

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WA.No. 1402 of 2010 ()

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AGAINST THE JUDGMENT IN WP(C) 11118/2010 of HIGH COURT OF KERALA
DATED 08-07-2010**

APPELLANT(S)/RESPONDENT NO.2:

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UNIVERSITY OF CALICUT,
THENHIPALAM, MALAPPURAM DISTRICT
REPRESENTED BY ITS REGISTRAR.**

**BY ADVS.SRI.P.C.SASIDHARAN, SC, CALICUT UTY.
SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS**

RESPONDENT(S)/PETITIONER & RESPONDENTS 1 AND 3:

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- 1. THE MUSLIM EDUCATIONAL SOCIETY (REGD)
BANK ROAD, CALICUT, REPRESENTED BY ITS
GENERAL SECRETARY, PROF.P.O.J.LEBBA, CALICUT
KERALA - 673 001.**
 - 2. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT
THIRUVANANTHAPURAM.**
 - 3. UNIVERSITY GRANTS COMMISSION,
BAHADURSHAH ZAFAR MARG, NEW DELHI - 110 002.**

**R3 BY ADV. SRI.S.KRISHNAMOORTHY, CGC
R1 BY SRI.A.A.ABUL HASSAN
R2 BY GOVT. PLEADER SRI.ABOOBACKER.**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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W.A.No. 1402 of 2010

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Dated this the 12th day of March, 2015

J U D G M E N T

ANTONY DOMINIC, J.:

The 1st respondent herein filed W.P.(C).No.11118/2010 seeking to challenge Ext.P-10 communication issued by the University and also for a direction requiring the appellant to grant continuation of affiliation to M.Sc. Food Science and Technology and to B.A.Mass Communication sanctioned to M.E.S.Mampad College in Malappuram district, before the academic year 2010-11 commences. By the judgment under appeal, the learned Single Judge declared that the affiliation for the aforementioned two courses granted to the 1st respondent is permanent and that they need not apply for or obtain fresh affiliation. It was also held that the 1st respondent can continue to make admissions to the aforementioned courses in accordance with the sanction of the Government and the affiliation of the University already granted and continue the courses accordingly. It is this judgment, which is under challenge before us.

3. We heard the learned counsel for the appellant, the learned counsel appearing for the 1st respondent, the learned Government Pleader appearing for the 2nd respondent and the learned Standing Counsel appearing for the 3rd respondent.

3. During the course of the hearing, the main apprehension expressed on behalf of the University was that in view of the declaration granted by the learned Single Judge, other educational agencies are also likely to take the position that provisional affiliation granted to them should be treated as permanent even after the expiry of the period thereof. Yet another grievance highlighted was that in the nature of the declaratory relief granted, the University is unable to even exercise its powers under Statute 14 of Chapter 23 of the Calicut University First Statute, 1977.

4. Having heard the learned counsel for the appellant and the learned counsel appearing for the 1st respondent, we are inclined to think that there is no basis for this apprehension. The benefit of the declaration granted in the judgment under appeal is confined to the 1st respondent only and, that too, for the courses mentioned above. Therefore, the benefit of declaration cannot be claimed by anybody else and even the 1st respondent, for courses

other than the two mentioned above. Insofar as the powers of the University under the Statutes are concerned, irrespective of the judgment, the University is always at liberty to ensure that the colleges affiliated to it comply with the requirements of instructional and infrastructural facilities prescribed in that behalf. Therefore, this judgment cannot in any manner affect the exercise of those powers. We therefore do not find any reason to interfere with the judgment under appeal on that ground urged before us.

Sd/-

ANTONY DOMINIC, JUDGE

Sd/-

ALEXANDER THOMAS, JUDGE

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P.S. to Judge