

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

WP(C).No. 1599 of 2015 (Y)

PETITIONER(S):

1. THE MANAGER
ST.THOMAS COLLEGE, PALAI.
2. REV. FR.N. V. JOSEPH,
PRINCIPAL, ST.THOMAS COLLEGE, PALAI.

BY ADVS.SRI.BABU VARGHESE (SR.)
SRI.C.V.ALEXANDER
SRI.VNARAYANA SWAMI

RESPONDENT(S):

1. MAHATMA GANDHI UNIVERSITY
REPRESENTED BY REGISTRAR, M.G.UNIVERSITY CAMPUS
PRIYADARSINI HILLS, KOTTAYAM - 686 560.
2. THE SYNDICATE OF THE MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY THE CHAIRMAN-VICE-CHANCELLOR
M.G.UNIVERSITY CAMPUS, PRIYADARSINI HILLS
KOTTAYAM - 686 560.

R1 & 2 BY SRI.VARUGHESE M.EASO, STANDING COUNSEL, M.G.UNIVERSITY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF THE PROMOTION ORDER DATED 1/4/2014.

P2: TRUE COPY OF THE JUDGMENT DATED 6/3/2009 IN WA No.277/2008.

P2(a):TRUE COPY OF THE JUDGMENT DATED 1/12/2012 IN WPC NO.30387/2005 AND CONNECTED CASES.

P3: TRUE COPY OF THE MINORITY EDUCATIONAL INSTITUTION STATUS CERTIFICATE DATED 3/3/2011.

P4: TRUE COPY OF THE MASTER'S DEGREE CERTIFICATE IN POLITICAL SCIENCE AWARDED TO THE 2ND PETITIONER

P4(a): TRUE COPY OF THE MASTER'S DEGREE CERTIFICATE IN SYRIAC AWARDED TO THE 2ND PETITIONER

P5: TRUE COPY OF THE UNIVERSITY ORDER APPROVING THE INITIAL APPOINTMENT OF THE SECOND PETITIONER

P6: TRUE COPY OF THE UNIVERSITY ORDER DATED 30/9/1997 APPOINTMENT OF THE 2ND PETITIONER IN A SUBSTANTIVE VACANCY.

P7: TRUE COPY OF THE UNIVERSITY ORDER DATED 14/8/2003 APPROVING THE APPOINTMENT OF THE 2ND PETITIONER AS LECTURER SENIOR SCALE.

P8: TRUE COPY OF THE UNIVERSITY ORDER DATED 26/11/2009 APPROVING THE PROMOTION OF THE 2ND PETITIONER AS LECTURER SELECTION GRADE THE ENQUIRY COMMITTEE.

P9: TRUE COPY OF THE STATEMENT OF FIXATION UNDER THE REVISED UGC SCHEME FOR THE POST OF ASSOCIATE PROFESSOR IN RESPECT OF THE 2ND PETITIONER

P10: TRUE COPY OF THE PROPOSAL DATED 1/4/2014 FOR APPROVAL OF APPOINTMENT OF THE 2ND PETITIONER AS PRINCIPAL.

P11: TRUE COPY OF UNIVERSITY ORDER DATED 3/4/2014 APPOINTING THE 2ND PETITIONER AS DRAWING THE DISBURSING OFFICER UPTO 30/6/2014 UPTO. PTA PRESIDENT TO THE MANAGER.

P11(a):TRUE COPY OF UNIVERSITY ORDER DATED 30/6/2014 APPOINTING THE 2ND PETITIONER AS DRAWING THE DISBURSING OFFICER UPTO 30/9/2014

P11(b):TRUE COPY OF UNIVERSITY ORDER DATED 27/09/2014 APPOINTING THE 2ND PETITIONER AS DRAWING THE DISBURSING OFFICER UPTO 31/12/2014

P12: TRUE COPY OF THE RELEVANT PAGES OF THE MINUTES OF THE MEETING OF THE SYNDICATE OF THE RESPONDENT UNIVERSITY HELD ON 18/1/2014.

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P12(a): TRUE COPY OF THE UNIVERSITY ORDER APPROVING THE APPOINTMENT OF FR.PHILIP NJARALAKKATTU AS PRINCIPAL OF THE PETITIONERS' COLLEGE.

P12(b): TRUE COPY OF THE REMINDER DATED 1/12/2014 SENT TO THE RESPONDENT UNIVERSITY

RESPONDENT(S)' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

soil.

A.MUHAMED MUSTAQUE, J.
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Dated this the 16th day of February, 2015

JUDGMENT

The first petitioner is the Manager of St.Thomas College, Palai, a Christian Minority Educational Institution. Ext.P3 is the certificate issued by the National Commission for Minority Educational Institutions, Government of India. The second petitioner was appointed as the Principal of St.Thomas College. This Writ Petition is directed against the action of the University in not approving the second petitioner as the Principal of the College. It seems the second petitioner is not a holder of PhD and therefore, University is not taking any action to approve his appointment.

2. Learned Senior Counsel appearing for the University refers to the proceedings of the Syndicate of the Mahatma Gandhi University held on 18.01.2014. In item 107/14.01/7055 University resolved to approve the appointment of Sri.K.N.Raju, Associate Professor in Commerce as Principal by promotion. Learned Standing Counsel also referred to item 111/14.01/1770 where also St.Thomas College, Kozhencherry resolved to approve the appointment of Sri.Roys P.David, Associate Professor in

Malayalam as Principal of St.Thomas College, Kozhencherry. It is submitted that these appointees are not holders of PhD. Nevertheless, considering the minority status of the University, University upheld the approval of appointment. However, learned Standing Counsel points out that these are appointments made subject to result of pending Writ Petition.

3. In view of the fact that being a minority institution, the right of management cannot be curtailed as the same is entitled to the protection of Article 30(1) of the Constitution of India and therefore, any other regulation cannot fetter the constitutional provision. It is further submitted that there is no provision in University Statute to decline the approval of such appointment to persons without PhD. It is further submitted that unless and until UGC regulations are incorporated by the University, University cannot decline the approval of appointment of Principal without PhD. Learned Senior Counsel also referred to the decision of this Court in **S.N College Vs. N.Raveendran (2001(3) KLT 938)** wherein it was held that “unless and until amendments are effected in the University Statutes, the Scheme would not be apply to the private colleges. Management is not bound to

follow the UGC Scheme.” Learned Standing Counsel for the University submits that decision in this regard will be taken by the University very soon in the next Syndicate meeting as well.

4. Considering the submission as above, in the next meeting, a decision shall be taken after adverting to the relevant materials and relevant law.

With the above direction, this Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/18/02/15