

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.3720 OF 2022

&

W.M.P.NOS.3873 & 3875 OF 2022

1. C.Saran
2. M.Dhananjayan
3. S.Gokul

... Petitioners

Vs.

1. The Dean,
Government Dharmapuri Medical College,
Dharmapuri.
2. Inspector of Police,
B-1 Dharmapuri Police Station,
Dharmapuri District.

(Suo motu impleaded by this
Court on 09.03.2022)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus, calling for the records relating to the order in Ref.No.10025/ME1/2021 dated 11.12.2021 passed by the Respondent herein, quash the same in so far as it relates to the petitioners herein and to issue consequential direction to the respondent to permit the petitioners to continue their studies in III year MBBS course.

For Petitioners : Mr.D.Baskar

For Respondent : Mr.D.Ravichander [R1]
Special Government Pleader
Mr.TNC Kaushik [R2]
Additional Government Pleader

O R D E R

Read this order in conjunction with order dated 09.03.2022, reading as follows:

Heard Mr.D.Baskar, learned counsel for the petitioners and Mr.C.Jayaprakash, learned Government Advocate for the Government Dharmapuri Medical College, arrayed as sole respondent. I suo motu implead Inspector of Police, B-1 Dharmapuri Police Station, Dharmapuri District as R-2, who is a necessary party.

2. Mr.TNC.Kaushik, learned Additional Government Pleader accepts notice for the newly impleaded respondent, arrayed as R-2.

3. The petitioners have been suspended from the respondent-College under the provisions of the Tamil Nadu Prohibition of Ragging Act, 1997 [hereinafter referred to as the 'Act'], upon basis of complaint filed by the batchmates of one Saravanan, after conduct of enquiry.

4. The order of suspension dated 06.12.2021 was originally revoked by order dated 11.12.2021 and the revocation was reversed by order dated 13.12.2021 extending the same indefinitely till the Court issues directions in this regard. Hence the present Writ Petition.

5. An FIR has been filed in Crime No.1619 of 2021 registered before the Dharmapuri Police Station. In terms of Rule 7 of the Tamil Nadu Prohibition of Ragging Rules, 1999 [hereinafter referred to as 'Rules'], a student who was placed under suspension based upon a complaint of ragging, shall be exonerated and his suspension revoked only if such student was not ultimately convicted.

6. Rule 7 reads as follows:

"7. Revocation and treatment of period of suspension.- Where the student who was placed under suspension based on the complaint of ragging is ultimately not convicted, the management shall revoke the suspension and the period of suspension of such student

shall be treated as if the student had attended the classes."

7. This Court is thus unable to quash the impugned orders, both upon the grounds that the extension of suspension itself involves the exercise of discretion by the respondent Institution and there is no perversity shown in such exercise as well as in light of the mandate of Rule 7.

8. At best and bearing in mind the academic career of the petitioners, the Court proposes to fix a time limit for completion of the criminal case. For this purpose Mr.TNC.Kaushik will obtain written instructions as to a realistic time frame within which charge sheet will be filed and the criminal case concluded.

9. List on 14.03.2022.

2. Mr.TNC.Kaushik, learned Additional Government Pleader reports instructions to the effect that charge sheet has already been laid before the Competent Court and he states that the criminal case will be concluded expeditiously, and in any event, within a period of six months from today. He is being optimistic.

3. That apart, learned counsel for the petitioner, Mr.Ravichander, learned Special Government Pleader and Mr.Jayaprakash, learned Government Advocate fairly brings to the notice of the Court that the Notification issued by the National Medical Commission dated 18.11.2021, at clause 24 dealing with the Institutional Administrative and Penal Actions, sets out a slew of punitive actions that may be imposed by the College, that read as follows:-

'(5). The nature of punitive actions that may be decided shall include the following, but shall not be limited to one or more of these actions that may be imposed, as deemed fit, namely:-

(i) Suspension from attending classes and academic privileges.

(ii) Withholding or withdrawing scholarship or fellowship and other benefits.

(iii) Debarring from appearing in any test or examination or other evaluation processes.

(iv) Withholding results.

(v) Debarring from attending conferences, and other academic programmes.

- (vi) Debarring from representing the institution in any regional, national or international meet, tournament, youth festival, etc.
- (vii) Suspension or expulsion from the hostel.
- (viii) Imposition of a fine ranging from twenty-five thousand rupees to one lakh rupees.
- (ix) Cancellation of admission.
- (x) Rustication from the medical college or institution for a period ranging from one to four semesters.
- (xi) Expulsion from the medical colleges or institutions and consequent debarring from admission to any other institution for a specific period.'

4. They would thus have no objection to the petitioners making a representation before the college and, in such an event, for the authorities considering the same and exercising discretion, if they believe it is appropriate, for reduction of the punishment of suspension to any other punishment that would not attract the rigor of Rule 7. I concur with the suggestion made. The students are permitted to make such representation/application and the authorities are at discretion to consider the same on the merits.

5. If they believe that the punishment is to be reduced to any other punishment barring suspension, let them do so, by way of a speaking order passed in that regard. All safeguards shall be put in place in the event that the college is inclined to adopt this course of action including that, the students stay off campus and commute as day scholars.

6. This order is passed solely with a view to ensure that there is no disruption to the education of the students. Even assuming that the college is inclined to accept the representations, if any, filed, the criminal case will proceed as per Law and the only benefit obtained by the students under this order is an exemption from the rigor of Rule.

7. This writ petition is disposed in the above terms. Consequently, connected writ miscellaneous petitions are also closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nst/ska

To

1. The Dean,
Government Dharmapuri Medical College,
Dharmapuri.
2. The Inspector of Police,
B-1 Dharmapuri Police Station,
Dharmapuri District.

+1cc to M/s.R.Thamarai Selvan, Advocate, S.R.No.17069

+1cc to the Government Pleader, S.R.No.17794

W.P.No.3720 of 2022 &
W.M.P.Nos.3873 & 3875 of 2022

NK(CO)
RLP(20/07/2022)