

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 17818 of 2006 (U)

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PETITIONER:

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ANU K.CHRISTOPHER  
REPRESENTED BY POWER OF ATTORNEY HOLDER AND HIS  
FATHER, K.CHRISTOPHER, S/O.K.JOSEPH  
AGED 65 YEARS, RESIDING AT 'SUBA', ANDY ROAD  
VENGALI, ERANHIKKAL P.O., KOZHIKODE.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENTS:

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1. THE CONTROLLER OF EXAMINATIONS  
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.  
CALICUT.

2. UNIVERSITY OF CALICUT,  
REPRESENTED BY ITS REGISTRAR, CALICUT UNIVERSITY PO  
CALICUT.

3. THE VICE CHANCELLOR,  
UNIVERSITY OF CALICUT, CALICUT.

R1TOR3 BY ADV. SRI.S.GOPAKUMARAN NAIR, SC, CALICUT UT  
R1 & R3 BY ADV. SRI.E.S.ASHRAF, SC, CALICUT UNIVERSITY  
R1 -R 3 BY ADV. SRI.SANTHOSH MATHEW, SC, CALICUTY UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER's EXHIBITS:

P1 : PHOTOCOPY OF MEMO NO.EX-II-2/84409/89 DATED 4.1.1990  
ISSUED BY THE 1ST RESPONDENT TO ANU K. CHRISTOPHER.

P2 : PHOTOCOPY OF MEMO NO.ES/3/III.90 DATED 30.5.1990 ISSUED BY  
THE ENQUIRY OFFICER TO THE PETITIONER.

P3 : PHOTOCOPY OF JUDGMENT OF THIS HONOURABLE COURT, DATED  
7.1.1990 IN O.P.NO.9096/1991.

P4 : PHOTOCOPY OF AFFIDAVIT FILED BY THE RESPONDENTS ALONG WITH  
CMP NO.24685/1999 IN O.P.NO.9096/1991 ON 21.6.1991.

P5 : PHOTOCOPY OF LAWYER NOTICE SENT ON BEHALF OF THE PETITIONER  
TO THE RESPONDENTS ON 4.8.2005.

P6 : PHOTOCOPY OF MEMO NO.ES.II/2/57078/91 DATED 2.12.2005 ISSUED  
BY THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**K. VINOD CHANDRAN, J.**

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**W.P.(C) No.17818 of 2006**  
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**Dated this the 5<sup>th</sup> day of March, 2015**

**JUDGMENT**

The petitioner's grievance is with respect to the denial of degree certificate, despite Ext.P3 judgment. The brief facts to be noticed are that the petitioner was a student of B.Sc. Zoology who appeared for the second year examination in 1989-1990. On allegations of malpractice, the results were withheld. Subsequently, an enquiry was conducted and he was also granted a punishment in so far as cancellation of the examinations already appeared in and restricting him, from sitting for the examination up to a certain period.

2. Inter alia alleging violation of principles of natural justice, petitioner was before this Court in O.P.No.5303/90 wherein this court set aside the punishment imposed and directed de novo enquiry. Pursuant to an enquiry again a punishment was imposed by the Vice Chancellor. On challenge, this Court found that the non-supply of enquiry report was fatal

and the Vice-Chancellor's order lacked any reasoning. This Court again set aside the punishment and also directed the University to publish the marks obtained by the petitioner during the years 1989 and 1990 by Ext.P3 judgment.

3. Subsequently, an I.A was filed which is indicated at Ext.P4 as CMP No.24685 of 1999 in O.P. No.9096 of 1991 wherein the University conceded before court that the answer paper in Botany paper - II is missing. This Court considering the interim application passed the following order:

“Heard learned counsel for the petitioners and respondent.

2. On a consideration of the entire matter this court is of the considered opinion that in the peculiar facts and circumstances of the case and also taking into consideration the view of this court in another matter, namely O.P. No.1148 of 1985 the student should be awarded mark on the basis of the average of 'Part III marks' for the missing paper also, or in the alternative seven

marks can be added to Botany Paper - II (Subsidiary) to the marks already secured by the candidate. Suppose if the average comes to above 40, then that will be the mark which the candidate has secured. In case if the average is less than 40 then seven marks will be added to the marks already secured by the candidate, namely 33."

4. In such circumstances, what remains to be done is to calculate the average marks for the other papers in paper III. Subsequently, the University issued Ext.P6 on the orders of the Syndicate directing the petitioner to appear again for the examination in Botany Paper II. In view of the orders passed by a learned single Judge of this Court in the aforesaid CMP, filed by the University itself, as extracted herein above; Ext.P6 has to be set aside. The University would take the average of the other papers in Part -III main subjects and if it falls below the minimum required 40 marks, upto 7marks can be added, to enable the petitioner to obtain the minimum required pass mark.

5. If the petitioner acquires the minimum pass mark of 40 on such computation, then the University shall issue a certificate, at any rate, within a period of two months from the date of receipt of the certified copy of the judgment.

Writ petition is disposed of with the above directions.

Sd/-  
**K. VINOD CHANDRAN,**  
**JUDGE**

//true copy//

P.A. To Judge

smv