

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 30612 of 2015 (B)

PETITIONER(S):

1. AVINASH DAS B.A., AGED 21 YEARS
S/O.B.S.ARAVINDAKSHAN
BRAHMAMKULATH KALARIKKAL HOUSE, CHAZHUR PO
THRISSUR PIN 680 571.
2. SHOBIN JOHN, AGED 20 YEARS, S/O.JOHN T.P
THEKKUMPURATH HOUSE, THRISSILLERY PO, KATTIKULAM
WAYANAD, PIN 670 646.

BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S

RESPONDENT(S):

1. UNIVERSITY OF KERALA
REPRESENTED BY ITS REGISTRAR KERALA UNIVERSITY
THIRUVANANTHAPURAM 695 009
2. THE PRINCIPAL
COLLEGE OF ENGINEERING, TRIVANDRUM, SREEKARIYAM
KAZHAKUTTAM ROAD, THIRUVANANTHAPURAM, PIN 695 016.
- ADDL.3. THE ADDITIONAL CHIEF SECRETARY,
HIGHER EDUCATION (G) DEPARTMENT
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

(SUO MOTU IMPEADED AS ADDITIONAL RESPONDENT AS PER JUDGMENT
DATED 20.10.2015)

R BY GOVERNMENT PLEADER SMT.SANJEETHA.K.A.
R BY SRI.PAUL JACOB, SC, UNIVERSITY OF KERALA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16.10.2015, ALONG WITH WPC. 30613/2015, WPC. 30614/2015, WPC. 30615/2015,
WPC. 30616/2015 & WPC. 30617/2015, THE COURT ON 20.10.2015 DELIVERED THE
FOLLOWING:

'C.R.'

V.CHITAMBARESH, J.

W.P (C) Nos.30612, 30613, 30614,
30615, 30616 & 30617 OF 2015

Dated this the 20th day of October, 2015

J U D G M E N T

“Discipline is the bedrock on which an educational system is founded” - observed a division bench of this Court in Kerala Students Union v. Sojan Francis [2004 (2) KLT 378]. The height of indiscipline in the campus of the College of Engineering, Trivandrum in connection with the Onam celebration this year has cost the life of a student of the same college.

2. The petitioners (26 in number) are the students who have been suspended from the college for varying periods for alleged misdemeanor in connection with the Onam celebration on 19.8.2015. It is alleged that the students of the men's hostel took out a procession in the evening of that day accompanied by two jeeps and an open lorry. The jeeps bearing Registration Nos.KBF-7268 and KCT-2217 as well as the lorry titled 'Chekuthan' were filled with students who danced to the tune of music and drums. The allegation is that the jeep KBF-7268 accidentally hit a girl student - a pedestrian inside the campus - who later succumbed to the injuries. An enquiry committee was

constituted by the College to probe into the incident who reported that the petitioners were guilty of indiscipline inside the college campus. The College Council in its meeting held on 22.9.2015 accepted the report of the enquiry committee and suspended the petitioners from the College. The student who drove the jeep KBF-7268 which fatally hit the girl student allegedly was dismissed from the college with immediate effect based on the report. The suspension of the petitioners from the College for periods varying from one semester, one month, 24 days and 20 days is challenged in this writ petition. The petitioners contend that they were mere onlookers and had been roped in due to inter-union rivalry and that the procession was preceded by permission. It is also the case of the petitioners that they were not afforded an opportunity to cross examine the witnesses and that even a copy of the enquiry report was not furnished. The petitioners point out that they may lose an academic year due to shortage in attendance if they are not permitted to attend the classes and submit the projects and write the examinations. The petitioners

seek to quash the proceedings of the College Council imposing punishment as above and for permission to pursue their regular academic activities.

3. I heard Mr.K.Shaj, Advocate on behalf of the petitioners, Mrs.Sanjeetha.K.A., Government Pleader and Mr.Paul Jacob, Standing Counsel for the University of Kerala at length.

4. A Board for Adjudication of Students' Grievances ['the Board' for short] has been constituted under Chapter 36 of the Kerala University First Statutes, 1977 ['the statutes' for short]. The Board has been constituted to entertain, adjudicate and redress any grievance of the students of the college who are by any reason aggrieved. The Board after entertaining the complaint under Clause 5 thereof can conduct an enquiry wherein the students, the college and the University can adduce evidence. Supplementary statements can be filed by the parties and ample opportunity afforded to adduce oral and documentary evidence in support of their plea. The parties are also permitted to address arguments and the Board after recording its findings would forward the same to the

Syndicate of the University. The punishment imposed by the College can be annulled or varied by the University on the basis of the findings of the Board in redressal of the grievances of the students. The petitioners can very well avail this remedy and establish their innocence or that the punishment imposed is disproportionate to the charges levelled. An enquiry committee constituted by the College Council can gather the inputs from the various sources and arrive at a tentative finding as has been done. I find that the enquiry committee had watched the available video clippings of the procession and had also invited e-mails about the incident. The enquiry committee is not expected to function like a court and the petitioners are not in any way prejudiced since they get ample opportunity before the Board thereafter. I am sure that the Board will dispose of the complaint if any received from the petitioners dispassionately and without any delay in view of the urgency. The disciplinary action should be best left to the college administration and this Court will loath to interfere at this stage under Article 226 of the Constitution of India.

5. I am unaware of the necessity to grant permission to conduct a procession in the college on 19.8.2015 from 4 to 4.30 p.m. by the Principal when sought by a student representative. The student however stated in the enquiry that the Principal while granting permission gave oral instruction that the procession should not enter the college campus. No permission should be granted to conduct a procession either inside the hostel campus or the college campus in connection with any celebration. It is stated in the bar that a JCB was brought to the same college during the Onam celebration for the previous year when the students stood in its bucket. It is also stated that a fire engine was brought inside another college campus during the Onam celebration this year to create an artificial rain. The imagination runs riot for the students and the college and the hostel campuses are not the venue to exhibit such acrobatics and the same should be put down with heavy hands.

6. There has been a public outcry over the incident that happened in this college which is one of the prestigious technical institutes in the state of

Kerala and that too situate in its capital. This has perhaps prompted the State Government to issue a circular regulating the smooth functioning of the college and hostel campuses. The circular is extracted below:-

GOVERNMENT OF KERALA
HIGHER EDUCATION (G) DEPARTMENT

CIRCULAR

No.26483/G1/15.H.Edn. Dated, Thiruvananthapuram, 12.10.2015

Sub:- Higher Education Rules/Regulation for the smooth functioning of the campuses and hostels of universities and affiliated colleges - Instructions - issued.

It has come to the notice of Government that certain unfortunate incidents took place in the colleges and hostels in connection with Onam celebrations. In order to prevent such incidents in future, the following guidelines/regulations are issued for the smooth functioning of the campuses and hostels.

- 1) All celebrations in the campus, including Union activities, should be held only after getting prior permission from the Head of the Institution of the College. Celebrations of any type should be communicated to the Head of the Institution through concerned Staff Advisor at least five working days prior to the event, with

programme details, guests attending, source of funds, expenditure estimates etc. The 'Discipline Committee' should monitor and supervise the celebrations in the college.

2. Students's Union activities should be supervised by a Committee chaired by the Head of the Institution with Staff Advisor as Convenor, and HODs and Discipline Committee members.
3. All students have to wear identity tag in the college.
4. College Union Office has to function only during 8 a.m. to 6 p.m., during the working days of the academic year. However, during any celebration time, Head of the Institution can extend the time up to 9 p.m. On summer vacation, the key of the Union Office should be kept with the Head of the Institution. The Head of the Institution or the Committee appointed by the College Council will conduct periodic visits to the College Union Office.
5. No type of vehicles should be used during celebrations inside the college Campus/Hostels.
6. Students' vehicles will be allowed only up to the designated parking area. Entry beyond that point is strictly prohibited. The college authorities must provide security for the vehicles parked in the parking area. Expenses in this regard will be met from College Fund/PTA Fund.

7. The Security of the Campus and Hostel is to be entrusted with Ex-service men, as far as possible.
8. In order to monitor and supervise the functioning of the Hostels, separate committees for boys' and girls' hostels have to be constituted by the College Council with five members. The Head of the Institution shall be the Chairman/Chairperson and Hostel warden the Convenor.
9. If any complaint is received from Hostel inmates or from the public to the Head of the Institution about the misbehaviour of students and about activities like keeping weapons, consuming alcohol, using drugs in campus/hostel rooms etc., steps will be taken as per the rules in force. The Committee intended for Hostels must be vigilant and effective. Room of security personnel should be located near to the entry gate.
10. CCTV Cameras will be installed in selected common places such as Entrance/Exit gate of the College and Hostel.
11. Public, including former students, will be allowed to enter the college campus only for genuine reasons. They will not be allowed to enter the class rooms and hostel rooms in any case.

12. Programmes by External agencies/Professional groups/Paid programmes such as DJ. Musical events should not be permitted inside the campus. No type of fund raising from the students should be permitted, as these practices lead to extortion and misuse of funds. Technical festivals should be limited to Technical activities. There is no restriction for students' programmes.
13. Bike race/motor car race/elephant procession or similar activities should not be permitted inside the Campus/Hostels.
14. In the interest of security of students, Police may be informed in advance about all festival celebrations.
15. Separate guidelines will be issued by the Government regarding the hostel policy.
16. Counselling service/Social work service may be arranged to cope with student problems. Individual/group counselling may be arranged. Anti Ragging awareness programmes must be conducted. Activities like NSS/NCC/Yoga/Sports may be encouraged.
17. For all students' programme in the campus, presence of teachers is mandatory. The students' Programme should not be permitted beyond 9 p.m.
18. The system followed in running Mens' Hostel of

Trivandrum Medical College will be adopted for running hostels in other Colleges. In the alternative, Hostel Mess should be run on contract basis.

19. Complaint Redressal Mechanism/Grievance Cell must be formed in all Colleges. Complaint Box must also be installed in all colleges. One Complaint box is to be separately marked for lodging complaints addressed to the police. The mobile number of the Police Officer at District level must be mentioned in the Complaint Box.

DR.K.M. ABRAHAM
ADDITIONAL CHIEF SECRETARY

The Circular has been issued by the Additional Chief Secretary of the Higher Education (G) Department of the Government of Kerala who is suo motu impleaded as the additional respondent in these writ petitions. The Circular dated 12.10.2015 has been issued in supercession of the earlier Circular dated 1.2.2003 which was found to be insufficient.

7. Clause 6 of the Circular is to the effect that the vehicle of the students should be allowed only upto the designated parking area and that entry beyond that point is strictly prohibited. It is further stated therein that the College authorities must

provide security for the vehicles parked in the area and that expenses should be met. The above direction can be effectively implemented only if the parking area is ear-marked close to the compound of the campus immediately after the entry gate. A pole barrier should be kept slightly far away and the entry of the vehicle of the students shall be restricted by a security guard appointed by the college. Only the vehicles of the teaching and non-teaching staff shall be permitted to go beyond the pole barrier for access to places near their departments. The College and the hostel campuses are not the venue for the students to 'show off' their material possessions and cause distraction to others. Only bicycles are permitted for students in the campuses of the Indian Institute of Technology having 100 acres whereas the college campuses here do not exceed 10 acres. Clause 13 of the Circular denies permission to conduct bike race/motor car race/elephant procession or similar activities within the campus. The students driving motor cycles (without helmets) at break neck speed carrying pillion riders (with silencer detached) inside the campus is

not an uncommon sight. The sound emanating from motor cycles and cars along the roads inside the campus spoils the academic ambiance and the same has undoubtedly to be curbed. Differently abled students can however be permitted by the Principal to get themselves dropped near the class for which an order in writing is essential. The College authorities should be permitted to impose fine or even confiscate the vehicle of the students if the same crosses the pole barrier without any justification.

8. Clause 12 of the circular is to the effect that programmes by external agencies/professional groups/paid programmes such as DJ, musical events etc. should not be permitted inside the campus. Clause 17 of the circular states that the programme of the students cannot spill over 9 p.m. and that the presence of the teachers is mandatory. The students are often let loose after 9 p.m. without any supervision and the efforts of the State Government to regulate their activities is really laudable. The curtain should fall down at 9 p.m. whether the event be the Annual Day or Freshers' Day and the programmes can even start much

ahead. The Circular issued by the State Government should not remain in paper and is meant to be enforced strictly by all the colleges of the Universities in the State. The Registry of this Court shall forward a copy of this judgment to the Registrar of the various Universities in the State who will intimate all the colleges accordingly.

The writ Petitions are disposed of. No costs.

Sd/-
V.CHITAMBARESH,
Judge.

nj/17.10.15

LIVELAW.IN

WP(C).No. 30612 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- TRUE COPY OF THE LETTER DATED 17.8.2015 ADDRESSED BY AVINASH DAS
B.A TO THE 2ND RESPONDENT

P2- TRUE COPY OF THE UNDATED NOTICE PUBLISHED IN THE NOTICE BOARD

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE.

LIVELAW.in