

SUPREME COURT OF INDIA

The University of Kerala

Vs.

The Council of Principals of College in Kerala

C.A.No. .of 2009

(DR. Arijit Pasayat and DR. Mukundakam Sharma JJ)

11.02.2009

JUDGMENT

DR. ARIJIT PASAYAT, J.

1. Leave granted.

2. Ragging in educational institutions has been a matter of concern for this Court since long. Noticing that notwithstanding a judgment of this Court in Vishwa Jagriti Mission through President v. Central Government through Cabinet Secretary & Ors. (AIR 2001 SC 2793) few remedial practical measures have been taken to prevent the menace of ragging in educational institutions, by order dated 27.11.2006, a Committee was constituted under the chairmanship of Mr. R.K. Raghvan, Ex-Director, C.B.I. The Committee has submitted its report and suggested certain measures. Subsequently orders dated 16.5.2007 and 10.12.2007 were passed. Further Status report has been submitted by Shri Gopal Subramaniam, learned Amicus Curiae. Pursuant to the directions given by this Court, the second and third reports of the Committee have been filed which read as follows:

"SECOND REPORT: The Committee under the chairmanship of Dr RK Raghavan met at New Delhi on the 2nd April 2008 to take stock of the situation and review the progress made by different authorities, agencies and other stake holders who had been directed by the Hon'ble Supreme Court to implement the recommendations of this Committee's Report on ragging and also of the Lyngdoh Committee on elections to student unions.

2. On the 10th December, 2007 the Supreme Court had heard the matter and had passed certain orders. Accordingly, on 4-1-2008, the Ministry conveyed to all the regulatory institutions like UGC, AICTE, MCI, DCI, PCI, INC and ICAR, the observations of the Court and its directions that in the prospectus of the higher educational institutions it should be mentioned that if any incident of ragging comes to the notice of the authority concerned, the accused student will be given opportunity to explain and if his explanation is not satisfactory the authority would expel him from the institution. The regulatory institutions were also requested to intimate from time to time the progress being made and were also informed that the reports being received from individual higher educational institutions be consolidated and analysed and only the findings intimated to the Ministry for placing before the Committee. For arousing public consciousness against ragging, audio video jingles/spots have been prepared by the Ministry with the assistance of DAVP for release in the media. The CBSE has issued a letter to all institutions affiliated to it for implementing an effective programme of counseling for students involving both parents and teachers, abolishing corporal punishment, creating awareness about human rights and indicating the students behaviour pattern in the school leaving and character certificates. The Committee reviewed the progress reported by the UGC, MCI and DCI. The absence of any report from NCI was noted. Thereafter the Committee also heard from the representative of UGC, AICTE, MCI and DCI the measures taken and progress achieved by them.

3. The MCI informed that of the total 270 medical colleges in the country, 202 had reported the various measures taken. These have constituted anti-ragging committees. They have published names and telephone numbers of officials to be contacted by freshers in case of ragging. They have also conducted counselling sessions and orientation courses for senior and fresh students. Punishments have been given to students found guilty of ragging, and the number of institutions reporting compliance has increased due to the efforts of the Council. The Dental Council of India also detailed the steps being taken to prevent ragging. Its representative said that all the 127 dental colleges in India had constituted anti-ragging committees and squads to check ragging. These institutions have reported compliance with publication of telephone numbers and names of officials to be contacted in case of ragging, besides conducting counselling and orientation courses for seniors and juniors. The AICTE's Member Secretary informed that the Council had issued advertisements informing the higher technical educational institutions of the directives of the Supreme Court and had warned of deterrent punishment to institutions, like reduction in number of seats. If ragging still took place in the institution. He said that the individual compliance report received from each institution has been sent to the Ministry and that a significant reduction as compared to last year in the number of cases of ragging has been achieved. He said that efforts were continuing and that it is hoped that incidents of ragging would be further reduced in the new academic year.

4. Two cases of victimization of students who complained about ragging had come to the notice of the Chairman who promptly took up the matter with the concerned institution, viz., Dr. MGR Educational & Research Institute, Chennai (a deemed university). It was only after two months, the Institute gave a reply. The two students have refuted the allegations made against them in the Institute's reply. The Committee feels that the whole episode needs to be probed in detail by the AICTE and a report obtained for further action.

5. The Committee noted that regarding student union elections the Secretary, Higher Education Department has addressed on 29.11.07 the State Chief Secretaries, for taking necessary action. It thereafter took the following decisions:

(a) the cases of harassment of two students for complaining about ragging referred to by Chairman be sent to the UGC for further action and this be mentioned in the report to the Apex Court. The petition submitted by the harassed student be enclosed;

(b) along with the clause of punishment of expulsion for ragging if found guilty, incorporated in the prospectus of higher educational institutions, the latter should also publish the number of cases of ragging and punishments given by them in the previous academic year. This may be mentioned in the report to the Apex Court for its orders;

(c) regulatory agencies should put up the suggested anti-ragging measures before their council and get approval;

(d) the MCI should prepare draft regulation to prevent ragging and send it to the Ministry for fast-tracking its adoption;

(e) where medical colleges and dental colleges are having same facilities/ campuses the Councils concerned should make combined efforts to be more effective;

(f) since the XI Plan Funding Committees of the UGC will be visiting educational institutions to assess the grant requirements and invite proposals, prevention of ragging be made one of the focus items. Since the Committees will have representatives from AICTE//MCI/DCI etc., it should convey the seriousness of the message to prevent ragging to the managements;

(g) regulatory bodies should do more detailed analysis of the reports received to enable targeting regions and institutions where measures to prevent ragging are not proving to be very effective;

(h) all institutions concerned should do whatever they can by ensuring punishment to the students found guilty of ragging, giving wide publicity to such punishments to act as a deterrent, strict enforcement of the various measures suggested by the Committee so that each complement the other and the message goes down to the grass roots;

(i) socially active NGOs like CURE can be also encouraged to help to prevent and sensitize public opinion to prevent ragging;

(j) Committee should meet every month from June to August, and thereafter once in a month to review the situation ;

(k) the next meeting of the Committee may be held in May 2008 (on dates other than 29-31st).

THIRD REPORT: 1. Two meetings of the Committee appointed by the Supreme Court under the chairmanship of Dr. R K Raghavan to monitor the various measures to prevent ragging and to conduct student union elections in higher educational institutions were held on 11th June 2008 and 5th August 2008 in New Delhi.

2. In both the meetings the Committee reviewed the actions taken on the decisions of the Committee's previous meetings. In the meeting held on 11th June 2008 the Committee expressed its disappointment over the helplessness shown by the regulatory bodies. It suggested to UGC to link release of grants under various schemes to educational institutions with the compliance by them with the directions of the Supreme Court of India. It directed educational institutions (through the regulatory agencies) to incorporate in their admission notices/advertisements appropriate messages regarding 'zero tolerance' towards ragging. It decided that an audio video campaign to prevent ragging should be undertaken at the commencement of the new academic session. It noted that the Medical Council of India had not framed draft regulations to prevent ragging despite the Committee's advice. The request was reiterated to the Council. It also requested the UGC to investigate the case of harassment of two students who complained about ragging, by the MGR Institute of Higher Education & Research. In its meeting held on 5th August 2008 the Committee noted that the advertisement and audio visual campaign being undertaken by the Government of India at the commencement of the new academic session to prevent ragging in higher educational institutions had good effect. It appreciated that the advertisements of the Ministry have been

exhibited in the Ministry's website for use by educational institutions in their local campaigns. It also noted that in addition the Delhi Police had issued advertisements in the national capital region to prevent ragging and the need to prevent ragging was reiterated in the State Education Ministers' Conference held on 23rd and 24th July 2008 in the capital. The Committee felt that the publicity effort must percolate to the institutional level and each campus should make efforts to publicize and sensitize students regarding the menace of ragging.

3. In its meeting held on 5th August 2008, the Committee discussed the work being done by several NGOs. Their work was appreciated. The video on the website of CURE was specially mentioned in addition to the compilation of data regarding ragging cases reported in various parts of the country. The NGO from West Bengal which is engaged in prevention of ragging was also referred to. The various councils were advised by the Committee to draw upon the efforts of NGOs where necessary.

4. The Committee felt that the audiovisual campaign has been successful in raising the level of awareness of the people about the evil effects of ragging. The Committee felt that the advertisements campaign should be continued to cover the commencement of professional courses. In the case of shortage of funds the campaign can be focused on medical colleges in regions more prone to ragging incidents.

5. Reviewing the number of cases reported in the current academic session the Committee decided that the case of ragging in the Rajkumari Amrit Kaur College of Nursing, New Delhi should be enquired into by the Nursing Council of India. The Committee resolved that any incident as reported in the press should be presumed to be ragging unless on enquiry it is found to be otherwise. The incidents of ragging reported are passed off as altercation or spats between students and this precludes detailed enquiry and punishment of the guilty students. It therefore desired that the reported incidents should be enquired into by the Nursing Council to ascertain the facts thereof. The Committee noted the ragging case reported at The Graphic Era Institute of Technology, UP. The AICTE was requested to look into the matter to ascertain the facts regarding the punishment given to the guilty students. The case of "paid ragging" in Coimbatore reported in The Indian Express of 5.8.2008, where the fresh students were forced to pay for the luxury trips of senior students in star hotels was referred to the AICTE for investigation and necessary action. The Committee emphasized the need to give exemplary punishment as directed by the Supreme Court to the students found guilty of ragging so that the seriousness with which authorities view such incidents sink in.

6. Regarding the harassment case of two students by the MGR Institute of Higher Education & Research, Chennai the Committee was unhappy to note the slow progress. It directed the UGC to conduct an enquiry by deputing a joint team of UGC and AICTE and submit its findings expeditiously.

7. The Committee discussed the problems being created by anonymous complaints, lack of definition of permissible modes of interaction of senior with junior students and the role of student unions in preventing ragging. The unwillingness of complainants to disclose their identity and details of ragging incidents and persons involved is posing a big problem in taking action. The Committee felt that ragging is a very complex phenomenon involving social, psychological and other dimensions. It would not be appropriate to face the problem from the angle of regulations and restrictions alone because it is very difficult for educational administrators to tackle demands of students' self governing institutions. Generating awareness amongst students through student unions about the bad effects of ragging can be tried as a method.

8. The Committee felt that more was needed to be done by regulatory bodies to prevent ragging and the response of educational institutions to efforts by the Councils lacked promptness. They should formulate regulations and give directions. The Committee felt that the learned Additional Solicitor General be requested to approach the Hon'ble Court on the various other suggestions like dedicated wardens etc., contained in the Committee's report."

3. Ragging is rationalised and justified as a way of "Introduction or getting familiar" with the freshers at the starting of an academic session of any educational institution.

4. In a very positive aspect, "Ragging" could not be considered as an abridgement between the seniors and the freshers, whereas "Introduction" could be considered as genesis of relationship between the two.

5. When any student is admitted in a particular institution he/she has to face certain problems and one of them which affects the most is staying away from home and especially away from the dear ones. Because of these problems, the freshers expect some one to look after them, with whom they can have homely environment as they were enjoying at their respective homes. But nowadays the seniors have crossed the barriers, by which they have changed the meaning of "Introduction" into "Ragging".

6. "Seniors" under the garb of "Introduction" have started ragging the freshers and due to which, in recent years, it has become the talk of the day that the freshers who have faced severe ragging are leaving the educational institutions and some have attempted to commit suicide and even some have committed it.

7. In modern era, "Ragging" has become to be known only as synonym of "teasing", "terror", "harassment", "cruelty", "fear" and "physical and mental torture".

8. By perusal of records and survey, it has come to be accepted that "Ragging" is a systematized form of Human Rights' abuse as embodied under the Constitution of India as well as other Constitutions of the World.

9. Over the years in all over the world and especially in South Asia, the practice of "Ragging" has come to be meant as an extreme "harassment", "terror" and even "physical and mental torture" of freshers.

10. Ragging is a set of undisciplined activities undertaken by the seniors to break the ice with the juniors, who have been suddenly thrown into a totally new environment. The contention of seniors behind all such activities is simply to bring the freshers down to earth, because in their opinion the freshers do not respect the seniors and by doing all such inhuman activities under the garb of "Introduction", the seniors rag the freshers so that the freshers may respect them and be under their control. But this act cannot be reasonable and just. The act by the seniors is a "fist of steel against ice" and likewise by doing so, they shatter the ambition, aim and object of freshers and they become aloof in this practical world.

11. To prohibit "Ragging", this Cour has given a series of guidelines to the educational institutions whether being Central, State or Private Institute. [See: Vishva Jagriti Mission v. Central Government (AIR 2001 SC 2793)].

12. Ragging in essence is a human rights' abuse. Ragging can be in various forms. It can be physical abuse or mental harassment. In present times shocking incidents of ragging have come to the notice. Sometimes violence is used. The student is physically tortured or psychologically terrorized. All human being should be free to claim, as a matter of right in the society in which they live, for life of dignity but when it is intentionally or recklessly damaged or departed then the person's human right is abused; in that sense ragging is the best example of human rights' abuse.

13. Everyman's Encyclopaedia (1938 Edition, Vol. II) and Random House Dictionary of the English Language (1967 Edition) have references about ragging. The synonyms of ragging as racking, ducking, teasing, etc. are mentioned in detail in these reference books. In England the credit/discredit goes to Duke of Exeter to introduce the practice of ragging. Racking was another form of ragging in which a special instrument called 'rack' was used to torture the victim. Gradually it mixed up with the term of ragging. Egyptian, Romans and Greeks were also not lagging behind. Some form or the other of ragging was found in their societies.

14. Ragging is not a new phenomenon. It existed even in older times. It was part of civilised societies. In ancient seats of learning, e.g., Berytus and Athens ragging was prevalent. In army schools of England ragging existed as a tradition. Later on this tradition took its root in medical and engineering colleges. In English society ragging took the form of freshers being paraded on street which caused much annoyance not only to freshers but even to general public especially girls.

15. Ragging is a form of systematic and sustained physical, mental and sexual abuse of fresh students at the college/university/any other educational institution at the hands of senior students of the same institution and sometimes even by outsiders. Although some form of ragging is present in every educational institution but serious abuses of human rights take place generally in medical and engineering colleges and Armed Forces. The form and effect of ragging differ from institution to institution. It creates a sense of fear in the minds of first year students and they become apprehensive of unforeseen an incident which later come true and culminates in actual form of action.

16. Ragging is "display of noisy, disorderly conduct and great high spirits considered by perpetrators (raggers) as excellent fun and by many outsiders as a bloody nuisance".

17. Another meaning of ragging is "to question vigorously and jocularly, horseplay or assail roughly and noisily".

18. Yet another definition of ragging refers to popular Spanish game of "Bull-Fight", wherein Bull is shown red 'rag' and a person shouts which infuriates the Bull in fighting.

19. As noted above "Ragging" means display of noisy, disorderly conduct or doing any act which causes or is likely to cause physical or psychological harm or raise apprehension or fear or shame or embarrassment to a student in any educational institution and includes,

(a) teasing, abusing of, playing practical jokes on, or causing hurt to, such students; or

(b) asking the student to do any act or perform something which such student will not, in the ordinary course, willingly do.

20. "Ragging" means doing an act which causes or is likely to cause insult or annoyance or fear or

apprehension or threat or intimidation or outraging of modesty or injury to a student.

21. "Ragging" means causing, inducing, compelling or forcing a student, whether by way of a practical joke or otherwise, to do any act which detracts from human dignity or violates his person or exposes him to ridicule or to forbear from doing any lawful act, by intimidating, wrongfully restraining, wrongfully confining, or injuring him or by using criminal force to him or by holding out to him any threat of such intimidation, wrongful restraint, wrongful confinement, injury or the use of criminal force.

22. The word "ragging" colloquially means to tease or play practical jokes on someone, especially on students who are the fresh entrants in the schools, colleges, Universities or any other educational institutions. In the beginning, it was a way of introduction of the first year students in the institutions which gradually has become not only serious problem but also a social stigma. While in the age of a child in cradle, it was a harmless practice by senior students over their juniors. Regarding the origin or initiative steps of the ragging, it can be traced back to the Seventh or Eighth Century A.D.

23. In 1828-1845, in United States' Colleges and Universities Campus, several student-organizations called 'fraternities' popped up. Freshers to these fraternities were known as pledges. In its rudimentary form, it as called 'hazing' which was merely ritual to test the courage of the pledge.

24. In ancient Greece, freshers to the sporting communities were subjected to humiliation and teasing to inculcate team spirit. After the passage of time this type of activities were adopted by Armed Forces in which new entrants have to pass out by obeying the seniors in off-duty time. As has been said above, in the age of child in cradle, the ragging was a harmless practice rather permissible in the society but it had taken shape of brutality, humiliation and harassment after the First World War. In fact the technique, style or forms which the soldiers participating in the War had learnt and faced in army atmosphere, were brought by them, when they re- entered in the colleges after returning from the War. Actually these forms were devised to highlight the importance of the team. Gradually these techniques and forms passed on those persons who did not know the real meaning of the technical word 'hazing' or 'ragging'. Now the ragging has acquired a new heinous meaning which indicates any disorderly conduct whether by words spoken or written or by an act which has the effect of teasing, treating or handling with rudeness any other student, indulging in rowdy or undisciplined activities which causes or is likely to cause annoyance, hardship or psychological harm or to raise fear or apprehension thereof in a fresher or a junior student or asking the student to do any act or perform something which such student will not do in the ordinary course and which has the effect of causing or generating a sense of shame or embarrassment so as to adversely affect the physique or psyche of a fresher or a junior student.

25. A rare and strange case of ragging is as follows -Pyotr Ilyich Tchaikousky was a renowned

composer of Russia. It was reported in 1893 that he died due to cholera and cholera was caused due to drinking of contaminated water. This was a blatant lie. However, this lie prevailed for about a century. The truth was revealed by, Alexandra Orlova, the biographer of the composer and that too when the composer died and the biographer migrated to America. The biographer revealed that the Russian composer was a homosexual during his education period and this fact became known to college authorities and they decided to punish the composer and was likely to be expelled. The news of proposed punishment leaked to his old classmates and they thought that if the composer is punished it will bring a bad name to the institution. Therefore, the composer was summoned before eight former classmates in the "Court of Honour" and was asked to end his own life to "preserve the good name of the school". The composer ended his life by consuming poison brought by one of the Judges and story of death by cholera was concocted.

26. After consideration of the reports, we direct that the Government in the States and the Union Territories and the University shall act in terms of the guidelines formulated by the Constituted Committee. The MCI, BCI in consultation with UGC shall frame the requisite regulations which shall be binding on the institutions. They shall be indicated to the students at the time of admission by appropriate provision in the prospectus issued for admission. The consequences which flow from not observing the guidelines shall also be indicated. Inquiries which are pending shall be completed and report shall be submitted before this Court.

27. A question raised was regarding giving opportunity to the offender before taking actions like expulsion etc. Delay in taking action in many cases would frustrate the need for taking urgent action. In such cases if the authorities are prima facie satisfied about the errant act of any student, they can in appropriate cases pending final decision suspend the student from the institution and the hostel if any and give opportunity to him to have his say. Immediately, the police shall be informed and criminal law set into motion. If it comes to the notice of the university or controlling body that any educational institution is trying to shield the errant students, they shall be free to reduce the grants in aid and in serious cases deny grants in aids.

28. The matter shall be listed in the month of March, 2009.