

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 578 of 2015 (V)

PETITIONER :

**MIRIAM NAJJIM,
D/O. NAJJIM M. SAHIB, KALLUMKAL HOUSE,
CHOORAKULANGARA, ETTUMANOOR,
KOTTAYAM DISTRICT - 686 631.**

**BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
SMT.H.SUBHALEKSHMI
SMT.S.R.NEETHU RAJ**

RESPONDENT(S):

- 1. THE UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR, UNIVERSITY P.O.,
PALAYAM, THIRUVANANTHAPURAM - 695 034.**
- 2. THE HEAD OF DEPARTMENT,
DEPARTMENT OF ARCHAEOLOGY, UNIVERSITY OF KERALA,
KARIAVATTOM CAMPUS, THIRUVANANTHAPURAM - 695 5681.**
- 3. THE DEPUTY REGISTRAR (CSS),
UNIVERSITY OF KERALA, KARIAVATTOM CAMPUS,
THIRUVANANTHAPURAM - 695 581.**

R1 TO R3 BY SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 578 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- A TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE ASSOCIATE PROFESSOR OF ORTHOPAEDICS, KOTTAYAM MEDICAL COLLEGE DT. 15.11.14.**
- P2 - A TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE ASSOCIATE PROFESSOR OF ORTHOPAEDICS, KOTTAYAM MEDICAL COLLEGE DT. 02.12.14.**
- P3 - A TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER'S FATHER DT. 26.11.14.**
- P4 - A TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER'S FATHER BEFORE THE VICE CHANCELLOR OF THE FIRST RESPONDENT DT. 08.12.14.**
- P5 - A TRUE COPY OF THE LETTER NO. CSS/8/2014 DT. 30.12.14, ISSUED BY THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

K.VINOD CHANDRAN, J

W.P.(C).No. 578 of 2015

Dated 16th January, 2015

JUDGMENT

Quite an unfortunate circumstance in which the petitioner, a student, did not have sufficient attendance to appear for the examinations. The petitioner in fact, was informed as early as on 26.11.2014 by Ext.P3 that having attended only 15 classes out of 50, she would not have the required attendance to sit for the 3rd semester examinations. Hence, the petitioner was advised to dis-continue the course.

2. However, it is submitted by the learned counsel for the petitioner that the absence was only due to a fall and a resultant fracture which completely incapacitated the petitioner from attending classes. It is also submitted that after her convalescence, she

joined back and the Department permitted her to continue the classes. The petitioner however, apprehends attendance shortage would be an impediment insofar as participation in the examinations.

3. The learned Standing Counsel appearing for the University submits that usually the working days in a semester would be around 80 and going by the fact that the petitioner had only 15 days' attendance out of 50, definitely, the petitioner would not have the minimum required attendance of 75% as has been laid down in the Credit and Semester System Regulations (CSS Regulations) of the University. Regulations stipulate a minimum of 75% attendance of each course to become eligible to appear in the end semester examination and it prohibits any condonation of shortage of attendance. The learned counsel would also place before this Court a decision of the Honourable Supreme Court

reported in Ashok Kumar Thakur v. University of Himachal Pradesh and Others (1973 (2) SCC 298) to buttress his contention.

4. As was noticed by this Court, the petitioner was not guilty of absence for reason of any wayward conduct but only for reason of the medical condition which was an unfortunate circumstance that visited the petitioner. However, it is to be noticed that the prescription, as per the Regulations for a minimum requirement of attendance, is one insisted by the academic Body on the ground that such minimum requirement is essential to prepare the student for sitting in the examinations. When the academic body prescribes such a stipulation and also prohibits condonation of attendance, it is not for this Court to decide that there should be condonation on one ground or another.

It is pertinent that the Honourable Supreme Court also, as far back as in 1973, in the afore cited decision, attempted to consider the case of a student with sympathy and consideration; however refused a positive direction to compel the authority to do something which was beyond its legal competence to do. In that case, the condonation of attendance was permitted, but only to a limited extent, beyond which the student had absented.

5. Going by the binding precedent, it would not be proper for this Court to interfere with the Regulations as such. However, it is made clear that on completion of the course, if the petitioner has 75% required attendance, definitely, she has to be allowed to participate in the examinations. The 2nd respondent shall also see if any additional classes can be carried out for the petitioner so that, the petitioner would be able to acquire the

required attendance.

The writ petition stands disposed of, with
the above direction.

Sd/-
K.VINOD CHANDRAN
Judge

Mrcs //true copy//

P.A to Judge