

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC  
&  
THE HONOURABLE SMT. JUSTICE P.VASHA

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WA.No. 2340 of 2015 IN WP(C).11295/2010

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AGAINST THE JUDGMENT IN WP(C) 11295/2010 of HIGH COURT OF KERALA DATED 19-12-2011

APPELLANT/NOT A PARTY:

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LIRAR PULIKKALAKATH  
PULIKKALAKATH HOUSE, KURUPPATH, KONDOTTY.PO.  
MALAPPURAM, PIN-673 638.

BY ADVS.SRI.P.RAVINDRAN (SR.)  
SRI.M.R.SABU

RESPONDENTS/PETITIONER & RESPONDENTS:

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1. MUNEER M.  
S/O.MUSTHAF, NAZEEMA MANZIL, ARUKANJIRAM  
PULIYOORKONAM.P.O., THIRUVANANTHAPURAM.695 604.
  2. MAHATMA GANDHI UNIVERSITY  
REPRESENTED BY ITS REGISTRAR  
PRIYADARSINI HILLS.P.O., KOTTAYAM-686 560.
  3. THE CHANCELLOR  
MAHATMA GANDHI UNIVERSITY, RAJ BHAVAN  
THIRUVANANTHAPURAM-695 001.
  4. THE SYNDICATE  
REPRESENTED BY ITS CHAIRMAN  
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS.P.O.  
KOTTAYAM-686 560.

R1 BY ADV. SRI.N.N.SUGUNAPALAN (SR.)  
R1 BY ADV. SRI.BIMAL K.NATH  
R BY SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09-11-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ANTONY DOMINIC & P.V.ASHA, JJ.**

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**Writ Appeal No.2340 of 2015**  
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**Dated this the 9<sup>th</sup> day of November, 2015**

**JUDGMENT**

**Antony Dominic, J.**

Heard the Senior Counsel for the appellant, learned Senior Counsel appearing for the first respondent and the Standing Counsel appearing for respondents 2 to 4.

2. This appeal is filed against the judgment in W.P.(C)11295/2010, which was disposed of by judgment dated 19.12.2011. To the writ petition, the appellant was not a party and, therefore, he has filed this appeal after obtaining leave from this Court.

3. Briefly stated, the facts of the case are that, the respondent University invited the applications for appointment to the post of Lecturer in International Political Economy/Human Rights/West Asian Studies, in the School of International Relations and Politics. The post was reserved for candidates belonging to Muslim Community. Responding to the notification, the first respondent and the appellant submitted their applications. Interview was held on 18.11.2010 by a Selection Committee which consisted of Vice Chancellor as its Chairman, one Syndicate Member selected by the Vice Chancellor, two subject experts and the Head of the

Department. The Selection Committee unanimously resolved to fix 55% as the cut off marks in the interview. The Selection Committee did not find any candidate suitable for want of cut off marks prescribed. The Syndicate in its meeting held on 19.1.2010 considered the proceedings of the Selection Committee and accepted the recommendations and resolved not to rank any of the candidates.

4. It was in these circumstances, the writ petition was filed, challenging Ext.P9 proceedings of the Selection Committee. The learned Single Judge, following the principles laid down by the Full Bench of this Court in the judgment in Kesav Mohan v. University of Kerala [2009 (4) KLT573], held that the Selection Committee could not have fixed the cut off marks and on that basis, set aside Ext.P9. Proceeding further, the writ petition was disposed of with the following directions:

*Para 12: The selection will have to be held afresh after the competent authority, namely the Syndicate herein prescribes a cut off mark. Thereafter the Syndicate will issue appropriate directions to the Selection Committee to complete the selection process. Appropriate action will be finalized within a period of two months from the date of receipt of a copy of this judgment. It is made clear that this court has not considered the marks of the candidates while rendering this judgment. No costs.*

5. The University did not challenge the judgment. However, instead of fixing any cut off marks, the University decided to reconsider the applications received without insisting on any cut off marks. Accordingly, the first respondent and the appellant were considered and the appellant was ranked as No.1 and on that basis, he was appointed in the post notified. The said procedure adopted by the University and the appointment of the appellant was challenged by the first respondent in W.P.(C)7110/14 where the main contention raised is that the University has not complied with the directions of this Court requiring prescription of cut off marks. That writ petition is pending. It is at that stage, the appellant has filed this appeal challenging the judgment of the learned Single Judge.

6. Contention raised by the learned Senior Counsel for the appellant is that as is evident from Ext.P14 notification itself, the norms governing the selection to the post of Lecturer have been prescribed by the University, and that it was also made clear that the appointments should be made as per the UGC norms. It is stated that the notification and the UGC norms mentioned therein contains the rules governing the

selection. It is contended that in the absence of these rules containing cut off marks, there cannot be any additional fixation of cut off marks for determining the eligibility of the candidates. It is also contended that the Full Bench judgment in *Kesav Mohan (supra)* was a case where there was no norms governing selection to the post. Therefore, the said judgment did not have any application to the facts of the case.

7. Having considered the submissions made, we confess our inability to accept the contentions raised by the learned Senior counsel for the appellant. According to us, in spite of the norms already prescribed, nothing prevented the appointing authority from prescribing norms in addition to what are already prescribed to ensure that only meritorious candidates are selected to the post in question. It may not, therefore, be correct to contend that having not prescribed any cut off marks in the rules governing the appointment to the post; the University could not have fixed anything in addition to those that are already prescribed. Therefore, this contention has to be refused.

8. The next contention raised by the learned Senior Counsel is that the learned Single Judge has executed his powers in directing the

fixation of cut off marks. First of all, the University has not challenged the judgment. On the other hand, University has accepted the judgment and, therefore, it was bound to comply with the judgment. Secondly, the University having accepted the judgment, it may not be open to the appellant to raise such a contention. Moreover, the appellant being a beneficiary of an illegality committed by the University cannot, at this distance of time, raise this contention.

9. We are of the view that the appellant has not made out a case for interfering with the judgment of the learned Single Judge.

Appeal fails and it is accordingly dismissed.

*Sd/-*  
**ANTONY DOMINIC**  
**JUDGE**

*Sd/-*  
**P.V.ASHA**  
**JUDGE**

*jes*