

Indulekha Joseph Vs Vice Chancellor, M.G. University

Court: High Court Of Kerala

Date of Decision: July 17, 2008

Acts Referred: Constitution of India, 1950 " Article 226

Mahatma Gandhi University Students Code of Conduct Rules, 2005 " Rule 5

Citation: (2008) 3 ILR (Ker) 346 : (2008) 3 KLJ 23

Hon'ble Judges: H.L. Dattu, C.J; A.K. Basheer, J

Bench: Division Bench

Advocate: Party in Person, for the Appellant; T.A. Shaji, O.V. Radhakrishnan Binu Paul and Shaji Thomas Porkkattil, for the Respondent

Final Decision: Dismissed

Judgement

A.K. Basheer, J.

"Sword of Satyagraha", Mahatma Gandhi said, "is far superior to the steel sword. Truth and justice provide its point; divine help is the hilt that adorns it. One who has the use of this sword has no cause to fear defeat".

2. The 19 years old appellant who is a first year B.A. (English) student in St. George's College, Erattupetta in Kottayam, deluded herself as a

Satyagrahi and believed that "peaceful resistance" was the best means to fight for the cause of her family. She staged a Satyagraha in front of the

office of the Principal with a placard in her hand while all her college mates were attending classes.

Appellant was dismissed from the college. She unsuccessfully challenged the above order of dismissal before the learned single Judge. Hence this

appeal.

3. The short question that arises for consideration is whether the dismissal of the appellant is illegal, arbitrary and vitiated.

4. While answering the above question in the negative, the learned Judge held that Sathyagraha staged by the appellant in front of the office of the

Principal during the working hours of the college with a placard in her hand, distribution of pamphlets among the students and teachers justifying the

Satyagraha and also holding of press conference to the print and electronic media thereafter, were all acts of misconduct and therefore the

management was justified in dismissing the appellant from the college after accepting the finding entered by the Enquiry Committee in this regard.

The learned Judge also held that the action of the management was not vitiated by malafides or victimisation and that the order of dismissal was

issued in conformity with the procedure prescribed therefore and also in compliance of the rules of natural justice.

Shorn of unnecessary details, the relevant facts may be briefly noticed.

5. Appellant was a student in the first year B.A. (English) in St. George's College at Erattupetta in Kottayam during the academic year 2006-07.

Her father Sri. George Varghese is working as a Selection Grade Lecturer in Malayalam in the said institution. According to the appellant, the

Principal of the college had been extremely inimical and hostile towards her father after publication of a book authorised by him entitled

Nasrayanum Naranathubrandanum". Appellant concedes that in the said book her father had given a true narrative of the harrowing experiences

faced by him at the hands of the Principal. Her father had also criticized the Christian Sabha in the book with a view to persuade it to rectify its

mistakes. The second reason for the hostility of the Principal towards appellant's father, according to her, was that the Principal had raised some

objection with regard to the entitlement of her father to draw salary during the period when he had been doing research work under the Faculty

Improvement Programme sponsored by the University Grants Commission. Appellant alleged that the Principal had been subjecting herself and her

father to mental harassment and humiliation under one pretext or the other primarily because of the two reasons mentioned above.

6. The appellant further alleged that the Principal had refused to conduct the College Day Celebrations during the academic year in question

(2006-2007) on the plea that the atmosphere in the campus was not congenial enough, since the Police had registered a crime against a colleague

of the appellant (Mr. Praveen) who was falsely implicated in the case at the instance of the appellant. The principal had also spread news among

the students that appellant's mother had lodged a complaint against members of the College Union and therefore the College Day could not be

celebrated. The appellant who was elected as the Vice Chairman of the College Union was widely criticised by the students for the cancellation of

the College Day Celebrations. It was for the aforesaid reasons that the appellant had held a Satyagraha in front of the office of the Principal.

7. It may at once be noticed that it is unambiguously admitted by the appellant that 1 she had staged a Satyagraha in front of the office of the

Principal in the administrative building with a placard in hand on February 13, 2007 from 9.45 AM till 12.15 PM and again from 1.15 PM till 3.15

PM. It is also admitted by the appellant that she had distributed some pamphlets among the students and members of the teaching and non-

teaching staff highlighting the circumstances which led her to hold the Satyagraha. It is also beyond controversy that appellant had held a Press

Conference on February 15, 2007 for the print and electronic media. In that press conference the appellant had ""exposed the misdeeds"" of the

Principal and the management. Some of the Malayalam dailies like Mathrubhumi, Desabhimani etc. had given wide coverage to the press

conference held by the appellant.

8. The Principal had responded to the Satyagraha held by the appellant on the same day itself by issuing Ext. P3 order suspending her from the

college to be effective from 1.30 PM on that day pending enquiry. It was made explicit in the said order that conducting satyagraha with a placard

was with a mala fide intention to harm the reputation of the institution among the public and was therefore ""great indisciplinary behaviour"".

9. The appellant preferred an appeal against the above order before the Board for Adjudication of Students' Grievances. In the meanwhile, the

Principal appointed an Enquiry Committee comprising three teachers of the college. The Commission issued Ext. P7 memo of charges to which the

appellant submitted Ext. P8 reply. The Commission submitted its report after completing the enquiry in which 9 witnesses were examined on the

side of the Principal.

10. In Ext. P10 report the Commission held that all the 4 charges levelled against the appellant had been proved and the appellant was guilty of

misconduct. The said report was accepted by the Principal and the appellant was informed through Ext. P9 notice that it was proposed to dismiss

her from the college. In response to Ext. P9 show cause notice, the appellant had given Ext. P11 reply. But the explanation was not accepted and

Ext. P12 order was issued dismissing the appellant from the college for misconduct with effect from February 13, 2007. The statutory appeal

preferred by the appellant against the order of suspension was also rejected by the Board through Ext. P16 order.

11. It was in the above circumstances that the appellant had preferred the writ petition under Article 226 of the Constitution of India praying for

issue of a writ of certiorari to quash Exts. P10, P12 and P16 orders. She further prayed for a declaration that Ext. P10 enquiry report was totally

in violation of the procedure prescribed and also the principles of natural justice. The other prayer was for issue of a writ of mandamus to

respondents 2 and 3 to permit the appellant to continue in the college for the second year B.A. degree course.

12. The stand taken by the Principal was that the appellant was guilty of grave misconduct. Therefore she was suspended and an enquiry was

ordered. The Enquiry Commission which conducted the enquiry after affording sufficient opportunity to the appellant found her guilty of all the 4

charges levelled against her. The said finding was entered after elaborately considering the entire aspects of the issue. The Principal accepted the

finding in the report and the appellant was informed that it was proposed to dismiss her from the college. The explanation given by the appellant

was also considered before issuing the order of dismissal. The Principal vehemently denied the allegation that the appellant and her father were

being harassed by him after the publication of the book authored appellant's father. It was also asserted by the Principal that the allegation that the

College Day Celebrations were cancelled due to reasons connected with the appellant was not correct. In short, the Principal stoutly defended the

action taken by him against the appellant.

The appellant appeared in person before us and argued the case quite competently, we must say.

13. The thrust of the argument of the appellant is that holding of Satyagraha in front of the office of the Principal is not an act of misconduct at all.

In support of her action she contended that in order to attract the vice of misconduct, there ought to have been some kind of disruption of the

normal business of the Principal's office or the regular classes in the college. But since no such disturbance or disruption had occurred either in the

office or the class rooms, her action could not have been labelled as grave misconduct. But to a query put by the Court as to why she had chosen

to hold a placard in her hand while holding the Satyagraha, she answered that she wanted to draw the attention of her colleagues and members of

the teaching and non teaching staff to the plight of her father and herself. The answer was the same to another query regarding distribution of

pamphlets. She submitted that the Father of the Nation had exhorted the countrymen to resort to peaceful mode of agitation. She was only

following the words of Mahatma.

14. The appellant contended that she had not shouted any slogans in order to cause any disturbance in the college premises; nor had she instigated

any of her colleagues or other students to join her in the Satyagraha. She also defended her action in holding a press conference for the print and

electronic media two days after the Satyagraha. She contended that she had convened the press conference at Kottayam Press Club with a view

to inform the outside world as to what was happening in the college. She alleged that the Principal and the management controlled by the Christian

Sabha had been running a tirade against her family because of the unsavoury revelations made by her father in his book ""Nasrayanum

Naranathubrandanum"". The management had refused to pay salary to her father, after publication of the book. He father and herself were

constantly harassed. In this context the appellant invited our attention to Ext. P1 representation submitted by her father before the Bishop of Pala

inviting the attention of the Church to the harrowing experiences faced by him and his daughter in the college.

15. It may be true that the appellant and her family might have faced some unpleasant situations in the campus, probably because her father had

antagonised the Christian Sabha in general, and the management in particular through some of the statements in the book published by him. It may

also be true that the appellant might have felt that she had been sidelined in the college functions though she was elected Vice Chairman in the

Student's Council. But in our view, the appellant was not justified at all in holding Satyagraha in front of the office of the Principal holding a placard

in her hand.

16. It is true, nothing was brought on record to show that the Satyagraha had caused any obstruction to the normal activity, either in the office of

the Principal or in the class rooms. But the fact remained that the action of the appellant had attracted wide publicity not only inside the campus but

outside as well. The Satyagraha had also gained wider publicity through the print and electronic media after the appellant held a press conference

at the Kottayam Press Club. Therefore the stand taken by the Principal that the appellant had held the Satyagraha with a mala fide intention to

tarnish the image of the institution cannot be brushed aside lightly.

17. The appellant contended before us that her action did not amount to misconduct as alleged by the Principal. She reiterated her stand that

Satyagraha was a peaceful mode of agitation propounded and propagated by the Father of the Nation. Since her Satyagraha had not caused any

disturbance in the functioning of the office of the Principal or the college, it did not amount to any misconduct as provided in the Mahatma Gandhi

University Students Code of Conduct Rules, 2005.

Clause 5(d) of the above Rules reads thus:

5(d) No student of a college shall stage or indulge in any activity like Dharna, Gherao, obstructing entry to and from any class room, office, hall or

other places inside the campus and such activities shall be tread as misconduct.

18. Appellant contended before us that holding ""Satyagraha"" will amount to misconduct as envisaged under the above rule, only if such

Sathyagraha obstructs entry to and from any class room, office etc. inside the campus. So long as the management did not have a case that the

Satyagraha staged by her did cause any obstruction to the normal activity in the campus, she could not have been found guilty of misconduct at all.

We are unable to agree. The rule extracted above admits of no ambiguity.

19. Discipline is the paramount asset of an educational institution. If the said virtue is not inculcated among the students and the teaching and non-

teaching staff, it will have a disastrous and deleterious effect on the entire fabric of the society itself, because the educational institution is the

breeding ground of the future generation. If any compromise is made in the matter of maintaining discipline in the institution, the result will be

disastrous. The message should be loud and clear to all concerned that there is no premium in the matter of discipline in an educational institution.

All other so called organisational and individual rights should be subject to the code of conduct prescribed by the institution. In any view of the

matter, we have no hesitation to hold that the action of the appellant was in violation of Rule 5(d) of the Code of Conduct Rules 2005. Therefore

the learned single Judge was perfectly justified in holding that petitioner was guilty of misconduct for holding Satyagraha with a placard in her hand.

20. The next contention raised by the appellant was that the Enquiry Committee was not properly constituted. According to the appellant, the three

teachers who were appointed as members of the Commission were subservient to the management, they being not only Christians but members of

the teaching faculty under the Principal.

21. In this context it may be noticed that the appellant did not have a case that the Enquiry Committee did not give her opportunity to defend

herself. No specific violation of the rules of natural justice had been brought to our notice in this regard. Therefore we have no hesitation to agree

with the view taken by the learned single Judge that the Enquiry Committee had conducted the enquiry in compliance of the rules of natural justice

and after affording abundant opportunity to the appellant to defend herself. The learned Judge had adverted to the contention raised by the

appellant that she was not allowed to cross examine the witnesses. But it was revealed from the enquiry report that the appellant had in fact cross

examined one of the witnesses. She informed the Committee that she did not want to cross examine the other witnesses who were her teachers.

22. The other contention raised by the appellant before us was that Ext. P7 memo of charges as framed by the Enquiry Committee was illegal,

improper and incompetent. The Committee by issuing Ext. P7 memo of charges had donned the mantle of accuser by itself. We have referred to

the above contention only to be rejected.

23. In this context we may extract some of the statements made by the appellant in Ext. P8 reply given by her in response to Ext. P7 memo of

charges.

Let me conclude. Indiscipline is the primary charge levelled against me. What is this so called discipline? I know the definition that you may give to

that word. Going by that definition I may not be the only person who is guilty of indiscipline. Jesus Christ, who had gone inside the Church and

chased away the merchants and Father of the Nation who had led the Salt Satyagraha will also be gross violators of discipline.... I had taken up

this struggle to send a message to the student community in Kerala to never compromise on injustice. History needs scapegoats occasionally. Jesus

Christ and Mahatma Gandhi were such scapegoats. Compared to those great men I am very insignificant. God Almighty had given you an

opportunity to sacrifice me at the sacrificial platform of history.... I will pray to Jesus to keep your hands straight, when your conscience is

hardened to pass the verdict against me.

24. We do not propose to refer to the contents of Ext. P15 statement filed by the appellant before the Enquiry Committee at this stage. Suffice it to

say that the appellant had tried to give vent to her indignation and anguish towards the Principal of the college at every stage of her so called

struggle"" against the oppression and vendetta allegedly meted out by the Principal against her father and herself.

25. It was also contended by the appellant before us that the Board for Adjudication of Students' Grievances which had heard the appeal against

the order of suspension had apparently exceeded its brief while issuing Ext. P16 order dismissing the appeal preferred by her. It is true that the

Board while upholding the decision of the Principal to suspend the appellant, had gone a step further and held that the action of the Principal in

dismissing the appellant was also justified. In our view, the appellant was therefore justified in not availing of the alternative remedy of appeal

before the statutory appellate authority against the order of dismissal.

26. The learned single Judge had very elaborately considered the entire aspects of all the issue in their proper perspective. The learned Judge had

even considered the proportionality of the punishment as well, though such a contention was not raised before him. It was held that the punishment

imposed on the appellant was totally warranted having regard to the facts and circumstances of the case.

27. The appellant had in fact urged before us that even assuming that she was guilty of misconduct, the sentence imposed on her was too harsh and

highly disproportionate.

28. We may place on record that in that course of the arguments we had repeatedly - asked the appellant - not less than three times at least -

whether she would like to express regret for whatever had happened in the college. On a query made by us to the learned senior Counsel

appearing for the Principal as to whether it would be possible to issue a transfer certificate to the appellant, so that she could join another institution

and continue her studies, the response was positive. But still the appellant did not budge. Her mother was sitting inside the court hall all along when

the appellant was addressing the Court. The appellant did not even bother to consult her mother when the suggestion was made by the Court. The

attitude of the appellant, right from the beginning of her so called struggle till the culmination of the disciplinary proceedings against her, has been

one of defiance, to say the least. This Court need not pass any comment on the temerity or audacity of the appellant in describing herself as a

Satyagrahi emulating the footsteps of Mahatma Gandhi. If the appellant feels that she wants to be a martyr, or a scapegoat for whatever cause she

may espouse, this Court need not frown upon it. But when it comes to the question of discipline in an educational institution, the anxiety of the

management and the Head of the Institution will have to be kept in view. The appellant may have a different concept about the so called discipline

(as she put it in Ext. P8) but she cannot be heard to say that the word ""discipline"" has to be defined and conceptualised in tune with her contrived

views.

29. Having heard the appellant and the learned Counsel for the respondents, we do not find any reason to interfere with the order passed by the

learned single Judge. The contentions raised by the appellant are totally misconceived and untenable. There is no merit in any of her contentions.

The Writ Appeal fails and it is accordingly dismissed.