

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.10.2019

PRONOUNCED ON : 06.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE N.KIRUBAKARAN
and

THE HONOURABLE Mr.JUSTICE P.VELMURUGAN

W.A.Nos.2890 & 2900 of 2019

and

CMP.Nos.18601 & 18678 of 2019

N.Vishnukumar

... Appellant in WA.No.2890 of 2019

M.Mohammed Salman Farzi

... Appellant in WA.No.2900 of 2019

-Vs-

1.The Tamil Nadu Dr.Ambedkar Law University
Rep. by its Director of Legal Studies,
Purasawakkam 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, M.G.R.Salai,
Perungudi, Chennai-610 113.

... Respondents

Writ Appeals filed under Clause 15 of Letters Patent Act, against the order dated 05.07.2019 passed in WP.Nos.4579 & 4584 of 2019, Petitions presented under Article 226 of the Constitution of India, to issue 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 appellants 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.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 Appellants : Mr.Prof.M.Udayabanu
For Respondents : Mr.V.Vasanthakumar

COMMON JUDGMENT

P.VELMURUGAN, J

The appellants are the students of School of Excellency in Law under the aegis of The Tamil Nadu Dr.Ambedkar Law University, Chennai. On 20.08.2018, there was a group clash between III year BCA LLB (Hons) students and II year students and few among them were badly injured. Apart from police complaints and registration of FIRs in Crime Nos.1315 and 1317 of 2018 making allegations and counter allegations by the respective groups, some of the students made a complaint to the Director, U.G.Courses, School of Excellency in Law to take action against the students.

2. In pursuance to the complaint, 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 appellants 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. The Syndicate of the University, in its meeting dated 05.09.2018, resolved to recommend suspension of these two appellants for one year and allow to redo the III year in the next academic year, if the appellants give an undertaking that they will not involve in any such activities in future. Based on the Syndicate resolution, the appellants, who were already under interim suspension were continued to be under suspension for a period of one year by the first respondent with permission to redo the

course in the next academic year, if they give an undertaking that they will not involve in any such misconduct/activities, in future, vide order of the second respondent dated 24.09.2018. Challenging the said order, the appellants herein filed writ petitions in WP.Nos.4579 & 4584 of 2019. The learned Single Judge, after hearing the cases, dismissed the writ petitions vide order dated 05.07.2019. Against the said order, the writ petitioners filed the present appeals.

3. The learned counsel for the appellants would submit that the Enquiry Committee was carried away by the general statement made by the persons, who deposed before the Committee without any specific imputations as regards the appellants and the enquiry was in respect of various events that were alleged to have occurred over a period of time in the college campus and on the basis of such generalised statement made by the witnesses, the appellants have been saddled with heavy penalty of suspension from their studies for one year. Further, he would submit that the appellants have not indulged in any such unruly behaviour and violence as falsely alleged against them. During the enquiry, the appellants were not permitted to be present and the statement of other witnesses were recorded and the whole affairs took place behind the back of the appellants and the appellants were also not afforded with any opportunity to examine those witnesses. Further, no charge memo was also issued and no explanation was called for. Further, he would submit that the whole proceedings were in complete violation of basic principles of natural justice. The appellants were never called upon to offer any explanation in respect of the allegations levelled against them and no opportunity whatsoever was granted to them to defend themselves as against the false and baseless charges. The learned Single Judge failed to consider the facts that no proper enquiry was conducted, no opportunity was given to the appellants to afford their explanations to defend their case and dismissed the writ petitions based on the generalised statement given by the witnesses. Further, he would try to draw the sympathy of this Court stating that the appellants are poor students and they have not committed any offences and the suspension of one year is heavy punishment and on the sympathy ground, suspension of studies can be set aside.

4. The learned counsel for the respondents would submit that the Enquiry Committee was formed by the Vice-Chancellor. The report of the Enquiry Committee dated 30.08.2018 reveals that the Enquiry Committee examined the Professors and several students of the college, where the appellants were studied, parents of the students and the Doctors, who have given treatment to the affected persons and they have spoken about the involvement of these appellants. The Enquiry Committee, based

on the oral and documentary evidence, has come to the conclusion that the charges levelled against the appellants were true and given the finding and also they made some recommendations. Based on the findings and recommendations of the Committee, the third respondent issued the office order dated 22.08.2018. The Syndicate of the University has also passed the resolution on 05.09.2018 and the same was communicated by the second respondent to the appellants. Therefore, the learned Single Judge, considering the gravity of the charges levelled against the appellants, dismissed the writ petitions. There is no merit in the writ appeals and the same are liable to be dismissed.

5. Heard the learned counsel for the appellants and the learned counsel for the respondents and also perused the entire materials available on record.

6. It is seen that the appellants are the students of II Year BCA LLB (Hons). On 21.08.2018, two groups of students quarrelled with each other and few among them were badly injured. After registering the FIRs in Crime Nos.1315 & 1317/2018, making allegations and counter allegations by the respective groups, some of the students made a complaint to the Director, U.G.Courses, School of Excellency in Law, to take action against the erred students. Based on the complaints, the University has constituted an Enquiry committee consisting of (i) The Hon'ble Vice Chancellor, The Tamil Nadu Dr.Ambedkar Law University [Chairman]; (ii) Thiru.S.Prabakaran, Senior Advocate & Co-Chairman, Bar Counsel of India [Member-Syndicate]; (iii) Thiru.R.Singaravelan, Senior Advocate, Member Special Committee, Tamil Nadu Bar Counsel [Member]; (iv) Thiru.V.Shanmuga Sundar, Advocate [Member-Syndicate]; (v) Dr.C.Chockalingam, Principal, Chennai & Dr.Ambedkar Law College, Pattarai Perumpudur, Thiruvallur Taluk and District [Member-Syndicate]; (vi) Dr.Tmt.Reddivari Revathi, Director, P.G.Studies, Tamil Nadu Dr.Ambedkar Law University [Member]; and (vii) The Registrar, The Tamil Nadu Dr.Ambedkar Law University [Member-Secretary]. The Enquiry Committee submitted its preliminary report dated 22.08.2018 and recommended the College Authorities to suspend the appellants herein, in the interest of the Institution and to safeguard the welfare of the students. The said Enquiry Committee submitted its final report on 30.08.2018. A perusal of the Enquiry Report reveals that the enquiry was duly conducted by the Committee and after completing the enquiry, charges were levelled against the appellants herein. Paragraph 14 of the Enquiry Report reads as follows:-

"14.That the students, namely, Vishnukumar and Mohammed Salman who were found to have been responsible for the cruel incident resulting the dislocation of the left shoulder of Thiru.K.K.Prasanth are directed to be placed under suspension for the

period of 1 year and they have to continue the 3rd year course from the next academic year on their undertaking that they will not involve in any unruly activity in future. This punishment is unavoidable and needed for the situation like this as they have involved not only in this incident but also in the previous incidents. Unless and otherwise 10% of the wrong doers are punished severely, the 90% of the innocent and genuine students cannot continue their studies peacefully. Hence, we are constrained to take this decision with heavy heart."

The said Enquiry report was placed before the Syndicate. The Syndicate of the University, in its meeting dated 05.09.2018, resolved to recommend suspension of the appellants herein for a period of one year and allow to re-do the third year in the next academic year, if the appellants herein give an undertaking that they will not involve in any such activities in future.

7. The report of the Enquiry Committee reveals that the students of the college, parents of the students, Doctors, who have given the treatment to the affected persons and also Professors have been examined and the Enquiry Committee finds that the charges levelled against the appellants have been proved and hence, the Committee recommended the suspension of studies. Based on the recommendation of the Enquiry Committee, the appellants were placed under suspension. The Syndicate of the University has also passed the resolution on 05.09.2018 and the same was communicated to the appellants herein by the second respondent on 24.09.2018. A perusal of the entire materials and also the report of the Enquiry Committee, this Court is of the view that sufficient opportunities were given to the appellants herein and the charges levelled against the appellants herein have been proved. The learned Single Judge has also elaborately gone into the matter and expressed his pain that the behaviour of the petitioners neither show any semblance of excellence nor bring grace to the great person in whose name the University stands.

8. In the above said circumstances, there is no merit in these appeals and the same are liable to be dismissed. Accordingly, both the Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

KMI

To:

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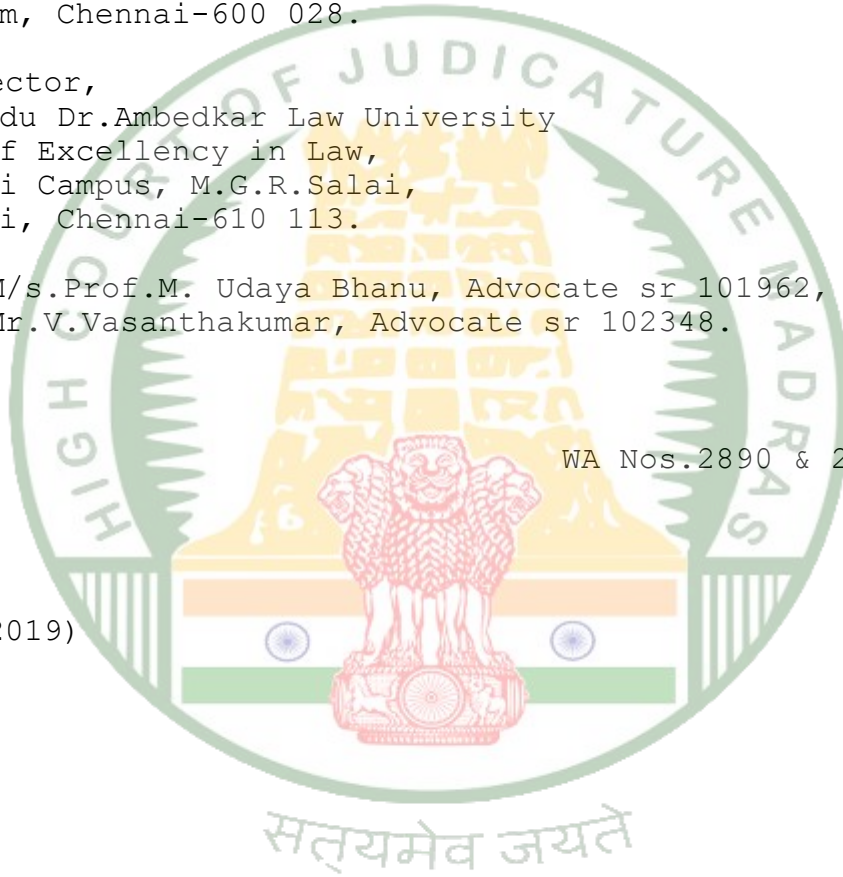
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Perungudi, Chennai-610 113.

+2 CC to M/s.Prof.M. Udaya Bhanu, Advocate sr 101962, 101963.

+1 CC to Mr.V.Vasanthakumar, Advocate sr 102348.

WA Nos.2890 & 2900 of 2019

VSNII (CO)
SP(19/12/2019)



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