it is stated that the petitioner has given a written undertaking admitting that he took alcohol at about 5.00 p.m and thereafter, he was about to leave the hostel to sleep at his friends residence where he caught. He was also tender unconditional apology and requested, the disciplinary committee permitted him to pursue his course. In view of the admission made by the petitioner, the



disciplinary committee has unanimously taken a decision to expel him from the university. Thereafter, based on the recommendation of the disciplinary committee, the first respondent has passed the impugned order.

13. It is the contention of the petitioner that the alleged apology letter admitting his guilt was given only based on the advice given by the disciplinary committee. The above contention cannot be accepted for the simple reason that if at all the petitioner, has been advised or compelled to give an apology letter admitting his guilt, the petitioner ought to have retracted the same immediately. The petitioner did not do so but now belatedly come out with a new story stating that he was advised to give apology letter by the disciplinary committee admitting his guilt which was denied by the respondent in the counter affidavit. The petitioner is a graduate and he is not an illiterate person and he is doing his post graduation degree. If the petitioner really did not consume liquor, there is no occasion for him to give any such letter admitting his guilt. In the above circumstances, the contention of the petitioner at this belated stage cannot be accepted. Since the petitioner himself admitted that he has consumed liquor, there is no occasion for the disciplinary committee to conduct a detailed enquiry and based on his admission, the disciplinary committee has unanimously decided to expel the petitioner from the university. In the above circumstances, the first respondent has accepted the recommendation of the disciplinary committee and passed the impugned order.

14. The next contention of the learned counsel for the petitioner that before imposing punishment, the first respondent failed to issue a second show cause notice is concerned, it is a case where the petitioner admitting his guilt and tender apology and therefore, there is no useful purpose would be served by issuing second show cause notice to the petitioner. In the above circumstances, I find there is no illegality or irregularity in the order passed by the first respondent found the petitioner guilty of consuming alcohol inside the university campus.

15. So far as the quantum of punishment is concerned, it is seen from the records that the petitioner is hailing from Manipur State who belongs to a Scheduled Tribe community and lost his father, he is studying the course on the hard earned money sent by his mother and he is also not having any bad antecedents. Apart from that even though the petitioner was found in an inebriated condition, there is no allegation that he caused disturbance in the college. Now, the petitioner has also filed an undertaking affidavit before this Court stating that he will not indulge in any such misconduct in the campus in future. This Court is of the view that in the event of expelling the petitioner from the University, his entire future will be spoiled and a stigma



will be attached on him. Considering all those mitigating circumstances, I am of the considered view that the punishment imposed on the petitioner can be modified and he can be imposed with a fine of Rs.5000/ in order to meet the ends of justice.

16. In the result, the writ petition is partly allowed. The punishment imposed on the petitioner is modified and the petitioner is directed to pay a fine of Rs.5,000/- (Rupees five thousand only) before the respondent university. On such payment, the respondent university is directed to permit the petitioner to pursue his course. No costs. Consequently, W.M.P(MD)Nos.15634 and 15635 of 2017 are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

+1CC to Mr.RR.Kannan, Advocate, SR.No. 41969

+1CC to Mrs.S.Srimathy, Advocate, SR.No. 42129

Order made in
Writ Petition (MD) No.19319 of 2017
and
W.M.P(MD)Nos.15634 and 15635 of 2017
12.01.2018

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AM/RSK/SAR 3/17.01.2018/6P/3C