

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition Nos.4579 and 4584 of 2019 and
W.M.P.Nos.5168 & 5169 of 2019 in
W.P.No.4579 of 2019 and
W.M.P.Nos.5178 & 5179 of 2019 in
W.P.No.4584 of 2019

N.Vishnu Kumar ... Petitioner in W.P.No.4579 of 2019
M.Mohammed Salman Farzi ... Petitioner in W.P.No.4584 of 2019

Vs

1.The Tamil Nadu Dr.Ambedkar
Law University,
Rep. By its Director of Legal Studies,
Purasaiwalkam High Road,
Kilpauk,
Chennai - 600 010.

2.The Registrar,
Tamil Nadu Dr.Ambedkar Law University,
School of Excellency in Law,
Dr.D.G.S Dinakaran Salai,
R.A. Puram,
Chennai - 600 028.

3.The Director,
Tamil Nadu Dr.Ambedkar Law University,
School of Excellency in Law,
Perungudi Campus,
MGR Salai, Perungudi,
Chennai - 600 113.

... Respondents in both W.Ps

Prayer in W.P.No.4579 of 2019:- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorarified Mandamus calling for the records in respect of the impugned re do order dated 24.09.2018 of second respondent and quash the same and direct the respondents to readmit the petitioner in III year B.C.A L.L.B (Hons) degree course in 2018-2019 academic year in the third respondent college and allow the petitioner to continue his studies.

Prayer in W.P.No.4584 of 2019:- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorarified Mandamus calling for the records in respect of the impugned re do order dated 24.09.2018 of second respondent and quash the same and direct the respondents to readmit the petitioner in III year B.C.A L.L.B (Hons) degree course in 2018-2019 academic year in the third respondent college and allow the petitioner to continue his studies.

For Petitioner
in both W.Ps : Mr.Jerald C.Tennyson

For Respondents
in both W.Ps : Mr.V.Vasanthakumar

COMMON ORDER

N.Vishnu Kumar (petitioner in W.P.No.4579 of 2019) and M.Mohammed Salman Farzi (petitioner in W.P.No.4584 of 2019) are students of School of Excellency in Law under the aegis of The Tamilnadu Dr.Ambedkar Law University, Chennai. On 20/08/2018, two group of students quarrelled with each other and few among them, badly injured. Apart from police complaints and registration of FIR's in Cr.Nos.1315 and 1317/2018 making allegations and counter allegations by the respective groups, some of the students made complaint to the Director, U.G. Courses, School of Excellency in Law, to take action against the erred students.

2.In pursuance to the complaints, the University has constituted a committee. The said committee submitted its preliminary report dated 22/08/2018 and recommended the college authorities to suspend the above two petitioners, in the interest of the Institution and to safe guard the welfare of the students. The said enquiry committee, submitted its final report on 30/08/2018. The Enquiry report was placed before the Syndicate.

3.The Syndicate of the University, in its meeting dated 05/09/2018, resolved to recommend suspension of these two petitioners, for a period of one year and allow to re-do the third year in the next academic year, if the petitioners give an undertaking that they will not involve in such activities in future (the nature of the activities is discussed in the later part of this order).

4. Based on the Syndicate resolution, the petitioners who were already under interim suspension, were continue to be under suspension, for a period of one year by the first respondent with permission to re-do the course in the next academic year was also granted to them, if they give an undertaking that they will not involve in any such misconduct/such activities, in future. This order was issued by the second respondent on 24/09/2018.

5. Aggrieved by the order of suspension for one year and to re-do the course in the next academic year, these two petitioners have filed the above writ petitions alleging malafide and violation of due process of law.

6. In the affidavits filed in support of the writ petitions, the petitioners have alleged that their explanations were not considered by the respondents before passing the impugned orders. Pendency of criminal complaints cannot be a reason to expel them from College.

7. Though, the orders impugned were passed on 24/09/2018, the petitioners filed the writ petitions after 4 months. This Court taking note of the averments made in the affidavits, as a interim relief, permitted them to take up their 3rd and 4th semesters examination (2nd year of the 5 years course) on payment of fees and directed the respondents to file counter.

8. In the counter affidavit, the second respondent has extracted the relevant portions of the enquiry report and had stated that the enquiry report was placed before the University Syndicate in its 156th meeting held on 05/09/2018. The syndicate after thorough deliberation has accepted the enquiry report and passed the order of suspension for one year. This order was passed considering the gravity of the misconduct and to maintain discipline in the college.

9. This court on consideration of the rival submissions and perusal of the records found, at the outset, the averments of the petitioners that they were not given opportunity to defend is an absolute misrepresentation. Enquiry about the incident which took place on 25/08/2018 has been conducted by a seven members committee consisting of following members:-

"1) The Vice-Chancellor, The Tamil Nadu Dr.

Ambedkar Law University;

2) Thiru.S.Prabakaran, Senior Advocate and Co-Chairman, Bar Council of India;

3) Thiru.R.Singaravelan, Senior Advocate, Member Special Committee, Tamil Nadu Bar Council;

4) V.Shanmuga Sundar, Advocate;

5) Dr.C.Chockalingam, Principal, Chennai & Dr.Ambedkar Law College, Pattarai Perumpudur, Thiruvallur Taluk and District;

6) Dr.Tmt.REddivari Revathi, Director, P.G Studies, Tamil Nadu Dr.Ambedkar Law University and

7) The Registrar, The Tamil Nadu Dr.Ambedkar Law University."

10. Besides the Complainant (K.K.Prasanth), faculty and witnesses to the incident were examined, 14 students studying in the III year have also participated in the enquiry and given their version of the incident supporting the petitioners. However, the CCTV footages, photographs, recorded audio conversation indicts the involvement of these petitioners in the act of violence. The enquiry report reveals that, these two petitioners have attacked K.K.Prasanth and dislodged his shoulder joint. When ambulance came to the University premises, in response to the call by some good Samaritans, the associates of the petitioners have sent back the ambulance, informing nothing has happened and ambulance service is not required. Since, the injured person was prevented from getting the ambulance service, the friends of the victim had took him through back gate of the College to the railway station. Still worse act of the petitioners and their associates has happened at the Railway station. There, the friends of the victim were intercepted by the petitioners and their associates. They were attacked. One of them by name Dhanush of second year B.Com L.L.B., was taken to the paying guest room located outside the college premises and forced to drink urine.

11.The enquiry committee in its report dated 30/08/2018 has concluded as below:-

"There are ample and unimpeachable evidences proving the grave misconduct amounting to the barbaric physical attack of the above students on K.K.Prasanth, a student of II year which caused him the dislocation of his left shoulder.

Hence, the two students are required to be punished severely with the removal order as it alone can deter other students from doing the same misconduct against other students in future. But, the major punishment should not make them permanent wrong doers causing a big head ache to their parents and the society. Hence, we feel that an opportunity can be given to them to mend themselves in the interest of their parents and the society.

Hence, we are constrained to recommend for the suspension of the two students from the college for the period of one year with effect from the date of receipt of a copy of this order to safeguard the innocent students and deter other who are fond of involving in similar unruly activities."

12.From the enquiry report any one can visualise the trauma of the Junior students faced by at the hands of the senior students led by these two petitioners. The enquiry report has extracted the statements of students who were either victims or eye-witnesses. The parents, University staff and faculty were also examined and statements recorded. The enquiry committee has gone into the cause and effect and given its recommendation to improve the quality of discipline prevailing in the campus, apart from action to be taken against the petitioners. From reading of the report, no one can sustain the claim of the petitioners that they were victimised and punished without affording opportunity. The enquiry conducted by 7 responsible members, in their report, had vividly narrated the in- human behaviour of the petitioners. In fact, this Court after going through the report is of the opinion that comparing the gravity of their misconduct, the petitioners were imposed with a very moderate restriction to re-do the course after giving an undertaking that they will not indulge in such activities in

future.

13.This Court records with pain, the behaviour of these petitioners neither show any semblance of excellence nor bring grace to the great person in whose name the University stands. Any condonation of their misconduct, without punishment, will be detrimental to the College campus peace and also against the interest of the other students who are in pursuit of knowledge and accomplishment.

14.For the aforesaid reasons, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

jbm

To

1.The Director of Legal Studies,
The Tamil Nadu Dr.Ambedkar
Law University,
Purasaiwalkam High Road,
Kilpauk,
Chennai - 600 010.

2.The Registrar,
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Perungudi Campus,
MGR Salai,
Perungudi,
Chennai - 600 113.

+2cc to Mr.Jerald C.Tennyson, Advocate SR.No.57433, 57434

+1cc to Mr.V.Vasanthakumar, Advocate SR.No.57386

W.P.No.4579 & 4584 of 2019

CA (CO)
GMY (20/08/2019)



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