

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 3706 of 2015 (K)

PETITIONER :

**SENSON A.J., AGED 35 YEARS,
S/O.JOSEPH, RESIDING AT ARACKAL HOUSE, KAVANAD,
MALA P.O., PIN 680 732 THRISSUR DISTRICT**

BY ADV. SRI.PAULSON THOMAS

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM**
- 2. THE DIRECTOR OF HIGH SECONDARY EDUCATION,
DIRECTORATE OF HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDING, THIRUVANANTHAPURAM**
- 3. LBS CENTER FOR SCIENCE AND TECHNOLOGY,
THIRUVANANTHAPURAM REPRESENTED BY ITS DIRECTOR**

**R1 BY GOVERNMENT PLEADER SRI. K.C. VINCENT
BY SRI.K.P.SUJESH KUMAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE RELEVANT PORTION OF THE PROSPECTUS IN RESPECT OF SET 2013 ISSUED BY THE GOVERNMENT OF INDIA.
- P2: TRUE COPY OF THE ONLINE APPLICATION FORM OF THE PETITIONER IN RESPECT OF SET 2013.
- P3: TRUE COPY OF THE MARK LIST OF THE PETITIONER IN SET 2013 WHICH WAS CONDUCTED ON 02.02.2014 AND THE RESULT WAS DECLARED ON 17.12.2014
- P4: TRUE COPY OF THE PRESCRIPTION ISSUED BY THE UGC IN RESPECT OF NET DECEMBER 2013

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 3706 of 2015

Dated this the 5th day of February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- “(i) declare that clause 3 of Ext.P1 prospectus to the extent it prescribed that fractions shall be rounded off to the two decimals thereby denying rounding off fractions to the nearest whole number in the calculation of aggregate percentage of marks in paper I and II is arbitrary, discriminatory, harsh, unreasonable restrictions under Article 19(1)(6) and offending Article 14, 19(1)(g) and 21 of the Constitution of India and therefore void to that extent.*
- (ii) declare that the petitioner having obtained an aggregate of 118 marks out of 238 marks as per Ext.P3 is entitled to round off the actual figure of percentage i.e. 49.5798 to the nearest whole number i.e. 50% which is sufficient for a pass as per Ext.P1 prospectus.*
- (iii) issue a writ of mandamus directing the respondents to issue necessary certificates to the petitioner declaring him as passed in the SET 2013 examination conducted pursuant to P1.”*

2. The factual sequence narrated in the writ petition shows that, the petitioner participated in the 'SET 2013' examination. It is stated that, the petitioner had to answer two papers - paper 1 & II, which carry 120 marks each. In the

examination, two questions turned to be defective and hence they were to be deleted. Out of the remaining total of 238 marks, the petitioner obtained a total of 118 marks as evident from Ext.P3, which reflects the percentage as 49.5798. According to the petitioner, the said figure had to be rounded out to the nearest clear digit of 50%, which is sufficient for pass, as per Ext.P1 prospectus. The petitioner has also sought for a declaration that Clause 3 of Ext.P1 prospectus to the extent it prescribes that fractions shall be rounded off to the two decimals and not to the nearest whole number as harsh and unreasonable.

3. Heard the learned Government Pleader as well as the learned standing counsel appearing for the 3rd respondent who conducted the eligibility test.

4. The learned standing counsel for the 3rd respondent points out that, exactly similar issue had come up for consideration before this Court by way of WP(C) No.26531/13, where the candidate had secured a total of 49.89% (more than the marks scored by the petitioner). The prayer was to have it rounded off to 50% and to have declared the petitioner as passed. The prayer was turned down and this Court observed that, where the aggregate percentage of marks to have a pass

was stipulated as 50%, anything less than 50% could not have been considered and accordingly, the said writ petition was dismissed as per judgment dated 05.06.2014. This Court finds that, the same is equally applicable to the case of the petitioner herein.

5. However the learned counsel for the petitioner points out with reference to the stipulation under paragraph 3 of Ext.P1 prospectus that, in computing the marks, fraction shall be rounded off to the first two decimal places in the calculation of aggregate percentage of marks only. No rounding of marks shall be made for calculating the pass percentage for paper 1 and paper II separately. Gist of the said Clause is to the effect that, no rounding is applicable for fixing the pass marks in respect of separate minimum for Paper 1 and II and that in the case of aggregate marks such rounding of exercise is permissible, submits the learned counsel.

6. The learned Government Pleader points out that the idea and understanding of the petitioner is not at all correct and that the specific wording used in the stipulation is to the effect that, the rounding of shall be permissible in the case of aggregate percentage by considering the first two decimal places alone. It indicates that, if a candidate secures marks

anything like 49.995 and above, since the 3rd decimal is 5 or above 2, it could be corrected, effecting necessary corrections to the first two decimals and in turn this will make the resultant figure '50', instead of 49.995.

7. This Court finds that the said version appears to logical and sustainable. This Court does not find any merit in the writ petition.

Interference is declined and the same is dismissed accordingly.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.