

- 1 -

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF FEBRUARY, 2022

PRESENT

THE HON'BLE MR. RITU RAJ AWASTHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SURAJ GOVINDARAJ

WRIT APPEAL NO.91 OF 2022 (EDN-RES)

BETWEEN:

- 1 . INDIAN INSTITUTE OF MANAGEMENT BANGALORE
REPRESENTED BY THE DEAN (PROGRAMMES)
BANNERGHATTA MAIN ROAD,
OPPOSITE TO APOLLO HOSPITALS,
SUNDAR RAM SHETTY NAGAR,
BILEKAHALLI,
BENGALURU
KARNATAKA - 560 076.
- 2 . THE CHAIR, PGP & PGP-BA
BANNERGHATTA MAIN ROAD,
OPPOSITE TO APOLLO HOSPITALS,
SUNDAR RAM SHETTY NAGAR,
BILEKAHALLI,
BENGALURU
KARNATAKA - 560 076.
- 3 . THE DEAN (PROGRAMMES)
BANNERGHATTA MAIN ROAD,
OPPOSITE TO APOLLO HOSPITALS,
SUNDAR RAM SHETTY NAGAR,
BILEKAHALLI,
BENGALURU
KARNATAKA - 560 076.

... APPELLANTS

(BY SRI PRADEEP NAYAK, ADVOCATE FOR
SMT. ANUPAMA G. HEBBAR, ADVOCATE)

- 2 -

AND:

- 1 . DAIVANTI THAKARE
D/O ANIL THAKARE,
R/A PLOT NO.142,
JAYHIND SOCIETY,
NEAR MAHAJAN FLOUR MILL,
SHYAM NAGAR,
MANISH NAGAR,
NAGPUR,
MAHARASHTRA.
- 2 . KARAN GARG
S/O MAHENDRA KUMAR GARG
R/A E605, RANJEETNAGAR
BHARTPUR
RAJASTHAN.
- 3 . MADDUKURI SUSMITHA
D/O MADDUKURI PARDHA SARADHI
R/A 4-12-10/1,
SUBBARAO PETA
DAMCDAVARAPU VARI STREET,
TEDEPALLIGUDEM, WEST GODAVARI
ANDHRA PRADESH.
- 4 . ABHINAV PAIGWAR
S/O VIRENDRA PAIGWAR
R/A 765, WEST GHAMARPUR
SHEETALAMI WARD
BEHIND MILIYA BAI KI
DHARAMSHALA
JABALPUR CITY
JABALPUR
MADHYA PRADESH.
- 5 . ADITYA KALOGI
S/O DEEPAK KALOGI,
R/AT FLAT A2,
JAI RENUKA SOCIETY,
MAKHMALABAD NAKA,
HEMKUNJ PANCHWATI, NASHIK,
MAHARASHTRA.
- 6 . MITALEE KULKARNI
D/O MILIND KULKARNI,
R/AT 103, ATHARVA PARK-A,
AMBAJOAI ROAD,
BELAMBE NAGAR,

- 3 -

LATUR,
MAHARASHTRA.

- 7 . MANJIRI BHOJANA
D/O RAVIKIRAN BHAJANE
R/A 6298, NACHANGAON ROAD
MEERA COLONY
PULGAON
WARDHA
MAHARASHTRA.
- 8 . RISHABH KATROLIYA
S/O SUNIL KATROLIYA
R/A NEAR OLD POWER HOUSE,
WARD NO.10, KARERA SHIVPURI
MADHYA PRADESH.
- 9 . SRISHTI PATIL
D/O SANJAY PATIL
R/A PLOT 1041, OLD JANORI ROAD
DHONDGE MALA ADGAON,
NASHIK,
MAHARASHTRA.
- 10 . UNON OF INDIA
REPRESENTED BY ITS SECRETARY,
MINISTRY OF EDUCATION,
SHASTRI BHAVAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI - 110 001.

... RESPONDENTS

(BY SRI VIVEK N., ADVOCATE FOR
SRI RAHUL S. REDDY, ADVOCATE FOR C/R-1, 7 AND 9;
SRI SHANTHI BHUSHAN, ASG FOR R10)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE FINAL ORDER AND JUDGMENT DATED 20TH DECEMBER 2021, PASSED BY THE LEARNED SINGLE JUDGE IN W.P.NO.19045/2021 (EDN-RES) (IMPUGNED JUDGMENT) AND ETC.

THIS APPEAL COMING ON FOR ORDERS THROUGH VIDEO CONFERENCING THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

JUDGMENT

1. Learned counsel for the appellants informs that required court fee has been paid. The other office objections are overruled.
2. Heard Mr.Pradeep Nayak, learned counsel for the appellants.
3. This intra-Court appeal has been filed challenging the impugned judgment and order dated 20.12.2021 passed in Writ Petition No.19045/2021, whereby the writ petition preferred by the respondents-students has been allowed and the order under challenge has been set aside. The writ Court has remitted the matter back to the appellant-Indian Institute of Management with a direction to reconsider the quantum of punishment in terms of clause 4.2.1(c) of the Programme Manual 2021-2022 [PGP & PGP BA] and pass appropriate order.
4. Learned counsel for the appellants submits that the learned Single Judge has grossly erred in relying on

- 5 -

certain provisions of the Programme Manual 2021-2022 to come to the conclusion that a lenient view is required to be taken for the first-time offenders and the impugned order is not sustainable in the eyes of law. It is submitted that the respondents were the students enrolled in PGP & PGP BA course and they were required to appear in online mid-term examination held on 05.08.2021. These respondents-students knowing fully well that they cannot use the internet in the examination had formed a 'WhatsApp' group in order to involve themselves in assisting each other in answering the questions and as such, had adopted unfair means to give their examination.

5. It is submitted that under the manual dealing with the provisions relating to academic penalty for copying in examinations and quizzes clearly provides that the penalty could be more severe, including possible expulsion. The submission is that it is in the discretion of the Department to take a lenient view or to impose severe penalty such as expulsion in case the students have been found to be involved in copying in the examination and quizzes.

6. It is submitted that the learned Single Judge has failed to take into consideration this aspect of the matter and has only relied on the provisions as provided under para 4.2.1(c)(1) and has come to the conclusion that for the first-time offenders, zero marks shall be awarded in the examination/test, irrespective of however minor the infringement may be.
7. It is also submitted that it has been the consistent view of the Apex Court that in the matters relating to education and academic standards, the Court shall not impose its view and shall not reduce the quantum of punishment awarded to the offenders.
3. We have considered the submissions made by learned counsel for the appellants and gone through the records.
9. The respondents-students were admittedly students of Post Graduate Courses for the year 2021-2023. The first-term examination (mid-term examination) was scheduled to be held on 05.08.2021. It is alleged

- 7 -

that in the said examination, these respondents-students had adopted unfair means by forming a group on 'WhatsApp' and thereby involved themselves in the use of unfair means in giving their examination. It is the case of the appellants that these respondents-students when issued show cause notice etc., had tried to remove the evidence from the social media group. They were in fact involved in planning and cheating during the mid-term examination. These respondents-students had initially denied the allegations, however, some of them when confronted had subsequently accepted their guilt.

10. The learned Single Judge has taken into consideration the fact that the PGP Committee, without holding an enquiry on the complaint, only on the basis of the screenshots came to the conclusion that ten students including the respondents-students are involved in the use of unfair means in all three subjects and awarded maximum punishment of expulsion from the institute and they were directed to withdraw from the programme vide order dated 25.08.2021. The respondents-students feeling aggrieved had preferred

an appeal. However, the same was rejected and as such, had filed the Writ Petition.

11. The learned Single Judge has also taken into consideration the admitted fact that the similarly placed students against whom identical allegations are made were awarded zero marks without expulsion though they stand on the same footing and were equally involved in the alleged cheating. The appellants has treated the six students differently. The respondents-students had produced copy of the order passed with respect to students namely Suchet Borole and Komal Mehera. In that case, zero marks in all three examinations were awarded to them and they were barred from any position, awards and distinction.

12. It was the case of the respondents-students that they are the first-time offenders and they have not involved themselves earlier in any such illegal means in the examinations. The learned Single Judge has taken the view that the appellant-Indian Institute of Management has adopted different yardstick for the

similarly situated students and for some students they have taken lenient view and awarded zero marks whereas, in the case of respondents-students, stringent view of expulsion has been taken, which amounts to discrimination. The learned Single Judge has held that the action taken against the respondents-students is disproportionate to the gravity of the misconduct committed by the respondents-students.

13. There is no dispute to the fact that the respondents-students are first-time offenders. There is also no dispute to the fact that para 4.2.1(c)(1) of the program manual is fully applicable to the case of the respondents-students. The only contention of learned counsel for the appellants before this Court is that it is the discretion of the management to award stringent punishment or not. His submission is that in the given facts and circumstances, the management has taken a view that stringent punishment of expulsion shall be awarded which does not call for any interference by the Court.

14. We are of the considered view that the manual clearly provides that for the first-time offenders, zero marks shall be awarded in all examination/test/quiz. For the repeat offenders, grade 'U' (unsatisfactory) and zero grade point will be awarded to a student in the course if the student has already been penalised for the lack of integrity in any course in the program. There is also a provision that students concerned even with a single instance of offence, will have to step down from all positions of responsibility (elected or selected). The student concerned will also not be eligible to receive any award from the institute such as the Director's Merit List, Director's Honour List of Gold Medal for academic excellence or all-round performance and the penalty could be more severe, including possible expulsion.
15. In the present case, the management has taken the view that the penalty of expulsion shall be awarded to these students. No reasons have been assigned as to why such severe view is being taken by the management in respect of the petitioners, more particularly when with respect to certain other

students who are similarly situated, the management has taken a lenient view treating them to be first-time offenders and has awarded zero marks as also deprived them of receiving any award or medal etc.,

16. Learned counsel for the appellants has not been able to satisfy the Court as to why the same view cannot be taken with respect to the respondents-students and why a lenient view on the basis of clause 4.2.1(c)(1) can be taken in the case of the respondents-students.
17. Once a provision has been provided and a view on the basis of the said provisions has been taken by the Court, it cannot be faulted and it cannot be said that the view taken by the Court is wrong and no interference could be granted. The provisions under the manual in exceptional circumstances do provide for severe penalty including possible expulsion but it does not mean that every time the stringent punishment of expulsion should be resorted to and lenient view cannot be taken, more so when the stringent punishment is an exception to the

punishment provided for first-time offenders being awardal of "zero marks".

18. In the given facts and circumstances, we do not find any infirmity or illegality in the view taken by the learned Single Judge and as such, do not consider it to be a necessary case for interference. The writ appeal is dismissed. However, we make it clear that considering that the respondents are the students studying in the Apex Management Institute and their career is at stake, we feel it appropriate to observe that in case the respondents-students involve themselves again in any such activities such as involving themselves in cheating in the examination and adopting unfair means, then the appellants could be free to take appropriate action against them in accordance with the manual.

19. The view taken by the writ Court in the case of the respondent-students shall not be treated to be a precedent for future cases of similar nature.

20. The pending interlocutory application does not survive for consideration and is accordingly disposed of.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

KPS