

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

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WA.No. 1837 of 2014 () IN WP(C).32018/2014

AGAINST THE JUDGMENT IN WP(C) 32018/2014 of HIGH COURT OF KERALA DATED 1.12.2014

APPELLANT(S)/PETITIONER:-

SIYAD H.S., AGED 21 YEARS
S/O.HAMSA, KARIPPURAM HOUSE, MURIKKUMPUZHA P.O.
THIRUVANANTHAPURAM (B.TECH(MECHANICAL) 5TH SEMESTER UKF
COLLEGE OF ENGINEERING
PARIPALLY, KOLLAM).

BY ADV. SRI.ALEXANDER JOSEPH

RESPONDENT(S)/RESPONDENTS:-

1. UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR, TRIVANDRUM - 695 001.
2. THE VICE CHANCELLOR,
UNIVERSITY OF KERALA, TRIVANDRUM - 695 001.
3. THE CONTROLLER OF EXAMINATIONS,
UNIVERSITY OF KERALA, TRIVANDRUM - 695 001.
4. THE HEAD OF THE DEPARTMENT,
DEPARTMENT OF MECHANICAL ENGINEERING
UKF COLLEGE OF ENGINEERING & TECHNOLOGY, MEENAMBALAM
PUTHENKULAM P.O., PARIPALLY
KOLLAM DISTRICT - 691 335.
5. THE PRINCIPAL,
UKF COLLEGE OF ENGINEERING & TECHNOLOGY, MEENAMBALAM
PUTHENKULAM P.O., PARIPALLY
KOLLAM DISTRICT - 691 335.

R1-3 BY SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA
R4 & 5 BY ADV. SRI.C.R.SIVAKUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 22-01-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

sou.

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

W.A. No. 1837 of 2014

Dated this the 22nd day of January, 2015

J U D G M E N T

Shaffique, J

This appeal has been filed by the writ petitioner against the judgment dated 1.12.2014 in WP(C) No.32018 of 2014. The writ petition is filed seeking for a direction to respondents 4 and 5 to recommend and forward Ext.P5 application to respondents 1 to 3 and to direct respondents 1 to 3 to condone the shortage of attendance of the petitioner for the fifth semester B.Tech (Mechanical) Degree course and permit him to write the examination in the said semester. In fact by the interim order passed by this Court, the petitioner was permitted to write the examinations which were held after the said date.

2. The facts involved in this case would disclose that during the 5th semester, the college did not permit the petitioner to submit the examination fee on the ground that he did not have sufficient attendance.

3. According to the college authorities, the petitioner had only 52.38% attendance, where as minimum of 60% attendance is required even for submitting an application to condone the absence. The petitioner challenged the manner in which attendance have been computed. As per the regulation of the University, each period, which he had attended has to be computed for calculating the attendance, where as the college had not adopted that procedure and had denied attendance, for the entire forenoon or afternoon, when he did not attend one period itself.

4. According to the petitioner, if attendance is calculated on the basis of University regulation, he has 73.17% attendance. As per the University guidelines, if a student has 60% attendance he is entitled to seek condonation of minimum attendance required for writing the examination. He submitted Ext.P8 application to the Principal but the same was returned on the previous day of the examination alleging that he does not have minimum attendance.

5. The learned Single Judge dismissed the writ petition proceeding on the basis that Ext.P8 application was not

recommended by the Principal and that apart there is no reason for the court to look into whether the petitioner has attendance within the condonable limit or not.

6. In this writ appeal, this court passed an interim order on 8.12.2014 permitting the petitioner to write the examinations scheduled thereafter. It is contended by the College authorities that in order to maintain discipline in the College, they have published certain regulations which insists that the attendance will be taken in all the periods of forenoon and afternoon and if the student fails to attend one period, the entire attendance for that session of forenoon or afternoon will be lost. That apart this fact was mentioned in the application as well as in the handbook, which forms part of the instructions to be obeyed by all the students. The handbook indicates the manner in which attendance is to be computed. The petitioner did not have the minimum required attendance and therefore the college did not recommend the same.

7. Learned counsel for the University submits that Ext.P6 is the regulation, in which it was clearly indicated that attendance will be computed based on the total number of periods attended

by the student. Seven period is taken as attendance for a day.

8. In the light of the aforesaid factual situation the University regulation for attendance has to be generally followed, as far as the question of permitting a student to write the examination is concerned. Probably for the purpose of internal discipline of a college it is possible for making such restrictions in the Hand Book.

9. Having regard to the fact that the petitioner has already been permitted to write the examination and the attendance of the petitioner, when computed on the basis of Ext.P6, the petitioner has 73.17% attendance, we are of the view that an opportunity is to be granted to the petitioner to seek condonation of attendance so that he will be able to attend the sixth semester classes and further semesters.

10. In the result, the writ appeal is disposed of as under:

The petitioner shall submit a fresh application to the Principal of the College for condonation of his attendance for the fifth semester classes within 15 days and the Principal shall forward the same to the University. The University shall pass

appropriate orders within a period of one month from the date of receipt of the same.

In the meantime the appellant may be notionally registered for the sixth semester and he may be permitted to attend classes. His registration and continuance will be subject to the order to be passed by the University in this regard.

Sd/-
**ASHOK BHUSHAN,
ACTING CHIEF JUSTICE**

Sd/-
**A.M.SHAFFIQUE,
JUDGE.**

sou.

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