

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

W.A.No.892 of 2015

AGAINST THE INTERIM ORDERS IN W.P.(C).10416/2015-B DATED 08.04.2015 &
17.04.2015 OF HIGH COURT OF KERALA.

APPELLANT(S)/ RESPONDENTS 1 AND 2:-

1. MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY REGISTRAR, PRIYADARSHINI HILLS P.O.,
KOTTAYAM - 686 560.
2. THE CONTROLLER OF EXAMINATIONS,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS P.O.,
KOTTAYAM - 686 560.

BY ADV.SRI.P.JACOB VARGHESE (SENIOR ADVOCATE) &
STANDING COUNSEL SRI.VARUGHESE M.EASO.

RESPONDENT(S)/ PETITIONER AND 3RD RESPONDENT:-

1. SMT. DEVI PAVITHRAN, D/O. PAVITHRAN V.P.,
VELIYATH HOUSE, EDATHURTHU P.O.,
THRISSUR - 680 703.
2. MANAGER,
NIRMALA COLLEGE OF INFORMATION TECHNOLOGY, CHALAKUDY,
THRISSUR - 680 307.

R1 BY ADV.SRI.M.R.ANISON

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 24-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

K.Vinod Chandran & P.V.Asha, JJ.

W.A.No.892 of 2015

Dated, this the 24th day of April, 2015

JUDGMENT

K.Vinod Chandran, J.

The appellant-University is aggrieved with the interim orders passed in the writ petition dated 08.04.2015 and 17.04.2015. The earlier order was passed, directing production of the answer sheets, in view of the allegations in the writ petition. The direction was to produce the answer sheets on 17.04.2015, on failure of which, the order of even date was passed.

2. The grievance of the appellant-University is insofar as the observations made in the interim order dated 17.04.2015, especially in the context of the specific averments made by the University in its counter affidavit. The University also challenges the order of 08.04.2015 on the ground that it is against the accepted principles on the aspect of valuation of answer papers, as laid down by this Court and the Hon'ble Supreme Court. It is also submitted that in fact there was an application filed before the learned Single Judge for vacating the interim order dated 08.04.2015.

3. Going through the counter affidavit filed by the University in the writ petition, specifically paragraphs 7 and 8, it was the submission of the University that the petitioner's answer papers were once revalued and since there was drastic change in marks in the second revaluation, in the context of the regulations of the University, valuation by a 3rd examiner was ordered. The papers were sent for the 3rd valuation and that was the difficulty expressed in the counter affidavit insofar as the non-production of the answer papers on 17.04.2015.

4. In any event, the answer sheets are now produced in a sealed cover and we are of the opinion that it is apt that the observations made by the learned Single Judge in the order dated 17.04.2015 be removed and the matter be considered in the writ petition itself. This is more so since the order dated 17.04.2015 did not consider the specific factual contention of the University in its counter affidavit. It is also of considerable import that the University had also filed an application to review the earlier interim order dated 08.04.2015.

5. However, on the challenge to the interim order dated 08.04.2015, we would express no opinion. The learned Single Judge has merely directed production of the answer papers, which the Court is entitled to do. The binding precedents, if any, could be urged even at the time of final hearing. It is also pertinent that the University has complied with that order as of now. The question raised as to the power of this Court to evaluate the answer sheet, or the lack of it, could be raised in the writ petition.

Resultantly, the writ appeal is partly allowed, setting aside the impugned order dated 17.04.2015. It is made clear that we have not looked into the answer books and contentions of either parties are left open for consideration in the writ petition. We direct the Registry to place the sealed cover along with W.P.(C).No.10416 of 2015.

Sd/-
K.Vinod Chandran,
Judge.

Sd/-
P.VAsha,
Judge.

vkul/-

[true copy]