

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 2816 OF 2023 (Filing No.)

KARRI KISHORE RAMACHANDRA REDDY ... Petitioner

Versus

BIRLA INSTITUTE OF TECHNOLOGY AND
SCIENCE, PILANI K.K. BIRLA GOA
CAMPUSA AND ANR. ... Respondents

WITH

WRIT PETITION NO. 2817 OF 2023 (Filing No.)

VURIBINDI MOKSHITH REDDY ... Petitioner

Versus

BIRLA INSTITUTE OF TECHNOLOGY
AND SCIENCE, PILANI K.K.
BIRLA GOA CAMPUSA AND ANR. ... Respondents

Mr Parag Rao and Mr Ajay Menon, Advocates for the Petitioners.
Mr P. Faldessai and Ms P. Tari, Advocates for the Respondents.
Mr Sailesh Mohanty, Joint Registrar – Respondent No.2 present
in person.

**CORAM: M. S. SONAK &
VALMIKI SA MENEZES, JJ**

DATED : 5th DECEMBER 2023

P.C.:

1. Heard Mr P. Rao, learned counsel for the Petitioners and
Mr P. Faldessai, learned counsel for the Respondents.

2. At the request of Mr Rao, leave is granted to amend the petitions. He says that the petitions will be amended within two days and the copies of the amended petitions will be served upon Mr Faldessai.

3. The Petitioners challenge the orders dated 01.12.2023 issued by the Joint Registrar of the first Respondent imposing on them the penalty of cancellation of their registration for the present semester i.e. Semester – I, 2023-2024. Besides a fine of ₹50,000/- each has also been imposed on both the Petitioners.

4. Due to the cancellation of registration, the Petitioners are prevented from answering the first-semester examination due on 06.12.2023. Therefore, these petitions were circulated urgently and taken up for consideration today.

5. Mr Rao points out that the impugned action violates natural justice. He also points out that along with the present two Petitioners, three other students were also alleged to be involved in the incident of alleged theft. He points out that the Director on an appeal has allowed three students to answer the first-semester examination but retained the fine of ₹50,000/-each. Mr Rao submits that there was no reason to impose any punishment

on the Petitioners and in any case, there was no reason for this disparity in the quantum of punishment.

6. Mr Faldessai submits that there are suppressions and misstatements in the petitions. He submits that the principles of natural justice and fair play were observed. He submits that initially, punishment debarred all five students from answering three semesters by which they would lose an academic year. The Director however considered the students' appeals and the penalties were scaled down. He submits that there was a considerable difference between the role played by the present Petitioners and the other three students. Mr Faldessai submitted that the scope of judicial review in such matters is extremely limited and therefore these petitions may not be entertained.

7. Mr Faldessai submitted that this was a matter of discipline on the campus. He submitted that the institution had to face embarrassment on account of the acts of the Petitioners and other three students. He submitted that the punishment now imposed protects the Petitioners since they would not have to lose an academic year. For all these reasons, Mr Faldessai states that these petitions may not be entertained.

8. As noted above, the examinations for the first semester are scheduled to commence tomorrow. If any protection is not granted at this stage, the relief in these petitions, would, to a large extent be rendered infructuous. Therefore, though we *prima facie* agree with some of the submissions made by Mr Faldessai, we think that the interest of justice would be better served if, by way of interim relief, the Petitioners are permitted to answer the first-semester examination scheduled from tomorrow. This is more so because the other three students have been permitted to answer such examinations.

9. However, we clarify that the above relief is only interim. If after the returns are filed, we are satisfied that the action of the Respondents warrants no interference, the Petitioners should not claim any equities based on the interim relief which we now propose to grant.

10. Since Mr Faldessai submitted that there was a difference in the role played by the Petitioners and the other three students, we requested Mr Rao to obtain instructions whether the present Petitioners would deposit an amount of ₹1,00,000/- each without prejudice to their rights and contentions. Mr Rao based on telephonic instructions from the Petitioners states that the Petitioners will arrange to deposit an amount of ₹1,00,000/- each

with the Respondents preferably by this evening itself. In any case, we direct the Petitioners to deposit an amount of ₹1,00,000/- each without prejudice to their rights and contentions latest by 08.12.2023. The Respondents must accept this amount without prejudice to their rights and contentions.

11. Mr Faldessai states that the Respondents will file their response to the issue raised in these petitions by 15.12.2023 and give an advance copy to the learned counsel for the Petitioners. If the Petitioners wish to file their rejoinder, they may do so by 22.12.2023.

12. We post these matters for final disposal at the admission stage on 03.01.2024.

13. Accordingly, by way of interim relief, we direct the Respondents to allow the Petitioners to answer the Semester-I examination scheduled to commence from 06.12.2023, without prejudice to the rights and contentions of the Respondents in these petitions. This is on the basis that the Petitioners will deposit an amount of ₹1,00,000/- each with the Respondents latest by 08.12.2023 and preferably by this evening itself.

14. Mr Faldessai states that the Respondents will allow the Petitioners to answer the examination, collect their answer papers, and keep answer papers in a sealed packet but defer their evaluation until further orders of this Court. This is accepted.

15. Stand over to 03.01.2024.

16. This order is made in the presence of Mr Faldessai and Mr Sailesh Mohanty, Joint Registrar (Respondent No.2). Therefore, the Respondents should not await a formal copy of this order.

17. All concerned to act on an authenticated copy of this order.

VALMIKI SA MENEZES, J

M. S. SONAK, J