

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

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

WA.No. 1204 of 2014 () IN WP(C).18050/2013

AGAINST THE ORDER/JUDGMENT IN WP(C) 18050/2013 of HIGH COURT OF
KERALA DATED 19-03-2013

APPELLANT(S)/APPELLANTS/3RD PARTY:

SHYNI C.B
"SURABHI, CHEMBAKA HOUSING COLONY, BC ROAD
BEYPORE, CALICUT 673 015

BY ADV. SRI.LINDONS C.DAVIS

RESPONDENT(S)/RESPONDENTS/PETITIONER:

1. SASHI.M, AGED 50 YEARS
S/O.LATEPAMBU, MUNDAYIL HOUSE, CHOOTUVAM
P.O PADUKKAL, VIA NEILSWAR, KASARAGOD DISTRICT

2. KANNUR UNIVERSITY
REPRESENTED BY ITS REGISTRAR, MANGATTUPARAMBA P.O
KANNUR DISTRICT PIN 670 001

3. ACADEMIC COUNCIL
KANNUR UNIVERSITY, REPRESENTED BY ITS REGISTRAR
MANGATTUPARAMBAP.O, KANNUR DISTRICT PIN 670 001

4. DIRECTOR
OFFICE OF THE DIRECTORATE OF HIGHER SECONDARY EDUCATION
HOUSING BOARD BUILDING, SANTHI NAGAR
THIRUVANANTHAPURAM PIN 695 001

R1 BY ADV. SRI.M.V.THAMBAN
R1 BY ADV. SRI.R.REJI
R1 BY ADV. SMT.THARA THAMBAN
R1 BY ADV. SRI.B.BIPIN
R1 BY ADV. SRI.ARUN BOSE
BY SRI.M.V.AMARESAN
r4 BY GOVERNMENT PLEADER SRIP.P.I.DAVIS
BY SRI.V.A.MUHAMMED, SC, KANNUR UNIVERSITY

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 16-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A.No.1204 of 2014

Dated this the 16th February, 2015

JUDGMENT

Ashok Bhushan, Ag.CJ.

Heard learned counsel for the appellant, learned counsel appearing for the first respondent and the learned counsel appearing for the University.

2. This Writ Appeal has been filed against the judgment dated 19.3.2013 passed in W.P(C).No.18050 of 2013. The first respondent filed the Writ Petition praying for the following reliefs:

- “i) to declare that non issuance of Equivalency certificate to the petitioner as requested as per application dated 17.9.2010 is unjust and is discriminatory;*
- ii) to issue a writ of mandamus or any other writ/order directing respondent No.1 and 2 to issue Equivalency Certificate to the petitioner applied for as per application dated 17.05.2010 forthwith;*

iii) to direct respondent No.3 not to remove the petitioner from Exhibit P11 seniority list and to further direct 3rd respondent to grant adequate time to the petitioner to produce Equivalency Certificate."

3. The petitioner, while working as Primary Department Teacher in the Government Higher Secondary School, Beypore, obtained the qualification of M.Sc (Computer Science) (Lateral Entry) by distance education from Annamalai University. The petitioner submitted an application on 17.5.2010 to the Kannur University praying for grant of Equivalency Certificate treating the degree equivalent to M.Sc (Computer Science). The University declined the said prayer. In the Writ Petition a statement was filed by the University, wherein it was categorically pleaded that in the meeting of the Board of Studies held on 26.9.2013 the matter of recognition of M.Sc (Computer Science) (Lateral Entry), distance education of Annamalai University was considered and the Board of Studies recommended not to recognize the M.Sc (Computer

Science) (Lateral Entry) by distance education of Annamalai University for any purpose. The University, thus, did not issue Equivalency Certificate, hence the petitioner filed the Writ Petition.

4. The learned Single Judge, by the impugned judgment, had allowed the Writ Petition and directed the University to issue Equivalency Certificate. The reason given by the learned Single Judge in the judgment was that information has been given under the Right to Information Act that one another candidate, who had obtained MCA degree under the lateral entry scheme was issued with an Equivalency Certificate. It was on the ground of alleged discrimination that the mandamus was issued.

5. Learned counsel for the appellant, in support of the appeal, submitted that it is in the jurisdiction of the University to consider whether Equivalency Certificate can be granted or not. It is for the University to consider all the aspects of the matter and being academic, the Court

committed error in issuing such a direction. It is further submitted that the case of another candidate, which was cited by the writ petitioner and relied on by the learned Single Judge was also not relevant, since the present was a case where the qualification cited was with regard to M.Sc (Computer Science) (Lateral Entry) by distance education. Learned counsel for the writ petitioner submits that the learned Single Judge committed no error in issuing the direction, since there was a discrimination in grant of Equivalency Certificate to the petitioner.

6. We have considered the submissions of the parties and perused the records.

7. The reasons given by the learned Single Judge for issuing the direction are contained in paragraph 4 of the judgment, which is quoted as below:

"4. It is to be noticed that the petitioner has produced a communication of the Kannur University dated 27.06.2013 under the Right to Information Act, 2005 wherein it has been clearly stated that one another candidate who had obtained MCA degree under the lateral entry scheme was issued with an

equivalency certificate for purposes of employment. In the present case also, the petitioner seeks an equivalency certificate, for the purpose of employment. In the present case also, the petitioner seeks an equivalency certificate, for the purpose of applying for promotion.”

8. As noted above, the Board of Studies in its meeting considered the matter and decided not to grant equivalency certificate to the petitioner. Whether a degree obtained by a candidate from a different University should be treated equivalent to any other degree of the particular University is in the domain of the said University to consider and grant Equivalency Certificate. Learned counsel for the appellant has rightly placed reliance on the Apex Court decision reported in **Rajendra Prasad v. Karnataka University** (AIR 1986 SC 448). In the above case the Apex Court has laid down that the question of equivalence has to be decided by the University and it is not a matter of objective assessment or evaluation by the Court. It is useful to quote the following observation made by the Apex Court in paragraph 6 of the judgment:

“6.The only contention urged on behalf of the appellants was that the Higher Secondary Examination of the Board of Secondary Education, Rajasthan or in any event first year B.Sc. examination of a University of Rajasthan or Udaipur should be regarded as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore and the appellants who had passed the Higher Secondary Examination of the Secondary Education Board, Rajasthan and in any event such of the appellants who had passed the first year B.Sc. examination of the Universities of Rajasthan and Udaipur satisfied the condition of eligibility prescribed by the Karnataka University and were therefore. eligible for admission to the Engineering Degree Course of the Karnataka University. This contention is in our opinion wholly unsustainable and cannot be accepted. In the first place it may be noted that what the condition of eligibility laid down by the Karnataka University requires is that the students seeking admission should have passed the two year Pre-University Examination of the Pre-University Education Board, Bangalore or an examination held by any other Board or University recognised as equivalent to it. The examination held by any other Board or University which has been passed by the candidate must be recognised by the Karnataka

University as equivalent to the two year Pre-University Examination of the Pre-University Education Board, Bangalore. The equivalence has to be decided by the Karnataka University and it is not a matter of objective assessment or evaluation by the Court. It is for each University to decide the question of equivalence of an examination held by any other Board or University with the examination which primarily constitutes the basis of eligibility. Here in the present case the Karnataka University did not recognise the Higher Secondary Examination held by the Secondary Education Board, Rajasthan as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore. And rightly so because the Higher Secondary Examination of the Secondary Education Board, Rajasthan followed only 11 years schooling while the Pre-University Examination of the Pre-University Education Board, Bangalore came at the end of 10 + 2 Course that is 12 years study. The Karnataka University also did not recognise the first year B.Sc. examination of the Universities of Rajasthan and Udaipur as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore. In fact the Academic Council took the view that first year B.Sc. examination of any University outside the State of Karnataka could not be recognised as equivalent to

the first year B.Sc. examination of the Karnataka University and it would therefore seem to follow a fortiori that the first year B.Sc. examination of the Rajasthan or Udaipur University was not regarded by the Karnataka University as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore. It is also evident from the second part of the condition of eligibility prescribed by the Karnataka University that if a student did not fall in the first part he could be eligible under the second part only if he had passed B.Sc. examination with Physics, Chemistry and Mathematics and that mere passing of first year B.Sc. examination would not be enough. There can therefore be no doubt that the appellants were not eligible for admission to the Engineering Degree Course of the Karnataka University and their admission was contrary to the Ordinance prescribing the condition of eligibility.”

9. The law laid down by the Apex Court as relied on by learned counsel for the appellant fully supports the appellant.

10. In view of the above matter, the reason given by the learned Single Judge that the University having granted equivalence to another degree, i.e., MCA degree

under lateral entry, the petitioner was also entitled, is wholly misconceived. There cannot be any equivalence with MCA degree under lateral entry as well as M.Sc (Computer Science) (Lateral Entry). Both degrees being different, placing of reliance on the said ground was misplaced. We are satisfied that there was no sufficient ground in the Writ Petition to issue a mandamus directing the University to grant Equivalency Certificate to the writ petitioner.

In view of the foregoing discussions, we allow the Writ Appeal setting aside the judgment of the learned Single Judge dated 19.3.2014 and dismiss the Writ Petition.

**ASHOK BHUSHAN
ACTING CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

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