

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WA. No.2616 of 2015 () IN WP(C).30666/2015

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(AGAINST THE JUDGMENT IN WP(C) 30666/2015 of HIGH COURT OF KERALA
DATED 15-10-2015.)**

APPELLANT(S)/RESPONDENTS:

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1. MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
PRIYADARSINI HILLS P.O., ATHIRAMPUZHA,
KOTTAYAM-686560.**

**2. THE REGISTRAR,
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS P.O.,
ATHIRAMPUZHA, KOTTAYAM-686560.**

**BY ADVS. SRI.P.JACOB VARGHESE (SR.)
SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY
SRI.VIVEK VARGHESE P.J., SC, M.G.UNIVERSITY**

RESPONDENT(S)/PETITIONER:

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THE MANAGER, SREE NARAYANA ARTS & SCIENCE COLLEGE,
CHITTAR P.O., PATHANAMTHITTA-689663.**

**BY ADVS. SRI.KURIAN GEORGE KANNANTHANAM (SR.)
SRI.TONY GEORGE KANNANTHANAM**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 04-12-2015, ALONG
WITH WA. NOS.2546/2015, WA. 2617/2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

KRJ

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

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W.A. Nos.2616, 2617 & 2546 of 2015

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Dated this the 4th day of December, 2015

JUDGMENT

Ashok Bhushan, CJ

These three writ appeals have been filed by Mahatma Gandhi University against the common judgment dated 15.10.2015 passed by the learned Single Judge in three writ petitions filed by different institutions affiliated to Mahatma Gandhi University.

2. It is more useful to refer to the facts in W.P.(C) No.30666 of 2015 for deciding issues raised in these cases. The institution, viz., Sree Narayana Arts and Science College filed the writ petition praying for the following reliefs:

- (i) To issue a writ of mandamus or other appropriate writ order or direction to direct the respondents to register all the 3 candidates admitted by the petitioner on or before 24-8-2015, for U.G.Programmes in petitioner's college.
- (ii) To issue a writ of mandamus or other appropriate order or direction to direct the respondents to open their portal so as to enable the petitioner to complete the process of registration of all candidates admitted for U.G.Programmes in petitioner's college, in 2015.
- (iii) To declare that the university cannot withhold registration of a few candidates admitted in

petitioner's College for U.G.Programmes on the ground that they had not paid the fees of the University on or before 24-8-2015."

3. Petitioner's case in the writ petition was that the institution had admitted candidates under the management quota, which admissions were completed on or before 24.8.2015. The University has fixed 24.8.2015 as the date on which, all admissions, including the details of fee, has to be uploaded in the portal of the University. Petitioner's case is that there were some confusion regarding the date of payment of fees which was to be paid to the University viz., Students' Insurance Premium, Students' Welfare Fund, University Union Fee, Sports Affiliation fee due to the University, Students Affiliation Fee, Matriculation Fee and Bank Charges, and total fee to be paid was ₹575/-.

4. Management's case was that among all those students who were admitted after payment of fee, some students could not pay the University fee by 24.8.2015. Hence, the College could not upload the details, because it will not be accepted by the University portal. Petitioner's case is that one of the Colleges submitted the fee due to the University by itself. Then the University informed that the student has to deposit the fee in the bank, obtain the fee challan and upload the details in the portal. However, the deposit of fee was not accepted in the University

portal. Petitioners have come up with the writ petitions seeking a direction to register the candidates which were already admitted before 24.8.2015 and to upload in the portal.

5. University's case was that last date for admission in management quota was 13.7.2015 and fee has to be paid within one month thereafter. University's case is that the university fee as noted above was required to be deposited in the bank and that should be at the time of admission. Since the said fee was not deposited, details were not uploaded by 24.8.2015 and the University was not bound to accept the details of the said students.

6. The learned Single Judge heard the writ petition and returned the finding that delay even if there is any, is not exceeding three days in depositing the fee of the University. The learned Single Judge held that in view of such short delay in depositing the university fee, no purpose would be served by not accepting the fee and allowing the seats to go vacant. The University was directed to pass orders within three weeks and the writ petition was disposed of. The learned Single Judge also directed that University shall verify whether students have been admitted to the course before the dead line or not. The University, aggrieved by the said order, has come up in the appeals.

7. Learned counsel for the University submits that after the last date for admission under management quota, neither any fee

could have been paid nor any details could have been uploaded in the portal. It is submitted that the finding of the learned Single Judge that delay was only of three days is also incorrect. No materials were produced by the writ petitioners to show that all the fees were paid within time. Learned counsel for the writ petitioners opposing this submission contended that the institutions were informed that all the fees should be deposited by 24.8.2015.

8. In W.P(C) No.30666 of 2015, the college has uploaded the details of all candidates admitted to the under Graduate Course, 2015, except three candidates. In paragraphs (17) and (18), it is pleaded that three students have deposited the fee on 25.8.2015 and bank challan has been brought on record as Ext.P6 to the writ petition. It is submitted that most of the students paid the university fee, except three, and they have paid it only on the next day i.e. 25.8.2015. It is submitted that admissions of the students were already completed before 24.8.2015 and students have paid the fee in time but some of them have not paid the University fee before the relevant date. Non acceptance of fee and submission of details in the University portal will affect the admission of the students in the College and the University's stand in not accepting the fee was too technical.

9. We have considered the submissions of learned counsel for the parties and perused the records.

10. University had earlier in its brochure informed that last date for uploading the details of the students is 31.8.2015 which was modified by subsequent order as 24.8.2015. According to the University, all details including payment details of the fee have to be uploaded by 24.8.2015. There cannot be any dispute to the above submission made by learned counsel for the University. From the pleadings in the writ petitions, it does appear that all the under graduate students were admitted prior to 24.8.2015 and only few could not pay the university fee of ₹575/- which has been paid on the very next date i.e. 25.8.2015 and uploading in the portal could not be made for those students who had paid the fee after 24.8.2015. The learned Single Judge has recorded the finding that delay, if any, was only three days in depositing the fee, which finding has been challenged by the learned counsel for the University.

11. We have noticed the facts in W.P(C) No.30666 of 2015 where with regard to three students only, the fee was claimed to be paid on 25.8.2015 for which, bank receipt was also produced. The submission of the University that, the finding of learned Single Judge is incorrect, cannot be accepted. It was for the

institution to give details of payment of fee and since the learned Single Judge has already granted opportunity to the University to verify whether students have been admitted to the course on or before the dead line or not, the University's interest is fully protected. This sufficiently protect the interest of the University and breach of depositing the fee of the University by 24.8.2015 should not invalidate the admission or may have other serious consequences as is being contemplated by the University.

12. Learned counsel for the University has placed reliance on the decision of the Apex Court in **M.G.University** v. **Gis Jose** [2008 (4) KLT 216 (SC)]. In the aforesaid case, admission in the M.Sc Computer Science was made and the student has secured only 53.3% marks in her qualifying examination. The University has fixed cut-off marks as 55%. The student was admitted in total derogation of the aforesaid fact. In the above circumstances, the Apex Court held that the misplaced sympathies should not have been shown in total breach of the Rules.

13. Present is not a case where the candidate was not eligible for admission. Present is a case where there is a breach. and delay in depositing the University fee i.e. ₹575/- which has already been deposited. The aforesaid case is clearly distinguishable.

14. We are of the view that the learned Single Judge did not commit any error in exercising his discretion and directing the University to pass orders within two weeks and to verify whether the students have been admitted to the course before the dead line. Substantial justice has been done by the learned Single Judge by disposing of the writ petition. The Writ appeals are dismissed.

We permit the institutions to submit details of the deposit and details regarding registration of the students within five days from today and the University shall take a proper decision within a week. We clarify that this judgment shall not enable the college to accept the fee of the students now. The University shall consider the case of those students, who have already deposited the fee, which details are submitted by the management.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M.SHAFFIQUE
JUDGE

krj.4/12/15

//true copy// P.A to Judge