

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

WP(C).No. 12120 of 2008 (P)

PETITIONER(S) :

DAYANA SUMAN,
AGED 22 YEARS, D/O.K. SUNANDHA,
RESIDING AT SENA BHAVAN, (MERA-88),
KAPPIL ROAD, CHALAKUZH, MEDICAL COLLEGE P.O.,
PATTAM, TRIVANDRUM-11.

BY ADVS.SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.V.VINAY MENON
SMT.KVP.JAYALEKSHMY
SRI.M.AJAY (IRUMPANAM)
SMT.M.C.SHIJIMOL

RESPONDENT(S) :

1. STATE OF KERALA,
PRINCIPAL SECRETARY, HIGHER EDUCATION,
GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM.
2. PRINCIPAL SECRETARY,
DEPARTMENT OF MEDICAL EDUCATION
GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM.
3. PRINCIPAL SECRETARY,
DEPARTMENT OF HEALTH & FAMILY WELFARE,
GOVERNMENT SECRETARIAT, TRIVANDRUM.
4. THE UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR, UNIVERSITY OF KERALA,
UNIVERSITY BUILDING, TRIVANDRUM.

BY SRI.M.RAJAGOPALAN NAIR, SC, KERALA UT,.,
BY SRI.GEORGE POONTHOTTAM, SC, KERALA UT,.,
BY SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA &
BY GOVERNMENT PLEADER SRI. R.RENJITH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1- TRUE COPY OF THE PROSPECTUS SUPPLIED BY THE ST.JOSEPH'S COLLEGE OF NURSING, ANCHAL FOR THE YEAR 2003-04.
- EXT. P2- TRUE COPY OF THE RELEVANT PAGES OF THE PASS BOOK INDICATING AVAILMENT OF LOAN FROM STATE BANK OF TRAVANCORE, MEDICAL COLLEGE BRANCH.
- EXT. P3- TRUE COPY OF THE DETAILS OF FEES STRUCTURE FOR THE COURSE ISSUED BY THE ST.JOSEPH'S COLLEGE OF NURSING FOR THE ACADEMIC YEAR 2003-07.
- EXT. P4- TRUE COPY OF THE MARK LIST OF THE FINAL YEAR EXAMINATION ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXT. P5- TRUE COPY OF THE HALL TICKET BEARING REGISTRATION NO.3510017 ISSUED BY THE ANNA UNIVERSITY TO THE PETITIONER.
- EXT. P6- TRUE COPY OF THE LETTER OF SELECTION DATED 2/2008.
- EXT. P7- TRUE COPY OF THE APPLICATION DATED 15/03/2008 SUBMITTED BY THE FATHER OF THE PETITIONER FOR ISSUANCE OF THE T.C.
- EXT. P8- TRUE COPY OF THE ORDER DATED 01/02/2008 ISSUED BY THE 4TH RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K.VINOD CHANDRAN, J.

WP.(C)No.12120 OF 2008

Dated this the 16th day of February, 2015

JUDGMENT

The petitioner was a student of B.Sc. Nursing Course during the academic year 2003-2007. The petitioner got herself admitted to a college affiliated to the respondent University and completed her course in 2007, which has the duration of four years, including six months internship, as provided by the Nursing Council. The petitioner is aggrieved by the stipulation with respect to prescription of one year additional work experience, which according to the petitioner came only by Ext.P8 dated 1.2.2008, after the petitioner completed her course. Petitioner also relies on a judgment of this Court in W.P.(Q) No.25716/2007 dated 16.01.2014 wherein similar students admitted to the Mahatma Gandhi University were directed to be issued with certificates, without carrying on the one year additional internship as per Ext.P8.

2. The learned Standing Counsel appearing for the University, however, submits that in so far as the Kerala University is concerned, there is a stipulation right from 1996 onwards; the regulation

evidencing which has been produced as Ext.R4(a). The duration of the B.Sc. Nursing course as stipulated in the said Regulation of 2004, is not less than four years with one year compulsory internship. It is also pointed out, that the prospectus under which the petitioner got herself admitted, produced as Ext.P1, mandates work experience of one year after the completion of the course of four years. The petitioner having admitted herself to the course on the basis of the prospectus, issued in accordance with the extant regulations cannot turn around and challenge it, is the plea.

3. A learned Single Judge of this Court considered the effect of Ext.P8 Government Order and Ext.P1 prospectus in W.P.(Q25716/07. It was found in the judgment dated 16.1.2014 that admissions of 2006 were exempted from such compulsory internship, on the ground that the results of the said batch of students were already published. In such circumstances, it was directed that 2007 admissions of the Mahatma Gandhi University, in the B.Sc. Nursing Degree course should also be regularised.

4. Admittedly, the stipulation for one year compulsory internship was introduced by the Government. There was in existence a regulation

of the Kerala University, which stipulated one year internship and there was also such a stipulation in the prosepctus. However, the learned Standing Counsel would submit that as of now there is no such stipulation, since Government has withdrwan the same from the 2011 examinations onwards. The University too has to be deemed to have acted on the orders of the Government, since prior to the Government's directions and after it was withdrawn, the University does not insist on an additional one year internship. Despite the provision in the Regulation, which is said to have been existing from 1996 onwards, the University had not insisted on such regulations prior to Ext.P8. The withdrawal of Ext.P8 has now reverted the University to the earlier position, when no such one year compulsory internship was insisted. In such circumstances, there was no reason why certain students alone should be picked out, for such compulsory internship. The petitioner having validly completed the course of four years as stipulated by the Nursing Council of India, there would be no requirement for the petitioner to undergo one year compulsory internship. Though the judgment in W.P.(C)25716/2007 contains a specific observation that the same would not be treated as a precedent, this Court is inclined to follow the principle laid down therein,

since the petitioner also stands on an identical footing. The distinction attempted by the respondent University herein on the basis of its regulation is found to be not significant or relevant.

Writ petition would stand allowed. The University shall issue the degree certificate to the petitioner, if the petitioner satisfies all other conditions.

Sd/-
K.VINOD CHANDRAN,
JUDGE

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P.A. TO JUDGE