

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WA.No. 2331 of 2015 () IN WP(C).28932/2015

AGAINST THE JUDGMENT IN WP(C) 28932/2015 DATED 20-10-2015

APPELLANT(S)/THIRD RESPONDENT IN THE WRIT PETITION :-

THE PRINCIPAL

MAR ATHANASIOUS COLLEGE, KOTHAMANGALAM, COLLEGE.P.O.
KERALA-686 666.

BY ADV. SRI.GEORGE JACOB (JOSE)

RESPONDENT(S)/RESPONDENTS 1 & 2 AND PETITIONER IN THE WRIT
PETITION :-

1. THE BOARD FOR ADJUDICATION OF STUDENTS GRIEVANCES
MAHATMA GANDHI UNIVERSITY, KOTTAYAM
REPRESENTED BY ITS CHAIRMAN, PIN-686 562.
2. MAHATMA GANDHI UNIVERSITY
PRIYADARSHINI HILLS, ATHIRAMPUZHA.P.O., KOTTAYAM
REPRESENTED BY ITS REGISTRAR. PIN-686 562.
3. ABIN HAMEED
5TH SEMESTER B.COM (TAXATION) STUDENT (SELF FINANCING)
M.A.COLLEGE, KOTHAMANGALAM
RESIDING AT KANAMPURAM HOUSE, IRINGOLE.P.O.
PERUMBAVOOR, ERNAKULAM DISTRICT.

BY SRI.P.C.SASIDHARAN

BY SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 27-
10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.2331 of 2015

Dated this the 27th day of October 2015

J U D G M E N T

Ashok Bhushan, CJ.

This writ appeal has been filed against the judgment dated 20.10.2015 in W.P.(C) No.28932 of 2015, by which, the learned Single Judge disposed of the writ petition with the following direction :-

“The petitioner has already been permitted to remit the examination fee by interim order dated 25.9.2015. The petitioner shall be provisionally permitted to sit for the examination also. The results shall however be published subject to the outcome of the proceedings pending with the first respondent.”

The Principal of the College has filed this writ appeal against the said judgment of the learned Single Judge.

2. The writ petition was filed by a final year student undergoing his 5th Semester B.Com Taxation (Self Financing). Disciplinary proceedings were initiated against him alleging that he was involved in certain incident along with other students. The petitioner was placed under suspension and on recommendation of the Enquiry Commission, punishment order was passed. It is

useful to extract the punishment order dated 19.8.2015, which is to the following effect :-

“After bestowing very serious consideration on all the aforesaid facts, materials on record and your written explanation, the council found that all the charges are proved against you.

The punishment proposed to be imposed upon you was dismissal from the College subject to your written explanation and objections. Despite all the acts of misconduct as found proved in the enquiry warranting the imposition of the proposed punishment, the Council had resolved to impose upon you the punishment of debarring you from the College for a period of one year with all its consequences covering the academic year 2015-16 including disability to appear in the University examinations and losing of one year of your academic career. The order of punishment is appended herewith.”

The petitioner was debarred for one year with all consequences covering the academic year 2015-'16. The said order was under challenge.

3. The judgment passed by the learned Single Judge indicates that the learned Single Judge has not entered into the merits of the order and the said order was not set aside. However, the learned Single Judge has permitted the petitioner to provisionally appear in the examination. In a case, where a student has been punished with recommendation of the Enquiry

-: 3 :-

Commission and there was an order of debar, the learned Single Judge ought to have proceeded with the merits of the case and thereafter passed an appropriate order. We are of the view that without setting aside the punishment order, the student ought not to have been permitted to appear in the examination. But we have been informed that in pursuance of the judgment of this Court on 20.10.2015, the student has appeared in the examination and has written a paper.

4. Under such circumstances, we are of the view that the order of the learned Single Judge need not be interfered except to the effect that we direct that the result of the petitioner shall not be published and it will be subject to the outcome of the proceedings pending with the first respondent.

This writ appeal is disposed of as above.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE