

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 5918 of 2015 (L)

PETITIONERS:-:

1. DR.SINDHU S
W/O.PRASAD HARIHARAN, NRRA, 9A
NETTAYIKODATH 2ND CROSS ROAD, PALARIVATTOM P.O.
KOCHI - 682 025.

2. DR.SHYLA G.,
"PANCHAVADI", PONNEZH, THEKKEKARA P.O.
MAVELIKARA - 690 107.

3. FATHIMA S.HAMEED,
NO.86, RINJU NEST, SREEVILASAM NAGAR
VADAKKEVILA P.O., KOLLAM - 691 010.

BY ADVS.SRI.C.P.SUDHAKARA PRASAD (SR.)
SRI.S.RAMESH
SRI.NAVEEN.T
SMT.POOJA SURENDRAN

RESPONDENTS:-:

1. THE KERALA UNIVERSITY OF FISHERIES AND OCEAN STUDIES
PANANGAD P.O., KOCHI - 682 506
REPRESENTED BY ITS REGISTRAR.

2. THE VICE - CHANCELLOR,
THE KERALA UNIVERSITY OF FISHERIES AND OCEAN STUDIES
KOCHI - 682 506.

3. SRI.ABILASH SASIDHARAN,
2044A(13/378), "DEEPA NIVAS", CHEKKULAM ROAD
MARUNNUKADA, PALLURUTHY, COCHIN - 682 006.

4. MS.JOMOL ANTONY,
"MANUBHAVAN", DISTRICT CO-OPERATIVE BANK LANE
MAIN ROAD, IRINJALAKUDA P.O., THRISSUR - 682 121.

5. MS.SWAPNA P. ANTONY,
PUNNATHARA HOUSE, V.K.KRISHNA MENON ROAD, VALIYAKULAM
UDAYAMPEROOR P.O., PIN - 682 307, ERNAKULAM DISTRICT.

Addl.6. SRI.GINSON JOSEPH
PADAPURACKAL HOUSE, AZAD ROAD, KATTAKKARA ROAD
KALOOR, ERNAKULAM - 682 017.

Addl.7. SNEHA SUSAN SIMON
KAIPPALLIL HOUSE, AYROOR SOUTH PO., THIRUVALLA
PATHANAMTHITTA DISTRICT - 689 611.

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- Addl.8. MS.MAYA RAMAN,
ALOOKARAN HOUSE, KATTOOR PO., THRISSUR - 680 702.
- Addl.9. SRI.REJISH KUMAR V.J
SERB-DST YOUNG SCIENTIST, AQUA GEO-MICROBIOLOGY LAB
BIOLOGICAL OCEANOGRAPHY DIVISION
NATIONAL INSTITUTE OF OCEANOGRAPHY, DONA PAULA
GOA - 403 004, NOW RESIDING AT VETTINGAL HOUSE
PORKULANGOD PO., THRISSUR, PIN - 680 517.
- Addl.10. DR.LINOY LIBINI C
PROJECT SCIENTIST
CENTRAL MARINE FISHERIES RESEARCH INSTITUTE
P.B.NO.104, FTC, MARINE HILL
PORT BLAIR - 744 101, ANDAMAN AND NICOBAR ISLANDS
NOW RESIDING AT CHERUVATHUR HOUSE, OPP. I.M.A HOUSE
CHOONDAL PO., KUNNAMKULAM, THRISSUR.
- Addl.11. DR.SUDHEER N.S
NADUVILAMURIPARAMBIL, PUZHAVATHU P.O.
CHANGANASSERY - 686 101, KOTTAYAM DISTRICT.
- Addl.12. SRI MITHUN SUKUMARAN
GOVINDAM, MUPPATHADAM, ALUVA - 683 110
ERNAKULAM DISTRICT.
- Addl.13. MANOJ C.K
S/O.K.M.CHANDY, MUNDAKKAL HOUSE, THACHAMPARA PO.
PALAKKAD - 678 593.
- Addl.14. GIJO ITTOOP
MARY VILLA (RAMANATTU), K.K.R.R.A - 53, K.K.ROAD
CHEMBUMUKKU, THRIKKAKARA PO., ERNAKULAM DISTRICT.
- Addl.15. RAGHUNATH RAVI
ROHINI HOUSE, CHAVARA CENTRAL ROAD, COCHIN - 682 011
ERNAKULAM DISTRICT.
- Addl.16. S.SELVAN,
ASSISTANT PROFESSOR, DEPARTMENT OF ZOOLOGY
MAR ATHANASIOUS COLLEGE, KOTHAMANGALAM
ERNAKULAM DISTRICT.
- Addl.17. DR.JULIET JOSEPH
1-C, HALTON HEIGHT, ALINCHUVADU
VENNALA PO., - 682 028, ERNAKULAM DISTRICT.
- Addl.18. SRI PRAMOD,
SREELAKAM HOUSE, PARAPOL, ARIYIL P.O
PATTUVAM, THALIPARAMBA VIA, KANNUR DISTRICT - 670 143.
(PRESENT CORRECT ADDRESS)
TECHNICAL OFFICER, EXPORT INSPECTION COUNCIL OF INDIA(EIC),
MINISTRY OF COMMERCE AND INDUSTRY, 3RD FLOOR,
NDYMCA CULTURAL BUILDING,
1, JAI SINGH ROAD, NEW DELHI-110001.
- Addl.19. ANWAR ALI P.H
PALAKKAPARAMBIL HOUSE, THANIPPADAM, MANNAM PO.
NORTH PARAVOOR - 683 520, ERNAKULAM DISTRICT.

(ADDL.6 TO R19 ARE IMPEADED AS PER ORDER DATED 29.05.2015
IN IA 7033/15)

Addl.20. DR.SUDHEER N.S.
S/O.N.H.SAIDUMHAMMED, NADUVILAMURIPARAMBIL
PUZHAVATHU P.O., CHANGANACHERRY, KOTTAYAM - 686 101.

(ADDL.R20 IS IMPEADED AS PER ORDER DATED 29.05.2015
IN IA 7022/15.)

R1 & 2 BY ADV. SRI.MILLU DANDAPANI, SC, KUFOS
R-4 & 5 BY ADV. SRI.P.RAVINDRAN (SR.)
R4 & 5,R9,R 10 BY ADV. SRI.SREEDHAR RAVINDRAN
RADDL.R6 BY ADV. SRI.A.JAYASANKAR
RADDL.R6 BY ADV. SRI.C.V.MANUVILSAN
RADDL.R6 BY ADV. SRI.MANU GOVIND
R3 BY ADV. SRI.P.RAMAKRISHNAN
R14 BY ADV. SRI.K.JAJU BABU (SR.)
R14 BY ADV. SMT.M.U.VIJAYALAKSHMI
R6 BY ADV. SRI.K.G.CLEETUS
RADDL.7 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
RADDL.7 BY ADV. SRI.P.GOPINATH
RADDL.7 BY ADV. SRI.P.BENNY THOMAS
RADDL.7 BY ADV. SRI.K.JOHN MATHAI
RADDL.7 BY ADV. SRI.JOSON MANAVALAN
RADDL.7 BY ADV. SRI.KURYAN THOMAS
RADDL 17 BY ADV. SRI.S.VISHNU
R16 BY ADV. SRI.M.L.SAJEEVAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-08-2015, ALONG WITH WPC. 6112/2015, WPC. 6225/2015,
WPC. 9054/2015, WPC. 16877/2015, THE COURT ON 21-08-2015
DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE NOTIFICATION DATED 05.08.2014 PUBLISHED BY THE RESPONDENT UNIVERSITY.

EXHIBIT P2. TRUE COPY OF THE MASTER'S DEGREE CERTIFICATE DATED 24.06.2005 IN FISHING PROCESSING TECHNOLOGY OF THE 1ST PETITIONER.

EXHIBIT P3. TRUE COPY OF THE CERTIFICATE DATED 08.03.2010 FOR 1ST RANK IN M.F.SC. ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY TO THE 1ST PETITIONER.

EXHIBIT P4. TRUE COPY OF THE CERTIFICATE DATED 17.11.2011 FOR DOCTOR OF PHILOSOPHY ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY TO THE 1ST PETITIONER.

EXHIBIT P5. TRUE COPY OF THE DEGREE CERTIFICATE DATED 14.07.2003 IN AQUACULTURE ISSUED TO THE 2ND PETITIONER.

EXHIBIT P6. TRUE COPY OF THE MASTER'S DEGREE CERTIFICATE DATED 29.10.2002 ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY TO THE 2ND PETITIONER.

EXHIBIT P7. TRUE COPY OF THE CERTIFICATE DATED 17.11.2011 ISSUED TO THE 2ND PETITIONER FOR DOCTOR OF PHILOSOPHY.

EXHIBIT P8. TRUE COPY OF THE CERTIFICATE DATED 15.04.2009 ISSUED BY THE CENTRAL INSTITUTE OF FISHERIES EDUCATION TO THE 3RD PETITIONER.

EXHIBIT P9. TRUE COPY OF THE LETTER DATED 16.01.2015 ISSUED BY THE 1ST RESPONDENT TO THE 1ST PETITIONER.

EXHIBIT P10. TRUE COPY OF THE LETTER DATED 01.01.2015 ISSUED BY THE 1ST RESPONDENT TO THE 2ND PETITIONER.

EXHIBIT P11. TRUE COPY OF THE LETTER DATED 16.01.2015 ISSUED BY THE 1ST RESPONDENT TO THE 3RD PETITIONER.

EXHIBIT P12. TRUE COPY OF THE RELEVANT PAGE OF THE UNIVERSITY GRANTS COMMISSION REGULATION DATED 30.06.2010.

EXHIBIT P13. TRUE COPY OF THE JUDGMENT OF THE KARNATAKA HIGH COURT DATED 28.03.2013 IN WRIT PETITION NO.19495-503/2009.

EXHIBIT P14. TRUE COPY OF THE UNIVERSITY GRANTS COMMISSION NOTIFICATION DATED 13.06.2013.

EXHIBIT P15. TRUE COPY OF THE SCORE SHEET GIVEN TO THE ACADEMIC COUNCIL BY THE RESPONDENT UNIVERSITY.

EXHIBIT P16. TRUE COPY OF THE REJECTION MEMO DATED 15.01.2015 ISSUED BY THE RESPONDENT UNIVERSITY, FILED ALONG WITH THE COUNTER AFFIDAVIT IN I.A.NO.3156/2015.

EXHIBIT P17. TRUE COPY OF THE REJECTION MEMO DATED 15.01.2015 ISSUED BY THE RESPONDENT UNIVERSITY, FILED ALONG WITH THE COUNTER AFFIDAVIT IN I.A.NO.3156/2015.

EXHIBIT P18. TRUE COPY OF THE RELEVANT PAGE OF THE TRANSCRIPT OF RECORD OF WORK IN MFSC PROGRAMME OF THE 1ST PETITIONER, PRODUCED ALONG WITH THE REPLY AFFIDAVIT FILED BY THE PETITIONERS DT.9.3.2015.

EXHIBIT P19. TRUE COPY OF THE TRANSCRIPT OF RECORD OF WORK IN MFSC PROGRAMME OF THE 2ND PETITIONER, PRODUCED ALONG WITH THE REPLY AFFIDAVIT FILED BY THE PETITIONERS DT.9.3.2015.

EXHIBIT P20. RELEVANT EXTRACT OF THE AGENDA NOTE OF THE 25TH OF THE GOVERNING COUNCIL HELD ON 2.3.2015, PRODUCED ALONG WITH THE REPLY AFFIDAVIT FILED BY THE PETITIONERS DT.9.3.2015.

EXHIBIT P21. TRUE COPY OF THE SELECT LIST DT.22.5.2015 TO THE POST OIF ASSISTANT PROFESSOR IN FISH PROCESSING TECHNOLOGY AND AQUACULTURE PUBLISHED BY THE 1ST RESPONDENT UNIVERSITY, PRODUCED ALONG WITH THE IMPEADING PETITION.

EXHIBIT P22. TRUE COPY OF THE ORDER NO.GA 5 2339/2014 DT.22.5.2015 ISSUED BY THE UNIVERSITY.

1ST AND 2ND RESPONDENTS' EXHIBITS

EXT.R1(a): TRUE COPY OF THE RELEVANT PAGE OF CHAPTER IX OF KERALA UNIVERSITY OF FISHERIES AND OCEAN STUDIES FIRST STATUTES, 2013.

EXT.R1(b): TRUE COPY OF RELEVANT PAGE OF PARA 6.0.2 OF THE GUIDELINE OF THE UGC.

EXT.R1(c): TRUE COPY OF THE RELEVANT EXTRACT OF PARA 4.4.1 OF THE GUIDELINES OF THE UGC.

EXT.R1(d): TRUE COPY OF APPLICATIONS DT.26.08.2014 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT UNIVERSITY, FOR THE POSTS OF ASSISTANT PROFESSOR-MICROBIOLOGY, FISH PROCESSING TECHNOLOGY, BIOCHEMISTRY AND FOOD SCIENCE AND NUTRITION.

EXT.R1(e): TRUE COPY OF APPLICATIONS DT.27.08.2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 1ST RESPONDENT UNIVERSITY, FOR THE POSTS OF ASSISTANT PROFESSOR-AQUACULTURE AND FISH BREEDING.

EXT.R1(f): TRUE COPY OF APPLICATIONS DT.28.08.2014 SUBMITTED BY THE 3RD PETITIONER BEFORE THE 1ST RESPONDENT UNIVERSITY, FOR THE POSTS OF ASSISTANT PROFESSOR-FISH BREEDING AND AQUACULTURE.

2nd RESPONDENT'S EXHIBITS

EXT.R2(g): TRUE COPY OF THE MINUTES OF THE 28TH GOVERNING COUNCIL MEETING HELD ON 7.4.2015 AS PER DIRECTION OF THIS COURT.

EXT.R2(h): TRUE COPY OF THE RELEVANT PAGE OF THE DECISION IN THE MINUTES OF THE 29TH MEETING OF UNIVERSITY GOVERNING COUNCIL HELD ON 2.5.2015 AS AGENDA ITEM NO.537/2015.

EXT.R2(i): TRUE COPY OF THE REPORT OF 30TH GOVERNING COUNCIL MEETING SCHEDULED ON 18.05.2015.

EXT.R2(j): TRUE COPY OF THE DECISION OF AGENDA ITEM 553/2015 OF THE 31ST MEETING OF UNIVERSITY GOVERNING COUNCIL HELD ON 21.5.2015.

EXT.R2(k): TRUE COPY OF THE RANK LIST OF PROFESSORS, ASSOCIATE PROFESSORS AND ASSISTANT PROFESSORS IN THIS RESPONDENT UNIVERSITY.

EXT.R2(l): TRUE COPY OF THE MINUTES OF THE SCREENING COMMITTEE WHICH DECIDED TO APPROVE THE PG DEGREE COURSES FOR THE POST OF ASSISTANT PROFESSOR IN I) FISHERY BIOLOGY, ii) FISH TAXONOMY & iii) FISHERIES.

EXT.R2(m): TRUE COPY OF THE MINUTES OF THE SCREENING COMMITTEE WHICH DECIDED TO APPROVE THE POST GRADUATE DEGREE COURSES FOR THE POST OF ASST.PROFESSOR IN AQUACULTURE AND FISH BREEDING.

EXT.R2(n): TRUE COPY OF THE MINUTES OF THE SCREENING COMMITTEE DECIDED TO APPROVE THE RELEVANT SUBJECTS FOR THE POST OF ASSISTANT PROFESSOR IN FISHERIES OCEANOGRAPHY, ASST.PROFESSOR IN CHEMICAL OCEANOGRAPHY, ASST.PROFESSOR IN BIOLOGICAL OCEANOGRAPHY, ASSOCIATE PROFESSOR IN BIOLOGICAL OCEANOGRAPHY AND PROFESSOR IN BIOLOGICAL OCEANOGRAPHY.

EXT.R2(o): TRUE COPY OF THE MINUTES OF THE SCREENING COMMITTEE DECIDED TO APPROVE THE RELEVANT SUBJECTS FOR THE POSTS OF ASSISTANT PROFESSOR IN BIOCHEMISTRY, ASST.PROFESSOR IN MICROBIOLOGY, ASST.PROFESSOR IN FISH PROCESSING TECHNOLOGY, ASST.PROFESSOR IN FOOD SCIENCE & NUTRITION AND ASSOCIATE PROFESSOR IN FISH PROCESSING TECHNOLOGY.

EXHIBITS PRODUCED ALONG WITH THE ARGUMENT NOTE ON BEHALF OF RESPONDENTS 1 AND 2

ANNEX.A1: TRUE COPY OF THE APPENDIX-III TABLE-II(c).

ANNEX.A2: TRUE COPY OF THE RELEVANT TABLE OF I TO III OF APPENDIX III.

ANNEX.A3: TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 25.7.2014 TOGETHER WITH SCORE SHEET.

ANNEX.A4: TRUE COPY OF THE MINUTES OF THE MEETING OF GOVERNING COUNCIL OF THE UNIVERSITY HELD ON 21.05.2015.

ANNEX.A5: TRUE COPY OF THE RELEVANT EXTRACT OF THE UGC REGULATION, 2010.

4TH RESPONDENT'S EXHIBITS

EXT.R4(a): TRUE COPY OF THE SYLLABUS FOR M.SC INDUSTRIAL FISHERIES.

EXT.R4(b): TRUE COPY OF THE DEGREE CERTIFICATE.

EXT.R4(c): TRUE COPY OF THE CERTIFICATE OBTAINED BY THE 4TH RESPONDENT.

5TH RESPONDENT'S EXHIBITS

EXT.R5(a): TRUE COPY OF THE DEGREE OF MASTER OF SCIENCE AND TECHNOLOGY.

EXT.R5(b): TRUE COPY OF THE MARK SHEET FOR THE M.SC DEGREE COURSE.

EXT.R5(c): TRUE COPY OF THE CERTIFICATE ISSUED BY THE COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY.

6TH RESPONDENT'S EXHIBITS

EXT.R6(a): TRUE COPY OF THE DEGREE CERTIFICATE DT.21.3.2006 ISSUED BY THE MAHATMA GANDHI UNIVERSITY.

EXT.R6(b): TRUE COPY OF THE MEMORANDUM OF GRADES AWARDED TO THE 6TH RESPONDENT IN M.Sc INDUSTRIAL FISHERIES.

EXT.R6(c): TRUE COPY OF THE GOVERNMENT ORDER(P)No.80/2004/GL/Edu DATED 12.3.2004.

7TH RESPONDENT'S EXHIBITS

EXT.R7(a): TRUE COPY OF THE DEGREE CERTIFICATE FOR BFSC DT.12.12.2004 ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY TO THE 7TH RESPONDENT.

EXT.R7(b): TRUE COPY OF THE DEGREE CERTIFICATE FOR MFSC ISSUED BY THE CENTRAL INSTITUTE OF FISHERIES EDUCATION TO THE 7TH RESPONDENT DT.NIL.

EXT.R7(c): TRUE COPY OF THE DEGREE CERTIFICATE FOR Ph.D ISSUED BY THE CENTRAL INSTITUTE OF FISHERIES EDUCATION TO THE 7TH RESPONDENT DT.NIL.

EXT.R7(d): TRUE COPY OF THE CERTIFICATE OF NET ISSUED BY AGRICULTURAL SCIENTISTS RECRUITMENT BOARD TO THE 7TH RESPONDENT DATED 22.2.2010.

EXT.R7(e): TRUE COPY OF THE ORDER NO.GA2/7039/2014(ix) DT.21.10.2014 OF THE KERALA UNIVERSITY.

9TH RESPONDENT'S EXHIBITS

EXT.R9(a): TRUE COPY OF THE DECISION OF THE M.G.UNIVERSITY DT.28.11.1996.

EXT.R9(b):TRUE COPY OF THE DECISION OF THE CALICUT UNIVERSITY DATED 6.7.2002.

11TH RESPONDENT(S) ' EXHIBITS

EXT.R11(a): TRUE COPY OF THE B.Sc CERTIFICATE AWARDED BY THE M.G.UNIVERSITY.

EXT.R11(b): TRUE COPY OF THE CERTIFICATE AWARDED BY CUSAT.

EXT.R11(c): TRUE COPY OF THE DEGREE OF DOCTOR OF PHILOSOPHY.

EXT.R11(d): TRUE COPY OF THE NATIONAL ELIGIBILITY TEST CERTIFICATE ISSUED BY ICAR.

EXT.R11(e): TRUE COPY OF THE ICAR NET NOTIFICATION NO.F.NO.14(I)2014-EXAM-I

17TH RESPONDENT'S EXHIBITS

EXT.R17(1): TRUE COPY OF THE DEGREE CERTIFICATE IN FISHERIES SCIENCE ISSUED BY THE KERALA AGRICULTURAL UNIVERSITY TO THE 17TH RESPONDENT.

EXT.R17(2): TRUE COPY OF THE MASTER'S DEGREE CERTIFICATE IN FISHERIES SCIENCE (MARICULTURE) OF THE 17TH RESPONDENT ISSUED BY THE CENTRAL

INSTITUTE OF FISHERIES EDUCATION.

EXT.R17(3): TRUE COPY OF THE CERTIFICATE OF DOCTOR OF PHILOSOPHY
ISSUED BY THE CENTRAL INSTITUTE OF FISHERIES EDUCATION TO THE 17TH
RESPONDENT.

EXT.R17(4): TRUE COPY OF THE CERTIFICATE OF NATIONAL ELIGIBILITY TEST
FOR LECTURESHIP/ASSISTANT PROFESSORSHIP BY THE AGRICULTURAL SCIENTIST
RECRUITMENT BOARD (ICAR), NEW DELHI.

EXT.R17(5): TRUE COPY OF THE CALL LETTER NO.GA5-2339/14(vii) DATED
16.1.2015 ISSUED BY KUFOS.

EXT.R17(6): TRUE COPY OF THE EXPERIENCE CERTIFICATE ISSUED BY THE
REGISTRAR, KUFOS VIDE NO.GA2/3951/2012 DT.30.08.2014.

EXT.R17(7): TRUE COPY OF THE CERTIFICATE DT.28.6.14 ISSUED BY THE
DIRECTOR, SCHOOL OF AQUACULTURE AND BIOTECHNOLOGY, KUFOS.

EXT.R17(8): TRUE COPY OF THE NOTIFICATION NO.GA/K1/19689/2009 DATED
20TH FEBRUARY, 2010 OF THE KERALA AGRICULTURAL UNIVERSITY.

/TRUE COPY/

P.S TO JUDGE

P.V.ASHA, J.

W.P(c) Nos.5918 of 2015-L, 6112 of 2015-L,
6225 of 2015-C, 9054 of 2015 and
W.P(c) No.16877 of 2015-H

Dated this the 21st day of August, 2015

JUDGMENT

These 5 Writ Petitions pertain to the selection and appointment to the post of Assistant Professors in various disciplines under the Kerala University of Fisheries and Ocean Studies (hereinafter referred to as the 'University' for short), based on notification issued on 5.8.2014. The main question which arises for consideration is whether candidates with the post graduate degree in subjects other than for which applications are invited are liable to be excluded from consideration or in other words whether the post graduates in the respective subjects alone are liable to be considered. All these Writ Petitions except W.P.(C) No.16877/15, were filed immediately after the interview was over, challenging the consideration of candidates who do not have PG Degree in the respective subjects. Petitioners claim that candidates who do possess Post Graduate Degree in the particular subject for

which applications are invited alone can be considered and appointed as Assistant Professor and that PG Degree in a “relevant subject” as provided in the notification as well as in University Statutes and UGC regulations means PG Degree in the particular subject alone. The contention of the respondents is that a relevant subject means a subject related to that for which applications are invited.

2. The parties and documents are referred to in the order in which it is referred to and produced in W.P(c) No.5918 of 2015, unless otherwise specified.

3. The University issued Ext.P1 notification on 5.8.2014 inviting applications from eligible candidates for the post of Professors, Associate Professors and Assistant Professors in various subjects. The qualification notified in Ext.P1 for appointment to the post of Assistant Professors was as follows:

“3. ASSISTANT PROFESSOR

- i) Good academic record as defined by the concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master’s Degree level in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign university] ~
- ii) Besides fulfilling the above qualifications, the candidates must have cleared the National Eligibility Test (NET) conducted by the UGC, CSIR or similar test accredited by the UGC like SLET/SET.
- iii) Notwithstanding anything contained in sub -

clauses (i) and (ii) above, who are, or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor.
iv) NET/SLET/SET shall not be required for such Master Programmes in disciplines for which NET/SLET/SET is not conducted.”

Clause 8 under general information provided that selection would be made on the basis of candidates' performance in the interview. Seminar and/or colloquium could be utilised as a method of selection by the University. Clause 9 provided that candidates applying for more than one post should submit separate application for each post and should pay processing fee accordingly.

4. Petitioners and the contesting respondents submitted applications. Interview was held on various dates in January 2015. Immediately after the interview, the petitioners in W.P.(C) Nos. 5918/2015, 6112/2015, 6225/2014 and 9054 approached this court challenging the consideration of candidates without having the qualification in the respective subjects. W.P(c) No.16877/2015 was filed later.

5. Initially this Court passed interim orders staying further proceedings of the selection. Thereafter interim order

was modified permitting publication of ranked list. After publication of the ranked list, the Writ Petitions were amended incorporating additional facts, grounds and the challenge against the ranked lists. The petitioners are applicants for various disciplines, having PG Degree, Ph D and all educational qualifications in the respective subjects for which applications are invited. The 5 writ petitions pertain to selection to the post of Assistant Professors in Fish Processing Technology (2) Aquaculture (3) Fish Breeding (3) Fisheries Biology (4) Fish Taxonomy (5) Fish Pathology.

6. The 1st petitioner applied for the post of Assistant Professor in Fish Processing Technology. Petitioners 2 and 3 submitted application for the post of Assistant Professor in Aquaculture. The petitioner in W.P(c) No.6112 of 2015 applied for the post of Assistant Professor in Fish Breeding. The petitioner in W.P(c) No.16877 of 2015 also applied for the post of Assistant Professor in Aquaculture. Petitioner in W.P(c) No.6225/2015 applied for the posts in Fisheries Biology as well as Fish Taxonomy and petitioner in W.P(c) No.9054/2015 applied for the post in Fish Pathology.

7. The qualifications acquired by the 1st petitioner are

Bachelor Degree in Fisheries Science (BFSc) from Kerala Agricultural University and Masters Degree in Fisheries Science (MFSc) in Fish Processing Technology, with OGPA 8.4 out of 10 in graduate level and OGPA 8.7 out of 10 in post graduate level. She was first rank holder in Masters degree in the year 2004. She has passed National Eligibility Test (‘NET’ for short) in 2009 and was awarded Ph.D in Fish Processing Technology in July, 2010. The 2nd petitioner’s qualifications are Bachelor Degree in Fisheries Science with OGPA 7.7 out of 10 and Masters Degree in Aquaculture with OGPA 8.9 out of 10. She was the first rank holder in MFSc Aquaculture in the year 2002 from Kerala Agricultural University. She is also a Ph.D holder and has passed NET. The 3rd petitioner is a degree holder in Fisheries Science from the Kerala Agricultural University with OGPA of 7.6 out of 10, Masters degree holder in Aquaculture from the Central Institute of Fisheries Education, Mumbai with OGPA of 8.18 out of 10. She has also passed NET.

8. The University conducted an interview for the post and the 1st petitioner attended the interview on 16.01.2015. The 2nd petitioner attended the interview on 18.01.2015 and the 3rd petitioner on 16.01.2015. Seeing that candidates who did not

have Masters Degree in the respective subjects were also interviewed, petitioners approached this Court filing Writ Petition No.5918 of 2015 on 24.02.2015 praying for a direction to the respondents that for appointment to the post of Assistant Professors in Fish Processing Technology and in Aquaculture, only Masters degree holders in the subject of Fish Processing Technology and Aquaculture respectively alone are entitled to be considered; for a direction to the respondents to delete the names of persons without having Masters Degree in Fish Processing Technology/Aquaculture, who were interviewed for the post of Assistant Professor in Fish Processing Technology/Aquaculture and then alone the process of selection could be completed; and to declare that the interview of Masters degree holders other than in Fish Processing Technology and Aquaculture for that post is patently illegal and such interview and further proceedings should not in any way affect the process of selection in these subjects; direct the respondents to prepare and publish a score sheet strictly in accordance with the University Grants Commission Regulations.

9. In W.P(c) No.6112 of 2015, the petitioner therein attended the interview on 2.2.2015. She approached this Court

on 25.02.2015 praying for a declaration that inclusion of candidates who do not possess Masters Degree -MFSc in Fish Breeding in the list of candidates invited for interview to the post of Assistant Professor(Fish Breeding) is illegal and against the regulations and norms prescribed by the University Grants Commission and for a direction to the respondents to remove the candidates who do not possess the requisite qualification of Masters Degree- MFSc (Fish breeding) from the list of candidates who have been included for interview for appointment to the post of Assistant Professor (Fish Breeding).

10. The petitioner in W.P(c) No.6225 of 2015 is a candidate who applied for appointment to the post of Assistant Professor in Fishery Biology and Fish Taxonomy. According to the petitioner, there were only 3 candidates who were eligible to be considered, as the remaining 43 candidates do not have a Masters Degree after acquiring the Bachelor's Degree in Fisheries Science. The first rank holder therein is having M.Sc Degree in Industrial Fisheries after acquiring B.Sc Botany/Zoology, second rank holder is a M.Sc holder in Aquaculture after acquiring the B.Sc degree and the third rank holder is Post graduate Degreeholder in Industrial Fisheries and

the 5th rank holder is a Post Graduate Degree holder in MFSc Mariculture after acquiring B.Sc and the 6th rank holder is having M.Sc Degree in Fisheries & Aquaculture. In this Writ Petition, the copy of the notification issued by the Kerala Agricultural University in 2010 is produced, wherein the qualification prescribed was MFSc in the course of study. Referring to the Kerala Agricultural University Statute, it was pointed out that the qualification prescribed therein also was the same as in KUFOS. Notification issued by the Karnataka Veterinary, Animal & Fisheries Sciences University for the post of Assistant Professors is produced therein as Ext.P12 pointing out the difference, regarding the qualification notified. Allegations are raised in awarding of marks also. Ext.P19 is produced to show the qualifications prescribed and considered in the Tamil Nadu Fisheries University wherein it is provided that MFSc in the concerned subject should be the qualification.

11. W.P(c) No.9054 of 12015 is in respect of the post of Assistant Professor in Fish Pathology and the petitioner is having MFSc in Fish Pathology and she is the gold medalist in the M.F.Sc examination. As far as the Fish Pathology is concerned, two vacancies are notified.

12. The ranked list Ext P21 was published on 22.5.2015, based on permission granted by this court on 13.03.2015. Thereafter by order dated 1.4.2015 this Court issued a direction to the University to take a decision in the matter regarding selection of candidates to the post of Assistant Professor in different subjects in the University on or before 8.4.2015. However appointments were not permitted.

13. The petitioners approached this Court with the contention that the consideration of candidates who do not have the PG Degree in the respective Subjects for which applications were invited as per the notification was illegal and contrary to the notification itself as well as the provisions contained in Chapter IX of the University Statute 2013. As per Statute 3 of Chapter IX of the First Statute, no person shall be eligible for appointment as teacher of the University, unless he possesses such qualification as may be prescribed by the UGC/Indian Council of Agricultural Research/All India Council of Technical & Research Institute and the norms issued from time to time. In the University Grants Commission on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of

Standards in Higher Education, Regulation 2010 (hereinafter referred to as 'UGC Regulation 2010')-Ext P12, the qualification for appointment to the post of Assistant Professor is provided under Regulation 3.3.0, according to which the minimum requirements are, 55% marks at Master's level with pass in National Eligibility Test or an accredited test. Further in Regulation 4.4.1, for appointment to the post of Assistant Professor in Arts, Humanities, Sciences, Social Sciences, Commerce, Education, Languages, Law, Journalism and Mass Communication, the qualification prescribed for direct recruitment is "good academic record as defined by the concerned University with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Masters degree level **in a relevant subject** from an Indian University or an equivalent degree from an accredited foreign university. Sub clauses ii, iii and iv further provide for the test qualifications like NET. In this context Regulation 4.4.2.1 is also relevant which provides for the qualification in respect of the post of Assistant Professor in Music and Dance Discipline, according to which, the qualification is good academic record with at least 55% marks (or an equivalent grade in a point scale

wherever grading system is followed) at the Master's degree level, **in the relevant subject** or an equivalent degree from an Indian/Foreign University.

14. According to the petitioners, the qualification prescribed for the post of Assistant Professors is Masters Degree in the relevant subject, as stated in Ext.P1 as well as the UGC Regulations 2010. Therefore for appointment to the post of Assistant Professor in Fish Processing Technology and for the post of Assistant Professor in Aquaculture, only those who are having Masters degree in Fish Processing Technology and in Aquaculture respectively can be considered. The petitioners also rely on the judgment **Ganapath Singh Gangaram Singh Rajput v. Gulbarga University** [(2014) 3 SCC 767], in which the issue was regarding qualification for appointment to the post of Lecturer in MCA. A Masters degreeholder in Mathematics was appointed by Gulbarga University. There it was held that when a candidate with Masters Degree in Computer Application was available, the selection of the candidate with Masters degree in Mathematics was not correct. The petitioners rely on the judgment of a Division Bench of the Karnataka High Court also in W.P© No.19495- 503/2009, in which the question was

regarding qualification for appointment to the post of Lecturer in Food and Nutrition, (2) Textiles and clothing, (3) Human Development, (4) Family Resource Management Extension and (5) Communication. It was held that the notification should have specified the Degree in the subject concerned as the qualification instead of Home Science which is a generic subject which contains several different subjects. Therefore the petitioners claim that since 'Fisheries' is a generic name, of which Aquaculture, Fish Processing Technology etc. are specific subjects concerned and even though the notification was specific that Masters Degree should be in relevant subject, consideration of persons with degree in other subjects was not proper. When rank list was published, respondents 3 and 4, who are Masters degree holders in Industrial Fisheries, were found ranked as 1 and 6 respectively in the rank list. They acquired the Masters degree after passing B.Sc Zoology/Botany and hence they do not have any sufficient practical knowledge in the subjects Fish Processing Technology or Aquaculture. The 4th respondent who is a Masters Degree holder in Industrial Fisheries was considered for the post in Aquaculture as well as in Fish Processing Technology. Similarly it was further stated that since

the Vice Chancellor is a post graduate degree holder in Marine Biology and was Professor in Industrial Fisheries in CUSAT, several of his students in M.Sc Industrial Fisheries applied for selection in different subjects and they were allowed to participate in the selection for appointment in various subjects notified in Ext.P1. Hence it is alleged that the entire selection process is vitiated.

15. Further contention raised is that marks cannot be awarded for abstracts of the research papers; but only those research papers published as full papers. It is alleged that 0.5% marks is awarded for abstract to the first author, 0.25 to the second author and 0.25 to the third, contrary to the guidelines issued by UGC.

16. The University filed detailed counter affidavit, additional counter affidavits and argument notes, denying all the allegations and stating that they have conducted the selection strictly in accordance with the provisions contained in University Statutes and UGC Regulations. In paragraph 12 of the counter affidavit filed by the University stated as follows:

“Under UGC and ICAR schemes, the post graduate degree courses offered in Fisheries education in the country are

Master of Fisheries Science(MFSc), M.Sc in Industrial Fisheries, M.Sc in Marine Biology, M.Sc. in Aquaculture, M.Sc. in Aquatic Biology and Fisheries, M.Sc in Fish and Fisheries, M.Sc in Coastal Aquaculture, M.Sc in Aquaculture. Therefore all these post graduate degrees are related to fisheries and are interchangeable and interrelated and therefore respondents 3 to 5 are eligible for consideration and appointment, to the posts notified. All these are treated as relevant equivalent and appropriate Masters Degrees for considering the applicants for selection to the notified positions as per Ext.P1 in accordance with UGC norms. Since the UGC norms specifically say that persons who are having Masters Degree in relevant subjects are qualified to apply for various streams mentioned under guideline 4.4.1, the consideration of respondents 3 to 5 cannot be treated as illegal.”

17. In this respect, the contention of the petitioners is that the University cannot declare equivalence of a qualification unless there is power and that Statutes do not confer any such power on the University. Referring to Ext.P14, it is contended that marks are to be given only for Research Papers published as full papers and abstract is not to be included. The further contention of the petitioner is that the procedure adopted by the University for the entire process of selection is contrary to the

provisions contained in the first statute 2013. As per statute 2 (c), it is for the Vice Chancellor who shall scrutinise all applications and prepare a list of eligible candidates who shall be called for interview. Under clause (e) of statute 2, the Vice Chancellor shall constitute a selection committee as per University Grants Commission/Indian Council for Agriculture Research/All India Council for Technical Education regulations and norms. Clause (f) provides that 80% weightage shall be given to academic qualifications, research experience and achievements (based on the pro forma approved by the University Grants Commission) and 20% of weightage for the interview.

18. In para.15 of the counter affidavit, the University stated that after receipt of applications, the 2nd respondent- Vice Chancellor of the University constituted a **scrutiny committee**, consisting of 5 members under the Chairmanship of Professor V.K.Venkita Ramani, Dean and Director of Research and Extension of Fisheries College and Research Institute, Tutticorin, Tamil Nadu serving as Academic Consultant in KUFOS, Professor K.R.Muralidharan Nair, former Dean, Faculty of Science, CUSAT, now working as Controller of Examinations,

KUFOS, Dr.Sajan George, Dean, Faculty of Fisheries, KUFOS, as a member, Shri Mathew Sebastian, Associate Professor with Dr.Ambilykumar, Associate Professor and HoD, Department of Management Studies, KUFOS and this committee evaluated the applications and assigned scores in a total of 75 abiding the approved score sheets for the selection of faculty. It was further stated that the **screening committee** under the chairmanship of Vice Chancellor with subject experts Dr.M.R.Boopendranath, Former Principal Scientist of CIFT and Dr.V.K.Venkita Ramani, Dean, Fisheries and concerned directors as members and Registrar as Convenor, scrutinised the applications fulfilling the minimum qualifications, identifying the relevant Masters Degree and the list of eligible candidates and this expert body has unanimously taken a decision in respect of the candidates who are eligible to be called for the interview. It was stated that the **expert body** unanimously took the decision in respect of the candidates eligible to be called for the interview and it is not the unilateral decision of the Vice Chancellor.

19. According to the petitioners, the scrutiny committee was constituted after receipt of application and it made the assessment,contrary to the provisions in statute. The screening

committee was constituted subsequent to the evaluation of the applications by the scrutiny committee, identifying the relevant masters degree and the list of eligible candidates. Further contention is that marks were awarded contrary to the provisions in the statute, according to which only 20% can be earmarked for interview and 80% is to be awarded for academic qualification etc. Therefore it is contended that the selection is made in violation of statute 2(c), 2(e) and 2(f). It is contended that when statute prescribes a particular procedure, that method cannot be varied at any cost. Referring to Ext. P14 and P20 notes of the Governing Council meeting held on 2.3.2015, it is contended that the API score sheet as well as constitution of the scrutiny committee and screening committee and selection committee were not as per the UGC Regulations.

20. All the party respondents have filed counter affidavits claiming that all of them are fully qualified and their selection is in accordance with law. According to them the writ petitions filed after the petitioners appeared in the test and on becoming unsuccessful are liable to be dismissed at the threshold.

21. The petitioners further submitted that they came to know about the consideration of candidates with Masters Degree

in other subjects only when they appeared for the interview and immediately thereupon they have approached this Court challenging the same. The further contention is that the anomalies which occurred in the process of selection came to their knowledge only from the counter affidavit dated 26.02.2015 filed by the University. Hence there is no question of estoppel and they cannot be non suited on that ground.

22. The learned Senior Counsel Shri Sudhakara Prasad relied on the judgment of the Apex Court in **Ganapath Singh Gangaram Singh Rajput v. Gulbarga University** [(2014) 3 SCC 767] (paragraphs 19, 21 and 22), in support of the contention that the Masters Degree should be in the relevant subject, ie. for appointment as an Assistant Professor in Fish Processing Technology, a candidate with M.Sc in Fish Processing Technology alone should be considered; whereas in this case candidates with Marine Biology, Industrial Fisheries etc. who do not have any connection with the relevant subject were considered and included in the rank list. Referring to the Apex Court judgment in **Rajbir Singh Dalal (Dr.) v. Chaudhari Devi Lal University** [(2008) 9 SCC 284], relied on by the respondents, it was pointed out that the said judgment was

distinguished in the subsequent judgment in **Ganapath Singh Gangaram Singh Rajput v. Gulbarga University** [(2014) 3 SCC 767]. Regarding the power of the University to take a decision, regarding the equivalence of the qualification, referred to in paragraph 12 of the counter affidavit, he relied on the judgment in **Suma v. Kerala Public Service Commission** [2011 (1) KLT 1(F.B)] and contended that the University does not have power to go into the question of equivalency, when there is no such power conferred on the University under the statute or any provision of law. He further relied on the judgment of the Apex Court in **Babu Varghese v. Bar Council of Kerala** [(1999) 3 SCC 422] (paragraphs 31 and 32] wherein it was held that when particular thing is to be done in a particular manner that has to be done only in that manner. The judgment of the Apex Court in **J&K Housing Board and Anr. v. Kunwar Sanjay Krishan Kaul and Ors.** [(2011) 10 SCC 714] (paragraph 32) also was relied on in support of his contention that the particular mode prescribed in the Statute has to be followed.

23. Relying on the judgment of a Full Bench of this Court in **Saurabh Jain v. State of Kerala** [[2011 (1) KLT 888(F.B)]

(paragraphs 11 to 15), it was contended that there cannot be any waiver against fundamental right and relying on paragraph 32 of **Udayan v. Kerala Agro Machinery Corporation Ltd.** [2011 (3) KLT 952(F.B)], it was held that the recruitment rules should be followed strictly. The learned Senior Counsel further contended that even the so called experts constituting the selection committee do not have the qualification in the relevant subject, and referring to Ext.P1 notification itself it is pointed out that there is not even a Department of Industrial Fisheries, so as to consider those who are qualified in Industrial Fisheries. The 3rd respondent who is a first rank holder for appointment in the subject Fish Processing Technology, is a Post Graduate degree holder in Industrial Fisheries; whereas the 1st petitioner with first rank in M.Sc in Fish Processing Technology is included as rank No.4. From Ext.P1 notification it can be seen that the name of the subject as well as the name of the departments are given in the notification. The discipline of Fish Processing Technology comes under Sl.No.19 in the Department of Preservation and Packing Technology. The subjects coming under that department are Fish Processing Technology, Biochemistry, Micro Biology, Fish Processing Technology and Food Science &

Nutrition. Similarly in the Department of Aquaculture, the subjects Fish Breeding and Aqua Culture alone are included.

24. Shri N.Dharmadan, learned Senior Counsel appearing for the additional 8th respondent in W.P(C) No.6225/2015 contended that in Ext.P1 notification the qualification prescribed is “good academic record in Masters Degree in relevant subject”. As far as the selection and appointment to the post of Assistant Professor is concerned, it is for the University to consider what is relevant subject. Referring to Regulation 3.1.0 and Regulation 4.4.1, it was argued that what was required was only Masters Degree in relevant subject. The 8th respondent had submitted applications for the post in 5 disciplines-Aquaculture, Fishery Biology, Fisheries, Fish Pathology and Microbiology. Her application for the post in Microbiology was rejected as she was not qualified. She is having M.F.Sc Mariculture with Ph.D in fisheries Science from central Institute of Fisheries Science. As per the notification as well as the UGC Regulations, the qualification required can only be that notified in Ext.P1 which is in tune with the UGC Regulation. Further it is contended that none of the petitioners raised any objection before filing the Writ Petition, when the notification was issued calling for applications

from the candidates having Post Graduate Degree in a relevant subject. In case petitioners were aggrieved, they should have challenged the same then and there, without waiting for the interview. They have approached the Court only when they were dissatisfied with their performance in the interview. There was no prescription that the qualification should be in the concerned subject or in the relevant subject. Relying on the judgment of the Apex Court in **State of Rajasthan and Ors. v. Lata Arun** [AIR 2002 SC 2642] (paragraphs 12 and 14) it was contended that the Court is not supposed to interfere with academic matters and it should be left to the decision of the experts in academic field. Further the judgment in **Jyothi Niketan English Medium School v. Deputy Labour Commissioner** [2015 (2) KLT SN 137] was relied on to contend that the meaning given in another statute cannot be drawn for interpreting the meaning of the expressions in a given statute. Further the judgment of this Court in **Sunu v. Union of India** [(2002) 2 KLT 747] was relied on wherein it was held that after issuance of a notification, the qualification cannot be relaxed and no addition to the qualification should be made in the meanwhile. It is further pointed out that there are allegations as

to regarding mala fides in W.P(c) No.6225 of 2015, without making any of the members of the selection committee in the party array. Further the judgment in **Dhananjay Malik v. State of Uttaranchal** [2008 (2) KLT 969(SC)] and **Swarn Lata v. Union of India** [1979 (1) SLR 710 (SC) (paragraph 66 and 67) also were relied on.

25. The learned Senior Counsel Shri P.Ravindran appearing for respondents 4, 5, 8 and 9 in W.P.(C) No. 5918/2015 contended that what is prescribed in the notification as well as the UGC Regulation is Masters Degree in '**a relevant subject**' and not '**the relevant subject**'. Referring to the judgment of the Apex court in **Ganapath Singh's case (supra)** Gangaram Singh Rajput v. Gulbarga University [(2014) 3 SCC 767], he pointed out that what was considered therein was the qualifications referred to in the 2000 regulation of UGC with respect to the notification issued in 1998, wherein the qualification prescribed by the UGC was Post Graduate degree in **the relevant subject**. Comparing Regulation 4.4.1 with 4.4.2.1, he contended that with respect to the Assistant Professors in Arts, Humanities, Science, Social Science, Commerce, Education, Languages, Law, Journalism and Mass

Communication are concerned, the UGC has fixed the qualification as Masters Degree in a relevant subject; whereas under Regulation 4.4.2.1, for the discipline Music and Dance, the qualification prescribed is good academic record with Masters Degree in **the relevant subject** and therefore it is contended that the difference in the expression employed in two different clauses is intentional and therefore the contention raised by the petitioners that the candidates should have Masters degree in the concerned subject or in the relevant subject or reliance on the judgment of the Supreme Court in Ganpath's case (supra) do not stand the test of reasoning. It is further pointed out that there is no pleading with respect to the action of the scrutiny committee or selection committee in the Writ Petition and therefore the contentions raised as against those committees do not come for consideration in this case; without challenging the notification and after subjecting themselves to the interview, they cannot turn round and challenge the process of selection. As far as the 4th respondent is concerned, he is a Post Graduate in Industrial Fisheries and the syllabus is provided in Ext.R4(a).

26. Sri P.Ramakrishnan, appearing for the 3rd respondent, supporting the arguments of the learned Senior Counsel, pointed

out that the 3rd respondent is ranked 1 for appointment in the subject Fish Processing Technology, purely on the basis of merit. 3rd respondent is a Post Graduate in Industrial Fisheries with Ph.D in Fish Processing Technology and hence he is fully qualified. The 5th respondent is a first rank holder in Marine Biology who is included in the rank lists for the subjects Fish Processing Technology as well as Aquaculture. Ext.R5(c) provides that M.Sc Marine Biology is equated to M.Sc Aquatic Biology and Fisheries as early as in 1998 when the subjects for post accreditation were very limited. As far as respondents 9 and 10 are concerned, they are applicants for the post of Fish Processing and Aquaculture. According to the learned counsel, 'relevant' means PG degree with same syllabus and question of relevance is to be decided by the academic experts.

27. The 7th respondent is an applicant for the post of Assistant Professor in Fish Processing Technology and included in the rank list. She is Master's Degree holder in Fisheries Science in post harvest technology and Ph.D holder in Post Harvest Technology. According to her the syllabus for Fish Processing Technology and Fisheries Science in post Harvest Technology are one and the same and Ext.R7(e) is the order

issued by the University with respect to her appointment on contract basis in the very same University. Therefore there cannot be any objection with regard to her inclusion in the rank list.

28. As far as the 6th respondent is concerned, he is a graduate in Industrial Fish and Fisheries with P.G in Industrial Fisheries. In support of Ext.R6(c) it is pointed out that the Government had accepted it as equivalent with respect to the post of teachers in Vocational Higher Secondary School.

29. The 11th respondent in W.P© No.5918/2015, who is the 4th respondent in W.P© No.6225 of 2015, also filed a counter affidavit, pointing out that he applied for the post of Assistant Professor in Aquaculture as well as that in Fish Pathology. He is a B.Sc degree holder in Zoology from the M.G University and M.Sc degree holder in Marine Biology from CUSAT. He is a Ph.D holder in Marine Bio Technology from CUSAT. He has passed NET. He has produced Ext.R11(c) in order to show that M.Sc holders in Marine Biology can appear for NET in Fish Health discipline. It comes under Annexure-II to the notification issued by the Agricultural Scientist recruitment Board inviting application for NET which provides for the discipline and their

eligibility qualification for NET, 2014 in its Annexure-II. There, each discipline has been given a code. As against each discipline, eligibility qualifications are given. Code No.34 is Aquaculture for which Master's degree holders in Aquaculture/Fishery Sciences/Marine Biology/Aquatic Biology with specialization Mariculture/Aquatic Environmental Management/Aquatic Ecology/Inland Aquaculture are eligible. As against Code No.34, discipline is Aquaculture. As against code No.38 the discipline is Fish Health for which the eligibility qualifications are Master's Degree in Fishery Science/Marine Biology with specilization in Fish Health/Fish Pathology/Microbiology. Relying on these, the 11th respondent submits that he is fully qualified for appointment as Assistant Professor in both the disciplines. He has been included in the rank list for both the disciplines, ie. Aquaculture and Fish Pathology, ranking as 4th and 2nd respectively in both the disciplines.

30. The petitioners pointed out that as per the UGC Regulations, marks are to be allotted only for research papers published as full papers and it is specifically stated in the notification issued by the UGC on 13.06.2013, which is produced

as Ext.P14, that “abstracts not to be included”. But the petitioners pointed out that the Academic Council had awarded marks for abstract, and the same is given in the score sheet contrary to Ext.P14. Therefore a person who has published 100 abstracts therefore will get 50 marks in the score sheet. This is demonstrated by producing Ext.P14 notification dated 13.06.2013 of the UGC, published in the gazette of India extraordinary to show that the UGC minimum qualification for appointment of teachers and other academic staff in Universities and Colleges and measures for the maintenance of standards in higher education (second amendment) Regulations 2013, which provides for the revised selection procedure on the basis of the performance of the candidates on a scoring system proforma, based on the Academic Performance Indicators as provided therein. It provides for the marks for research papers published, but provides that abstracts should not be included. Ext.P15 is the score sheet for direct recruitment of Assistant Professor, Associate Professor and Professor prepared by the University. As per this score sheet, it is pointed out that marks are awarded for research projects for the abstracts of a research publication also, whereas it is specifically prohibited as per Ext.P15

amended Regulation of the UGC. Pointing out this, the learned Senior Counsel Sri. Sudhakara Prasad submitted that the entire process of selection was vitiated and are liable to be set aside. Further it is pointed out that the documents produced along with the counter affidavit and the contentions in the counter affidavit do not tally. The respondent University in paragraph 15 of their counter affidavit says that after receipt of application, the 2nd respondent constituted a scrutiny committee consisting of 5 members and that this committee, by abiding the approved score sheets for the selection of faculty in KUFOS, evaluated the applications and assigned scores in a total of 75 and subsequently the screening committee under the chairmanship of Vice Chancellor with subject experts, scrutinised the applications fulfilling the minimum qualifications, identifying the relevant masters degree and the list of eligible candidates and this expert body unanimously took a decision in respect of candidates who are eligible to be called for interview and it was thereafter that interview was held following all procedural formalities. At the same time, Ext.R2(g) states that the Vice Chancellor constituted a screening committee as per Chapter IX Section 2 comprising of Vice Chancellor as Chairman.

Thereafter the Vice Chancellor constituted the selection committee as per UGC Regulations 2010 comprising of Vice Chancellor and 3 subject experts approved by the governing council. Ext.R2(g) further states that 50% of the marks is given for academic record and research performance, 30% for the assessment of domain knowledge and teaching skill, 20% for the interview performance; the API score sheet was provided as per UGC Regulations 2010 exercising the extent of flexibility admissible. Petitioners point out that the flexibility is only for the form and not for the substance are provided in the UGC Regulation and therefore by adopting different percentage of marks and API scores the selection was held contrary to the amended UGC Regulations of 2013 (Ext P15).

31. The Standing Counsel for the University Sri Millu Dandapani pointed out that the UGC Regulations 2013 are not approved by Govt so far and it will be made applicable only after State Govt adopts the same. Going by Statute 2, the University has followed and strictly adhered to the 2010 Regulations. qualification prescribed in the notification is the same as that in the University Statutes as well as the UGC Regulations 2010 and contended that the University has adhered to all the conditions

stipulated in the UGC Regulations. The petitioners themselves have applied for appointment in different disciplines and they cannot be heard to contend that one can be considered for appointment to the post in a particular discipline alone. It is stated that there is no lacuna or infirmity in the procedure adopted by the University. Applications were scrutinized by a committee under the chairmanship of the Vice Chancellor of the University, in order to have transparency and reliability and it was under his chairmanship that the scrutiny committee was formed and thereafter a screening committee and a selection committee considered the case of the candidates in accordance with law. It is pointed out that different Universities are awarding degrees in different nomenclatures. All these degrees are interrelated and interconnected. Therefore it cannot be said that a candidate with qualification in a particular subject cannot be considered for another subject and the notification as well as UGC Regulations provide for M.Sc degree in a relevant subject and this has been scrupulously followed by the selection committee. Regarding awarding of marks also, the selection committee has followed the procedure prescribed in UGC Regulations, 2010.

32. Additional counter affidavits are filed asserting the contention that the selection was made strictly in accordance with the procedure; while reply affidavits are filed in all the cases pointing out that the selection is vitiated not only by violation of the provisions contained in the Statute, UGC Regulations as well as the notification itself in so far as candidates with qualification in the relevant subject alone are not considered and procedure adopted in the preparing the score sheet as well as the entire process of selection is also contrary to the UGC Regulations.

33. In W.P(c) No.6112 of 2015, the petitioner claims that she is the only candidate who is having post graduate degree in Fish Breeding. Along with the Writ Petition she has produced Ext.P1 certificate to show that the degree in Fisheries Science and Ext.P2 Master of Fisheries Science Degree in Fish Genetic and Breeding producing Ext.P2 and MFSc prescribed as part of Ext.P2. She has also passed NET in Fish Genetics and Breeding as seen from Ext.P3. She points out that the subject Fish Breeding comes under the department of Aquaculture.

34. M/s S.P.Aravindakshan Pillai & Varghese, appearing for the 3rd respondent in W.P(c) No.6112 of 2015 pointed out that

the 3rd respondent is the first rank holder in the rank list for the post of Assistant Professor in Fish Breeding and she possesses M.F.Sc. with Ph.D in Fish and Fishery Science (Mariculture). Adopting the arguments of the learned Senior Counsel, he pointed out that the 3rd respondent is fully qualified in terms of the notification. It was argued that the 4th respondent applied for the post of Assistant Professor in Fish Breeding. He is well qualified for appointment to the post. The petitioner's qualification is shown as M.Sc in Fish Genetics and Breeding (M.F.Sc). Ext.P3 would show that her qualification is M.F.Sc in Fish Genetics and Breeding and therefore her own averments in the Writ Petition goes against her contention. Pointing out clause 9 in Ext.P1 notification, he contended that the notification itself envisaged submitting of several applications for each candidate and it is therefore provided that for submitting applications in different disciplines they should submit separate applications. Therefore even at the time of the notification, the Registry was of the view that the candidates can apply for different disciplines and the petitioners were aware of this. Referring to the course of study undergone, he pointed out that the entire third semester of his course was about fish breeding;

whereas in the case of the petitioner, her course of study does not include that much portion regarding fish breeding. According to him, all the topics are interconnected. With reference to the MFSc transcript produced by the petitioner, wherein the subject is mentioned as Fish Genetics and Biotechnology, the 3rd respondent points out that the petitioner is not duly qualified. The 3rd respondent is a Post Graduate Degree holder in Mariculture, which is awarded by the Central Institute of Fisheries Education. He has also produced the MFSc transcript as Ext.R3(b) in which the subject is mentioned as MFSc (Mariculture). The course of study is produced as Ext.R3 (b). Referring to Ext.R4(b), the 3rd respondent submitted that the subject opted by him relates to Fish Breeding and compared to the course of study undergone by the petitioner he is more qualified. Petitioner with the support of Ext P9 contended that ARS has not treated the qualification of 3rd respondent as relevant qualification for appointment to the post of Scientist. According to 3rd respondent, there is nothing wrong in the University considering him for the selection and including him in the rank list on the basis of his merit. According to him, the petitioner is less meritorious and therefore she is not included in

the rank list. The petitioner has further produced Ext.P8, the corrected copy of the transcript obtained by her from the University, in which the subject is mentioned as Fish Genetics and Breeding. Along with this, the course of study also produced and relying on the same, the petitioner submitted that the course of higher study contained the syllabus involving Fish Genetics and Breeding than any other courses including that of the 4th respondent. It is contended that she has submitted application only for the post of Fish Genetics and Breeding. When a candidate like her who is a graduate in Fisheries Science as well as Post Graduate in Fish Genetics and Breeding was available, the University selection committee erred in not selecting her and overlooking her better claims they included persons who do not have the qualification in the subject concerned.

35. Additional 4th respondent in W.P© No.6225 of 2015 is rank No.2 in the rank list for the discipline Fisheries Biology and Taxonomy. His qualifications are M.Sc in Aqua Culture and Ph.D in Fish and Fisheries. He has got vast experience in research. In support of his claim, he has produced Ext.R4(a), (b) documents. According to him, the petitioners who are not included in the select list, do not have any right to stop the appointment of the

candidates included in the rank list. He relied on the judgments in **Trivedi Himanshu Ghanshyambhai v. Ahmedabad Municipal Corporation & Ors.** [(2007) 8 SCC 644] (paragraph 8, 9 and 10 contending that unsuccessful candidates do not have any right to challenge. Relying on **Chandra Prakash Tiwari v. Shakuntala Shukla** [(2002) 6 SCC 127] (paragraph 32 to 34) it was argued that when the interview was found not palatable, candidates like the petitioner cannot turn round and challenge the process of selection. He also relied on paragraphs 10 of **Madan Lal v. State of J & K** [(1995) 3 SCC 486] contending that candidates do not get any right to challenge the selection successfully by approaching the court, on becoming unsuccessful in the selection procedure.

36. According to him, it is for the University to decide the subjects which are relevant for the purpose of appointment of a faculty in a particular discipline. Relying on paragraph 12 and 22 of the counter affidavit filed by the University he contended that the University has given much weightage to various subjects. They also stated that all the subjects in Fisheries are interchangeable and interrelated. Therefore there is no substance in the contention raised by the petitioners who posed

to approach this Court only when they were sure about the result of the interview. It is also pointed out that the petitioners themselves have submitted applications for appointment in various disciplines and therefore they cannot be heard to contend that a candidate can be considered only for a particular subject.

37. He also relied on the judgment in **University Grants Commission v. Neha Anil Bobde** [(2013) 10 SCC 519] to assert his contention that this Court should keep off its hands in academic matters, as long as no statutory violation is pointed out.

38. The 17th respondent in W. P.(C) 5918/2015 has filed a counter affidavit. She is a graduate in Fisheries Science from Kerala Agriculture University and she has got a Post Graduate Degree in Fisheries Science in Mariculture from the Central Institute of Fisheries Education (Deemed University under Indian Council of Agriculture Research) and she is a Ph.D holder in Fish and Fisheries Science (Mariculture) with NET in Fish and Fisheries Science. According to her, she was awarded NET in a relevant subject and the University has accepted the Post Graduate Degree in Mariculture as a relevant subject for the

post of Assistant Professor in Aquaculture. She points out that the Kerala Agriculture University had also, when it notified the selection for appointment of the post of Assistant Professor Aquaculture (Fish Breeding/Pathology/Aquaculture), the qualifications prescribed were Bachelors Degree from the concerned faculty recognized by the Kerala Agricultural University and MFSc and MFSc in Aquaculture/Fresh Water Aquaculture/Inland Aquaculture/Mariculture/Fish Pathology and Micro Biology recognized by the Kerala Agricultural University. According to her the Agricultural Scientist Recruitment Board (ICAR) which conducts the NET for the discipline of Aquaculture, the eligibility qualification includes a degree in Aquaculture/Fisheries Science/Marine Biology/Aquatic Biology with specilization in Mariculture/Aquatic Environmental Management, Aquatic Ecology/Inland Aquaculture. Therefore it is stated that she is fully qualified for selection and inclusion in the rank list for the post of Assistant Professor in Aquaculture.

39. During the course of hearing, the learned Standing Counsel filed I.A.No.11237 of 2015 producing certain documents relating to the procedure adopted in the process of selection. It is stated that for the purpose of deciding which are the relevant

subjects to be considered for each post the committee met on 15.12.2014 and 16.12.2014. It is seen from the affidavit that a screening committee was constituted in order to screen the applications received for various disciplines. The committee in its meetings held on 15.12.2014 and 16.12.2014 decided to approve the Post Graduate Degree Courses for relevant faculty positions in different departments. It is stated that as per Ext.R2 (l) Minutes of the Screening Committee the P.G degree courses for the post of Assistant Professor in (i) Fishery Biology, (2) Fish Taxonomy (3) Fisheries which come under the department of Fishery Biology were approved. This include:

(i) MFSc-Mari culture, Aquaculture, Fisheries Resource Management, Fisheries Biology, Aquatic Environment, Fisheries Environment and Ecology and Fish production, (ii) M.Sc Marine Biology, (iii) M.Sc Fisheries Science, (iv) Aquatic Biology and Fisheries, (v) M.Sc Zoology with Specilization in Fisheries, (vi) M.Sc Applied Fisheries & Aquaculture, (vii) M.Sc Industrial Fisheries, (viii) M.Sc Fisheries & Aquaculture, (ix) M.Sc Fisheries Science & Coastal Aquaculture, (x) M.Sc Aquaculture & Fisheries Microbiology, (xi) M.Sc Coastal Aquaculture, (xii) M.Sc Mariculture, (xiii) M.Sc Aquaculture, (xiv) M.Sc Fisheries

Resource Management.

40. Ext.R2(m) is the Minutes of the committee which decided the subjects relevant for appointment to the post of Assistant Professor in Aquaculture and Fish Breeding. The following are the subjects mentioned:

(i) M.F.Sc-Aquaculture, Mariculture, Fish Breeding, Fish Production & Mgt., Fisheries Biotechnology, Fisheries Extension, Fish Pathology and Microbiology, Fisheries Resource Management and Fishery Biology,

(ii) M.Sc Coastal Aquaculture,

(iii) M.Sc Sustainable Aquaculture,

(iv) M.Sc Aquaculture,

(v) M.Sc Marine Biology,

(vi) M.Sc Aquaculture & Fisheries Microbiology,

(vii) M.Sc Zoology specialization in Fisheries,

(viii) M.Sc Fisheries Science & Coastal Aquaculture,

(ix) M.Sc Industrial Fisheries,

(x) M.Sc Fisheries & Aquaculture,

(xi) M.Sc Fisheries Science,

(xii) M.Sc Applied Fisheries & Aquaculture,

(xiii) M.Sc Aquatic Biology and Fisheries,

(xiv) M.Sc Mariculture.

41. Similarly the subjects to be considered as relevant for the post of Assistant Professor in Fish Pathology was also decided in that meeting. Ext.R2(n) minutes of the meeting based on the relevant subjects for the post of Assistant Professor in Fisheries Oceanography which comes under the department of Fishery Hydrography were decided. As per Ext.R2(o) the subjects relevant for the post of Assistant Professor in Bio Chemistry and Fish Processing Technology coming under the department of Preservation and packing technology, Nutrition and Feed Technology and Aquatic Animal Health Management was decided.

42. The respondent University had already produced Ext.R2(h) to (k) along with additional affidavit dated 3.6.2015, in which it was stated that the governing council of the University which met on 21.05.2015, approved the rank list presented by the Vice Chancellor and decided to issue appointment orders to the candidates. Ext.R2(j) is the copy of the decision of this agenda item in the meeting of the governing council. The rank list was produced as Ext.R2(k). It is pointed out that in all the 17 subjects, for which there was no challenge, appointments have

already been made.

43. The petitioners in W.P(c) No.5918 of 2015 are raising contentions against the procedure of selection, on the basis of various documents produced by the University along with counter affidavit, additional counter affidavits etc. filed by the University and with reference to the documents produced along with it, pointing out that what is stated in the meeting and in the counter affidavit do not tally.

44. After hearing the contentions raised on either side, the question to be considered is whether the University Statute or the UGC Regulations insist that for appointment to the post of Assistant Professor in a particular subject, PG Degree acquired in that particular subject alone need be considered. The qualification notified for the post of Assistant Professor under clause 3 in Ext.P1 reads as follows:

“3. Assistant Professor

- (i) Good academic record as defined by the concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master's Degree level in a relevant subject from an Indian University, or an equivalent degree from an

accredited foreign university.”

Contentions are raised on the basis of the judgment of the Supreme Court in **Ganapath Singh Gangaram Singh Rajput v. Gulbarga University** [(2014) 3 SCC 767], where the question considered was whether a candidate who is having Post Graduate Degree in Mathematics can be considered as qualified for appointment as having qualification in the relevant subject for appointment to the post of Assistant Professor in Computer Science. Thereafter examining the relevancy of the subject concerned, it was held that the candidates having P.G degree in the relevant subject can only be those with P.G degree in Computer Application alone and when such candidates are available in the particular subject, it is not legal or proper to go in search of candidates with other qualification. It is in this background that the petitioners in these Writ Petitions have approached this Court. According to the University, all the subjects in a department of Fisheries Science are inter related and therefore they have decided which are the relevant qualifications for the post coming under each department. The minutes of the meeting show that this has been decided by a screening committee which met on 16.12.2014, immediately

after receiving the applications. From Ext.P1 it can be seen that the last date prescribed for notification was 30.08.14. It is to be noticed that different universities are awarding degrees in different nomenclatures. As contended by the respondent no.11 in W.P(c) No.5918/2015 and the 3rd respondent in W.P(C) No.6112/2015, the ICAR has identified the eligibility criteria for admission to the test in various subjects by which post graduates in different disciplines can apply. The Degrees are seen acquired from various states and from various universities. Therefore the contention of the respondents that the subjects coming under Fisheries Science are interrelated cannot be discarded in toto.

45. In fact when the University decided to make regular appointments to the post of Assistant Professors in various faculties coming under different departments, for the 1st time after its formation immediately after the 1st Statute 2013 came into force. Of course it is always fair and proper to take a decision on the relevancy of the subjects before issuing the notification itself and to notify those subjects which can be considered as relevant for appointment to a post in each of the subjects, while inviting applications. However, in this case the

screening committee has in its meeting held on 15.12.2014 and 16.12.2014 i.e before the interview was held, decided the subjects which can be considered for each post.

46. In this context it is pertinent to note Statute 5 (3) of the 1st Statute which reads as follows:

“5. Mode of appointment of teacher-xxxx

(3) The teacher of the University may be assigned work in the areas of Specialisation in the University as and when required.”

It is also pertinent to note that the notification itself provides for submission of more than one application by a candidate. Therefore the University itself is of the view that candidates having the qualification in Fisheries Sciences are eligible for appointment in different subjects. Or in other words the qualification for at least 2 posts can be one and the same. Several candidates including the petitioners have submitted separate applications for appointment in different disciplines. Item Nos.7 to 20 in Ext P1 relate to Assistant Professors in various subjects. Column 4 provides for the department in which the subject is included. The total number of departments for these 14 subjects are:

(i) Aquaculture, (ii) Fishery Biology, (iii) Aquaculture, (iv)

Nutrition and Food Technology, (v) Aquatic Animal Health Management, (vi) Fishery Biology, (vii) Fishery Hydrography, (viii) Preservation and Packing Technology.

One of the contentions raised by the petitioners also is that the candidates who are included in the rank list do not have the qualification in a subject which comes at least under the department. When the academic experts are of the view that these subjects are interconnected and interrelated, this court is not in a position to decide otherwise and direct that the qualification should be in the respective subjects. The qualification of the petitioners and the contesting respondents are as follows:

<i>5918/2015</i>					
W.P(c) No.5918 of 2015					
Fish Processing Technology					
Parties/age	Qualifications				Rank No.in the rank list
1 st petitioner -Sindhu-36 years	BFSc, MFSc in Fish Processing Technology (1 st rank, KAU, 2004	Ph.D in Fish Processing Technology	N.E.T - Fish Processing Technology		Rank No.4
3 rd respondent -Abhilash Sasidharan - 34 years	B.Sc, M.Sc Industrial Fisheries	Ph.D Marine Science			Rank No.1

5918/2015				
4 th respondent Jomol Antony- 39 years	B.Sc, M.Sc Industrial Fisheries	Ph.D Aquatic Biology and Fisheries	N.E.T Fish Processing Technology	Rank No.6
6 th respondent - Ginson Joseph- 30 years	B.Sc Industrial Fish & Fisheries, M.Sc Industrial Fisheries	pursuing Ph.D	N.E.T - Fish Harvest & Post Harvest Technology	Rank No.2
R7-Sneha Susan Simon - 35 years	BFSc, MFSc Post Harvest Technology	Ph.D Post Harvest Technology	NET Fish Harvest and Post Harvest Technology	Rank No.3
R8 - Maya Raman - 38 years	B.Sc Botany, M.Sc Industrial Fisheries	Ph.D Marine Science	NET Fish and Fishery Science	Rank No.5
AQUACULTURE-5918/15 :				
2 nd petitioner - Shyla.G - 41 years	BFSc, MFSc Aquaculture	Ph.D Aquaculture	ICAR NET Aquaculture	Not included
3 rd petitioner - Fathima.S - 31 years	BFSc, MFSc Aquaculture	Ph.D Aquaculture	NET - Fisheries Science	Not included\ in rank list
R4 - Swapna P.Antony - 32 years	B.Sc, M.Sc Marine Biology	Ph.D Marine Bio Technology	DST -	Rank no.1 \
R9-Rejeesh Kumar - 36 years	B.Sc, M.Sc Marine Biology	Ph.D Marine Science Post ,,,	NET CSIR ..	Rank no.2
R10 - Linoy Libin-39 years	B.Sc, M.Sc Coastal Aquaculture	Ph.D Marine Biology 2003, M.Phil Coastal Aquaculture	NET Aquaculture	Rank No.3
R11-Sudheer - 36 years	B.Sc, M.Sc Marine Biology	M.Phil Coastal Aquaculture		Rank no. 4
R12 - Mithun Sukumaran	B.Sc, M.Sc Aquatic Biology and Fisheries	Ph.D Aquaculture		Rank no.5
R13- Manoj.C.K - 36 years	BFSc, MFSc Fish Pathology & Microbiology	Ph.D Aquaculture	ICAR NET UGC CSIR Fisheries Science	Rank no.6

5918/2015					
R14-Gijo Ittoop - 43 years (Petitioner in W.P.C. 16877/15)	BFSc, MFSc Aquaculture	Ph.D Aquatic Biology and Fisheries	ICAR NET Fish and Fisheries Science		Rank no.7
R15 - Reghunath Ravi	BFSc, MFSc Inland Aquaculture	Ph.D reproductive	NET ICAR Fish and Fisheries Science		Rank no.8
R16 - S.Selvan - 38 years	B.Sc, M.Sc Marine Biology	Ph.D Marine Science	UGC CSIR NET PRA SSR		.Rank no.9
R17 - Juliet Joseph - 38 years	BFSc, MFSc Mariculture	Ph.D Mariculture	NET ICAR Fish & Fisheries Science		Rank no.10
R18 - Pramod - 41 years	B.Sc, M.Sc Industrial Fisheries	Ph.D Marine Fisheries Science	B.Ed		Rank no.11
R19 - Anwar Ali - 33 years	B.Sc, M.Sc Industrial Fisheries	P.G Diploma in Marine Aquaculture & NET in Fisheries Science			Rank no.12
W.P(c) No.9054 of 2015					
Fish Pathology					
Petitioner -Manoj.C.K - 36 years	BFSc, MFSc Fish Pathology & Microbiology	Ph.D Aquaculture	ICAR NET UGC CSIR Fisheries Science		Not included
R4 - Swapna P.Antony - 32 years	B.Sc, M.Sc Marine Biology	Ph.D Marine Bio Technology	DST -		Rank no.1
R5 -Sudheer. N.S - 36 years	B.Sc, M.Sc Marine Biology	M.Phil Coastal Aquaculture			.Rank no.2
R6 - Gijo Ittoop	M.SC Aquaculture	Ph.D Aquaculture			Rank no.3
Petitioner - Nisha Raj(35)	B.F.Sc; M.F.Sc Aquatic Environment Management	Ph. D. Fishery Biology	NET Fishery Science		Not included

5918/2015					
R4-Dr.Rajeev Raghavan (35)	B.Sc; M.Sc Aquaculture	Ph.D Electrobiolgy	NET Fish & Fishery Science		Rank.2 Fishery Biology & Rank No.2 for Fish Taxonomy
R5-Dr.Radhakrishnan K.V(38)	B.Sc; M.Sc Industrial Fisheries	Ph D Marine Science	NET Fish & Fishery Science		Rank 1 Fishery Biology & rank no.1 in Fish Taxonomy
R6 - Anwar Ali - 33 years	B.Sc, M.Sc Industrial Fisheries	P.G Diploma in Marine Aquaculture & NET in Fisheries Science			Rank no.3 -Fishery Biology & Rank no.4 in Fish Taxonomy
R7 - Linoy Libini C-39 years	B.Sc, M.Sc Coastal Aquaculture	Ph.D Marine Biology 2003, M.Phil Coastal Aquaculture	NET Aquaculture		Rank no.4- Fishery Biology
R8 - Pramila S.(41)	B.Sc; M.Sc mariculture	Ph.D Mariculture			Rank no.5 Fishery Biology
R9-Dr.Aneesh Kumar K.V (33)	B.Sc; M.Sc Fishery & Aqua Culture	Ph.D Fishery Science			Rank no.6 Fisheries Biology
R10 - Jayalekshmi K.J (38)	B.Sc; M.Sc Fishery & Aqua Culture	Ph.D Marine Science M.Phil Aquatic Biology & Fisheries SRF	NET Marine Science		Rank no.6 Fisheries Biology
R11 – Dr.M.K.Sajeevan (48)	B.FSc; M.F.Sc Marine Science	Ph. D Marine Science			Rank No.3 Fish taxonomy
R12 - Raju Thomas.K(41)	B.Sc; M.Sc Zoology & Fishery Science	Ph. D Zoology			Rank no.5 Fish Taxonomy
W.P(c) No.16877 of 2015					
Aquaculture					
petitioner - Gijo Ittoop	M.SC Aquaculture	Ph.D Aquaculture			Rank.7
R3 - Swapna P.Antony - 32 years	B.Sc, M.Sc Marine Biology	Ph.D Marine Bio Technology	DST -		Rank. 1

5918/2015					
R4-Rajesh Kumar - 36 years	B.Sc, M.Sc Marine Biology	Ph.D Marine Science Post ,,	NET CSIR ..		Rank 2
R5 - Linoy Libini.C-39 years	B.Sc, M.Sc Coastal Aquaculture	Ph.D Marine Biology 2003, M.Phil Coastal Aquaculture	NET Aquaculture		Rank 3
R6- Sudheer.N.S - 36 years	B.Sc, M.Sc Marine Biology	M.Phil Coastal Aquaculture			Rank.4
R7 - Mithun Sukumaran	B.Sc, M.Sc Aquatic Biology and Fisheries	Ph.D Aquaculture			Rank 5
R8- Manoj.C.K - 36 years	BFSc, MFSc Fish Pathology & Microbiology	Ph.D Aquaculture	ICAR NET UGC CSIR Fisheries Science		Rank 6

47. The main contention of the writ petitioners is relying on the judgment of the Apex Court in **Ganapath Singh Gangaram Singh Rajput v. Gulbarga University** [(2014) SCC 767], wherein the issue raised was regarding appointment of a Lecturer in Gulbarga University. The University had issued a notification on 22.05.1998 inviting applications for appointment to the post of Lecturer in Masters Degree in Computer Application. The minimum qualification for the same was notified as good academic records with at least 55% of marks or an equivalent grade at the Masters Degree level in the relevant subject from an Indian University or an equivalent degree from a foreign university. The University appointed Sri Ganapath Singh Gangaram Singh Rajput, the 3rd respondent therein, who was a

Post Graduate Degree holder in Mathematics. At the same time, Sivanand is a holder of Masters Degree in Computer Application. The selection and appointment were set aside by the apex court. There the University contended that the words “relevant subject” would also mean candidates who possessed Masters degree in such of those subjects who have secured a Masters Degree in Mathematics and Mathematics is also a subject which is taught in the Masters Degree in Computer Applications Course. When the Division Bench found his selection was illegal, Ganapath approached the Apex Court, contending that Mathematics is a relevant subject for MCA course and therefore Ganapath with degree in Mathematis was eligible for appointment as Lecturer in MCA. It was also their case that in Gulbarga University, different Mathematics subjects are taught in MCA and therefore it cannot be said that a person possessing Masters degree in Mathematics is not eligible for appointing as Lecturer in MCA and whether a particular qualification is relevant or not for holding a post is best decided by the experts concerned and the Board of appointment consisting of eminent Academicians from various Universities had recognised Mathematics as a relevant subject for MCA. There the judgments of the Apex Court in

B.C.Mylarappa v. R.Venkatasubbaiah [(2008) 14 SCC 306] and **Rajbir Singh Dalal v. Chaudhari Devi Lal University** [(2008) 9 SCC 284] were relied on. In the first decision Mylarappa's case the Apex Court held that as long as mala fides is not attributed against the members of the expert body of the University or the University authorities, the opinion expressed by the Board and its recommendations cannot be said to be illegal, invalid or without jurisdiction. In the judgment in **Rajbir Singh Dalal** (supra), the question considered was whether a candidate who possess a Masters Degree in Public Administration was eligible for appointment to the post of Lecturer in Political Science and vice versa. In that case there was a letter from the UGC stating that the subjects - Political Science and Public Administration are interchangeable and interrelated and hence a candidate who possesses Masters degree in Public Administration is eligible as Lecturer in Political Science and vice versa. There it was noticed that against the view of UGC - an expert in academic matters, the court should not sit in appeal and take a contrary view. The contention raised by Sivanand was that the advertisement issued by the University was in respect of various posts in different subjects and therefore the

expression “relevant subject” has to be understood as the subject for which applications are invited. But the Board of appointment misdirected themselves of going into the question whether Mathematics is a relevant subject or not in MCA and hence the opinion of the Board of appointment as approved by the Syndicate was found unacceptable.

48. The Apex Court while accepting the contention that academic issues must be left to be decided by an expert body and the court cannot act as an appellate authority in such matters, observed that it cannot be said that expert body’s opinion deserves acceptance in all circumstances and is not subject to judicial review. Distinguishing the case of **Mylarappa** (supra) where the question considered was regarding 10 years experience of Post Graduate teaching and the Board of Appointment took into consideration the experience of a candidate as Lecturer and Research Assistant upholding the selection, in the absence of any malafides and it was a case where the Board of Appontment found that the appellant alone was the candidate who had satisfied the conditions for appointment to that post. It was therefore found that, that judgment does not mean to have denuded the powers of the

court to scrutinise the experience in a given case. In that case the question considered was regarding experience and in the matter of experience it is always the expert body to decide. In **Rajbir Singh Dalal** (supra)'s case, the University had taken a stand that Public Administration is one of the branches of Political Science and the Selection Committee comprised of eminent scholars had chosen the appellant as Reader after considering his academic achievements and in the light of the letter of the UGC, according to which, both these subjects were stated to be interchangeable and interrelated. Taking note of the fact that there was no such plea that the Masters Degree in Mathematics is interchangeable with MCA, the Apex Court distinguished the case on hand. It was also pointed out therein that there was difference in respect of the qualification for appointment to the post of Reader and appointment to the post of Lecturer. While in the case of Reader the expression used was "appropriate subject" and in the case of Lecturer the expression used was "relevant subject".

In the present case, the case of the respondents is that all these subjects coming under Fisheries Sciences are interrelated. The absence of such a contention- that Mathematics and Computer

Science are interrelated, was specifically noticed in Ganapat's case . Moreover that was a case when the 2000 regulations were in force, when UGC regulations provided for qualification in “the relevant” subject.

49. In this context the contention of the learned Senior Counsel Sri N.Dharmadan that the expressions ‘relevant’ and ‘appropriate’ are distinct and different and when relevant is the expression, it would mean that any subject which has connection with the subject, is to be accepted. As contended by him, body of experts have considered the matter in detail and they have arrived at a conclusion as to what all are the relevant subjects, especially in view of the fact that different Universities are giving different degrees. The judgment relied on by him, **Dr.Bhanu Prasad Panda v. Chancellor, Sambalpur University** [(2001) 8 SCC 532] is also relevant in this context. The issue considered therein was regarding the qualification for the post of Lecturer in the Political Science in the Department of Political Science and Public Administration in Sambalpur University. Considering the fact that the Department concerned is that of Public Administration, it was found that a person who is qualified in Political Science could not have been appointed as

Lecturer in Public Administration, be it in the Department of Political Science and Public Administration. The advertisement itself was specifically to fill up the vacancy in the post of Lecturer in Political Science. Therefore the Apex Court found that the essential requirement of academic qualification of a particular standard and grade namely, "55% in the 'relevant subject' for which the post is advertised, cannot be rendered redundant or violated by ignoring the relevant subject and carried away by the name of the Department only which, in substance, encompasses two different disciplines. In **Rajbir Singh Dalal v. Chaudhari Devi Lal University** [(2008) 9 SCC 284, the Apex Court in paragraph 33, found that the observation that Political Science and Public Administration are distinct and separate subjects were given on a concession, because in the judgment it was mentioned that "it was not in controversy" that the post of Lecturer in Public Administration and Political Science are distinct and separate. Since the words "it is not in controversy" showed that the concession was made on the point by the learned counsel in that case it was held that the said set of observations cannot be recorded as a precedent. It was also found that, there was no reasoning given why Political Science

and Public Administration are distinct and separate subjects. Further the Apex Court held that a decision of a court cannot be said to be a precedent unless it lays down some principle of law supported by reasons. Similarly in **Ganapath Singh's case (supra)** it was specifically mentioned that the parties do not have a case that Mathematis and Computer Science were interrelated.

50. I will now examine the other judgments relied on by the parties. The learned Senior Counsel Sri C.P.Sudhakara Prasad relied on the judgment of the Apex Court in **Babu Varghese v. Bar Council of Kerala** [(1999) 3 SCC 422] (paragraphs 31 & 32), reiterating that if the manner of doing a particular fact is described under any statute, the act must be done in that manner or not at all. Paragraph 31 of the judgment reads as follows:

“31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in *Taylor v. Taylor* which was followed by Lord Roche in *Nazir Ahamad v. King Emperor* who stated as under:

“Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at

all.” “

51. Further in paragraph 32 of the judgment, the Apex court referred to the judgments of this Court in Rao Shiv Hahadur Singh v. State of V.P, Deep Chand v. State of Rajasthan, State of U.P v. Singhara Singh and Nazir Ahmad case. The Apex Court was considering the question regarding the validity of elections held by the Kerala Bar Council during the extended term of six months. As per the provisions contained in the Bar Council of India Rules and the Advocates Act, it was found that the elections have to be held before the expiry of 5 years time. Such extension has to be granted only before the period of the term expires. It was therefore held that the members of the State Bar Council can continue in office without any valid extension seeing that the extension was not ordered during the period of the term. It was under the said circumstances that the Apex Court held that when the statute provides for doing a thing in a particular manner that has to be done only in accordance with the prescribed manner. Relying on the above judgment, the learned Senior Counsel submits that selection in violation of Statute 2(c), 2(e) and 2(f) are liable to be set aside. As per Statute 2(c) it is for the Vice Chancellor to

scrutinise the applications. Selection Committee is provided under Section 2(e). As per Statute (2f) 80% of the weightage shall be given to academic qualification, research experience and achievements (based on the proforma approved by the University Governing Council) and twenty percentage of weightage for the interview. The learned Senior Counsel submits that this provision was also not followed while conducting the selection, as can be seen from the counter affidavits as well as the documents produced by the University.

52. Further in the judgment in **J&K Housing Board & Anr. v. Kunwar Sanjay Krishan Kaul & Ors.** [(2011) 10 SCC 714] (paragraph 82) the Apex Court held that it is settled law that when any statutory provision provides a particular manner for doing a particular act, said thing must be done in the prescribed manner, while the Apex Court was considering the provisions contained in the Land Acquisition Act of Jammu and Kashmir. Where it is held that merely because the parties concerned were aware of the acquisition proceedings or served with individual notices does not make the position alter when the statute makes it very clear that all the procedures/modes have to be strictly complied with in the manner provided therein. Merely

because the land owners failed to submit their objections within 15 days after the publication of notification under Section 4(1) of the State Act, the authorities cannot be permitted to claim that it need not be strictly resorted to. It was further in the case on hand the notification was published in two daily newspapers. But none of them was in a regional language, as prescribed under Section 4(1)(a) to (c), which was mandatory.

53. In support of the contention that the University does not have any power to go into the qualifications, the learned Senior Counsel referred to a Full Bench decision of this Court in **Suma v. Kerala Public Service Commission** [2011 (1) KLT 1 (F.B)]. In paragraph 12 of that judgment, this Court found that there was a conflict between the scope and power of the Public Service Commission provided in Rule 10 as well as in Rule 13 of the Kerala State and Subordinate Services Rules, 1958. While it was found that Rule 13 confers unlimited power in the PSC, Rule 10 was found to have envisaged the power regulated by them. While interpreting those two provisions, this Court found that such conflicting provisions should be understood as a power structured by law. It was held that unstructured and unlimited powers are antithetical to the concept of the rule of law under

Article 14 of the Constitution of India. In that case this Court found that the PSC is incompetent to decide on the equivalency of the qualification when the rules do not provide for the same. The learned Senior counsel further relied on the judgments of this Court in **Saurabh Jain v. State of Kerala** [2011(1) KLT 888 (F.B)] (paragraphs 11 to 15 in support of his contention that there cannot be any waiver against the fundamental right. This position was followed in **Udayan v. Kerala Agro Machinery Corporation Ltd.** [2011(3) KLT 952]. In the judgment in **Saurabh Jain v. State of Kerala** (Supra), this Court was considering the question whether estoppel is a defence available to the State when its action is challenged on the ground of violation of any fundamental right or provisions of the Constitution. The notification for admission to super speciality courses conducted by Medical Colleges in the State of Kerala was issued therein. The appellants therein had participated in the selection process undertaken by the State Government, but they could not secure admission to the super specialty courses. They had approached this Court complaining that candidates who are less meritorious than them in the selection process secured admission into various super speciality courses on

account of the preference created by the Government. There the Writ Petitions were initially dismissed by a learned Single Judge of this Court on the ground of estoppel observing that the appellants were fully aware of the rule of procedure. In appeal, this Court after considering the question elaborately, held in paragraphs 11 to 15, referring to a number of decisions of the Apex Court and held that there cannot be an estoppel when there is a breach of fundamental right. The judgments of the Apex Court in *Behram Khurshid Pesikaka v. State of Bombay* [AIR (1955) SC 123] and *Dhananjay Malik & Ors. v. State of Uttaranchal & Ors.* [2008 (2) KLT 969 (SC)] etc. were referred to therein. The most quoted judgment of the Apex Court on the question of estoppel after being unsuccessful in the selection process viz - **Madan Lal v. State of J. & K.** [(1995) 3 SCC 486] and **Marripati Nagaraja v. Govt. Of A.P.** [(2007) 11 SCC 522] was also considered by this Court. As petitioners are challenging the selection on facts which could be divulge only after interview and after filing counter affidavit, it is true that they are not liable to be non-suited on the ground that they approached this court only after subjecting themselves to the process of selection. When petitioners were under the

impression that the

54. The learned Senior Counsel relied on the judgment of the Apex Court in **Bahadursinh Lakhubhai Gohil v. Jagdishbhai M** [(2004) 2 SCC 65] (paragraph 26) wherein the Apex Court held that the decision if any taken by a statutory authority at the behest or on the suggestion of a person who has no statutory role to play, the same would be ultra vires. The Apex Court was considering the question in respect of lease of land by the Municipal Corporation in auction. In that case it was found that the order under challenge of the Municipal Corporation was passed on a lawyer's opinion. There was no noting on the file or any material showing delivery of a section of the land in question. It was found that there was a direction of the Home Ministry preceding the impugned order. The Apex Court following the observations in **S.P.Kapoor (Dr) v. State of H.P** [(1981) 4 SCC 716], held that post-haste manner in which things have been done will suggest that some higher-ups were interested in pushing through the matter hastily when the regular Secretary, Health and Family Welfare was on leave. It was after following the above judgment that the Apex Court held that the decision taken by a statutory authority on the

suggestion of a person who does not have statutory role would be ultra vires. This position was followed in *Commr. Of Police v. Gordhandas Bhanji* [AIR 1952 SC 16] and *Mohinder Singh Gill v. Chief Election Commr.* [(1978) 1 SCC 405] also. Therefore according to the learned Senior Counsel for the petitioners, the decisions on the selection of the candidates is not taken by any authority having any statutory role. Again the judgment of the Apex Court in **Manohar Lal v. Ugrasen** [(2010) 11 SCC 557] (paragraph 22) was relied on. There the Apex Court held that in the system of Indian democratic governance, senior officers occupying key positions are not supposed to mortgage their own discretion, volition and decision-making authority and be prepared to give way or being pushed back or pressed ahead at the behest of politicians. The Apex Court summarised the legal position on this point to the effect no higher authority in the hierarchy or an appellate or revisional authority can exercise the power of the statutory authority nor can the superior authority mortgage its wisdom and direct the statutory authority to act in a particular manner. If the appellate or revisional authority takes upon itself the task of the statutory authority and passes an order, it remains unenforceable for the reason that it cannot

be termed as an order passed under the Act. Therefore the issue was regarding the land policy of U.P Government in respect of those whose lands whose lands were acquired for plant development. It was held that the State Government can pass an orders only when there is an order passed by the lower authority.

55. In this case it is under Statute 2, that qualification of Teachers are prescribed as those prescribed by UGC/ICAR/AICTE Regulation and norms. Therefore the University has to go by the UGC regulations and an interpretation of the UGC Regulations.

56. Regarding the allegation of marks in the interview, the learned Senior Counsel relying on **University of Kerala v. Kumari Valsala** [2011 (4) KLT 984], a Division Bench of this Court held that categories of marks should be as contained in the notification and no marks can be awarded other than what is provided in the notification. Relying on paragraphs 32 of the Full Bench judgment of this Court in **Udayan v. Kerala Agro Machinery Corporation Ltd.** [2011(3) KLT 952(F.B)], it was argued that the recruiting agency is not vested with any power to deviate from the qualification prescribed in the notification

for the purpose of recruitment and once the norms are indicated in the notification for selection, those norms should be strictly followed. Once the norms of qualifications are notified, they will have to be strictly adhered to, so that there is no room for any arbitrariness, favouritism, nepotism, etc. In this case the screening committee has decided which are the relevant subjects for appointment in each subjects. Notification also is to the effect that qualification need be in a relevant subject. Therefore it cannot be said that there is any deviation from the prescribed qualifications, when the subjects are stated to be interrelated and there is no allegation of malafides.

57. Referring to Ext.P5 it was pointed out that the University itself was formed under Section 67 of the Kerala University of Fisheries and Ocean Studies Act. First statutes are framed as per Ext.P5 in exercise of the powers conferred by Section 67 of the Kerala University of Fisheries and Ocean Studies, 2010. The First Statutes were notified in extraordinary gazette of Kerala on 21.11.2013. It is pointed out that the selection for appointment to the post was made strictly in terms of the First Statute, which has incorporated the regulations issued by the UGC. Therefore the Master's Degree in “a

relevant subject” alone is necessary. It is settled law that when the statutory authorities including academic expert have already dealt with and took decisions as to eligibility to be included in the zone of consideration, courts shall not transgress the limits and interfere with the election. It is pointed out that as per clause 3.1.0 of Ext.P6, what is required is only 55% marks at Master's Degree level. Similarly clause 4.4. also provide for only 55% marks at Master's degree level in a relevant subject. In the judgment of the Apex Court in **State of Rajasthan v. Lata Arun** [AIR (2002) SC 2642] (paragraphs 12 and 13), relied on by Sri. N. Dharmadan, it was held that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority and it is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority, in that case the High Court had issued a direction to the State of Rajasthan to treat the respondent as a candidate having prescribed educational qualification and directed to declare her results on that basis. It was found that on the date of submission of application for joining the course, the said

candidate did not possess the prescribed qualification from a recognised institution. In that context, it is contended that this Court will be traversing its jurisdiction if it goes in search of the qualification for appointment to the notified posts in question. The learned Senior Counsel further relied on the judgment of the Apex Court in **Vinayakumar v. Raouf** [2015(2) KLT SN 115 (C.No.137)], wherein this Court, while considering the eligibility of a person under suspension to payment of subsistence allowance under Payment of Subsistence Allowance Act, 1972 (Kerala) held that the definition of an expression in one Act must not be imported into another pointing out that the statutes of other Universities or notifications issued by outside authorities cannot be relied on. This Court, after elaborately considering various judgments including the decisions in *Union of India & Ors. v. R.C.Jain & Ors.*[(1981) 2 SCC 308], held that it is not a sound rule of interpretation to seek the meaning of words used in an Act in the definition clauses of other statutes and that it would be a new tenor in the construction of statutes if it required to limit a word to an unnatural sense because in some Act which is not incorporated or referred to, such an interpretation is given to it for the purpose of that Act alone.

Further the learned Senior Counsel relied on a Division Bench decision of this Court in **Sunu v. Union of India** [2000(2) KLT 747] where, relying on the judgment of the Apex Court in **Madan Lal v. State of J&K, (1995) 3 SCC 486** and **Marripati Nagaraja v. Govt. of A.P., (2007) 11 SCC 522**, held that candidates unsuccessfully participated in the process of selection without any demur, are estopped from challenging the criteria for selection. The notification was very specific in so far as the qualification was any Master's Degree in 'a relevant subject'. In the judgment of the Apex Court In **Swarn Lata v. Union of India** [1979 (1) SLR 710] (paragraphs 66 and 67], relied on by Sri. Dharmadan, the Apex Court held that one cannot approbate and reprobate, seeing that petitioners had applied willingly of their own accord, and without any persuasion by anyone applied for the post, in response to the advertisement and thereafter challenged the same after appearing for the interview. The selection committee did not find her suitable for appointment. It was thereupon held that she cannot be heard to say that the selection of respondent No.6 therein by direct recruitment through the Commission should be invalidated being contrary to the direction issued by the Central

Government under Section 84 of the Act or that the Commission exceeded its powers in relaxing the essential qualification in order to say that the 6th respondent was not eligible for appointment. It was observed that the appellant therein had applied for the post and she knew that under the terms of advertisement, the Commission can relax any of the essential qualification and she did not choose to challenge the said provision at the relevant time. He further relied on the judgments of the Apex Court in **Trivedi Himanshu Ghanshyambhai** [(2007) 8 SC 644]. There the appointment of the appellant to the post of Assistant Manager, while he was working as an X-ray Technician, was challenged on the ground that he did not have administrative experience. Observing that the examination committee of the interview board did not raise any objection as to his administrative experience and that the respondents did not raise any objection either before the examination committee or before the interview board, it was held that the selection of the appellant therein cannot be interfered with. There the candidates were unsuccessful and they did not figure in the merit list. They have challenged the appointment only when they were found unsuccessful in the

examination. In paragraph 9 of the judgment, following the judgment in **Madanlal**'s case (supra), it was held that it was not open to respondents 2 and 3 to challenge the appointment of the appellant and other selected candidates. It is pointed out that no malafides are alleged on any of the members of the selection committee and under these circumstances this Court should not go into the validity of the process of selection. Further the judgments in **Chandra Prakash Tiwari and Ors. v. Shakuntala Shukla and Others** [(2002) 6 SCC 127] (paragraphs 32 to 34) wherein the **Madanlal Khurana**'s case (supra) were relied on, replying the contentions of the unsuccessful candidates who approached the Court after subjecting themselves to the process of selection.

58. The University has in the counter affidavit explained the decision taken by them and the method adopted by them for selecting candidates. The University found that all the subjects under Fishery Science are interchangeable and interrelated. The academic experts have found that almost all the subjects like Aquaculture, Fish Breeding, Fish Processing Technology, Fisheries Biology, Fish Taxonomy, Fisheries and Fisheries Oceanography come under Fisheries Science. These post

graduate degrees are considered to be relevant Master's degree in Fisheries, Fish Processing Technology and Aquaculture and are interchangeable and interrelated.

59. In the light of the judgments of the apex court including **University Grants Commission v. Neha Anil Bobde** [(2013) 10 SCC 519] wherein the Apex Court reiterated its view that in academic matters courts should not interfere, since those issues fall within the domain of experts, it becomes difficult to accept the contention of the petitioners, though their locus standi to challenge, even after appearing for the interview can be accepted.

60. There is no dispute that the qualification notified is the same as that prescribed in the University Statute as well as UGC Regulations. The dispute herein with respect to the subject in which the candidates should have the Post Graduate Degree. Regulation 3 of UGC Regulations 2010 deals with the recruitment and qualification. Regulation 3.3.0 provides that the minimum requirements of a good academic record, 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the master's level and qualifying in the NET, or an accredited test (State Level Eligibility Test -SLET/SET), shall

remain for the appointment of Assistant Professors.” Further Regulation 4.4.1 provides the qualification of Assistant Professor in various disciplines including Sciences, which reads as follows:

“i. Good Academic record as defined by the concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master’s Degree level in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign university.”

Similarly Statute 3 of Chapter IX of the University 1st Statute reads as follows:

“3. Qualifications of the Teachers:--No person shall be eligible for appointment as teachers of the University, unless he possesses such qualifications as may be prescribed by the University Grants Commission/Indian Council for Agriculture Research/All India Council for Technical Education regulations and norms from time to time.”

As contentions are raised to the effect that what is required is not “the relevant subject”, but it is “a relevant subject”, it is necessary to examine the meaning of ‘relevant’. The meaning given in Webster’s New Millennium Dictionary are :

“bearing upon or relating to the matter in hand; pertinent; to the point:

relevant implies close logical relationship with, and importance to, the matter under consideration:

Thesaurus gives the meanings of the word ‘relevant’ as :

“pertinent; applicable; germane; related; appropriate, significant; important.”

As per dictionary.com: bearing upon or connected with the matter in hand; pertinent

As far as the course of studies undergone by the candidates and the appointments to be made in the University of Fisheries and Oceanographic studies, the competent personnel who are in the knowhow of the relevance of particular subject are no doubt those who are in the academic field of the University itself. As seen from the minutes of the meeting of screening committee of 15th and 16th December 2014 i.e Ext R2(l) to R2(o), the screening committee has decided which are the subjects relevant for appointment to particular post.

61. Moreover the expressions 'a relevant subject' indicate that one among several relevant subjects alone is needed. As contended by Sri. P. Raveendran, the learned Senior Counsel, there is considerable difference between 'a relevant subject' and 'the relevant subject', especially when such distinction is evident from the expressions employed in Regulation 4.4.1 as well as Regulation 4.4.2.1 ie in the case of Science Teachers and that of Music Teachers as well as in 2000 Regulations and 2010 Regulations of UGC. Therefore the deviation from 'the' to 'a'

cannot be ignored.

62. It is seen from the pleadings that the nomenclature of degrees awarded differ from place to place. It is seen from Ext R11(e) that for NET examination, PG Degree holders in various related subjects are admitted. This court does not have the expertise to determine whether the subjects involved are relevant or not for the purpose of appointment to a particular post. Though it may appear that when a candidate with qualification in the particular subject is available, it is not necessary to go in search of others, going by the peculiar expressions occurring in the UGC Regulations 2010 as distinct from 2000 regulation, giving due consideration of the transformation of 'the' to 'a', following the apex court judgment **University Grants Commission v. Neha Anil Bobde** [(2013) 10 SCC 519] , this court will not be justified in interfering with such academic matters.

63. Now the contention raised is that there is no authority for the University to decide which are the relevant subjects in the absence of a provision for the same, relying on a series of decisions of this court including **Suma's** case (supra). But in this case there is no provision in the statute which says that the

qualification should be in the particular subject. As long as there is no deviation from the provisions in the Statute or UGC regulations it is not necessary to go in search of the source of power. In the decisions relied on by the learned Senior Counsel, there was a prescribed qualification for which other qualifications were declared equivalent. Of course it would have been fair and proper if the qualifications which were relevant were specified in the notification itself. But since none of the applicants had any complaint over the notification, it is not necessary to go into that question.

64. The next contention to be considered is whether the selection can be nullified for violation of Statute 2 (c) of Chapter IX, which provides that "Vice Chancellor shall scrutinise all the applications and prepare a list of eligible candidates." Learned Senior Counsel contended that when a particular thing is to be done in a particular manner it should be done in that manner alone. From the counter affidavits as well as the files made available by the University, it is seen that a committee consisting of 5 members were constituted for scrutinising the applications, as per order dated 22.9.2014. Eventhough the Vice Chancellor was not included in that committee, another committee was

constituted, as per order dated 12.12.2014, named as screening committee, under the chairmanship of Vice chancellor along with 5 others for shortlisting the candidates for various faculty positions and the Registrar was directed to prepare a table showing qualification, experience, age, etc as per regulations. It is this committee which decided the subjects which are relevant, along with the list of candidates applied for each subject. Thereafter separate selection committees were constituted under the chairmanship of the Vice chancellor. The constitution of a screening committee is not seen provided in the Statute. Therefore a committee was constituted under the chairmanship of Vice Chancellor, though under a different name, well before the interview, which determined and approved the relevant subjects along with the list of candidates for each subject. There is no provision in the Statute that Vicechancellor alone shall scrutinise the applications. Therefore the selection cannot be nullified on that ground.

65. Regarding the other violations in the preparation of score sheet that it is in violation of the 2013 amended Regulations of UGC, it is pertinent to note Statute 2 which reads as follows:

“2. Procedure for appointment of Professor/Assistant Professor--The following procedure shall be adopted for appointment of Professor/Associate Professor/Assistant Professor,--

(a) The University Grants Commission/Indian Council for Agriculture Research/All India Council for Technical Education are bringing out the regulations for selection, appointment, career advancement, salary and allowances for teaching and other academic staff in Universities and Colleges and such regulation currently available vide No.F3-1/2009 dated 30.06.2010 (the Gazette of India Part III Sector 4) similar regulations are expected from ICAR/AICTE in due course for adoption to the respective faculties of the University. **These regulations and its subsequent revisions approved by Government of Kerala are applicable for selection and appointment of Professor/Associate Professor/Assistant Professor as the case may be in the University. xxxx**

xxxx xxxxx xxxxxxx xxxxxxx

It is the contention of the University that the amended regulations are not yet adopted by the State and the University has adhered to the stipulations as contained in 2010 regulations read with Statute 2. Regarding the other allegations regarding the marks allotted, etc there are no specific pleadings in the writ petition. It is also not made clear in which manner illegality is committed or how the petitioner or the selection itself is affected

or vitiated.

In the above circumstances, I do not find any reason to interfere with the impugned selection under Article 226 of the Constitution of India. Hence these Writ Petitions are dismissed.

Sd/-
(P.V.ASHA, JUDGE)

rtr/