

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WA.No. 209 of 2010 () IN OP.9711/1999

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AGAINST THE JUDGMENT IN OP 9711/1999 of HIGH COURT OF KERALA
DATED 30-11-2009**

APPELLANT(S)/WRIT PETITIONER:

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PARVATHY.P.B., D/O.P.K.BALASUBRAMANYAN,
B-4, MEERA TOWER, ST.BENEDICT ROAD
COCHIN-682 018.**

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENT(S)/RESPONDENTS:

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- 1. MAHATMA GANDHI UNIVERSITY,
PRIYADARSINI HILLS(P.O.), ATHIRAMPUZHA
KOTTAYAM DISTRICT, REP.BY ITS REGISTRAR.**
 - 2. THE VICE CHANCELLOR,
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS (PO)
ATHIRAMPUZHA, KOTTAYAM DISTRICT.**
 - 3. THE CONTROLLER OF EXAMINATIONS,
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS(PO)
ATHIRAMPUZHA, KOTTAYAM DISTRICT.**
 - 4. REENA VARGHESE, C/O.THE PRINCIPAL,
S.B.COLLEGE, CHANGANACHERRY.**
 - 5. USHA JOSE, C/O.THE PRINCIPAL,
S.B.COLLEGE, CHANGANACHERRY.**
 - 6. ANU ELIZABETH WILSON,
C/O.THE PRINCIPAL, S.B.COLLEGE, CHANGANACHERRY.**

**R1 TO 3 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G. UNIVERSITY
R1-R3 BY ADV. DR.P.LEELAKRISHNAN, SC, M.G.UNIVERSITY**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 13-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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W.A.No. 209 of 2010

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Dated this the 13th day of January, 2015

J U D G M E N T

ANTONY DOMINIC, J.:

The appellant underwent two year M.A. Degree course in English and Literature during the academic years 1996–97 and 1997–98 in the Maharajas College, Ernakulam, affiliated to the 1st respondent University. She appeared for the first year examination in March, 1997 and the final year examination in May, 1998. In the first year examination, she secured 386 marks out of 600 and in the final year examination, she secured 524 marks out of 850, including the marks in viva-voce exam. Thus she secured a total of 910 marks out of the maximum of 1450 marks. This is evident from Ext.P2 mark list. Insofar as respondents 4, 5 and 6 are concerned, they underwent the course in S.B.College, Changanacherry, also affiliated to the 1st respondent University, during the same period. They secured a total of 970, 951 and 940 marks and were awarded rank Nos. 1 to 3 by the University. The contention raised by the appellant is that insofar as the first year examination is concerned, respondents 4 to 6 had appeared in a supplementary examination and improved their marks and that it was taking into account the improved marks, the eligibility of respondents 4 to 6 for assignment

of rank was determined. It is pointed out that the improvement examinations were held after the academic years 1996–97 and 1997–98 and that therefore such candidates were ineligible for award of ranks in view of the prescriptions contained in Exts.P3 and P4 norms adopted by the University. This was the contention raised in the Writ Petition. The learned Single Judge, who considered the matter, found that even if the improved results of respondents 4 to 6 were eschewed, they had secured total of 946, 943 and 933 marks respectively and that therefore the appellant, who secured only 910 marks, cannot validly object to the ranks awarded to respondents 4 to 6. It is this judgment, which is under challenge before us.

2. Exts.P3 and P4, in our view, disentitle a candidate from taking advantage of the marks obtained in the improvement examinations. But, however, that cannot be taken to mean that the candidates should be denied even the benefit of the marks originally obtained by them. If that be the effect of Exts.P3 and P4, respondents 4 to 6 are the top scorers, who were eligible for rank Nos.1 to 3. It was in recognition of that achievement of respondents 4 to 6, that ranks were awarded to them.

3. The learned counsel for the appellant then contended

that when a candidate appears in the improvement examination and obtains marks higher than what he had secured in the original examination, the original examination gets cancelled. Therefore, according to him, marks in the original examination cannot be taken into account for any purpose and if that be so, ranks could not have been awarded to respondents 4 to 6. It may be true that when a candidate appears in the improvement examination and secures better marks, the original examination, for which he appeared is cancelled. But insofar as the award of ranks is concerned, eligibility has to be determined in terms of Exts.P3 and P4. Exts.P3 and P4 do not provide that the original marks cannot be taken into account for award of rank. If that be so, this contention raised by the appellant also cannot be accepted. We therefore do not find any error or illegality in the view taken by the learned Single Judge. Accordingly, this Writ Appeal is dismissed.

ANTONY DOMINIC, JUDGE

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ALEXANDER THOMAS, JUDGE

