

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 445 of 2009 (C)

PETITIONER(S):

**P.N. VIJAYAN, VASANTHA NIVAS,
CMC.10, SHERTALLAI.**

**BY ADVS.SRI.V.G.ARUN,
SRI.T.R.HARIKUMAR.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, TRIVANDRUM.**
- 2. THE UNIVERSITY OF KERALA, TRIVANDRUM,
REPRESENTED BY ITS REGISTRAR.**
- 3. THE PRINCIPAL,
KVM COLLEGE OF ENGINEERING AND
INFORMATION TECHNOLOGY, SHERTALLAI.**

**R1 BY SR. GOVT. PLEADER SRI.BIJU MEENATTOOR.
R2 BY ADV. SRI.BECHU KURIAN THOMAS, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE RECEIPT NO.198 DATED 23/01/2003.
- EXT.P2 COPY OF THE RECEIPT NO.82993 DATED 22/01/2003.
- EXT.P3 COPY OF THE REPRESENTATION DATED 14/09/2006.
- EXT.P4 COPY OF THE JUDGMENT DATED 23/05/2008.
- EXT.P5 COPY OF THE ARGUMENT NOTE SUBMITTED BEFORE THE
GOVERNMENT.
- EXT.P6 COPY OF THE ORDER NO.GO(RT) 1738/08/H.EDN. DATED 22/11/2008.
- EXT.P7 COPY OF THE NOTICE DATED 20/12/2008.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.
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W.P.(C) No.445 of 2009 - C
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Dated this the 3rd day of March 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P7 order. The petitioner relies on a judgment of this Court reported in **Bhavika Mangalanandan v. Union of India [2011 (1) KLT 854]** to advance her contention and claim that her certificates should be returned even without paying the fees as per the prospectus.

2. The brief facts to be noticed are that, the petitioner's daughter, got herself admitted to the M.C.A course, with the 3rd respondent college affiliated to the 2nd respondent University on 22.01.2003. The initial admission fees were paid, which is evidenced by Exts.P1 and P2 and it is stated that in June 2003, the petitioner's daughter got married and left India to settle with her husband abroad. It

is also to be noticed that, the petitioner got admission in the management quota.

3. At the out set, it is to be noticed that, the petitioner's case has absolutely no similarity with the facts in **Bhavika Mangalanandan** (supra). Therein a meritorious student, who had got herself admitted to a National Institute of Technology, before the closure of admissions in the said institute, sought for cancellation of her admission, to register herself in an Indian Institute of Technology. The Division Bench found the factual finding of the learned Single Judge; that, the student therein, sought cancellation of admission prior to the closure of admission in the institution; not liable to be interfered with.

4. Even though, it was the case of a meritorious student, the Division Bench directed that the fees paid at the time of admission would be retained with the college that too in a case in which the admission was on merit and the cancellation sought was for getting admitted in an

institution of higher reputation. This Court is unable to find any similarity with the aforesaid case.

5. Herein, the discontinuance of the course was not on account of admission to any other professional course, in any other institution. The discontinuance of the course was only an account of the student's marriage. Definitely, the petitioner and his daughter would be entitled to take such a course, but, however, in the matter of return of certificates they would have to comply with the specific terms of the prospectus. The petitioner's daughter got herself admitted to the course, agreeing to the condition that, if discontinuance is effected after the closure of admission, the entire tuition fees would be paid.

6. The Government in Ext.P6 considered the fact of self-financing colleges, functioning with their own fund, without any aid or grant from the State Government. Such sustenance has to be from the funds collected from the students, which is also regulated by the State Government

by appropriate measures. When a student discontinues after closure of admission, the college is put to disadvantage in not being able to collect the fees of the said student.

7. Admissions are made only to such seats allotted to a college, for a particular course, as regulated by the affiliation norms of the University. The college necessarily has to provide the infra-structure facilities to that number of students permitted to be admitted. The fees fixed for each student is on the balancing considerations of the economic feasibility of the course carried on for a definite number of students. When one student discontinues studies, that too after closure of admission, as stipulated by the Government, the college is deprived of the fees of that seat, which remains vacant through out the course.

8. The petitioner, fully aware of the prescription in the prospectus, took admission in the management quota and later after the closure of admissions, discontinued the

course, to enter into matrimony. In such circumstance, no infirmity can be found in Ext.P7. If the petitioner pays the amounts as demanded by the college, then, definitely, the certificates would be returned.

The writ petition would stand dismissed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

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P.A to Judge