

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.11.2019

PRONOUNCED ON : 15.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.30590 of 2019 and
W.M.P.Nos.30649 30650 of 2019

A.Manikandan

Vs

Petitioner

1.The Vice Chancellor,
University of Madras,
Navalar Nagar,
Chepauk,
Triplicane,
Chennai - 600 005.

2.The Director of College Education,
9th Floor, EVK Sampath Buildings,
College Road,
Chennai,
Tamil Nadu - 600 006.

3.The Principal,
Government Arts College for Men,
Nandhanam,
Chennai - 600 035.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorarified Mandamus calling for the records relating to the impugned dismissal order dated 25.09.2019 in Na.Ka.No.2165/Aa/2019 passed by the third respondent, and quash the same and consequently direct the third respondent to readmit the petitioner as student in 3rd year in English Department.

For Petitioners : Mr.R.Sankarasubbu for
Mr.B.Mohan

For 1st Respondent : Mr.L.P.Shanmugasundaram,
Standing Counsel

For Respondents 2 & 3 : Mr.V.Kathirvelu,
Special Government Pleader

ORDER

The petitioner herein being dismissed from college while pursuing his final year B.A course, has filed this writ petition to quash the dismissal order dated 25.09.2019 and readmit him in the college.

2. According to the petitioner, he made representation to the college Principal regarding the class room violence in the campus caused by a Professor against a first year student. The college Principal refused to meet the students representative who demanded enquiry and action against the erred Professor. Instead of taking action against the Professor, the third respondent issued dismissal order as against the petitioner without enquiry. The said order is against the principles of natural justice.

3. The learned counsel for the petitioner submitted that the petitioner was arbitrarily removed from the college for participating in the democratic protest. The petitioner hails from lower strata of the society. If he is dismissed from college at the fag end of his course, his future will be affected.

4. Per contra, in the counter affidavit filed by the third respondent, it is stated that, the petitioner during his 5th semester of the academic year had attended only 41 days out of 68 working days and abstained classes without any intimation. Claiming himself as the Secretary, All India Student Federation of India (ASFI) used to organise protest against the college administration causing unrest in the campus. Further, the petitioner has not paid the 5th semester fess before the cut off date.

5. Earlier, the petitioner gathered students and protested against the policies of the Government, in front of the college gate affecting the other students. Hence, the petitioner was advised not to indulge in activities which affect the welfare of the other students. The petitioner gave an undertaking on 03.07.2019 stating that he will not indulge in illegal activities against the college. In future, if he involve in such activities, the college can take action against him. In spite of

the said undertaking, on 17.09.2019, at about 10.30 am, the petitioner along with four other students using filthy language protesting against the Government policy. When the third respondent/Principal advised the petitioner not to protest, the petitioner did not give up. On that day, the petitioner went to the other class rooms and asked the students to come out of the classes to join the protest. The petitioner was trying to use the college premises as the AISFI Union office.

6. In view of the above circumstances, the College Council met and unanimously decided to dismiss the petitioner from the college to protect the welfare of 3500 students pursuing their studies in the college. The respondents have also enclosed photocopies showing the petitioner along with few other students carrying banners and protesting inside the college campus.

7. The learned counsel appearing for the petitioner relying upon the observations made by the Hon'ble Supreme Court in Commissioner of Police v. Sundeeep kumar (2011 (4) SCC 644) has pleaded that the college authorities should condone minor indiscretion made by the petitioner rather than imposing a capital punishment of dismissal.

8. Contrarily, the learned Special Government Pleader appearing for the third respondent referring the judgment of a Division Bench of Kerala High Court in Kerala Students Union v. Sojar Francis (2004(2) KLJ 378) would submit that, right to participate in political activities inside the college campus disturbing the peace of the college administration and welfare of the other students is antithesis to Article 19 of the Constitution of India. Maintaining discipline and orderly administration should have predominance over Article 19 of the Constitution of India which is subject to reasonable restriction. Article 19 of the Constitution of India is not a carte-blanche enabling any citizen to exercise his fundamental right so as to encroach upon similar right guaranteed to other citizens.

9. From the rival submissions of the respective parties, this Court finds that the petitioner was dismissed from the college for (i) breach of his undertaking; (ii) creating unrest in the college campus by disturbing the peaceful administration of the college; (iii) the petitioner has involved in activities preventing other students from attending the classes; (iv) the petitioner lacks adequate attendance; (v) failed to pay the 5th semester fees before the last date of payment and (vi) an attempt to convert the college campus as AISFI Union office.

10. The impugned order dated 25.09.2019 that the College

Administrative Committee has unanimously decided to dismiss the petitioner and accordingly, the petitioner is dismissed from the college and the Transfer Certificate (T.C) issued.

11. In all fairness, before passing the dismissal order, the decision of the College Administrative Committee ought to have been served to the petitioner inviting his explanation and thereafter, final decision should have taken. Since, the final decision of dismissal taken without affording opportunity to the petitioner, the said part of impugned order dated 25.09.2019 is bad in law.

12. Having held so, this Court is conscious of the fact that so far the petitioner's activities in the college also not conducive for the peaceful atmosphere inside the college campus. He has been indulging in activities affecting the welfare of rest of the students. Therefore, the order of dismissal issued on 25.09.2019 is modified as order of suspension. The third respondent shall cause notice to the petitioner and call for the explanation from the petitioner about his misconducts. After getting his explanation, appropriate order shall be passed. The process of enquiry shall be completed within a period of six weeks from today.

13. With the above directions, the writ petition is disposed of. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1. The Vice Chancellor,
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Navalar Nagar,
Chepauk,
Triplicane,
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3.The Principal,
Government Arts College for Men,
Nandhanam,
Chennai - 600 035.

+1cc to Mr.B.Mohan, Advocate sr.95282
+1cc to Special Government Pleader sr.95020

W.P.No.30590 of 2019

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nr 15/11/2019



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