

N.Prakash Vs. the Principal

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Court : Kerala

Decided On : Dec-18-2013

Judge : Hon'Ble the Chief Justice Dr. Manjula Chellur

Appellant : N.Prakash

Respondent : The Principal

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HON'BLE MR. JUSTSICE A.M.SHAFFIQUE DATED 18H DECEMBER, 2013/27TH AGRAHAYANA, 1935 WP(C).No. 17148 of 2012 (S) ----- PETITIONER ----- N.PRAKASH, AGED 48 YEARS 2D SEMESTER (5 YEAR) LL.B, GOVERNMENT LAW COLLEGE ERNAKULAM, RESIDING AT PRAJITH VIHAR, AYINI ROAD MARADU P.O., ERNAKULAM - 682 304. BY ADV. SRI.N.PRAKASH(PARTY-IN-PERSON) RESPONDENTS: ----- 1. THE PRINCIPAL, GOVERNMENT LAW COLLEGE, ERNAKULAM - 682 011.

2. KERALA STUDENTS UNION (KSU), GOVERNMENT LAW COLLEGE ERNAKULAM UNIT REPRESENTED BY ITS PRESIDENT SRI.NOBEL KUMAR P.K. 2ND SEMESTER LL.B (5 YEAR), GOVERNMENT LAW COLLEGE ERNAKULAM - 682 011.

3. STUDENTS FEDERATION OF INDIA (SFI), GOVERNMENT LAW COLLEGE ERNAKULAM UNIT REPRESENTED BY ITS SECRETARY SRI.ARAVIND

UNNI6H SEMESTER LL.B (5 YEAR), GOVERNMENT LAW COLLEGE ERNAKULAM - 682 011.

4. AKHILA BHARATHIYA VIDYARTHI PARISHAD (ABVP), GOVERNMENT LAW COLLEGE ERNAKULAM UNIT REPRESENTED BY ITS PRESIDENT SRI.SUBIN K.SAJAN8H SEMESTER LL.B (5 YEAR) GOVERNMENT LAW COLLEGE, ERNAKULAM - 682 011.

5. THE CITY POLICE SOMMISSIONER, KOCHI CITY, ERNAKULAM - 682 011.

6. THE SUB INSPECTOR OF POLICE, CENTRAL POLICE STATION, ERNAKULAM - 682 011.

7. THE MAHATMA GANDHI UNIVERSITY, KOTTAYAM, REPRESENTED BY ITS REGISTRAR PRIYADARSINI HILLS P.O., KOTTAYAM - 686 560.

8. STATE OF KERALA, REPRESENTED BY ITS PRINCIPAL SECRETARY HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM - 695 001. W.P(C).No. 17148 of 2012 (S) -2- Addl.9. RAFEEK9H SEMESTER (5 YEAR) LL.B, GOVERNMENT LAW COLLEGE ERNAKULAM -682011 (PRESIDENT STUDENTS FEDERATION OF INDIA GOVERNMENT LAW COLLEGE UNIT GOVERNMENT LAW COLLEGE, ERNAKULAM -682011) Addl.10. ARAVIND UNNI7H SEMESTER (5 YEAR) LL.B, GOVERNMENT LAW COLLEGE ERNAKULAM -682011 (SECRETARY STUDENTS FEDERATION OF INDIA GOVERNMENT LAW COLLEGE UNIT GOVERNMENT LAW COLLEGE, ERNAKULAM -682011) Addl.11. NOBEL KUMAR3D SEMESTER (5 YEAR) LL.B, GOVERNMENT LAW COLLEGE ERNAKULAM -682011 (PRESIDENT, KERALA STUDENTS UNION GOVERNMENT LAW COLLEGE UNIT, GOVERNMENT LAW COLLEGE ERNAKULAM -682011) Addl.12. JITHIN.K.R. 5TH SEMESTER (5 YEAR) LL.B, GOVERNMENT LAW COLLEGE ERNAKULAM -682011 (SECRETARY KERALA STUDENTS UNION OF INDIA GOVERNMENT LAW COLLEGE UNIT GOVERNMENT LAW COLLEGE, ERNAKULAM -682011) Addl.13. NISHANT3D SEMESTER (5 YEAR) LL.B, GOVERNMENT LAW COLLEGE ERNAKULAM - 682011 (PRESIDENT AKHILA BHARATHIYA VIDYARTHI PARISHAD

GOVERNMENT LAW COLLEGE UNIT, GOVERNMENT LAW COLLEGE ERNAKULAM -682011) Addl.14. SUBIN.V.S. 9TH SEMESTER (5 YEAR) LL.B, GOVERNMENT LAW COLLEGE ERNAKULAM -682011 (SECRETARY AKHILA BHARATHIYA VIDYARTHI PARISHAD GOVERNMENT LAW COLLEGE UNIT, GOVERNMENT LAW COLLEGE ERNAKULAM -682011)ADDL. R9 TO R14 ARE IMPEADED AS PER

ORDER

DATED 2002/2013 IN IA22372013. R4,R13& 14 BY ADV. SRI.JOSEPH RONY JOSE R3 BY ADV. SRI.ASOK M.CHERIAN R3 BY ADV. SRI.S.KANNAN R3 BY ADV. SMT.K.S.SANGEETHA R3 BY ADV. SRI.R.ROHITH R7 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G. UNIVERSITY R7 BY ADV. SRI.VIVEK VARGHESE P.J., SC, M.G. UNIVERSITY R BY ADV. STATE ATTORNEY R7 BY ADV. DR.P.LEELAKRISHNAN, SC, M.G.UNIVERSITY R BY GOVERNMENT PLEADER R BY SRI. T.A. SHAJI, SC, M.G.UNIVERSITY THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11.11.2013, THE COURT ON 18.12.2013 DAY DELIVERED THE FOLLOWING: WP(C).No. 17148 of 2012 (S) PETITIONER'S EXHIBITS: EXT.P1 - TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE PUBLIC INFORMATION OFFICER, GOVERNMENT LAW COLLEGE, ERNAKULAM DT. 4.6.2012. EXT.P2- TRUE COPY OF THE REPLY DATED 27.2012 ISSUED BY THE PUBLIC INFORMATION OFFICER, GOVERNMENT LAW COLLEGE, ERNAKULAM. EXT.P3- TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DT. 5.7.2012. EXT.P4 - TRUE COPY OF THE

ORDER

NO.C/MISC/12 DATED 17.7.2012 ISSUED BY THE 1ST RESPONDENT. RESPONDENTS' EXHIBITS: ANNEXURE R1(a) - TRUE COPY OF THE NEWSPAPER REPORT APPEARED IN DAILY THE NEW INDIAN EXPRESS DT. 24.7.2012. ANNEXURE R1(b) - TRUE COPY OF THE PHOTOGRAPH OF R1 BEING GHAROD WHICH APPEARED IN NEW INDIAN EXPRESS DAILY DT. 24.7.2012. ANNEXURE R1(c) - TRUE COPY OF THE NOTICE ISSUED BY THE FIRST RESPONDENT TO SRI.NOBEL KUMAR DT. 23.7.2012. /true copy/ rka P.S. TO JUDGE. MANJULA CHELLUR, C.J.

JUDGMENT

Shaffique,J This writ petition is filed by a student of Government Law College, Ernakulam, as pro bono publico seeking the following reliefs. " i. Declare that the functioning of units by respondents 2 to 4 in the campus of Government Law College, Ernakulam is illegal. ii) Declare that the strike for indefinite period called for by the 2nd respondent on the issue covered by Ext.P4 is illegal. iii) Issue a writ of mandamus or any other appropriate writs, directions or orders directing respondents 5 and 6 to see that the members of the 2nd respondent union do not disrupt the proper functioning of classes in the Government Law College, Ernakulam by way of illegal strike W.P.(C) No. 17148 of 2012-S2for indefinite period on the issue covered by Ext.P4. iv) Issue a writ of mandamus or any other appropriate writs, directions or orders directing respondents 5 and 6 to see that classes are not lost on account of illegal strike by respondents 2 to 4 in the campus of Government Law College, Ernakulam.

2. The main contention urged by the petitioner is that though a Division Bench of this Court in Sojan Francis v. v. M.G. University (2003 (2) KLT582 had issued guidelines banning political activities within the college campus which prevents the students from carrying on the right of education and later upheld the rights of private management and educational agencies in prohibiting the functioning of the students organization within the campus, in Kerala Students Union v. Sojan Francis (2004 (2) KLT378, similar activities are being carried on in the college managed by the first respondent. The W.P.(C) No. 17148 of 2012-S3petitioner points out the incidents on 2nd July 2012 and 4th July 2012. According to him, the college authorities have not taken any action in this regard and the fundamental right of the students for education cannot be obstructed by the activities of a few students, who have allegiance to student political organizations. The petitioner also relies upon the judgment of this Court in S.N.M.College v. S.I. of Police (2007 (1) KLT282, Manu Vilson v. Sree Narayana College (1996 (1) KLT788 and Haripal

Singh v. Devinder Singh (1997) 6 SCC660 in order to contend that the indefinite strike called for by the 2nd respondent is illegal.

3. According to the petitioner, on 2nd July 2012 when the college started functioning, the very first day of the beginning of classes, there was strike by the 2nd respondent Union. Their demand was that the Principal should suspend a teacher, who allegedly consumed alcohol and has beaten a women student. On 4th July, W.P.(C) No. 17148 of 2012-S42012 also 2nd respondent organized a strike demanding resignation of Vice Chancellor of Mahatma Gandhi University.

4. Statement is filed on behalf of the 1st respondent inter-alia stating that, on 22.6.2012, some untoward incidents happened in the campus in which four students were allegedly involved in consumption of alcohol inside the campus. When they were questioned by the Faculty-in-Charge of the Principal, he was showered with abusive language by one of the students. Further they caused obstruction to the discharge of lawful duties by the Principal. On 23.6.2012, those students were suspended and necessary disciplinary action was initiated. An enquiry committee was formed and after enquiry it was reported that those students were guilty of the charges levelled against them. The Staff Council discussed the report on 17.7.2012 and it was decided to take deterrent action and the delinquents were suspended from the W.P.(C) No. 17148 of 2012-S5college. From 18.7.2012, one Nobel Kumar, Union President of 2nd respondent started resorting to strike, for which permission was denied. They interrupted eight batches of LL.B. classes and two batches of LL.M Classes. On 23.7.2012, some students under the leadership of Nobel Kumar closed both the gates of the college and interrupted the smooth functioning of the college. Ext. R1(c) is the notice issued by the 1st respondent to Nobel Kumar on 23.7.2012. Thereafter on receipt of the notice, the 2nd respondent Union under the leadership of Nobel Kumar organized strike in the college on 23rd to 27th July, 2012 totally disrupting the smooth working of the college. The 2nd respondent started indefinite strike on 20.7.2012 and on 23.7.2012, the Principal of the college was gheraoed in her Chamber. The news item appeared on 24.7.2012 in the New Indian Express daily. Ext.R1(b) is the news item and Ext. R1(b) is the photograph. The Principal further submits that the W.P.(C) No. 17148 of 2012-S6working of the college was badly

affected on account of the action of the 2nd respondent. Hence it is stated that a complete ban of political activities should be imposed in the college.

5. During the pendency of the above writ petition, this Court by order dated 22.7.2013 directed the Principal of the Law College, Ernakulam and City Police Commissioner, Kochi to be present before this Court on 23.7.2013. Both of them were present before this Court on 23.7.2013. On the said date, this Court directed the Principal Secretary, Higher Education Department to be present before this Court on 5.8.2013. The City Police Commissioner's presence was dispensed with until further orders. On 5.8.2013, the Principal of the Government Law College, Ernakulam and the Additional Chief Secretary was present before this Court. The Additional Chief Secretary has explained the steps taken by the State Government and at what stage the W.P.(C) No. 17148 of 2012-S7matter is pending before the Larger Bench of the Supreme Court in pursuance of a reference relating to Lyngdoh Committee's report. He had also stated that the Government is ready to give all support to maintain law and order in the college. Though notice was ordered to the student organizations in the college and certain students, none appeared.

6. Having regard to the nature of the contentions urged, we are shocked to see the sad state of affairs in the Government Law College at Ernakulam. A student organization is preventing the proper functioning of the college despite directions issued by this Court in various judgments. Right to education is now a fundamental right and is forming part of right to life coming under Article 21 of the Constitution of India. Any prevention of that right in a democratic society is clear violation and infringement of such fundamental right. The demonstrating political student unions will have to take into consideration the W.P.(C) No. 17148 of 2012-S8plight of other students, who are studying in the same college. It is not merely attending classes that provides education to the students. They have to form themselves into better citizens and the future of the Nation is in their hands. Of course, the students are to be equipped with the socio-political features of the State and they are competent to take into consideration the relative factors either economic, social or political during their education. But the fact remains that preventing the personal liberty of fellow human beings is an infringement to the right to life

protected under Article 21 of the Constitution. As we find, on several days, the 2nd respondent Union had conducted strike in the college, to recall the order of suspension against a few students, against whom disciplinary action had been taken by the authorities. The Principal of the college was gheraoed in her cabin as evident from Ext. R1(b). It is hightime that such sort of hooliganism and vandalism are prevented. Every W.P.(C) No. 17148 of 2012-S9citizen has the right to demonstrate or to conduct dharna, but it should be in a peaceful manner. It should not be inside the office room of an officer. It should not be around the table of the Principal of a College. It has to be done only outside the premises of the office. While conducting such demonstrations, if it involves violent acts, vandal acts and infringing the personal liberty of a fellow human being, one can only picturize such acts as uncivilized. Persons who indulges in such activities should ask themselves whether they will permit such vandalism, such violence against them or against any of their family members or friends. It is high-time that the student unions should behave in a more civilized fashion, while nurturing their political ideologies and activities. They should behave with self-restraint and taking into consideration the emotions of other students, parents, the Principal, faculty members, staff of the college etc. We are totally alarmed by the nature of W.P.(C) No. 17148 of 2012-S10activities that is happening in the college and we only hope that the members of student unions would show a better degree of responsibility, care and circumspection in their approach.

7. Since already appropriate directions have been issued by this Court in Sojan Francis case, we do not think that further directions are required to be issued in the matter. However, having regard to the fact that Government had offered all necessary support to the college, we direct the Government to take necessary steps to ensure that the functioning of the college is not affected on account of such activities of the student unions. If the Government is of the opinion that they are unable to control the illegal activities of the student unions including that of the 2nd respondent, it should take appropriate steps to prevent the functioning of student organizations in the college. W.P.(C) No. 17148 of 2012-S11The writ petition is disposed with the above directions. Sd/- MANJULA CHELLUR, CHIEF JUSTICE Sd/- A.M.SHAFFIQUE, JUDGE rka /true copy/ W.P.(C) No. 17148 of 2012-S1

