

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.12.2020

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.10405 of 2020

and WMP Nos.12654, 12657 & 12659 of 2020

S.Jagadish

... Petitioner

Vs.

1. University Grants Commission,
Bahadur Shah Zafar marg ITO,
Metro Gate number 3, Road,
New Delhi, Delhi 110 002.

2. The Registrar,
VELS Institute of Science, Technology
& Advanced studies (VISTAS),
Velan Nagar, P.V.Vaithiyalingam,
Pallavaram, Chennai 600 117

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the orders passed by the 2nd respondent in No.VU/DA/2019 dated 16.10.2019 and No.VU/DA/2019 dated 05.11.2019 and quash the same, consequentially issue direction directing the respondents to allow the petitioner to complete his course of B.A.LLB.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents: Mr.V.Sudha Ravi
for 1st respondent
Mr.T. Ravindran,
for 2nd respondent

ORDER

The present writ petition has been filed challenging the impugned suspension order passed by the 2nd respondent dated 16.10.2019 and the impugned expulsion order passed by the 2nd respondent dated 5.11.2019.

2. The petitioner joined the 2nd respondent institution in the year 2015 in B.A. LL.B. course. The petitioner after completion of 8 semesters, entered into the 9th semester in the year 2019.

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

3. On the fateful day i.e. On 10.10.2019, an incident

is said to have taken place outside the College premises, wherein the petitioner along with two other students are said to have brutally attacked another student of the same institution named Ashwin Kumar. This incident is said to have taken place during the lunch break at about 12.40 PM. Based on the complaint given by one of the friends of the injured Ashwin Kumar, an FIR came to be registered in Crime No. 608 against the petitioner and 2 others, for an offence under Section 294 (b), 320(b) and 307 IPC. The Petitioner was arrested on the very same day and he was remanded to judicial custody.

4. Considering the seriousness of the incident that took place on 10.10.2019, the 2nd respondent institution issued a suspension order to the petitioner on 16.10.2019 and ultimately, an expulsion order on 05.11.2019 and thereby, the petitioner was expelled from the 2nd respondent institution. A transfer certificate was also issued to the petitioner by mentioning that the petitioner was expelled out of the institution on disciplinary grounds and that he discontinued during the 5th year of the course.

5. The petitioner remained in judicial custody from 10.10.2019 to 22.11.2019 and ultimately, he came out on bail pursuant to the orders passed by this Court in CRL OP No.317 of 2019 dated 22.11.2019. Only on coming out on bail, the petitioner came to know about the suspension order and the expulsion order issued by the 2nd respondent. He made a representation to the 2nd respondent to recall the orders and he also gave an undertaking that he will not indulge in any such activities. Since the same did not evoke any response from the 2nd respondent institution, the petitioner has filed the present Writ petition.

6. Heard the learned counsel appearing for the petitioner and Mrs.V.Sudha Ravi, learned counsel for 1st respondent and Mr.T. Ravindran, learned counsel for 2nd respondent.

7. The 2nd respondent has filed a counter affidavit. The relevant portions in the counter affidavit is extracted hereunder.

2. I state that the petitioner herein joined in B.A.L.L.B five years integrated course in our institution. On 10.10.2019 at about 12.40 p.m., during the Lunch break, the petitioner along with two other students Mr.Karthick Ganesh, M.E and Mr.Ponselin Durai.L of his class brutally attacked with knife another student of our institution Mr.Ashwin Kumar. V outside of our campus. Mr.Ashwin Kumar.V was seriously injured and was immediately taken to a nearby hospital by his friends. The said three persons fled from the place in order to escape from other students. One of the friends of Mr.Ashwin Kumar.V, Mr.Gokul raj.M.S. Who was an eyewitness to this incident, preferred a complaint with the S5,

Pallavaram Police Station about this incident. The police was able to arrest Mr. Jagadish.S from his house in the midnight and was remanded to Puzhal Central Jail after due formalities. The other two persons surrendered before the Judicial Magistrate, Ponneri, on the next day and were also sent to Puzhal Central Jail. The S5 Pallavaram Police had filed an FIR in Crime No.608 against the said three persons u/s. 254 (b), 324 and 307 IPC and also written a letter to our institution to take action against said three persons. Therefore, his contention that he was not at all involved in the case does not hold water.

3. I state that the claim of the petitioner that no enquiry was conducted by the institution after suspension and the established procedure was violated and thus natural justice was denied to him is not true. The institution is empowered and responsible to conduct an enquiry only if rules and regulations of the institution are violated by students inside the campus. However, the institution has no authority, power and jurisdiction to investigate into a crime or offence which takes place outside the campus. It is only the department of police and the judiciary who are endowed with the authority, powers and jurisdiction to investigate such cases. Besides there was a letter from the Inspector of Police (L&O), S-5 Pallavaram Police station to the institution mentioning the nature of grievous offence committed by the three students and advising us to take appropriate action against them. The institution taking into mind the interest of the institution and discipline among the students, suspended Mr.M.Karthik Ganesh, M.E., and Mr.Ashwin Kumar V on 10.10.2019 and MR.PonSelin Durai.L and Mr.Jagadish S on 16.10.2019. The petitioner herein was expelled from the institution on 05.11.2019 based on the recommendations of the enquiry committee dated 25.10.2019. It is pertinent to state here that the petitioner was already suspended on 07.02.2017 along with MR.Karthick Ganesh, M.E. And other students for their misbehaviour. The two are very close-friends.

4. I state that nearly 39 students of 5th year class had submitted a letter to our Dean, Student Affairs, stating their "No Safety" in the hands of three students namely Mr.Karthick Ganesh.M.E., Mr.Pon Selin Duari.L and Mr.Jagdish S on 31.10.2019. Mr.Ashwin Kumar.V, the victim had also given a letter on 04.11.2019 to me narrating the incident that took place on 10.10.2019. I am advised to state that a person of this kind should not be encouraged to pursue the noble profession of law.

5. I state that after the final verdict in the crime, the institution will take appropriate decision keeping in mind the interest of the institution and discipline among the students.

Taking a decision at this stage regarding their continuance of studies or permitting such students to writ the examination will set a wrong signal to other students. Those students who are accused in such heinous crime should not be allowed to take advantage of their participation in the crime at the expense of maintenance of discipline inside the campus.

8. In the last few years, we are witnessing several violent incidents that takes place between college students, wherein they attack each other with deadly weapons and cause fatal/serious injuries. Sometimes, it has led to the general public being put under threat and of course, the police department has taken stringent steps and very serious efforts to bring down violence in college campus and outside as between college students.

9. This is a case which falls under this category. The 2nd respondent institution has taken note of the serious allegations made in the complaint against the petitioner and two others and all the three of them have been suspended and ultimately, have been expelled from the college. It is also brought to the notice of this court that the final report has been filed after the completion of the investigation and the petitioner has been arrayed as A3 in the final report.

10. When it comes to disciplinary proceedings taken by educational institutions for the purpose of enforcement of discipline, the Courts must be very slow in interfering with the same. Useful reference can be made to the judgement of the Hon'ble Supreme Court in [Controller of Examinations and Others Vs. G.S.Sunder and another] in 1993 Supp 3 SCC 82 and in [Union Public Service Commission Vs. Jagannath Mishra] in 2003 9 SCC 237. These judgements were followed by the Division Bench of this Court in [The Controller of Examinations, Bharathidasan University and another Vs. B.Vignesh] in 2006 2 Law Weekly 690.

11. In the present case, the allegations made in the complaints are quite serious and the injured has been attacked with deadly weapons and he has sustained grievous injuries. In fact, there is a charge for an offence under section 307 of IPC. How far the petitioner was involved in the incident is something that can be established only at the time of trial. Even though, the learned counsel for the petitioner made strenuous efforts to establish the innocence of the petitioner, this Court is consciously not going into the factual aspects of the incident, since it will have an influence on the criminal case that is now pending at the stage of trial.

12. If the petitioner is allowed to join back in the 2nd respondent institution, it will set a very bad precedent and the 2nd respondent will find it very difficult to handle such violent incidents effectively in future. There is no question

of 2nd respondent conducting an enquiry on the incident before the expulsion order was passed, since the very disciplinary proceedings itself was based on the criminal case. Therefore, this Court does not find any ground to interfere with the impugned suspension order and expulsion order issued by the 2nd respondent.

13. One factor that keeps disturbing the mind of this Court, is the age of the petitioner and also the fact that he was in the final year of the law course. Therefore, this Court wants to keep a small window open for the petitioner to re-join the course, subject to the final result in the criminal case. Considering the seriousness of allegations, the petitioner has to necessarily come out clean by establishing his innocence in the criminal case. If the petitioner is able to establish his innocence, then the small window that is kept open for the petitioner will enable the petitioner to continue with the course in the 2nd respondent institution and complete the same. In view of the same, the expulsion order dated 05.11.2019 and also the Transfer and Conduct certificate issued by the 2nd respondent shall be kept in abeyance. If the petitioner comes out clean by proving his innocence in the criminal case, he can make a representation to the 2nd respondent institution and the 2nd respondent institution, considering the facts and circumstances of the case, can allow the petitioner to complete the course. In that event, the expulsion order and the transfer certificate and conduct certificate shall be withdrawn and the petitioner shall be allowed to complete the course and thereafter, a proper transfer certificate and conduct certificate can be issued. On the other hand, if the petitioner is found guilty in the criminal case by the concerned Court, the expulsion order dated 05.11.2019 and the transfer certificate and conduct certificate issued by the 2nd respondent institution shall revive. By keeping this option open, the interest of both the petitioner and the 2nd respondent institution can be balanced in the interest of justice.

14. This Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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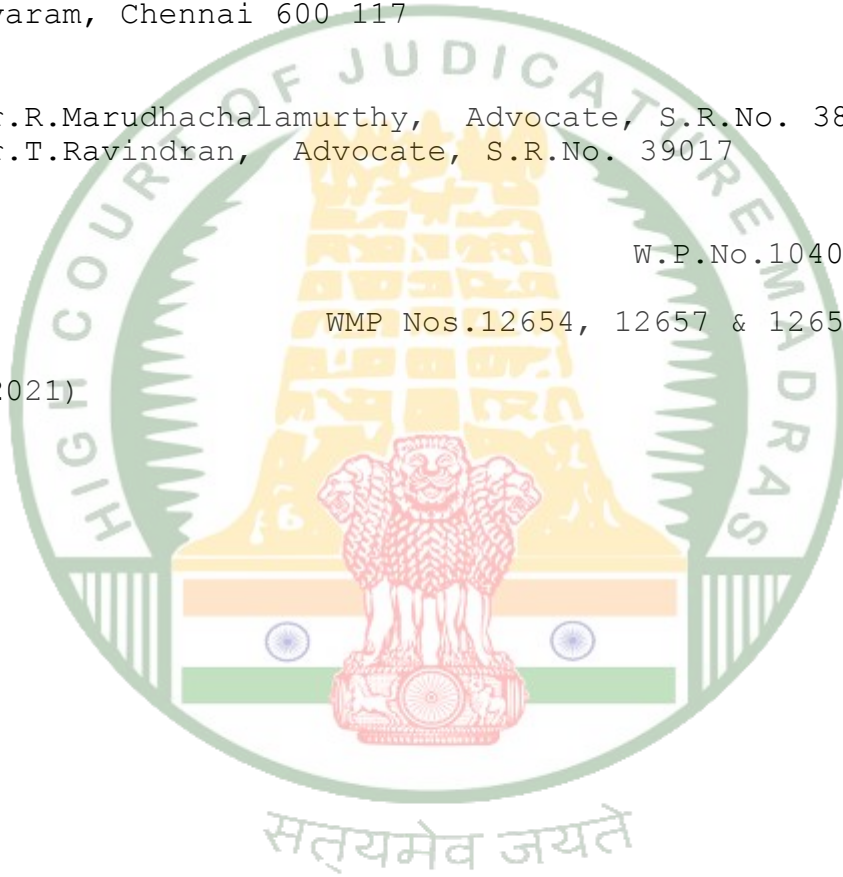
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+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No. 38784
+1cc to Mr.T.Ravindran, Advocate, S.R.No. 39017

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