

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 18TH DAY OF JANUARY 2023 / 28TH POUSHA,

1944

WP(C) NO. 42412 OF 2022

PETITIONER:

AARON S JOHN
AGED 24 YEARS
S/O SURESH JOHN, VALAMPARAMBIL HOUSE,
KULATHUPUZHA P.O, KOLLAM, KERALA-691 310,
PRESENTLY RESIDING AT C/O JOSE KOSHY,
NEDUMBAIKULATH VEEDU,
NEDUMBAIKULAM KUNDARA P.O, KOLLAM,
KERALA-691 501.
BY ADVS.
DEEPAK JOY.K.
SANDHYA RAMAN
AJAI JOHN

RESPONDENTS:

- 1 TKM COLLEGE OF ENGINEERING, KOLLAM,
THIRUMANGALAM RD, KARICODE,
PEROOR, KOLLAM, KERALA-691 005,
REPRESENTED BY ITS PRINCIPAL.
- 2 INTERNAL COMPLAINTS COMMITTEE (ICC),
TKM COLLEGE OF ENGINEERING,
KOLLAM, THIRUMANGALAM RD,
KARICODE, PEROOR, KOLLAM,
KERALA-691 005,
REPRESENTED BY ITS PRESIDING OFFICER, .
- 3 UNION OF INDIA,
MINISTRY OF LAW AND JUSTICE,
4TH FLOOR, A-WING, SHASTRI BHAWAN,
NEW DELHI-110 001.

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- 4 UNIVERSITY GRANTS COMMISSION,
BAHADUR SHAH ZAFAR MARG,
NEW DELHI-110 002.
- 5 ADDL R5.APJ ABDUL KALAM TECHNOLOGICAL
UNIVERSITY, GNR4 + JTW, CET CAMPUS,
ALATHARA ROAD, AMBADY NAGAR, THIRUVANANTHAPURAM,
KERALA,
PIN-695 016 .(ADDL R5 SUO MOTU IMPLEADED AS PER
ORDER DATED 10-01-2023)
BY ADVS.
GEORGE POONTHOTTAM (SR.)
SUNIL.J
NISHA GEORGE

SRI.ELVIN PETER-SC
SRI.S.KRISHNAMOORTHY-CGC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18.01.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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JUDGMENT

It does not forebode well for the future when allegations of sexual harassment are accepted to be ubiquitous, as it appears these days.

2. It is imputed that the petitioner misbehaved and even groped certain girl students within the campus of the - respondent - College; and that an enquiry was initiated against him, under the aegis of the statutory Internal Complaints Committee (hereinafter referred to as 'ICC'). The said Committee found the petitioner guilty, leading to Ext.P11 order being issued by the Principal.

3. The petitioner impugns the report of the ICC, as also Ext.P11 order of the Principal, on various grounds, including that the latter has been issued without affording him an opportunity of being heard.

4. I have heard Sri.Ajai John - learned counsel for the petitioner; Sri.George Poonthottam, learned Senior Counsel, instructed by Smt.Ann Mariya Francis - appearing for the 1st respondent College, as also the 2nd respondent Internal Complaints Committee; Sri.Elvin Peter - learned Standing

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Counsel appearing for the 5th respondent - University; Sri.S.Krishnamoorthy, learned Standing Counsel for the 4th respondent - University Grants Commission and Sri.Sunil J. - learned Central Government Counsel for the 3rd respondent.

5. Even though very vehement submissions have been made on both sides, I do not propose to go into them in detail, lest the privacy and legal liberties of the parties are violated in any manner. This is because, Ext.P11 order has been issued by the Principal, without hearing the petitioner and this is not disputed. Further, Sri.Elvin Peter – learned Standing Counsel for the University, submits that, normally, in such cases, the students should have the opportunity of approaching the “Collegiate Students Redressal Committee” - which is a statutory committee to be constituted by the College; which then can take an apposite decision on the report of the ICC. He pointed out that, such a committee is to be constituted with the Principal as its Chairperson, along with three senior faculty members nominated by the Principal, as also representatives of the students. He added that, if this Court is inclined to adopt this course, then the grievance of the petitioner would be allayed to a large extent.

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6. Sri.George Poonthottam - learned Senior Counsel, conceded that Ext.P11 has been issued without hearing the petitioner, but argued that it is not necessary. His assertion was that, since the ICC has found unequivocally against the petitioner, it was up to the Principal to take a decision on it, which he/she has done through the said order.

7. However, to a pointed question from this Court, Sri.George Poonthottam - learned Senior Counsel, fairly conceded that, if this Court is only inclined to direct the College to constitute the statutory "Collegiate Students Redressal Committee", so that said Authority can then consider the petitioner's grievances, he would not stand in the way of appropriate orders being issued. He, but, prayed that no affirmative declarations be made in favour of the petitioner in this judgment.

8. As evident from the above, the stage at which this litigation presently rests is evaluation of the *germane* facts and determination of the truth. The ICC certainly has spoken, and it is now for the competent Authority to evaluate it, after hearing the petitioner also.

9. In such view, I am of the sure opinion that it is

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imperative for this Court to direct the 1st respondent College - to constitute the statutory “Collegiate Student Redressal Committee”, so that it can then hear the petitioner, as also the affected persons, if any, before taking a final decision.

10. Resultantly, this writ petition is disposed of, directing the College to constitute the afore Committee within a period of two weeks from the date of receipt of a copy of this judgment; with a consequential direction to the said Committee to afford necessary opportunities of being heard to both sides; thus culminating in their final decision on the report of the ICC. This shall be done by the Committee within a period of one month from the date on which it is constituted.

11. At this time, Sri.Ajai John - learned counsel for the petitioner, intervened to say that should his client be exonerated of charges in future, his life would be irreparably prejudiced, if he is not allowed to take part in the Internal Assessment and to submit his thesis. I am afraid that this Court will not be justified in issuing an affirmative order in favour of the petitioner as regards the Internal Assessment; but leave it open to the Principal to decide whether he can be allowed to submit his thesis, either by himself or through an

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authorised person, so that he would not be prejudiced to that extent. On the question of the Internal Assessment, I permit the Principal to decide on this also - either simultaneously with the afore ordered exercise, or earlier.

12. That said, before I close, the increasing number of cases of sexual harassment, involving students, particularly within the campuses of educational institutions, compels me to speak and act further.

13. Increasing instances of sexual harassment against students, even in schools and colleges, impel us, as a Society, to think and introspect very closely.

14. Most of, or all, the allegations of sexual harassment are made against boys and very rarely against girls; and in that perspective, certainly, it is now time for all to sit up and think intently as to what should be done, atleast for the generations to come.

15. Boys, even from a very young age, often grow up with certain sexist stereotypes - reinforced by peer and other social influences.

16. Showing a girl/woman respect and honour is not old fashioned; on the contrary, is a virtue for all times.

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17. The archaic concepts of masculinity has changed – it needs to change more.

18. Sexism is not acceptable or “cool”. One exhibits strength when he respects a girl/woman. Respectfulness is an imperative that needs to be inculcated very young. How one treats a woman gives an insight to his upbringing and personality.

19. As Ibn Qayyim Al-Jawziyya said *“Women are one half of society, which gives birth to the other half, so it is as if they are the entire society”*

20. A child should be taught at the family, and from the beginning of school, that he/she must respect the other gender. They should be taught that real men dont bully woman – it is unmanly; and not an expression of macho virtue, but its antithesis. It is, in fact, the weak men who dominate and harass woman – this message must ring loud and clear.

21. Boys must know that they should not touch a girl/woman without her explicit consent. They should understand “No” means “No”.

22. We must teach our boys to be selfless and gentle, rather than selfish and entitled.

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23. I have indited the afore because, sometimes one gets the impression that our educational system seldom focuses on Character building, but solely on academic results and employability. It is time to shift attention to value education - so that our children grow up to be well adjusted adults.

24. Lessons in good behaviour and etiquette must be part of the curriculum; and from at least the Primary Class level; teachers must be encouraged to instil virtues and values in students.

25. This Court hortatively commends the official policy makers and influencers in the field of education - from its inception level - to bestow attention to this; to facilitate which, I direct the Registry to serve a copy of this judgment on the Chief Secretary, Government of Kerala; the Secretary, General Education Department and Secretary, Higher Education Department; as also the Education Boards like the CBSE, ICSE and such other.

26. The University Grants Commission also has a role to play, in as much as their Regulations relating such issues are effectively monitored and implemented; and I record the

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submissions of their learned Standing Counsel - Sri.S.Krishnamoorthy, that steps in this regard will also be taken and instructions issued immediately, adverting to Regulation 3.2 of “University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015”.

27. The intent of this Court being so recorded, I am firm that a report regarding the necessary decisions and action taken on the observations in para 12 to 26 afore, will need to be placed on record by the competent Authorities of the Government. For this, even though this writ petition will stand disposed of in terms of the directions in paras 9, 10 and 11 above, I direct the Registry to list this matter on the 3rd February 2023.

Sd/-

**DEVAN RAMACHANDRAN,
JUDGE**

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APPENDIX OF WP(C) 42412/2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE ID CARD OF THE PETITIONER ISSUED BY THE 1ST RESPONDENT
- Exhibit P2 TRUE COPY OF THE ORDER DATED 4.6.2022 ISSUED BY THE 1ST RESPONDENT
- Exhibit P3 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT
- Exhibit P4 TRUE COPY OF THE COMPLAINT DATED 3.6.2022
- Exhibit P5 TRUE COPY OF THE COMPLAINT ALONG WITH PRINTOUT OF THE PHOTOGRAPHS DATED 9.6.2022
- Exhibit P6 TRUE COPY OF THE REPLY STATEMENT DATED 12.6.2022
- Exhibit P7 TRUE COPY OF THE LETTER DATED 10.10.2022 ISSUED BY THE PETITIONER ADDRESSING THE 1ST RESPONDENT FOR ISSUANCE OF COPY OF THE DEPOSITION
- Exhibit P8 TRUE COPY OF THE REQUEST LETTER BY THE PETITIONER ADDRESSING THE 2ND RESPONDENT
- Exhibit P9 TRUE COPY OF THE REPLY GIVEN BY THE 2ND RESPONDENT BY GMAIL
- Exhibit P10 TRUE COPY OF THE ENQUIRY REPORT DATED 8.8.2022 SUBMITTED BY THE 2ND RESPONDENT
- Exhibit P11 TRUE COPY OF THE ORDER DATED 24.8.2022 ISSUED BY THE 1ST RESPONDENT
- Exhibit P12 TRUE COPY OF THE PHOTOGRAPHS EVIDENCING THE RELATIONSHIP OF SMT. ABINA AND CHRISTEENA WHO ARE THE COMPLAINANTS
- Exhibit P13 TRUE COPY OF THE RTI APPLICATION DATED 1.11.2022
- Exhibit P14 TRUE COPY OF THE RTI REPLY LETTER DATED 21.11.2022