

A VICE CHANCELLOR, GURU GHASIDAS UNIVERSITY
v.
CRAIG MCLEOD
(Civil Appeal No. 5889 of 2012)

B AUGUST 16, 2012

[A.K. PATNAIK AND MADAN B. LOKUR, JJ.]

CONSTITUTION OF INDIA, 1950:

C *Art. 136 - Interference with interim order passed by High Court staying operation of orders of the University against a student charged with beating and threatening a teacher - Held: There is a self-imposed limited discretion for interference available to Supreme Court, and it would, generally, be more appropriate for an aggrieved litigant to approach the High Court for rectifying any error that may have been committed in passing (or declining to pass) an interim order - Of course, in an emergent and appropriate situation it is always open to a litigant to approach Supreme Court in its remedial jurisdiction - In the instant case, there was no legal basis for interdicting completion of inquiry against the student - While the High Court may have intended to bring a quietus to the entire episode, it should have kept in mind that maintenance of discipline in the University is equally important for a conducive academic environment and that the larger interests of the academic community are more central than the individual interests of a student - In the circumstances, the impugned interim order is set aside - Liberty granted to the student to revive his writ petition which he filed (and subsequently withdrawn) challenging the order of the University by which he was rusticated from the University - Interim orders - Education/Educational Institutions - Maintaining of discipline on campus.*

An FIR was lodged against the respondent, a student

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of B.E. (Computer Science and Engineer) of the appellant-University for beating and threatening a teacher on campus. The University also initiated action against the respondent and pending final decision, by an order dated 2.2.2010, suspended him from attending his classes and restrained him from entering the University premises. In the writ petition filed by the respondent, the High Court, by the interim order dated 9.8.2010, stayed the directions passed by the University. The University challenged the said interim order in the instant appeal. Subsequently, by order 7.1.2011, the University rusticated the respondent from the University for a period of five years. The respondent challenged the said order in W.P.(C) No. 890 of 2012, which was withdrawn by him with liberty to move an appropriate application in the Supreme Court in the instant appeal. However, no such application was filed.

Disposing of the appeal, the Court

HELD: 1.1. It is only in an atypical case that this Court entertains a petition against a discretionary interim order passed by the High Court where repercussions are grave or the legal basis for passing the interim order are obscure; or there is a miscarriage of justice; or it is imperative that this Court exercises its corrective jurisdiction. [para 16] [277-A-C]

Southern Petrochemical Industries Corpn. Ltd. v. Madras Refineries Ltd., (1998) 9 SCC 209; *Maharashtra SEB v. Vaman*, (1999) 3 SCC 132, and *United Bank of India v. Satyawati Tondon* 2010 (9) SCR 1 = (2010) 8 SCC 110; *Union of India v. Swadeshi Cotton Mills Co.Ltd.* 1979 (1) SCR 735 = (1978) 4 SCC 295; *Joginder Nath Gupta v. Satish Chander Gupta* (1983) 2 SCC 325; *Kishor Kirtilal Mehta and Ors. v. Lilavati Kirtilal Mehta Medical Trust*, 2007 (8) SCR 86 = (2007) 10 SCC 21 - relied on

A 1.2 There is, therefore, a self-imposed limited
discretion for interference available to this Court, and it
would, generally, be more appropriate for an aggrieved
litigant to approach the High Court for rectifying any error
that may have been committed in passing (or declining
to pass) an interim order. Of course, in an emergent and
B appropriate situation it is always open to a litigant to
approach this Court in its remedial jurisdiction. [para 17]
[277-D-E]

C 1.3 Insofar as the instant case is concerned, the
respondent was alleged to have assaulted a professor
on campus. This by itself is a rather serious allegation.
The turn of events, given the lapse of time, did not form
a legal basis for interdicting completion of the inquiry
against the respondent. While the High Court may have
D intended to bring a quietus to the entire episode, it should
have kept in mind that maintenance of discipline in the
University is equally important for a conducive academic
environment and that the larger interests of the academic
community are more central than the individual interests
E of a student. In the circumstances, the impugned interim
order is set aside. [para 18-19, 23] [277-F-H; 278-A-B, H]

*Varanaseya Sanskrit Vishwavidyalaya and Another v.
Rajkishore Tripathi (Dr.)*, 1977 (2) SCR 213 = (1977) 1 SCC
279 - relied on
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1.4 In view of the subsequent developments,
particularly, the passing of the office order dated
07.01.2011 by the Vice Chancellor of the University,
liberty is granted to the respondent to revive W.P.(C) No.
G 890 of 2012 filed (and subsequently withdrawn) by him
in the High Court challenging the order dated 07.01.2011.
[para 21-22] [278-D-F]

Case Law Reference:

H (1998) 9 SCC 209 relied on para 16

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(1999) 3 SCC 132	relied on	para 16	A
2010 (9) SCR 1	relied on	para 16	
1979 (1) SCR 735	relied on	para 16	
(1983) 2 SCC 325	relied on	para 16	B
2007 (8) SCR 86	relied on	para 16	
1977 (2) SCR 213	relied on	para 19	

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From the Judgment & Order dated 09.08.2010 of the High Court of Chatisgarh at Bilaspur in W.P. (C) No. 694 of 2010.

Rakesh Khanna, S.S. Nehra, K.K Mishra, Seema Rao for the Appellant. D

Ajit Kumar Sinha, Ashwarya Sinha, Abhishek Prasad, Ambhoj Kumar Sinha for the Respondent.

The Judgment of the Court was delivered by
MADAN B. LOKUR, J. 1. Leave granted. E

2. The Vice Chancellor, Guru Ghasidas University is aggrieved by an interim order dated 09.08.2010 passed by the High Court of Chhattisgarh at Bilaspur in W.P.(C) No. 694 of 2010 filed by Craig Mcleod. F

3. The subject matter of the impugned interim order, is three directions given by the University on 02.02.2010. These three directions are: (1) suspending Craig Mcleod from attending classes in the University of which he is a student, (2) stopping him from availing the facilities of the University till final orders are passed in respect of his alleged gross misbehavior, and (3) restraining from entering the University premises. G

4. All three directions were stayed by the High Court by the impugned interim order till the disposal of the Writ Petition. H

A The interim stay was subject to the condition that Craig Mcleod gives an undertaking, inter alia, of good behaviour. The impugned interim order also directed the University not to pass a final order in respect of the alleged gross misbehaviour of Craig Mcleod.

B 5. In our opinion the impugned interim order is not sustainable and while passing final orders, we have taken subsequent developments into consideration.

The facts:

C 6. It is alleged that on 02.02.2010 Craig Mcleod grossly misbehaved on campus with two Professors of the University. As a result of the incident, a First Information Report was lodged with the police and the Proctorial Board of the University took an emergent decision to expel him from the University for violating the code of conduct and for beating and threatening a teacher. Pending a final decision on the allegations against him, Craig Mcleod was suspended from attending his classes, stopped from availing facilities of the University and restrained from entering the University premises by an order dated
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E 02.02.2010.

Proceedings in the High Court:

F 7. Feeling aggrieved, Craig Mcleod challenged the said order by filing Writ Petition (C) No. 694 of 2010 in the High Court of Chhattisgarh. On 17.02.2010 notice was issued in the Writ Petition and in the interim, the passing of an order of rustication was stayed. This interim order was continued for a couple of months.

G 8. On 17.06.2010, the High Court granted liberty to the University to take a final decision in the matter of the alleged gross misbehaviour of Craig Mcleod within a week. In other words, the interim order was not extended.

H 9. Soon thereafter, some developments appear to have taken place but they are not clear from the record before us.

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Be that as it may, on 22.07.2010 the High Court recorded that Craig Mcleod had filed an affidavit dated 21.07.2010 in the High Court tendering an unconditional apology to the teacher concerned for the incident, which he stated was unintentional. The order passed by the High Court also recorded that Craig Mcleod stated that he would go to the University on 26.07.2010 and personally tender an apology to the concerned teachers. The case was then adjourned to 06.08.2010.

10. When the matter was taken up on 06.08.2010, the High Court was informed by the University and the concerned Professors that Craig Mcleod did come to the University to tender an apology but he was accompanied by several persons. It appears that an apology was not tendered by him and in any event the apology, if tendered, was not sincere in view of the above situation. This was, of course, contested by Craig Mcleod.

11 Based, however, on the affidavit of apology dated 21.07.2010, the impugned interim order dated 09.08.2010 came to be passed by the High Court.

Proceedings in this Court and pendent lite developments:

12. Feeling aggrieved by the impugned interim order dated 09.08.2010 the University preferred a Petition for Special Leave to appeal (now a Civil Appeal). On 29.11.2010, this Court passed the following order :

"Issue Notice.

Interim stay of the impugned order of the High Court to the extent it stays the passing of the final order in the disciplinary enquiry against the respondent. Consequently, the Enquiry Authority may submit his report, subject to final decision."

13. When we took up the matter for final disposal, learned counsel for the parties brought to our notice certain developments that had taken place during the pendency of this

A appeal. Firstly, on 07.01.2011 an office order was passed by the Vice Chancellor of the University rustivating Craig Mcleod from the University for a period of 5 years. It was also ordered that he was not entitled to get admission in any course in the University or any affiliated college of University during this period of 5 years. The operative portion of the order passed by the Vice Chancellor reads as follows:-

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C "The Shri Craig Mcleod S/o Shri Rodney Mcleod, a student of B.E. (Computer Science and Engineering) is hereby rusticated from the University for a period of 5 years w.e.f. today and further he will not be entitled to get admission in any course in the University or any affiliated college of the University during this period of 5 years."

D 14. Thereafter, Craig Mcleod challenged the order dated 07.01.2011 by filing W.P.(C) No. 890 of 2012 in the High Court of Chhattisgarh. This Writ Petition came up for hearing on 10.05.2012 when it was withdrawn by him with liberty to move an appropriate application in this Court since this appeal was still pending. The order passed by the High Court on 10.05.2010 reads as follows:-

E "In view of the order passed by the Hon'ble Supreme Court on 29/11/2010 in SLP(C) No. 32358/2010 arising out of an interim order passed by this court on 09/08/2010 in W.P. (C) No. 694/2010, wherein the Hon'ble Supreme Court directed that "the Enquiry Authority may submit his report, subject to final decision", learned counsel for the petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to move appropriate application before Hon'ble Supreme Court.

G Accordingly, the writ petition is dismissed as withdrawn with the liberty aforesaid."

H 15. We may note that despite liberty having been granted to him, Craig Mcleod has not filed any application in this Court. We have, however, heard learned counsel for the parties.

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Discussion:

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16. It is only in an atypical case that this Court entertains a petition against a discretionary interim order passed by the High Court (*Southern Petrochemical Industries Corpn. Ltd. v. Madras Refineries Ltd.*, (1998) 9 SCC 209, *Maharashtra SEB v. Vaman*, (1999) 3 SCC 132, and *United Bank of India v. Satyawati Tondon*, (2010) 8 SCC 110) where, for example, the repercussions are grave or the legal basis for passing the interim order are obscure (*Union of India v. Swadeshi Cotton Mills Co.Ltd.*, (1978) 4 SCC 295); or there is a miscarriage of justice (*Joginder Nath Gupta v. Satish Chander Gupta*, (1983) 2 SCC 325); or it is imperative that this Court exercises its corrective jurisdiction (*Kishor Kirtilal Mehta and Ors. v. Lilavati Kirtilal Mehta Medical Trust*, (2007) 10 SCC 21).

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17. There is, therefore, a self-imposed limited discretion for interference available to this Court, and it would, generally, be more appropriate for an aggrieved litigant to approach the High Court for rectifying any error that may have been committed in passing (or declining to pass) an interim order. Of course, in an emergent and appropriate situation it is always open to a litigant to approach this Court in its remedial jurisdiction.

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18. Insofar as the present case is concerned, Craig Mcleod was alleged to have assaulted a professor on campus. This by itself is a rather serious allegation. While appreciating this, the High Court had, on 7.6.2010, permitted the University to take a final decision in respect of the alleged gross misbehaviour of Craig Mcleod. About two months later, the High Court completely changed its view apparently because in the meantime Craig Mcleod had tendered an apology to the High Court (which was not necessary) and then tendered or offered to tender an apology to the concerned Professor, which he did not accept since it was not sincere.

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19. The turn of events, given the lapse of time, did not form a legal basis for interdicting completion of the inquiry against

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- A Craig Mcleod. While the High Court may have intended to bring a quietus to the entire episode, it should have kept in mind that maintenance of discipline in the University is equally important for a conducive academic environment and that the larger interests of the academic community are more central than the individual interests of a student. In *Varanaseya Sanskrit Vishwavidyalaya and Another v. Rajkishore Tripathi (Dr.)*, (1977) 1 SCC 279 it was observed that in matters of discipline or administration of the internal affairs of a University, the courts should be most reluctant to interfere.

- C 20. It is under these circumstances that we have entertained this appeal against an interim order.

Conclusion:

- D 21. Now, several significant developments have taken place overtaking the 'cause of action' for approaching this Court, particularly the passing of the office order dated 07.01.2011 by Vice Chancellor of the University. In our opinion, it is not necessary or even appropriate at this stage to judge the validity of the office order dated 07.01.2011. We may only mention that learned counsel for Craig Mcleod submitted that the order dated 07.01.2011 is in violation of the order passed by this Court on 29.11.2010.

- F 22. Therefore, without going into the larger issues raised before us, we grant liberty to Craig Mcleod to revive W.P.(C) No. 890 of 2012 filed (and subsequently withdrawn) by him in the High Court challenging the office order dated 07.01.2011 passed by the Vice Chancellor of the University. We expect the High Court to permit revival of the Writ Petition and decide it expeditiously since it is stated that Craig Mcleod has already lost two years of his education as result of this litigation.

- G 23. Under the circumstances, the impugned interim order is set aside and this appeal is accordingly disposed of.

H R.P.

Appeal disposed of.