

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WA.No. 239 of 2015 () IN WP(C).12436/2014

**AGAINST THE ORDER/JUDGMENT IN WP(C) 12436/2014 of HIGH COURT OF KERALA
DATED 16-10-2014**

APPELLANT(S)/RESPONDENTS 1 & 2:

- 1. UNIVERSITY OF CALICUT, THENHIPALAM,
MALAPPURAM DISTRICT,
REPRESENTED BY ITS REGISTRAR.**
- 2. CONTROLLER OF EXAMINATIONS,
UNIVERSITY OF CALICUT,
THENHIPALAM,
MALAPPURAM DT.**

BY ADV. SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS

RESPONDENT(S)/PETITIONERS & RESPONDENTS 3 AND 4:

- 1. MUJEEB RAHMAN K.K., AGED 21 YEARS
S/O. ABDUL KAREEM K.K., RESIDING AT
KAKKIDI KADATHU,
PANDIKKAD PO
MALAPPURAM DISTRICT 676521**
- 2. ROOBESH K.P., AGED 20 YEARS
MR. ABUBACKER K.P., RESIDING AT KALLORPARAMBU
MOKKAM PO KOZHIKODE DISTRICT 673 702**
- 3. LEAD COLLEGE OF MANAGEMENT, DHONI,
PALAKKAD-678 009 REPRESENTED BY ITS PRINCIPAL**
- 4. STATE OF KERALA, REPRESENTED BY PRINCIPAL SECRETARY
HIGHER EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695 001**

**R3 BY ADV. SRI.MVS.NAMBOOTHIRY
R1&2 BY ADV. SRI.C.A.MAJEED
BY SR GOVERNMENT PLEADER SRI.P.IDAVIS**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08-07-2015,
ALONG WITH WA. 240/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A. Nos. 239 & 240 of 2015

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Dated this, the 8th day of July, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellants and the learned Government Pleader.

2. These writ appeals have been filed against judgment dated 16th October 2014 in WP(C) Nos.4814/2014 and 12436/2014. Both the appeals are against common judgment, by which, the writ petitions filed by the petitioners/respondents 1 and 2 were allowed. The University has come up in the appeals against the said judgment. It is useful to refer to para 5 of the judgment.

“5. The issue is no longer res integra: being covered by the decision in Ext.P6, in WP(C) 4814/2014 wherein a learned Single Judge of this Court considered both the aforesaid issues. Section 68A of the Act was found to restrict the University, insofar as bringing out the Regulations, on the aspects to be determined therein. The Government

alone was found to have such power and even clause 9(f) of Chapter XXIII was noticed and it was held that the Regulations or the directions issued has to be consistent with the parent Act. Section 68A is a non obstante clause and the other provisions in the Act would definitely not govern the issues enumerated in the said provision”.

3. Learned counsel for the appellants in support of the appeals, at the very outset, contended that notification dated 29th March, 2012 published in the Gazette on 2nd April, 2012 has been issued in exercise of power conferred under item (c) of clause (r) of Section 2 of the Kerala Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence in Professional Education) Act, 2006. He submits that, by virtue of the said notification, now Business Administration has been included as a Professional Course. He submits that in view of the notification, all the institutions imparting course of Business Administration shall be covered by the college/institution, whose admissions shall be regulated by the Admission Supervisory Committee. He submits that with the issuance of the notification dated 29th March, 2012,

the issue raised in the writ petitions need not be gone into. He submits that admissions given to the writ petitioners were for the year 2011 and in our view, we see no reason to enter into the issues raised in the writ appeals in view of the subsequent developments, that as per the notification, henceforth, the admissions shall be conducted as per the notification and the Act.

With the aforesaid observations, the writ appeals are closed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge