

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 5676 of 2015 (H)

PETITIONER(S):

- 1. ANANDU P.S., AGED 24 YEARS
S/O.SAJEEV P.N., KARINILAM POST, PULIKKUNNU 686513**
- 2. RESHMA R, AGED 24 YEARS
KADAMPATTUVILA, KIZHAKKATHIL, KURATTIKKADU
MANNAR, POST 689622**
- 3. SAJAN MATHEW GEORGE
PAZHAVARICKAL HOUSE, KADAMANKULAM POST, KALLOOPPARA
THIRUVALLA 689583**
- 4. RINI BABU, AGED 24 YEARS
MERCY HOUSE, KALYAPURAM POST KOLLAM DISTRICT 691560**
- 5. MAHIN V.NAZAR, AGED 24 YEARS
VATTAKAPARA HOUSE, KANJIRAPPALLY POST
KOTTAYAM DISTRICT 686 509**
- 6. SARANYA, AGED 24 YEARS
SREE GOWTHAM HOUSE, KOONATHARA POST, SHORNUR
PALAKKAD 679526**
- 7. SAJITHA M.K, AGED 24 YEARS
MALIKAKUDY, KINGINIMATTOM, KOLENCHERY
ERNAKULAM DISTRICT PIN 682311**
- 8. MINTU SUSAN PHILIP, AGED 24 YEARS
THIDIYATHIL HOUSE, AMAYANNOOR POST, KOTTAYAM**

**BY ADVS.SRI.JAI GEORGE
SMT.DAISY A.PHILIPOSE**

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WP(C).No. 5676 of 2015 (H)

RESPONDENT(S):

**1. MAHATMA GANDHI.UNIVERSITY
REPRESENTED BY ITS REGISTRAR, UNIVERSITY CAMPUS
ATHIRAMPUZHA, KOTTAYAM 686562**

**2. THE CONTROLLER OF EXAMINATIONS
MAHATMA GANDHI UNIVERSITY, UNIVERSITY CAMPUS
ATHIRAMPUZHA, KOTTAYAM 686562**

**3. THE VICE CHANCELLOR,
MAHATMA GANDHI UNIVERSITY, UNIVERSITY CAMPUS
ATHIRAMPUZHA, KOTTAYAM 686 562**

R1-R3 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE RELEVANT EXTRACT OF THE
 REGULATIONS, SCHEME OF EXAMINATIONS AND SYLLABUS ETC
 OF THE FOUR YEAR B.PHARM COURSE ISSUED BY THE 4TH
 RESPONDENT.**
- EXT.P2: A TRUE COPY OF THE JUDGMENT IN WA. NO.629 OF 2014 DATED
 25.04.2014.**
- EXT.P3: A TRUE COPY OF THE DECISION 180TH EXECUTIVE COMMITTEE
 DECISION NO.4792/2014/KPC OF THE KERALA STATE PHARMACY
 COUNCIL DATED 29.04.2014.**
- EXT.P4: A TRUE COPY OF THE LETTER NO. E1/VIII/3/B.PHR/SF III DATED
 04.10.2014 ISSUED BY THE 4TH RESPONDENT.**
- EXT.P5: A TRUE COPY OF THE LETTER NO. 165/10/14 DAETD 14.10.2014
 ISSUED TO THE 2ND RESPONDENT.**
- EXT.P6: A TRUE COPY OF THE LETTER NO. SF III/3/RTI/2015 DATED
 12.01.2015.**
- EXT.P7 A TRUE COPY OF THE ORDER U.O. NO.1451/AIV/2/ACAD/2012
 DATED 20.03.2014 ISSUED BY THE RESPONDENTS.**

RESPONDENT(S)' EXHIBITS

- EXT. R1(a) COPY OF THE RESOLUTION OF THE ACADEMIC COUNCIL DATED
 17.1.15.**

// TRUE COPY //

PA to Judge

SB

K. VINOD CHANDRAN, J.
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W.P.(C) No.5676 of 2015 - H
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Dated this the 20th day of March, 2015

J U D G M E N T

The petitioners are aggrieved with the fact that the University has not accepted the recommendation of the Kerala State Pharmacy Council at Ext.P3. The brief facts to be noticed are that, the petitioners at the time of convening of the 4th year examinations of the B.Pharm course, in which they were studying, had not passed in the second year supplementary examinations and was hence, disentitled by the regulation of the University, to participate. The petitioners approached this Court with a writ petition, which was dismissed. The specific contention raised by the petitioners was that, they had appeared in the second year supplementary examinations conducted in March 2014 and on failing in certain subjects had applied for revaluation. The prejudice projected was insofar as the results of the

second year supplementary examinations having not been declared and hence, they would be interdicted from appearing in the 4th year examinations.

2. The Division Bench in appeal was of the opinion that, though the second year supplementary examinations results cannot be directed to be published, it is only just and proper to permit the students to provisionally appear for the 4th year B.Pharm degree examinations scheduled to start on 25.04.2015. However, safe guards were incorporated insofar as the results of the 4th year examination was directed to be published only if the appellants successfully come out in the second year supplementary examinations. It was also specifically clarified that, in case the appellants are not successful in the second year supplementary examinations conducted on March 2014, then their appearance in the 4th year examinations pursuant to the order in these writ petitions shall be treated as cancelled. In such circumstance, in fact

there is no warrant for a further writ petition on that count, this Court is bound by the specific directions issued by the Division Bench.

3. In the present writ petition, the claim made is that on 29.04.2014, Kerala Pharmacy Council had by Ext.P3 specifically requested the University to resolve that the students who have not cleared the 1st, 2nd and 3rd year B.Pharm examinations may also be allowed to appear for the 4th year B.Pharm examinations. The said direction though accepted by the Chairman of Board of Studies of Pharmacy, the same was declined by the Academic Council by a single sentence, which is produced as Annexure R1(a). Discrimination is also alleged on the ground that, the B.Sc. Nursing course students were allowed such a permission by the Vice Chancellor to appear for the 4th year examinations, despite the students having not qualified in the earlier years. Ext.P7 is relied on to contend that what was applicable to B.Sc. Nursing course students should be made

applicable to B.Pharm students also.

4. It is trite that, the discrimination can be alleged only when equals are treated unequally. It is for the University to consider whether any relaxation can be granted to a particular branch of study and when the University considers it for one branch of study, the students in another branch of study cannot seek for automatic adoption of such relaxation to their branch too. Relaxation would depend upon many factors, which the University or its Academic Body would be best suited to evaluate and it is not for this Court to interfere with such consideration.

6. Further, the recommendation of the Kerala State Pharmacy Council at Ext.P3 is not binding on the University. It is trite that, the Apex Bodies have the capacity to provide minimum standards of evaluation. The Academic Bodies and the Universities cannot bring in any relaxation to such minimum standards. However, a rigor introduced by a particular University cannot be interfered

with on the ground that, the same is in violation of the minimum standards prescribed by the Academic Council.

7. It is also to be noticed that, the Kerala State Pharmacy Council is not the Apex Council with respect to the Pharmacy courses conducted by the University and is only a regulatory body, which cannot interfere with the regulations of the University and direct relaxation to be granted without looking into the aspects, which regulates such relaxation. It is hence not clear on what grounds, the Kerala State Pharmacy Council made such a recommendation. It is also to be specifically noticed that, there is no direction as such and the request is only for a favourable consideration. The Academic Council has considered the same and decided to follow the existing procedures, which does not require any elaboration.

8. Admittedly, the petitioners have failed in the second year supplementary examination held in March 2014. The petitioners contention is that they have

subsequently appeared in the second year supplementary examinations and have passed in the same. Hence, the declaration of results of the 4th year would resolve their grievance and they would not have to go through the further agony of being put through an examination, which is to commence on 25.04.2015, is the contention raised. This Court is of the opinion that such prayer cannot be permitted and would go against the specific direction in the Division Bench judgment. Further, the petitioners seek invocation of a discretionary extra-ordinary remedy, which if allowed in the instant case would already go against the regulations. The participation in that 4th year examinations was provisional and only since the petitioners had appeared in the 2nd year supplementary examinations, before the convening of the 4th year examinations. Hence if they had qualified in the 2nd year supplementary examinations they would have been qualified as on the date of such examinations. They admittedly failed and subsequently

appeared and passed in the 2nd year supplementary after the participation in the 4th year examinations. If the 4th year examinations results are directed to be published now; it would go against the regulations.

The writ petition would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge