

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WA.No. 519 of 2015 () IN WP(C).26369/2013

AGAINST THE JUDGMENT IN WP(C) 26369/2013 of HIGH COURT OF
KERALA DATED 26-11-2014

APPELLANT(S) :

KENTAYIS V.BENNY,
S/O.V.BENNY, RESIDING AT VAKYAPARAMBIL HOUSE
ETTAMANOOR, PUNNATHURA WEST P.O
KOTTAYAM DISTRICT. 686 631.

BY ADVS.SRI.V.AJITH NARAYANAN
SRI.RAJESH NAIR

RESPONDENT(S) :

1. THE MAHATMA GANDHI UNIVERSITY
REPRESENTED BY ITS REGISTRAR, PRIYADARSHINI HILLS
KOTTAYAM DISTRICT. 686 560.

2. THE VICE CHANCELLOR
THE MAHATMA GANDHI UNIVERSITYPRIYADARSHINI HILLS
KOTTAYAM DISTRICT. 686 560.

3. THE CONTROLLER OF EXAMINATIONS
THE MAHATMA GANDHI UNIVERSITYPRIYADARSHINI HILLS
KOTTAYAM DISTRICT. 686 560.

4. THE REGISTRAR
THE MAHATMA GANDHI UNIVERSITYPRIYADARSHINI HILLS
KOTTAYAM DISTRICT. 686 560.

5. BOARD FOR ADJUDICATION OF STUDENS
GRIEVANCES OF M.G UNIVERSITY
THE MAHATMA GANDHI UNIVERSITY,
PRIYADARSHINI HILLS
KOTTAYAM DISTRICT. 686 560
REPRESENTED BY ITS REGISTRAR
MAHATMA GANDHI UNIVERSITY.

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6. THE KOTTAYAM INSTITUTE OF TECHNOLOGY
AND SCIENCE, CHENGALLAM P.O, PALICKATHODU,
KOTTAYAM DISTRICT, PIN - 685 585,
REPRESENTED BY ITS PRINCIPAL.

7. THE COMMISSIONER FOR ENTRANCE EXAMINATIONS
OFFICE OF THE COMMISSIONER FOR ENTRANCE
EXAMINATIONS, SANTHI NAGAR,
THIRUVANANTHAPURAM 695 001.

8. THE SYNDICATE,
MAHATMA GANDHI UNIVERSITY
REPRESENTED BY THE REGISTRAR
THE MAHATMA GANDHI UNIVERSITY,
PRIYADARSHINI HILLS
KOTTAYAM DISTRICT - PIN 686 560.

9. THE HIGHER EDUCATION DEPARTMENT
MINISTRY OF EDUCATION,
GOVERNMENT OF KERALA, SECRETARIAT
THIRUVANANTHAPURAM REPRESENTED BY ITS
PRINCIPAL SECRETARY.

10. THE ALL INDIA COUNCIL FOR
TECHNICAL EDUCATION, 7TH FLOOR,
CHANDERLOK BUILDING, JANPATH
NEW DELHI 110 001, REPRESENTED BY ITS CHAIRMAN.

BY SR. GOVERNMENT PLEADER SRI. P.I. DAVIS
BY SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ASHOK BHUSHAN , Ag. CJ,
&
A.M.SHAFFIQUE, J.

.....
W.A. No. 519 OF 2015
.....

Dated this the 17th day of March, 2015

JUDGMENT

Shaffique, J.

This Writ Appeal is filed by the petitioner in W.P.C. No. 26369/2013 challenging the judgment dated 26-11-2014 by which the above Writ Petition was dismissed reserving the right of the petitioner to pursue civil remedies for damages before an appropriate forum.

2. The short facts involved in this Writ Petition would disclose that the petitioner joined the B.Tech Course in Automobile Engineering at the 6th respondent College which was affiliated to the first respondent Mahatma Gandhi University. Petitioner remitted necessary fee to the 6th respondent College as evidenced by Exts. P4 and P5 payment slips and the necessary University exam fees as evidenced by Exts. P6 to P8 receipts.

Thereafter, he was intimidated by the College Authorities that they were informed by the 1st respondent University that the petitioner had not secured the minimum pass mark of 50% in Mathematics which was an eligibility requirement for the purpose of admission to the said course.

3. Petitioner approached the University. Since no action was taken in the matter, he filed W.P.C. No. 12317 of 2013 which was disposed of by Ext. P11 judgment dated 16-8-2013 permitting the petitioner to approach the University and to seek whether any special sanction could be given to the petitioner to continue the course.

4. The matter was considered by the Board for Adjudication of Students Grievances of M. G. University and they observed that taking into consideration the facts and circumstances, the admission of the petitioner should be regularised as a very special case. However, the Syndicate in its meeting held on 5-11-2013 resolved to cancel the admission given to the student and to issue show cause notice to the College for having admitted the petitioner. It is impugning the aforesaid decision that this Writ Petition has been filed.

5. Counter affidavit has been filed by the first respondent inter alia stating that the matter has been considered by the

Syndicate and resolved to cancel the admission of the petitioner on account of the fact that the petitioner did not have the qualifying marks in Mathematics which is the pre-requisite qualification as per the prospectus.

6. The learned Single Judge, after having taken into consideration the facts and circumstances involved in the matter found that no concession could be extended to the petitioner. Since it is an admitted case that the petitioner was admitted without the qualifying marks in Mathematics by the 7th respondent, the remedy is only to seek damages. Therefore the claim of the petitioner for continuing the course was rejected by the learned Single Judge.

7. Heard the learned counsel appearing for the appellant as well as the Standing Counsel appearing for the first respondent University.

8. The learned counsel appearing for the appellant submits that the petitioner is entitled for certain concessions in the matter as subsequent to the relevant year 2012 in which the petitioner had obtained admission, the criteria of minimum marks have been reduced by the University to 45% and thereafter to 40%. That apart, the petitioner has continued in the course by virtue of the interim order passed by this Court and if

he is now asked to discontinue the course, it will affect his future. The learned counsel for the appellant also relied upon a judgment of this Court dated 30-1-2015 in W.A. No. 539 of 2015 – Jijo Mathew v. University of Kerala and Others .

9. Learned Standing Standing Counsel appearing for the University submits that the University has taken a decision not to approve the admission of the appellant since the appellant did not have the qualifying marks in Mathematics during the relevant time.

10. Having regard to the aforesaid submissions we do not think that this Court can interfere at this stage and give any concession to the petitioner. As far as the judgment dated 30-1-2015 in W.A. No. 539/2015 is concerned, there was a special circumstance by which this Court exercised its jurisdiction to waive the minimum qualifying marks. The learned Standing Counsel further indicated that in the said judgment it is also mentioned that the said judgment shall not be treated as a precedent. In regard to the claim of the appellant , it is an admitted fact that he did not have the necessary qualifying marks and already this Court by judgment at Ext. P11 had remitted the matter back to the University for considering whether his admission can be regularised as a special case. Though the Board had recommended the same, the Syndicate

decided not to grant any such special treatment to the appellant.

11. Under such circumstances, the learned Single Judge found that in the absence of any illegality on the part of the University to take such a decision, the petitioner cannot aspire for a direction to the respondent University to permit him to continue the course. The learned Single Judge was justified in not interfering with the decision taken by the University. We do not find any ground to interfere with the said decision.

Accordingly, this Writ Appeal is dismissed.

Sd/-ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/- A.M.SHAFFIQUE,
JUDGE

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P.S.toJudge