

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 1724 of 2015 (M)

PETITIONER(S):

1. **MOHAMMED ANFAL, AGED 18 YEARS**
S/O.T.A.ABDUL KHADER, 1ST YEAR B.C.A.STUDENT
KMEA COLLEGE OF ARTS AND SCIENCE, KUZHUVELIPADY
EDATHALA, ALUVA, ERNAKULAM DISTRICT
PIN - 683 561, RESIDING AT THALKOOTTATHIL HOUSE
THRIKKAKARA P.O., COCHIN - 682 021.
2. **MUHAMMED RAMISE C.K, AGED 18 YEARS**
S/O.C.A.ABDUL KAREEM, 1ST YEAR B.C.A.STUDENT
KMEA COLLEGE OF ARTS AND SCIENCE, KUZHUVELIPADY
EDATHALA, ALUVA, ERNAKULAM DISTRICT
PIN - 683 561, RESIDING AT CHALAKKALA HOUSE, PADAMUGAL
KAKKANAD P.O., COCHIN - 682 030.

BY ADV. SRI.P.T.DINESH

RESPONDENT(S):

1. **MAHATMA GANDHI UNIVERSITY REPRESENTED BY ITS REGISTRAR,**
MAHATMA GANDHI UNIVERSITY , PRIYADARSINI HILLS P.O., KOTTAYAM
PIN 686 560.
2. **THE VICE CHANCELLOR, MAHATMA GANDHI UNIVERSITY**
PRIYADARSINI HILLS P.O., KOTTAYAM - PIN 686 560.
3. **THE CONTROLLER OF EXAMINATIONS, MAHATMA GANDHI UNIVERSITY**
PRIYADARSINI HILLS P.O., KOTTAYAM - PIN 686 560.
4. **THE PRINCIPAL KMEA COLLEGE OF ARTS AND SCIENCE, KUZHUVELIPADY,**
EDATHALA, ALUVA. ERNAKULAM DISTRICT PIN 683 561.

R4 BY ADV. SRI.C.ANILKUMAR (KALLESSERIL)

R4 BY ADV. SRI.C.Y.VINOD KUMAR

R1 -R 3 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE INTERNAL ASSESSMENT MARKS OBTAINED BY THE PETITIONERS WHICH IS CERTIFIED BY THE PRINCIPAL.

EXT.P2: TRUE COPY OF THE RELEVANT PART OF THE PROSPECTUS ISSUED BY THE M.G.UNIVERSITY FOR ADMISSION TO UNDER GRADUATE COURSE FOR 2014.

EXT.P3: TRUE COPY OF THE RELEVANT PART OF THE DIARY OF MAHATMA GANDHI UNIVERSITY, 2014 DEALING WITH UNDER GRADUATE COURSES IN THE AFFILIATED COLLEGES.

EXT.P4: TRUE COPY OF THE RELEVANT PART OF THE DIARY OF M.G.UNIVERSITY, 2014 DEALING WITH OFF CAMPUS COURSES.

EXT.P5: TRUE COPY OF THE COMPARISON AND DIFFERENCE OF COMPUTER SCIENCE AND INFOMATIC DOWNLOADED FROM WIKIPEDIA.

EXT.P6: TRUE COPY OF THE SYLLABUS OF INFOMATIC PRACTICES IN PLUS TWO EXAMINATION.

EXT.P7: TRUE COPY OF THE RELEVANT PART OF THE SYILABUS FOR B.C.A. FOR 4TH & 5TH SEMESTER EXAMINATIONS.

EXT.P8: TRUE COPY OF THE CERTIFICATE ISSUED BY THE PRINCIPAL, KMEA COLLEGE OF ARTS & SCIENCE.

EXT.P9: COPY OF THE DETAILED SYLLABUS OF THE REGULAR BC,A. COURSE OF THE MAHATMA GANDHI UNIVERSITY.

EXT.P10: COPY OF THE DETAILED SYLLABUS OF THE OFF CAMPUS B.C.A. COURSE OF THE MAHATMA GANDHI UNIVERSITY.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

SKV

P.V.ASHA, J.

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W.P.(C). No.1724 OF 2015

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Dated this the 26th day of June, 2015

JUDGMENT

Petitioners who were pursuing BCA course in 4th respondent college- KMEA College of Arts and Science Kuzhuvelipady, which is affiliated to M.G. University, approached this court when they were denied permission to appear for the 1st semester examination of the course. The reason stated was that they were not qualified for admission for the regular course of BCA. The case of the petitioners is that at the time of their admission to the course there was no objection from any corner and they were permitted to undertake the studies just like any regular student and on account of the admission they lost their opportunities to avail admission to any other course.

2. Ext.P2 is the prospectus which indicates the qualifications for admission to Bachelor of Computer Application (BCA). Under Clause 5.6 of the prospectus, the

qualification provided for admission to BCA course is : candidates shall require to have pass in Plus two or equivalent in science stream with Mathematics/Computer Science as optional. Ext.P3, the diary of the M.G. University, also shows the qualification for admission to BCA Degree as pass in Plus two or equivalent examination in science stream with Mathematics/Computer science as optional. The petitioners have passed Plus two CBSE syllabus with their optional subjects with Physics, Chemistry, Biology and Informatics.

3. The petitioners pointed out that for the very same course, i.e BCA conducted by the M.G. University off campus course, as can be seen from Ext.P4, the eligibility prescribed, is Plus two or equivalent with Physics, Chemistry, Mathematics, Computer Science as optional –CBSE Class 12 with English, Physics, Chemistry, Biology and Informatic Practices.

4. Relying on Ext.P4, the learned counsel for the petitioner submitted that for the very same course, different types of eligibility criteria has been prescribed which is

unreasonable. It is also pointed out that students passing BCA course after undergoing off-campus course as well as regular course will be having the very same academic qualification and the degree after undergoing regular course and degree after undergoing off-campus course are equivalent and do not have any difference as far as its validity is concerned.

5. In these circumstances the petitioners are challenging the prospectus also to the extent it prescribes a different qualification other than that prescribed for the off-campus course and seek a declaration that non inclusion of the subject Informatic Practices studied at Plus two level as qualification for BCA course through affiliated colleges of the M.G. University along with Mathematics and Computer Science is discriminatory and for a declaration that the students who have studied the subject Informatic Practices in Plus-two level are also eligible for admission to BCA Degree course conducted through affiliated colleges of M.G. University. The petitioners have produced the syllabus for BCA course imparted in regular colleges as well as imparted

in off-campus centres of the University, pointing out that there is absolutely no difference between the two.

6. The respondents 1 to 3 have filed counter affidavit stating that the petitioners were not eligible for admission to BCA course since they do not have the prescribed eligibility. According to them pass in Plus-two course, with Informatic Practices is not the qualification prescribed for admission for the course. They have stated that hall ticket was not issued to the petitioners seeing that the petitioners were granted admission without verifying their qualification and hence their admission was irregular. The admission to BCA course is given only to candidates who have Computer Science/Mathematics as compulsory subject in plus two level in science stream. They have also stated that the Board of studies in Computer Science had decided that the candidates who studied Informatic Practices in Plus two level may not be considered eligible for admission to BCA/B.Sc Computer Science, since the syllabus of Informatic Practices is elementary. According to them the Principal of the college alone is responsible for their

irregular admission. The eligibility criteria is fixed, as stipulated by the Board of studies. However they admitted that for admission to the off-campus courses in BCA, Informatic Practices is also included as the eligibility criteria, as stipulated by the Board of studies.

7. I heard Sri. P.T. Dinesh, learned counsel appearing for the petitioners and the learned Standing Counsel for M.G.University. According to the learned Counsel for the petitioners, the action of the University in prescribing different eligibility criteria for admission to BCA for regular and off-campus course and hence for acquiring the very same educational qualification is arbitrary, especially when the validity of the Degree being awarded after passing the course is one and the same. In support of the syllabus produced, it is argued that the exclusion of the subject Informatic Practices from the eligibility criteria prescribed for admission to regular course alone, is discriminatory, in violation of the fundamental right to equality guaranteed under Article 14 of the Constitution of India. It is claimed that the petitioners who have already

undergone the 1st year course are entitled to continue their studies and to appear in the examinations. It is also pointed out that the fact that the petitioners have already joined the college does not estop them from challenging the prospectus when it is found discriminatory.

8. The stand of the University is that eligibility criteria are prescribed only by the Board of studies, the competent authority and petitioners cannot claim regularisation of the illegal admission granted to them by the Principal of their College.

9. The question regarding eligibility criteria for admission to a course under the University is to be decided by the authorities competent, as provided in the University Act, Statute and Ordinances. There are separate academic bodies constituted under the University Laws, for fixing the qualification, eligibility criteria, syllabus, etc. for each and every course. This court will not be justified in entering into such areas of inclusion or exclusion of any subject in eligibility criteria for admission to any courses, which is the exclusive domain of academic experts in the concerned

field, as provided under the statute.

10. Therefore, in the circumstances of the case, the 2nd respondent –Vice Chancellor is directed to take a decision on the apparent anomaly, as raised by the petitioners in respect of the eligibility criteria for admission to the BCA course under different streams, ie. regular/off campus, either by placing it before the Board of studies or Academic Council, whichever is the competent body for considering the same, at the earliest. In view of the fact that the petitioners have already completed one year, in the event of any delay in convening the meeting of the Board of Studies/academic council, the competent body, the Vice Chancellor shall take a decision by himself. At any rate a decision shall be taken on this issue within a period of two months without fail and the same shall be communicated to the petitioners also.

11. It is made clear that the continuance of the petitioners for the BCA course shall be subject to the decision to be taken. In the event of a decision being taken against the petitioners, they will be free to move appropriate

proceedings against the authorities responsible for their irregular admission.

Accordingly this writ petition is disposed of.

Sd/-

P.V.ASHA, JUDGE

SKV