

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 17561 of 2006 (N)

PETITIONER :

**ARUN.U,
KRISHNAVILASAM, THATTAYIL.P.O,
PATHANAMTHITTA.**

**BY SRI.K.RAMAKUMAR,SENIOR ADVOCATE
ADV. SRI.T.RAMPRASAD UNNI**

RESPONDENT(S):

- 1. THE MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY THE REGISTRAR, PRIYADARSHINI HILLS.P.O.,
KOTTAYAM.**
- 2. THE VICE CHANCELLOR,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS.P.O.,
KOTTAYAM.**
- 3. THE CONTROLLER OF EXAMINATIONS,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS.P.O.,
KOTTAYAM.**
- 4. SRI.ANEESH KUMAR.A.G,
ARIMBASSERI, VALAYANCHIRENGARA.P.O, PERUMBAVOOR,
ERNAKULAM.**
- 5. DR. SHANKAR SHASIDHAR,
DIRECTOR, SCHOOL OF BIO SCIENCES,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS.P.O.,
KOTTAYAM.**

**R1 TO R3 BY ADVS.SRI.VARUGHESE M.EASO, SC, M.G. UNIVERSITY
SRI.V.A.MUHAMMED, SC, M.G.UNIVERSITY
SRI. T.A. SHAJI, SC, M.G.UNIVERSITY
R4 BY ADVS. SRI.SAJI VARGHESE KAKKATTUMATTATHIL
SRI.N.K.KARNIS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE MARK LIST DATED 27/9/2002 ISSUED TO THE PETITIONER.
- P1(A) COPY OF THE MARK LIST DATED 20/3/2003 ISSUED TO THE PETITIONER.
- P1(B) COPY OF THE MARK LIST DATED 16/6/2004 ISSUED TO THE PETITIONER.
- P1(C) COPY OF THE MARK LIST DATED 6/2/2004 ISSUED TO THE PETITIONER.
- P1(D) COPY OF THE MARK LIST DATED 16/6/2004 ISSUED TO THE PETITIONER.
- P2 COPY OF THE MEDICAL CERTIFICATE DATED 23/10/2002 ISSUED BY THE ASST. SURGEON.
- P2(A) COPY OF THE MEDICAL CERTIFICATE DATED 25/10/2002 ISSUED BY THE ASST. SURGEON
- P3 COPY OF THE REPRESENTATION DATED 2/7/2004 SUBMITTED BEFORE R2.
- P4 COPY OF THE DEGREE CERTIFICATE DATED 14/3/2005 ISSUED TO THE PETITIONER.
- P4(A) COPY OF THE CHALLAN DATED 20/11/2004 ISSUED BY R1.
- P5 COPY OF THE REPRESENTATION DATED 11/1/2005 SUBMITTED BEFORE R3.
- P6 COPY OF THE LETTER DATED 15/1/2005 RECEIVED BY THE PETITIONER FROM THE UNIVERSITY
- P7 COPY OF THE ORDER DATED 28/2/2004 ISSUED BY R1.
- P8 COPY OF THE JUDGMENT DATED 13/2/2006 IN WP(C).NO.23143 OF 2005
- P9 COPY OF THE MEMO DATED 9/5/2006 ISSUED BY R2, ALONG WITH THE MINUTES OF THE HEARING.
- P10 COPY OF THE JUDGMENT DATED 20/7/2006 IN WPC.NO.27160 OF 2005

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

K.VINOD CHANDRAN, J

W.P.(C).No. 17561 of 2006

Dated 23rd February, 2015

JUDGMENT

The petitioner is aggrieved with the denial of 1st rank in the M.Sc(Bio-Chemistry) course undertaken by him under the respondent University. The petitioner was admitted to the course in the academic year 2001-02 and the course had a duration of two years, ie, the academic years 2001-02 and 2002-03.

2. The 1st semester examinations were conducted in January-2002 in which the petitioner qualified in all the papers. The 2nd semester examinations were conducted in November-2002 in which he failed to appear in one of the papers. The petitioner then appeared in the 3rd semester and 4th semester examinations held respectively in March-2003 and December-2003. In the meanwhile, the

petitioner appeared and qualified in the 2nd semester supplementary examinations conducted in November-2003.

3. The petitioner thus appeared and qualified in the one paper he absented himself from in the 2nd semester. The petitioner having obtained 1274 marks out of 1800 claimed that he ought to have been conferred with the 1st rank. The 1st rank admittedly went to the 4th respondent who had 1235 marks.

4. The petitioner claims such award of rank on the basis of Ext.P7; in which the only stipulation is that, the rank should be awarded to only those candidates who complete their courses and examinations within the minimum stipulated period of time. It is also stated therein that, students who improve their results including those who have improved after availing

of the cancellation of examinations, in the stipulated minimum period of time, shall also be eligible for the award of ranks.

5. The learned Standing Counsel for the University, however, contends that Ext.P7 being an order issued on 28.02.2004 would not be applicable to the petitioner. The University also would rely on the regulations as it existed in the year 2001 with respect to M.Sc (Bio-Chemistry) course wherein only a student who obtains an aggregate of 60% of marks, in all the papers taken together, in the first chance, would be awarded with the 1st class. A person who has not been awarded with the 1st class cannot be awarded with a rank, is the contention. The University would also contend that only the 1st rank holder has been impleaded and the 2nd and 3rd rank holders would also be prejudicially affected; since if the 1st rank is taken away

from the 4th respondent and awarded to the petitioner, then, necessarily there would be change in the other ranks also.

6. The learned counsel for the petitioner relies on Ext.P10 judgment, wherein Ext.P7 was made applicable with respect to a student who had undertaken the M.A.(Political Science) course during the period 2002-04. At the outset, it is to be noticed that the student who had been granted such benefit in Ext.P7 was a student who was undergoing the course when Ext.P2 was published; ie, the student was undergoing the 2nd year of M.A(Political Science) in the academic year 2003-04.

7. The petitioner herein is a person who got himself admitted in the academic year 2001-02 and would have ordinarily completed the course in the academic year 2002-03. The

examinations extended to the academic year 2003-04, only for reason of the delay in conduct of the classes and the examinations. The petitioner, for all practical purposes, ought to be treated as a person who completed the academic course in the academic year 2002-03. The mere fact that the final semester examinations were held in December-2003, cannot entitle the petitioner to the benefit under Ext.P7. Ext.P7, though dated 28.02.2004 is made effective from 04.12.2003, viz, those students in the academic year 2003-04 also would have the benefit of such order.

8. It is to be emphasized that this Court is not finding that the petitioner has not completed the course within the two year duration of the course. The petitioner though completed the course in the academic years 2001-02 and 2002-03; the examinations spilled over to

the next academic year. Hence, if the petitioner appeared in the 2nd semester examinations before the final semester examinations, the petitioner ought to be treated as having completed the course within its minimum duration. The spilling over of examinations was the delay caused by the University. But merely for reason of such spill-over, the petitioner cannot claim benefit of a regulation, made effective for the subsequent year. Ext.P7 was not valid for the academic year 2002-03.

9. Admittedly, the petitioner was not given the 1st class going by the Regulations applicable to the academic year 2002-03. However, the petitioner submitted a representation to the Vice Chancellor in pursuance of which, he was awarded the 1st class as a special case. That is indicated in Ext.P9, which declined the award of the 1st rank. The

exemption granted insofar as awarding the 1st class, which was against the Regulations in existence, cannot lead to a further claim for awarding of the rank also, which again would be contrary to the Regulations.

10. It is also to be noticed that the petitioner has not impleaded the 2nd rank holder and the 3rd rank holder, whose ranks also would get disturbed if any interference is made to Ext.P9. It was specifically noticed in Ext.P9 that the ranks already awarded, if unsettled, would also lead to further complications since all the ranks would have to be revised. Hence, any revision to the 1st rank caused by this Court, would definitely result in the revision of the 2nd and 3rd ranks also. For reason of the said rank holders not being in the party array, it would also not be proper for this Court to pass an order unsettling the 1st rank alone. Nor

is there reasonable cause shown to cause such interference.

For all the above reasons the writ petition is found to be devoid of merit and the same is dismissed. Parties are left to suffer their respective costs.

SD/-

K.VINOD CHANDRAN
Judge

Mrcs

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P.A. To Judge