THE HONOURABLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NOs.2152 AND 2277 of 2020

COMMON ORDER:

By these two separate writ petitions challenge is made to the Two proceedings issued by the 2nd Respondent -

i) Vide Proceeding No. NITW/Reg/Disc-Stu/SA/2020/5145 dated 29.01.2010, whereby the petitioner in W.P. No. 2152, who is admitted into 1st year of 4 year B.Tech (Electrical Engineering Department) during the year 2019-20, was placed under suspension until the end of current academic year 2019-20 thereby barring the petitioner from appearing in the first year examination;

ii) Vide Proceeding No. NITW/Reg/Disc-Stu/KK/2020 dated 27.01.2020 on behalf of the 4th respondent, whereby the 4th respondent had confirmed the order dated 22.11.2019, where by the petitioner in W.P. No. 2277 of 2020, who is admitted into the 1st year of the 4 year B.Tech course (Mechanical Engineering Department) in the 1st respondent institute during the year 2019-20, was placed under suspension until the end of the current academic year 2019-20 thereby

barring the petitioner from appearing in the first year examination;

Further, challenge is also made to the imposition of penalty of Rs.1 lakh on both the Petitioners which is to be paid within a period of one month along with other penalties as illegal, arbitrary, without jurisdiction apart from being violative of Students Conduct and Disciplinary Code (for short 'code') of the first respondent institution and also in violation of principles of natural justice.

2. With the consent of the parties both the writ petitions are taken-up together and are being disposed off by the common order.

3. The brief facts of the case of the petitioner in W.P. No. 2152 of 2020 is that the petitioner has secured admission in the National Institute of Technology, Warangal, for pursuing B.Tech, 4 year course, in the academic year 2019-2020. As the petitioner was granted admission to the institute and the course being essentially a residential course, the petitioner was also provided with the hostel facility in the campus and was allotted a room in B2-05. On the intervening night of 26-27th October, 2019 around 1.30 hours, the security guards found the petitioner moving outside the hostel and on being stopped, seeing the petitioner moving in such late hours, the security personnel stopped the petitioner was found holding a small folded paper (said to contain Ganja) and further, the

Petitioner was in a drowsy condition. On being intercepted and enquired by the security personnel, the petitioner informed he is from B2-05 room and he was asked by a senior to pass on the folded paper to some other student and also informed the security personnel about the smoking going on in Room No. A2-41. On 28.10.2019, when the petitioner was called to appear before the committee of the 1st respondent institute in order to seek his explanation with regard to the incident and with regard to breach of code of conduct of the institute, the petitioner unconditionally accepted committing of the breach of code of the institute. Further on 15.11.2019 the petitioner while admitting to commission of such breach, has given an undertaking that he will not repeat such incidents in future and pleaded for forgiveness.

4. In so far as the petitioner in W.P.No. 2277 of 2020 is concerned, it is his case that, he is also a 1st year student of the 1st respondent institute similar to that of the other petitioner and when the security personnel went to Room No. A2-41, on the intervening night of 26-27th October, 2019 at 1.30 hours and checked, the room was smelling of Ganja and smoke and some of the students were sleeping while few others are in drowsy condition. Some small quantities of ganja and used tissue papers, papers spread in the room along with cigar lighters were found and the petitioner was

one amongst the group of students found in the room, when the security personnel took the photographs of the students present in the said room.

5. Subsequently on 28.10.2019, when the students including the petitioners were called before the Security Officer of the 1st respondent institute, all of them categorically admitted that they have consumed Ganja and have given in writing admitting that ganja is a prohibited material in the institute and that they have consumed Ganja. Further, on 15.11.2019, in the presence of the disciplinary committee, the petitioner has admitted to commission of the breach which can attract strict punishment. Further, the petitioner has mentioned that he would not commit such act again and understood the mistake committed by him and whole heartedly apologised and expressed his repentance for the mistake committed.

6. In spite of the petitioners in both the writ petitions realising their mistake and expressing their repent and sought for the forgiveness, the disciplinary committee of the 1st respondent institute has found that the repent expressed by the petitioner cannot be considered and by its proceedings dated 22.11.2019, suspended the petitioners from attending classes for a period of one year apart from imposing a monetary penalty of Rs. 1 lakh, and also barring the

petitioner from taking part in certain academic clubs of the institute.

7. The petitioner in W.P.No.2277 of 2020 had approached this court on earlier occasion questioning the action of the disciplinary committee impugning the order dated 22.11.2019. This court while disposing the said writ petition filed by the petitioner, having regard to the fact that the petitioner had filed an appeal to the Senate as per the Institutes Code, refused to go into the matter and directed the 4th respondent to dispose of the said appeal preferred by the petitioner within a timeframe having regard to the fact that on account of the suspension order, the petitioner was not being permitted to attend the classes. It is seen that pursuant to the disposal of the writ petition, the petitioner questioned the said order in writ appeal No. 55 of 2020 before the Division bench of this Hon'ble court, but was unsuccessful in getting any orders thereon.

8. It is claimed that the Senate of the 1st respondent University comprising of 55 members met on 24.01.2020. Upon according an opportunity to the Petitioner to make submissions by appearing in person, the Senate had passed the impugned order rejecting the appeal and upholding the punishment and penalties imposed by the disciplinary committee under the order dated 22.11.2019. Assailing the

said order of the 4th respondent the present writ petitions are filed.

9. The main ground of challenge in these two writ petitions, to the order impugned, is that the said order suffers with bias and is also in violation of principles of natural justice since the members of the Senate who passed the impugned orders consist of the members of disciplinary committee, who have passed the order in appeal to the Senate. Thus, the persons who have passed the order themselves sat in appeal over the said order and hence, the impugned order passed cannot be sustained as it is opposed to the basic principle of "no person can be a judge in his own case". The other ground of challenge to the impugned order is that the said order clearly shows a predetermined approach of the 4th respondent as the impugned order has recorded its finding to the contrary whilst taking note of the submissions of the petitioner. Further challenge is also made to the impugned order on the ground that the charge against the petitioner is based on the statement of the security personnel and no such security personnel was examined nor were the petitioners given an opportunity to test the veracity of the statements based upon which the charges are framed, which is one of the essential requirement since, the petitioners are being inflicted with major punishment of 1 year suspension which would have adverse impact of his career and affecting

the life and liberty of the petitioner and being violative of Article 21 of Constitution of India. Apart from the above grounds, the petitioners have also questioned the disproportionality of the punishment awarded.

10. The counter affidavit on behalf of the respondent institute in both the writ petitions has been filed denying the writ averments with a prayer for dismissal of writ petition. Along with the counter affidavit, the video recording of the proceedings of the disciplinary committee as held on 15.11.2019, wherein the petitioners were also present to put forth their submissions has also been provided in the form of a pen drive. Subsequent to the hearing, a Memo was also filed on behalf of the Institute, providing details to some of the queries raised by the court and also enclosing there with the photograph of the students taken on the day of the incident in the room i.e. A2-41.

11. Heard Sri. D.V.Seetharam Murthry Learned Senior Counsel appearing for M.Avinash Reddy, in W.P.No. 2277 of 2020, Md. Adnan Learned counsel appearing for petitioner in W.P.No. 2152 of 2020 and Sri. T.Mahender Rao, Learned counsel appearing for Respondent Institute. Considered the rival submission made and perused the material placed on record of this court. For convenience, the position of respondents is referred to as arrayed in W.P. No. 2277 of 2020.

12. The 1st respondent institute is one the premier institutes of the country in the field of imparting education in Engineering field and in order to secure admission into the said institute one needs to go through a test conducted on all India basis i.e. JEE Main examination. The students who secure admission into said institute would be students of some academic excellence and one amongst the few successful aspirants. The curriculum of the 1st respondent institute requires a student seeking admission to stay in campus as it is essentially a residential course.

13. It is seen that on the intervening night of 26-27th October, 2019, the incident as narrated is that, the security personnel who are bestowed with the duty of security and safety of the students in the 1st respondent institute, found the petitioner in W.P.No. 2152 of 2020 moving in the campus at late night. Upon being stopped, the petitioner was found holding a packet in his hand and on being questioned, he admitted that the said packet contains ganja and he is coming from room No. A2-41. Similarly, the petitioner in W.P.No. 2277 of 2020, who is inmate of room B2-04, was found in room No. A2-41 along with 10 others. When the security personnel entered the room, few of the students were found to be sleeping and few others in drowsy condition and the room was filled with smoke. The security personnel had also found some material substance like tobacco, tissue

papers, papers and cigar lighter. When questioned by the security personnel, the students admitted the material to be ganja. The security personnel took photographs of the room along with the students present there which includes petitioner in W.P.No. 2277 of 2020 and seized the material in the room. It is claimed that the security personnel thereafter informed about the incident to the security officer of 1st respondent institution authorities and the petitioners were called before the said authority on 28th October, 2019, whereat the petitioners have admitted to the guilt of committing the breach of student code of the 1st respondent institute.

14. Though it is the claim of the petitioners that, the petitioners were told to accept the guilt and that they would be let off with a reprimand by the Disciplinary Committee and as such petitioner gave the letter dated 28.10.2019 confessing to consumption of ganja, and thereafter the petitioners appeared before the committee on 15.11.2019 and gave an undertaking requesting not to impose the suspension for one semester. It is urged on behalf of the petitioners that the fact no action was taken in the interregnum between 28th October to 15th November, 2019 would lend credence to the claim of the petitioner that the 1st respondent institute initially wanted to take a lenient view of the entire incident by reprimanding the petitioners i.e. imposing a minor sanction.

However, the 1st respondent institution changed their stand on the issue after the said incident was reported in the local press blown out of proportion on 18.11.2019, and passed the order dated 22.11.2019 imposing one of the major sanctions prescribed under the code. The Learned Senior Counsel by drawing attention of this court to the undertaking given by the petitioner on 15.11.2019 submits that the petitioner having expressed his remorse for committing the breach of the code, had also offered to undertake social service which clearly indicates the approach the first respondent sought to adopt. It is also urged that if that not being so the petitioner would not have given such undertaking and would have faced enquiry whereat the petitioner would have had the opportunity to disprove the allegations made against him. Learned Senior Counsel also argued that the non-mentioning of the names of security personnel who allegedly found the petitioner and incriminating material in Room No. A2-41, and the petitioner not being afforded with an opportunity to cross examine the said security personnel on whose complaint the proceedings are initiated, would vitiate proceedings and is opposed to principles of natural justice. Yet another innovative argument is put forth by Learned Senior counsel that, if a student is woken up at late hours i.e., 1:30 a.m., he would only be found in a drowsy condition, being woken up in the mid of the night, but losing the sight of the fact that the petitioner was not found in the room allotted to him, but was

found in another students room in the company of 10 others. The Learned Senior counsel would also submit that the court should be sensitive to young student whose future is at stake, fundamental rights are being violated and career is being put to jeopardy at the beginning itself and the Court should aim to have a reformative approach in the case of students.

15. The Learned counsel for petitioner in W.P.No. 2152 of 2020, while adopting the arguments of the Learned Senior Counsel has argued that the procedure adopted by the 1st respondent institute is bad, the non-adherence to procedure while holding the petitioner guilty of breach of students code and imposing major sanction of suspension of one year is improper and wholly unjust and prayed for setting aside the order.

16. In support of the above submissions, the learned counsel for the petitioners placed reliance on the following judgments of the Supreme Court and other High Courts:

i) *Jaddish Prasad Saxena V. State of Madhya Bharat – AIR 1961 SC 1070 ;*

ii) *Lanco-Rani (JV) V. National Highways Authority of India Limited – Delhi High Court - 235 (2016) DLT 509 ;*

iii) *Hussain Mohammed Badhusa and others V. The Registrar, Gandhigram Rural Instiute, - Madurai Bench of Madras High Court in – W.P. (MD) No. 12408 of 2017 to 12412 of 2017 ;*

iv) *Indian Institute of Technology and 3 others V. Abhinav Kumar and 6 others – Allahabad High Court – LAWS(All) 2018 (5) 193.*

17. Per contra, the Learned Counsel for respondent institute, vehemently opposed the petition and prayed for dismissal of writ petitions. The counsel submits that these petitioners are admitted into the institution not through regular process of admission, but as they are NRI students they have been admitted under DASA (Direct Admission of Students Abroad) scheme by Ministry of Human Resource, Government of India. The learned counsel submits that the petitioners were awarded the punishment of suspension upon their admission of guilt and also at their behest for not being handed over to the law enforcing authorities. Further, he would submit that on account of the admission of guilt by the petitioners, the respondent Institute had suspended the petitioner(s) for a period of one year, without being expelled which could not be considered as excessive punishment. He also submits that two students who are actually found supplying the ganja were expelled from the institute and two other students amongst the 11 students have left the institute by taking Transfer Certificate and if the petitioners so desire, even they would be issued transfer certificates. The Learned Counsel would further submit that the institute has adopted a lenient approach by suspending the petitioners for a period of one year and the students can pursue their academic pursuit a year later. Learned counsel submits that the aspect of discipline that is to be maintained in the institution being an internal matter, the court should adopt a cautious

approach and be most reluctant to interfere in such matters unless glaring omission to follow the rule or good prima facie case is made out for interference. In the facts of the present case, having regard to the categorical admission of the petitioners on 28.10.2019 and before the disciplinary committee on 15.11.2019, the punishment awarded is based on the exercise of discretion by the committee and cannot be called as excessive. In support of the above submission the learned Counsel placed reliance on the decision of this court in the case of ***Satish Nainala V. English & Foreign Languages University, Hyderabad & others***[1].

18. He would also submit that the mere fact of the six members of the disciplinary committee being present in the senate, would not vitiate the proceedings of senate, as the senate consisted a large group of 55 members (52 members taking part on 24.01.2020) and as such the mere presence of six members of disciplinary committee, could not have exerted any influence on such a large group of 55 members. On the other hand the learned counsel would submit that the presence of six members of disciplinary committee in the senate is only to help the senate to have the correct perspective of entire incident. It is also urged by the learned counsel that in view the admission of guilty by students with regard to breach of code by way of confession and

[1] 2016(4) ALD 37

undertaking given, there is no necessity for affording an opportunity of examining the security personnel and the contention to the contra does not merit consideration by this court. The counsel submits that the proceedings of the disciplinary committee dated 15.11.2019 was videographed and placed before the court in a pen drive. That on the said day some of the students have pleaded not to hand over them to law enforcement agency, not to subject them to medical examination, not to inform to their parents and that they are willing to forego the year and will continue to pursue their first-year course in next academic year. The counsel would urge upon this court to peruse the video recording and consider the same while passing the orders. The Learned Counsel for respondent submits that the petitioner having been suspended from the institute by virtue of order dated 22.11.2019 and having not been allowed to enrol themselves for second semester, any order passed by this court at this point of time would not inure to the benefit of the students, as they would fall short of attendance and would not be eligible for appearing for examinations, since, the minimum attendance required is 80% and petitioners in any event cannot comply with the same. In such circumstances, any orders passed setting aside order dated 22.11.2019 would be an empty formality. The learned counsel has placed reliance on the decision of Division bench of this court in the case of ***B. Yugandhar V. Principal, Kuppam Enigneering College***

and another[2], in support of his contention that courts should not interfere in matters of attendance and cannot condone the shortfall. Finally, he prays this court to dismiss the writ petitions as the petitioners do not make out any case for interference with the orders of the 2nd respondent institution and any order is passed contrary to the same by this court, would disturb the conducive environment of the academic institution.

19. Having given thoughtful consideration to the contentions urged and submissions made by the Counsels for the parties and having regard to the material placed on record, the issue which needs to be considered in both the writ petitions is, as to whether the punishment awarded is commensurate with the breach committed and the order passed thereto warrants interference.

20. Normally in matters of discipline, in particular in academic arena, the court should exercise restraint, as if any indulgence is shown by a court to a wrongdoer would send a wrong signal and would embolden them to continue with such acts and disturb the entire academic atmosphere leading to mayhem, and defeating the basic purpose and object of such academic institute of imparting education and moulding the students for the benefit of the society.

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[2] 2008 (2) ALT 529

21. This court is also conscious to the fact that the students who are in tender age with new found freedom and independence after putting in through formative years and being admitted to premiere institute, would find themselves to be in a different zone altogether. The sudden got freedom, surrounded by various distractions and also being vulnerable to involving themselves in unwanted issues, cannot always be purely attributable to one's wilful wrongdoings. Though such acts don't need to be commended, at the same time balance has to be struck between the act and the measure. It is also needless to mention that the authorities in whose hands the future of these young students is bestowed, should take into consideration the surrounding circumstances while dealing with any aberrations by students and not merely following the procedure as prescribed to be in compliance with the norms, but should also weigh as to whether the measure of punishment being awarded would bring about the desired result in addressing issue. It is trite to mention that in dealing with such breach or aberrations, the educational institute need to conduct enquiry but such enquiry need not be in strict manner as in a service matter, and ignorable procedural lapses cannot be taken advantage by wrongdoer.

22. In the facts of the present case, it is claimed that the petitioners were found consuming and in possession of ganja, a prohibited substance in the premises of the 1st respondent

institute as per the students code and 1st respondent institute has zero tolerance to such breach. The code of the 1st respondent in Section 2 of Appendix-II deals with "Behaviour of the Students" and specifies (xviii) acts thereunder and clause (iii) of the said section mentions that "Possession or consumption of narcotic drugs and other intoxicating substances are strictly prohibited in the campus and hostels." While Section 3 of Appendix-II of the code deals with "Disciplinary Sanctions" and has sanctions specified under two heads namely – "Minor Sanctions" and "Major Sanctions". However, the code which provides for minor and major sanctions does not indicate as to which of the prohibitive behaviour in clauses (i) to (xviii) as mentioned in Section 2 would attract the major or minor sanction and is left to the discretion of the authority. Thus, in a given situation the authorities would be the appropriate authority to judge a given breach can be considered as requiring minor or major sanction depending upon the gravity of occurrence and breach and also the conduct of such student in breach.

23. Since, the petitioners are the fresh entrants into the campus of the 1st respondent institute, as only 3 to 4 months having passed by after being admitted into the institute more particularly having been educated from a conservative area and there being no previous history of the petitioners involving themselves in any breach of the code, it cannot be said that the petitioners have acted in defiance of the code

warranting for major sanction. Though it is being said in the counter affidavit that the prohibitive behaviour in the campus is given wide publicity within the campus and the petitioner cannot be said to be unaware of the same and the subject deviation would attract major punishment as provided in the code. However, having regard to the fact that the incident has taken place in the intervening night of 26-27th of October, 2019 and the petitioners were called to appear before the Security officer on 28th and also having regard to the content and the language used in the undertakings given on 15.11.2019 before the disciplinary committee, would give an impression that the 1st respondent institute initially wanted to consider the request of the petitioners sympathetically.

24. Further, the proceedings before the disciplinary committee on 15.11.2019 as video graphed in three parts and filed into this court, has been seen by me. On going through the proceedings as video graphed, would show that the entire proceedings were held in a very free and conducive manner, whereat, the committee after informing the students including the petitioners various options that are available before them, and considering the submissions made by the students including one by the occupant of room A2-41, who spoke on behalf of all others, suggested that the least that the committee can do is to suspend the students for one semester and directed the students to give such request letter of

undertaking. Thus, the claim of the petitioners that initially the authorities of the 1st respondent institute wanted to impose a "Minor Sanction", but changed their stand after the issue got reported in the print media, is without substance and is liable to be rejected. Further, in the proceedings held on 15.11.2019, it is seen that the committee was trying to find out as why the students are taking such substances and impress upon the students to come out of this habit of consumption of such narcotic substances. It was also seen that the committee members suggesting the students to go to de-addiction centre to get out of such habits. Thus, having regard to the proceedings held on 15.11.2019 whereat it was indicated that the petitioners would be imposed with sanction of suspension for one semester, it is not clear as to what transpired between 15th November, 2019 and the 22nd November, 2019 when the impugned order imposing the suspension for one academic year was passed. Though minutes of the meeting of disciplinary committee held on 15.11.2019 has been placed before the court to show that it is the disciplinary committee which has recommended for award of such major sanction of suspension for one academic year on the same day i.e. 15.11.2019, it is seen that, except one member, no other disciplinary committee had put the date and even the person who has affixed the signature with date has signed as "for one R.B.V. Subramaniyam, Head of the Department of C.S & E" but did not sign for himself. Thus,

the claim of the 1st respondent institute, that it is disciplinary committee which recommended for imposition of major sanction of suspension for one academic year on 15.11.2019 cannot be accepted more particularly having regard to the proceedings as video recorded indicating to the contra.

25. Further, it is also to be seen that the 4th respondent authority while affirming the order of the disciplinary committee dated 22.11.2019 had on one hand recorded that "the student has expressed his regret and sought for forgiveness when appeared before the senate", on the other hand recorded that "the petitioner did not show any remorse". The said finding recorded being contrary one another, the stand of the 1st respondent that the conduct of petitioners not showing any remorse as reason for confirming the major sanction cannot be accepted. The other aspect that needs consideration by this court with regard to alleged violation of principles of natural justice, of bias due to presence of the members of the disciplinary committee in senate while considering the appeal. It is seen from record that of 6 members of the disciplinary committee were part of senate consisting of 55 members (52 members participating on 24.01.2020). Though in normal circumstances, the presence of such members in the senate would attract the principle of *"Nemo debet esse judex in propria sua causa",* in the facts of the present case, where the disciplinary committee was

showing indulgence to the students as noted from the video graphed proceedings of 15.11.2019, it cannot be said that the said members had personal bias against the students, so as to vitiate the proceedings. If only the petitioners had any objection to the presence of the above 6 members of the disciplinary committee in the senate meeting, it was open for the petitioners to raise such an objection thereat, but on the other hand petitioners choose to appear before the senate to plead their appeal, and as the decision of the senate being based on the recorded evidence of photographs taken on the date of occurrence, confessional statements of the students including the petitioners and the proceedings before the disciplinary committee, the objection with regard to bias and proceeding being vitiated is clearly an after thought and cannot be sustained.

26. Further, the technical objections raised cannot obliviate the admission made by the petitioners themselves before the Security Officer on 28.10.2019 and before the Disciplinary committee on 15th November, 2019 and the photographic evidence taken on 26-27th October, 2019 of petitioners being present in a room which is different from that of the petitioners. Having regard to the categorical admission made by the petitioners before the disciplinary committee and seeking for indulgence been shown, the objection now being taken with regard to non-adherence to the strict procedure

relating to conduct of enquiry, the complainant security personnel not being made available for cross examination, would be of little relevance. In this regard it is apt to refer to the decision rendered by this court in ***Satish Nainala (Supra)***, wherein this court while dealing with a similar submission observed that –

> *`36. To insist that evidence of witnesses who spoke about violence indulged in by a student and who is also alleged to have threatened them as well as the Vice Chancellor, the Proctor should be recorded in his presence, and he be allowed to cross-examine the witnesses who deposed against him, would be a travesty of justice since in such an environment witnesses would not depose freely and would feel intimidated and may not even come forward to depose. This would be counter productive to the very purpose of ensuring that discipline in the university is maintained.*

27. Further, in normal circumstances when such challenge is made, the Courts would remit the matter back to the appellate authority to consider the same afresh. However, having regard to passage of time and no useful purpose would be served by remitting the matter back to the appellate authority to consider the matter afresh as already much time has passed by, this Court considered the above submission and arrived at the above conclusion.

28. The other aspect that needs consideration, is the contention of the learned counsel for respondent that already considerable period has been lost and that for appearing to the examination of the 2nd semester one needs to have 80%

of attendance and even if this court set asides the orders, the petitioners would anyway not be eligible to appear for the examination of 2nd semester due to shortfall of attendance and thereby any orders passed would not inure to the benefit to the petitioners. It is to be noted that the petitioners being aggrieved by the action of the 1st respondent institute filed appeal to the senate as provided under the Code. It is the 1st respondent institute that took time to adjudicate on such appeals filed by the petitioners and thus it cannot be said that petitioners were not pursuing the matter diligently. The reliance placed by the learned counsel for the respondent on the decision of this court in the case of ***B. Yugandhar (supra)*** is a case where the student being absent on his own volition, this court held that the authorities do not have the power to condone the deficiency / shortage of attendance. Similar, is the view of the Hon'ble Supreme Court in the case of ***Ashok Kumar Thakur***[3] and of this court in the case of ***M. Sunil Chakravarthy***[4] and ***Akilesh Lumani & Others***[5], on which reliance is placed by the learned counsel for the respondent. The ratio laid down in the above decisions would not advance the case of the respondent in impressing upon this court not to pass orders as any order passed would not inure to the benefit of the petitioners. It is to be noted that the petitioner is questioning the action of the authorities in

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[3] (1973) 2 SCC 298
[4] 2005(1) ALD 253 (DB)
[5] 2000 (4) ALD 630 (DB)

suspending him for one academic year and not permitting to attend the classes and if such action of the respondent authorities is found to be falling short either for not being in compliance with the prescribed procedure or otherwise, the petitioners would be entitled to relief. Thus, it cannot be said that it is the petitioner who is abstaining from attending the college, thereby resulting in shortfall of the attendance, but it is the action of the respondent which restrained the petitioners from attending the classes. If the above submission of learned Counsel for respondents is accepted, the same would result in respondent authorities achieving their object indirectly, what they could not achieve directly.

29. In so far as use of the drugs particularly with the students is on rise. The National Policy on Narcotic Drugs and Psychotropic Substances, while taking note of the fact that - *"Drug addiction is increasingly becoming an area of concern as traditional moorings, effective social taboos, emphasis on self-restraint and pervasive control and discipline of the joint family and community are eroding with industrialization and urbanization",* has observed that educational institutions are responsible for taking steps to curb drug abuse amongst students.

30. In my opinion, educational institutions particularly like the 1st respondent institution, which have foot print out throughout the country should implement the national policy, which has also gained support from University Grants

Commission by adopting a long term rehabilitative and retributive approach rather than incline towards penal action against the students who fall prey to the menace of drug abuse.

31. Though the learned counsel for the Respondents had informed the Court that the 1st respondent institute has now on board the services of a psychiatrist, I am of the view that the Institute like that of the 1st respondent, should continuously work towards providing resources and support to students in order to curb them from abusing drugs and to rehabilitate the students who are addicted to drugs. On a long term basis the institutions can adopt some measures to prevent drug abuse which in my view, can include the following:

A. Educational Institutions are encouraged to look out for peddlers in their vicinity and report them to police.

B. Educational Institutions are encouraged to conduct anonymous surveys to assess the levels of drug addiction among their students, and if addicted students can be identified, to talk to their parents or wards to find medical help to cure their addiction.

C. Educational Institutions are encouraged to constitute Anti-Drug Club to promote a drug free life among its members and also in the institution.

D. Educational Institutions are encouraged to have a peer support group to initiate conversations about the negative impacts of drug use on physical and mental health of students.

E. Educational Institutions are encouraged to have medical health professionals like psychiatrists and psychologists at all times.

F. Educational Institutions are encouraged to conduct seminars, talks and classes on drug abuse and illicit trafficking and its socio-economic cost to self, society and the country.

G. Educational Institutions are encouraged to work with local NGO's and students to design a dynamic policy on tackling drug abuse and to hold meetings regularly to adapt to the ever-changing society.

H. To set-up a de-addiction centre within an institute, which facility can be used by two to three such national institutions which are in close proximity to such institute (eg. Neighbouring states), where any students found using such drugs are sent and kept separately thereat, who while undergoing studies can be provided treatment to come out of such drug abuse, which may include meditation, yoga, etc., so that the young students do not lose out on their career under the influence such harmful substances.

The above measures are only suggestive and it is open for the institutions to evolve their own policy with regard to dealing with such drug abuse and measures to be implemented.

32. Though the above mentioned measures if considered feasible and implemented may bring about the desired result in the long term. But, having regard to the facts of the present case as noted herein above, that the petitioners are in their teenage and if moulded in a right manner would become a skilled professional for the benefit of the society, this court is of the view that a reformative approach should be adopted

in the matter rather than adopting a deterrent/ punitive action. In dealing with inflicting of appropriate punishment, the Karnataka High Court speaking through Justice S. Rajendra Babu (as his Lordship then was) in the case of ***T.T. Chakravarthy Yuvraj and others V. Principal, Dr. B.R. Ambedkar Medical College***[6], was pleased to observe that –

> *17. In inflicting appropriate punishment, certain aspects have to be borne in mind. When the relationship of the Head of the Institution and the student is that of a parent and child, the punishment imposed should not result in any retribution or give vent to a feeling of wrath. The main purpose of punishment is to correct the fault of the student concerned by making him more alert in future and to hold out a warning to other students to be careful, so that they may not expose themselves to similar punishment and the approach is that of a parent towards an erring or misguided child. In order to not to attract the criticism that the action is a result of arbitrariness, it has to be ensured that the penalty imposed is commensurate with the magnitude of the fault. Certainly one cannot rationally or justly impose the same penalty for giving a slap to the one imposed for homicide. Unless the disciplinary authority reaches the conclusion that having regard to the nature of the misconduct it would be totally unsafe to retain them in the college, the maximum penalty of expulsion from the college should not be imposed. If a lesser penalty can be imposed without jeopardising the interest of the college, the disciplinary authority cannot impose a maximum penalty of*

[6] AIR 1997 Kar 261

expulsion from the college. The concerned Head of the Institution must necessarily have an introspection and a rational faculty as to why lesser penalty cannot be imposed. In doing so, it should also be borne in mind that when the maximum penalty is imposed total ruination stares one in the eye rendering such student a vagabond as being unwanted both by the parents and the educational institution. Frustration that would result would seriously jeopardise young life. Every harsh order results in bitterness and arouses a feeling of antagonism and many a time turn a student into an anti-social element and in that way it results in more harm than good to the Society.

33. Thus, having regard to the above observations and peculiar facts of the case, this court is of the view, that the relief can be moulded by the court to strike balance between the act of breach and the measure of punishment to be awarded.

34. In view of the foregoing discussion and considering the facts and circumstances of the case, though adherence to the discipline and students code of Institution being an important aspect, the wellbeing of the students being another facet of the issue, this court in exercise of equitable jurisdiction finds it appropriate to set aside the major sanction of suspension of the petitioners from the 1st respondent institute until the end of the current academic year 2019-20 and barring the petitioner from appearing in the first year examination with a

direction to repeat the 1st year in the academic year 2020-2021 issued by the 2nd respondent in proceeding No. NITW/Reg/Disc-Stu/SA/2020/5145 dated 29.01.2010 and NITW/Reg/Disc-Stu/KK/2020 dated 27.01.2020 on behalf of the 4th respondent, and modify the same "to the end of first semester", which is also in consonance with the views expressed by the disciplinary committee on 15.11.2019. The other punishments imposed at Sl. No. 2 and 4 of the impugned order are sustained. Further, the punishment imposed at Sl.No. 3 is concerned, the same is subject to the conditions imposed herein below.

35. As the major sanction awarded at Sl. No.1 of the impugned order having stood modified as indicated above, in order to bring about reformation in the petitioner/student, this court is of the view that the following conditions are required to be imposed:

(i) *The petitioner(s) are to be permitted to attend classes and take examinations including 'Makeup examination' and "Summer Quarter" ;*

(ii) *The petitioner(s) be permitted to use the facilities provided by institute in connection with academic pursuit (eg. Library, Labs etc.,) ;*

(iii) *The admission of the petitioner(s) to hostel block, mess or it's precincts is strictly barred till the end of academic year 2019-20 ;*

(iv) *The petitioner(s) shall stay outside the 1st Respondent institute premises as per condition No.2 of Appendix-I of the code during the academic session 2019-2020 and*

shall provide the details of residence to the 2nd respondent authority, who can have the movements of the petitioner monitored ;

(v) The petitioner(s) shall leave the institute premises immediately after college hours during the period of his stay outside the 1st respondent institute as per condition no. (iv) above ;

(vi) The entry and exit time of petitioner(s) shall be monitored and recorded and the petitioner shall be subjected to frisking or other mode of checks upon his entry and exit;

(vii) The petitioner(s) shall undergo THC (Tetra Hydro Cannabinol) test on a fortnightly basis till the end of academic session 2019-2020, at the medical facility of the institute (if it has any such facility) or at any Medical centre in Warangal as may be directed by the 1st respondent Institute and shall submit the report periodically to Dean, Student Welfare ;

(viii) Since the petitioner(s) themselves expressed their willingness to do social service as per the undertaking, the 2nd respondent through Dean, Student Welfare is directed to get in touch with the concerned people at Sri Ramakrishna Seva Samithi, Circuit House Road, Hanamkonda, to allow the petitioner(s) to attend the social service activity for a period of 2 months on weekends during lunch time by taking part in Narayana Seva i.e., feeding the poor, so that the petitioners are exposed to the realities of life and to understand how privileged they are having so many facilities and privileges to get educated in such a premier institutes.

36. Subject to the above directions and observation the writ petitions are partly allowed to the extent indicated above by

modifying the impugned orders. It is made clear that the above relief is granted having regard to the peculiar facts of the case as narrated herein above and would have no precedent value. No order as to costs.

37. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

T. VINOD KUMAR, J

Date: 11.03.2020

Isn/Mrkr