IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

WA.No. 1017 of 2011 ( )

AGAINST THE JUDGMENT IN WP(C).NO.11735/2008 DATED 03-11-2010.
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APPELLANTS/RESPONDENTS 1 TO 3:
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1. **MAHATMA GANDHI UNIVERSITY,**
   UNIVERSITY CAMPUS, KOTTAYAM,
   REPRESENTED BY ITS REGISTRAR.

2. **CONTROLLER OF EXAMINATIONS,**
   MAHATMA GANDHI UNIVERSITY, KOTTAYAM.

3. **THE SYNDICATE, MAHATMA GANDHI UNIVERSITY,**
   REPRESENTED BY THE REGISTRAR,
   MAHATMA GANDHI UNIVERSITY, KOTTAYAM.

BY ADVS. SRI.VARUGHESE M.EASO, SC,
SRI.VIVEK VARGHESE P.J., SC.

RESPONDENTS/PETITIONER & RESPONDENT NO.4:
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1. **SHALAZ, AGED 24 YEARS,**
   S/O.SHAMSUDEEN, DARUL FALAGH,
   1ST MILE, KAYAMKULAM, PIN- 690 502.

2. **M.E.S. COLLEGE, MARAMPILLY P.O., ALUVA,**
   REPRESENTED BY THE PRINCIPAL, PIN- 683 107.

R1 BY ADV. SRI.A.SHAFEEK (KAYAMKULAM).
R2 BY ADVS. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.JAGAN GEORGE
SRI.K.A.NOUSHAD
SRI.P.G.PRAMOD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06-07-2015, ALONG WITH W.A. NO.1020 OF 2011, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

ASHOK BHUSHAN, CJ
&
A.M. SHAFFIQUE, J.
* * * * * * * * * * * * * * * *
W.A.Nos.1017 & 1020 of 2011

Dated this, the 6th day of July, 2015

J U D G M E N T

Shaffique, J

These appeals are filed against the judgment dated 03/11/2010 in W.P.C.Nos.11735/2008 and 21343/2007. Both the writ petitions were filed by the 1st respondent herein seeking for directions to regularise his admission to the M.B.A course in M.E.S College, Marampilly, Aluva and to declare his results which are withheld by the University.

2. The short facts involved in the writ petition would disclose that the 1st respondent herein, who is hereinafter referred to as 'the petitioner', has got admission to MBA course being conducted by the M.E.S College, Marampilly, Aluva on the basis of Ext.P1 provisional mark list dated 27/10/2006. In fact, at the relevant time, petitioner had written the supplementary examination in EDP and Computer Applications of B.Com which was held in August 2006. Results of the supplementary examination was published on 19/04/2007 by the University.

3. In the meantime, admissions have been over and thereafter, since the degree certificate was obtained by the petitioner after the admissions, University did not accept the fee for the semester examination of MBA. In the light of the interim orders passed by this Court, petitioner had appeared for all the semester examinations. Thereafter, University had issued Ext.P9 proceedings by which his request for regularising admission had been rejected. Petitioner challenged the same by filing W.P.C.No.11735/2008. Both the writ petitions were heard together and by a common judgment, the learned Single Judge formed an opinion that the admissions having been made based on the provisional mark list in terms of the regulations being given to the college, that too before the cut off date, admissions were proper and accordingly directions were issued to the 2nd respondent University to regularise the admission and publish the result of the petitioner and issue degree certificate within a period of six weeks. It is, impugning the aforesaid directions, that these appeals have been filed.

4. It is submitted by the learned counsel for the appellants that learned Single Judge was not justified in

regularising the admission. Further, it is contended that even if admissions are regular, subsequent events indicated that the petitioner has not passed the MBA examination and therefore direction to issue Degree certificate has caused substantial prejudice to the University.

5. On the other hand, learned counsel for the petitioner submits that admissions have been given by the College based on a confidential letter issued by the University and therefore merely for the reason that there was delay in declaration of results of the supplementary examinations and the grant of Degree certificate for the B.Com course, it was not proper on the part of the University to have rejected admission to the petitioner.

6. Having heard the learned counsel on either side and having perused the records, we find that since the learned Single Judge had already come to a definite finding that the admission given to the petitioner by the College was proper and based on proper materials, we do not think that this Court should interfere in the said regularisation of admissions at the appellate stage as we do not find any error in the said judgment. But, as far as the contention urged by the learned counsel for the appellants that

the petitioner has not passed the examinations, it needs to be clarified that the issuance of Degree certificate arises only in an instance where petitioner had completed the course and has passed the examination of MBA course. To that extent, the judgment of the learned Single Judge requires to be modified.

In the result, these appeals are disposed of clarifying that the Degree certificate shall be issued only if the petitioner has passed all the examinations of MBA. However, the appellant/University shall declare the result of the petitioner within a period of two weeks from the date of receipt of a copy of this judgment.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr