

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON	19.06.2019
DELIVERED ON	25.06.2019

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CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU**and****THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY****W.A.(MD)No.600 of 2019****and****C.M.P.(MD) No.4912 of 2019**

The Dean,
Velammal Medical College
Hospital and Research Institute,
Madurai.

.. Appellant/
2nd Respondent

Vs.

1) Reehana Hasmath

.. 1st Respondent/
Petitioner

2) The Registrar,
Dr.M.G.R.University,
Chennai 600 032

.. 2nd respondent /
1st respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act against the order passed by this Court in W.P.(MD) No.3437 of 2019, dated 27.03.2019.

Prayer in WP(MD). 3437/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned termination order passed by the Respondent No.2 in Ref.No.VCAHS/2018/2009 dated 16.07.2018 and quash the same and consequently direct the Respondent No.2 to readmit the Petitioner into the college to attend the class of B.Sc. Cardiac Care Technology course.

For Appellant

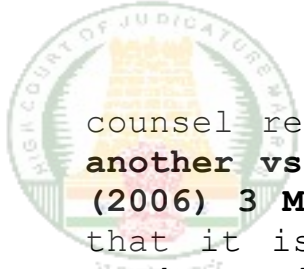
: Mr.Ajmal Khan,
Senior Counsel
For Mr.L.Shajichellan

For R1

: Mr.S.M.A.Jinnah

For R2

: Mr.C.Karthick



counsel referred to the order of this Court in **S.K.Manikumar and another vs. St.Michael's Polytechnic College, Chennai and another (2006) 3 MLJ 52** wherein, at paragraph nos.9 & 10, this Court held that it is necessary to provide a reasonable opportunity to the students before taking the extreme decision to dismiss the students but held further that *"such opportunity cannot be stretched to a full fledged enquiry as normally required to be conducted for disciplinary matters in service law"*.

5. He also referred to the judgment of the Division Bench of this Court in **Controller of Examinations, Bharathidasan University vs. B.Vignesh 2006-2-L.W. 690** wherein, at paragraph Nos.11 to 13, it was held that in matters relating to *"enforcement of discipline, particularly in the affairs of education, the Court must be very slow in interference"*. Based on the principles laid down in the above mentioned judgment, the learned senior counsel reiterated that the principles of natural justice were adhered to in the specific context of disciplinary action in an educational institution. He concluded his submissions by stating that the writ Court, at the best, should have remanded the matter to the college for a fresh consideration, if it is of the view that principles of natural justice are violated, instead of setting aside the order of termination itself.

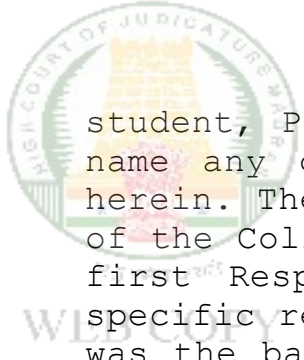
6. In response, the learned counsel for the first Respondent submitted that the first Respondent was not put on notice with regard to the enquiry on 16.07.2018. He further submitted that the first Respondent did not admit that she consumed alcohol in the hostel. He, thereafter, invited the attention of this Court to paragraph nos.4 & 5 of the impugned order of the Writ Court, wherein, it is recorded by the Writ Court that the impugned order dated 16.07.2018 was not communicated to the Petitioners therein/first Respondent herein. He further submitted that the father of the first Respondent is a cancer patient and that the disease is in an advanced stage. He concluded his arguments by submitting that the letters of confession were obtained from the other six students by subjecting them to duress.

7. By way of rejoinder submissions, the learned senior counsel for the Appellant also invited the attention of this Court to paragraph no.5 of the counter affidavit of the Appellant before the writ court, wherein, it is expressly stated that all the seven students appeared before the Enquiry Committee and admitted their guilt and, once again, appeared before the Disciplinary Committee along with their parents and admitted their guilt.

8. The pleadings, documents and oral submissions of both sides were carefully considered.

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

9. On examining the original complaint from the fellow



student, P.R.Omprasidha, we find that the said complaint does not name any of the seven students, including the first Respondent herein. The letter dated 02.07.2018 from the Principal to the Dean of the College mentions the names of eight students, including the first Respondent herein. This is the first document in which specific reference is made to the first Respondent herein and this was the basis for the suspension order which appears to have been communicated to the first Respondent. Thereafter, it is the admitted position that the specific charges against the first Respondent herein were not communicated to her in writing prior to the enquiry on 16.07.2018. It is also the admitted position that the other six students submitted letters admitting that they consumed alcohol and the first Respondent herein was specifically mentioned in each of those letters. However, it is also the admitted position that the first Respondent did not give such letter admitting to the consumption of alcohol by her in the college hostel. There does not seem to be any report in writing based on the preliminary enquiry. On perusal of the proceedings of the Disciplinary Committee dated 16.07.2018, it is seen that the following is recorded therein:

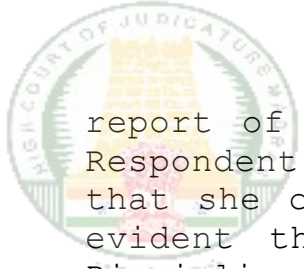
"2. The allegation levelled against the above students is that they have consumed liquor in College Hostel premises.

3. During the preliminary enquiry, all the students have given separate written statement accepting the above allegation. In order to give due opportunity to them and a fair chance to defend their case, they were asked to appear before the Disciplinary Committee on 16.07.2018 with their parents.

4. All the above students appeared before the Disciplinary Committee with their parents on 16.07.2018 and accepted their guilt, however, pleaded mercy."

10. In paragraph no.3 of the Disciplinary Committee Proceedings, which is set out above, it is stated that all the students have given separate written statements accepting the above allegation. However, as mentioned above, it is the admitted position that the first Respondent herein did not give a written statement accepting the allegation that she consumed liquor in the college hostel premises. Similarly, in paragraph no.4 cited above, it is stated that all the students appeared before the Disciplinary Committee with their parents on 16.07.2018 and accepted their guilt. Once again, it is evident from the record that the first Respondent herein did not accept her guilt in writing.

11. From the above analysis of the facts leading to the ~~diversion of the case~~ first Respondent from the College, it is evident that the first Respondent was not informed of the charge against her, in writing, prior to the enquiry. It is also clear that the



report of the Preliminary Enquiry was not provided to the first Respondent herein and that she did not submit a letter admitting that she consumed alcohol in the College hostel. Moreover, it is evident that the statement recorded in the proceedings of the Disciplinary Committee with regard to the written acceptance of guilt by the first Respondent herein is incorrect and contrary to the record.

12. As correctly contended by the learned senior counsel appearing for the Appellant, the principles of natural justice cannot be put into a straight jacket and applied uniformly in all contexts. As held by this Court in the judgments reported in **(2006) 3 MLJ 52** and **2006-2-LW 690** (both cited *supra*), a full fledged enquiry, such as that required in disciplinary proceedings in service law, may not be necessary in the context of an educational institution. Nevertheless, as held in the said judgments, a reasonable opportunity should be provided to the persons concerned especially before taking the drastic action of dismissing the students from the College. Based on our analysis of the facts and on consideration of the submissions, we find that the principles of natural justice, as applicable in the context of an educational institution, were not complied with in this case. In that regard and to that extent, we find that the impugned order of the Writ Court is correct. Given the fact that this Court is interfering with the action taken by the management of the College on the ground that the principles of natural justice were violated, we are, however, inclined to set aside the order impugned in the Writ Petition and remit the matter to the Appellant so as to enable the management to conduct a fresh enquiry by providing a reasonable opportunity to the first Respondent before taking a decision based on such enquiry. Upon conducting such enquiry in conformity with the principles of natural justice, in the event that the Appellant finds the first Respondent herein guilty of the offence that she is charged with, the Appellant may take note of the following mitigating facts- it appears to be the first act of alleged indiscipline by a young student and her father is a cancer patient- while deciding on the appropriate punishment by striking a reasonable balance between the need to maintain discipline in the educational institution and the need to ensure the full fledged development of students, including by enabling students to learn from acts of indiscipline.

13. Accordingly, the Writ Appeal is disposed of by setting aside the order impugned in the Writ Petition and consequently affirming the direction of the Writ Court to admit the first respondent herein in the first year, but by, consequently, remitting the matter to the Appellant herein for the purpose of conducting a fresh enquiry in conformity with the principles of natural justice. The Appellant is directed to conduct the said enquiry by taking note of the observations herein. The said enquiry shall be concluded within a period of three weeks



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from the date of receipt of a copy of this order. No costs. Consequently, connected C.M.P.(MD) No.4912 of 2019 is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)

+1 CC to M/s.C.KARTHIK, Advocate (SR-71357[F] dated 26/06/2019)

+1 CC to M/s.L.SHAJI CHELLAN, Advocate (SR-71150[F] dated 25/06/2019)

STS

W.A. (MD) No.600 of 2019
25.06.2019

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