

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 7112 of 2015 (L)

PETITIONER :

**MUHAMMAD BIFIN,
B.TECH STUDENT (3RD YEAR), MECHANICAL ENGINEERING
NIRMALA COLLEGE OF ENGINEERING, KUNNAPPILLY P.O.
MELOOR, CHALAKKUDY, THRISSUR DISTRICT.**

BY ADV. SRI.DEEPU THANKAN

RESPONDENT(S) :

- 1. UNIVERSITY OF CALICUT,
REP. BY ITS REGISTRAR
CALICUT UNIVERSITY P.O.-673 635.**
- 2. THE CONTROLLOER OF EXAMINATIONS,
UNIVERSITY OF CALICUT
CALICUT UNIVERSITY P.O.-673 635.**
- 3. NIRMALA COLLEGE OF ENGINEERING,
KUNNAPPILLY P.O., MELOOR, CHALAKKUDY
THRISSUR DISTRICT-680 311, REP. BY ITS PRINCIPAL.**

**R1 & R2 BY ADV. SRI.SANTHOSH MATHEW, SC
R3 BY ADV. SRI.P.K.SAJEEV**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

WP(C).No. 7112 of 2015 (L)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1:** TRUE COPY OF THE LETTER ADDUCED BY THE 2ND RESPONDENT TO 3RD RESPONDENT DATED 19.11.2012.
- EXT.P2:** TRUE COPY OF THE LETTER SUBMITTED BY THE 3RD RESPONDENT DATED 12.11.2012 TO THE 1ST RESPONDENT.
- EXT.P3:** TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO.28065/2012 AND WP(C) NO.10109/2013 DATED 11.04.2013.
- EXT.P4:** TRUE COPY OF THE COMMUNICATION OF THE 2ND RESPONDENT TO THE 3RD RESPONDENT DATED 17.10.2013.
- EXT.P5:** TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO.5621/2014 DATED 08.04.2014.
- EXT.P6:** TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO.35046/2014 DATED 20.12.2014.
- EXT.P7:** TRUE COPY OF THE RECEIPT ISSUED BY THE UNIVERSITY OF CALICUT.

RESPONDENT(S)' EXHIBITS :

- EXT. R3(a)** COPY OF THE LETTER NO. ACBI/6952/15/DTE DATED 2.3.2015 ISSUED THE DIRECTOR OF TECHNICAL EDUCATION TO THE 3RD RESPONDENT ALONG WITH THE REPRESENTATION DATED 22.2.2015 GIVEN BY THE PETITIONER TO THE MINISTER OF EDUCATION.
- EXT. R3(b)** COPY OF THE COVERING LETTER DATED 9.3.2015 ALONG WITH THE REPORT ON THE PETITION DATED 9.3.2015 FILED BY SRI. MOHAMMED BIFIN GIVEN BY THE 3RD RESPONDENT TO THE DIRECTOR OF TECHNICAL EDUCATION, THIRUVANANTHAPURAM.

//TRUE COPY//

P.S. TO JUDGE

Mn

K.VINOD CHANDRAN, J

W.P.(C).No. 7112 of 2015

Dated 31st March, 2015

JUDGMENT

The petitioner, it has to be stated to his credit, has been consistently before this Court claiming equity on one ground or another. However, the petitioner has failed to qualify in the examinations in the course to which he has been admitted; that too an irregular admission.

2. The petitioner, along with some other persons, were admitted in the NRI quota to the 3rd respondent College. Admittedly, the petitioner did not have the minimum required eligibility to be admitted to the professional course of Engineering. Though the petitioner, along with some others, was permitted to appear in the Ist and IInd semesters, University withheld the results having found out the irregularity in admission. After litigation before this Court, the

University permitted them to continue on condition that, they would qualify in the 'Mathematics' paper of the combined Ist and IInd semesters, before they are permitted to register for the Vth semester examinations. This condition was specified only since a mere registration in a semester examination would entitle a student to be participated in the next higher semester classes.

3. The petitioner's results were not published since his admission to the Ist and IInd semesters were provisional. When the results were published, he was seen to have failed in the examinations. Hence the petitioner failed to comply with the condition under which he was re-admitted to the course, and was disentitled to register for the Vth semester examinations. The petitioner along with other similarly placed students, approached this Court seeking permission for revaluation, which application was admittedly delayed. This Court considered their prayer in Ext.P5 and found

that, at that distance of time, there could be no revaluation conducted. An appeal filed from Ext.P5 is also said to have been dismissed.

4. The petitioner hence appeared for the supplementary examinations and was before this Court seeking registration in the Vth semester examinations on the ground that, the results of the supplementary examinations were not published. The said prayer was allowed by Ext.P6 making it clear that the registration would be provisional and subject to the result of the publication of results of the supplementary examinations. Though such a provisional order for participation was granted, the learned Standing Counsel submits that even before the Vth semester examinations were scheduled, results of the supplementary examinations were published and the petitioner was found to have failed in the 'Mathematics' paper. Hence, Ext.P6 judgment was of no consequence and registration was declined to the petitioner for the

Vth semester examinations.

5. The present prayer is that the petitioner be permitted to attend the VIth semester classes for reason of the petitioner having completed the Vth semester course. The learned counsel for the petitioner fervently contends that the petitioner would lose one year if such participation is not granted and the petitioner can sit for the Vth and VIth semester examinations together, if the petitioner qualifies in the supplementary examinations. No such provisional order on any ground, much less on the ground of equity, can be granted which can only be based on numerous ifs and buts.

6. In any event, the learned Standing Counsel points out that the course regulations of the B.Tech Engineering Degree Course published by the University speaks of registration for each semester in the following manner :

Every candidate should register for all subjects of the Semester-End examinations of each semester. A candidate who does not register will not be permitted to attend the Semester-End examinations; he/she shall not be permitted to attend the next semester.

A candidate shall be eligible to register for any higher semester (ie. 3rd semester onwards) if he/she has satisfactorily completed the course of study and registered for the examination of the combined first and second semesters. A candidate shall be eligible to register for the fourth to eighth semester if he/she has satisfactorily completed the course of study and registered for the examination of the immediate previous semester. He/she should register for the semester at the start of the semester before the stipulated date. University will notify the starting and closing dates for each semester.

Hence, only a candidate who has registered for the Vth semester examinations could be allowed to participate in the VIth semester course.

7. The petitioner having not been permitted to register for the Vth semester examinations, not because of the default of the University, but because of the failure of the petitioner to comply

with the condition on which the irregular admission was continued, cannot be extended any equity to be continued in the Vith semester. The petitioner has only himself to blame for the loss of one year and this Court would not invoke its extraordinary jurisdiction to come to the aid of the petitioner. The petitioner would have to first comply with the conditions of re-admission and qualify in the Ist and IInd semester examinations before he is permitted to register in the Vth semester examinations. Only then could the petitioner be allowed to attend the VIth semester course.

The writ petition would stand dismissed.
Parties shall suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//