

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936**

**WP(C).No. 10120 of 2014 (L)**  
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**PETITIONER(S):**  
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**JASNA P.M, AGED 23 YEARS  
D/O.MOHAMMED ALI, KARINGAPPARA HOUSE  
ATTUPURAM, MALAPPURAM-676 510**

**BY ADVS.SRI.R.SUDHISH  
SMT.M.MANJU**

**RESPONDENT(S):**  
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- 1. UNIVERSITY OF CALICUT  
REPRESENTED BY VICE CHANCELLOR  
CALICUT UNIVERSITY PO, CALICUT - 673 635**
- 2. THE CONTROLLER OF THE EXAMINATION  
UNIVERSITY OF CALICUT  
CALICUT UNIVERSITY P.O, CALICUT-673 635**
- 3. THE REGISTRAR  
UNIVERSITY OF CALICUT  
CALICUT UNIVERSITY P.O, CALICUT-673 635.**
- 4. THE PRINCIPAL  
ROYAL DENTAL COLLEGE, CHALISSERRY, PALAKKAD 678001**

**R4 BY ADV. SRI.KURIAN GEORGE KANNANTHANAM (SR.)  
R4 BY ADV. SRI.TONY GEORGE KANNANTHANAM  
R1-R3 BY ADV. SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**WP(C).No. 10120 of 2014 (L)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXT.P1 - COPY OF THE MARK LIST OF THE PETITIONER**

**EXT.P2 - COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER  
DATED 12-3-2014**

**RESPONDENT(S)' EXHIBITS: NIL**  
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**// TRUE COPY //**

**PA TO JUDGE.**

**SB**

**K. VINOD CHANDRAN, J.**  
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**W.P.(C) No.10120 of 2014 - L**  
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**Dated this the 22<sup>nd</sup> day of January, 2015**

**J U D G M E N T**

The petitioner is aggrieved by the denial of grace marks, to the petitioner, in the subject 'Periodontics', in the supplementary examinations of final year Part-II, of the B.D.S course, she appeared in the year July 2013. The petitioner admittedly was an admission of 2006 and had completed her course in the year 2011 itself. Having not qualified in the regular duration of the course, the petitioner had appeared for the supplementary examinations in July 2013, the mark list of which is produced at Ext.P1. The petitioner was examined in two subjects as is evident from Ext.P1, in one of which, she failed for five marks. The petitioner relies on the Dental Council of India (DCI) regulations, which prescribes for grace marks so:-

Grace marks: Grace marks upto a maximum of 5 marks may be awarded to students who have failed only in one subject but passed in all other subjects.

2. The petitioner contends that, the petitioner has to be granted the five marks to enable qualification in the subject 'Periodontics'. The petitioner also has a contention that, the internal assessment has to be conducted thrice and the average has to be sent to the University. Even according to the college, the internal assessment has been conducted only twice for the appearance in the supplementary examinations.

3. The learned Counsel for the petitioner also relies on a communication issued by the University of Calicut under the Right to Information Act, which indicates as under:-

“The Continuing assessment examination may be held frequently at least 3 times in a particular year and the average marks of these examinations should be considered. 10% of the total marks in each subject for both theory, practical and clinical examination separately should be set aside for the internal assessment examinations”.

4. The learned Counsel for the respondent college however contends that, the petitioner being an admission of 2006, internal assessment is limited to two. The petitioner being an admission of 2006 the above extracted regulation

would not be applicable to the petitioner. A specific reliance is placed on the regulation applicable for the students similarly situated to the petitioner, which is as under:-

Internal assessment:- Regular periodical examination minimum of two examinations per year should be held throughout the period of the course. 25% of the total marks in a subject shall be allotted to internal assessment. The internal assessment marks should be sent to the University who shall make it available to the Board of Examiners at the time of final tabulation.

5. It is clear from a reading of the above extracted regulations that, while the regulations as relied on by the petitioner specifies 10% of the total marks in each subject to be set aside for internal assessment, the regulations relied on by the college specify only 25% of the marks to be set apart for internals. Ext.P1 mark list of the petitioner would indicate that 50 marks have been set apart for internal assessment, which is the 25% of the total 200 marks. Hence, the regulation applicable to the petitioner is that relied on by the college. The respondent college has specifically averred in its affidavit that two internal assessments were in fact, held for the students, similarly

situated to the petitioner. The petitioner however, appeared in only one of the internal assessments.

6. The University has filed a statement in which, it has been averred that the petitioner was granted moderation of two marks in the other subject 'Prosthodontic' and 'Crown and Bridge' and that alone enabled has to qualify in the said subject. The petitioner however would refute such contention on the ground that no such grant of moderation is evident from the mark list. In any event, it is to be noticed that the grace marks as per the DCI regulations itself is for only students, who have failed in one subject.

7. Even ignoring the University's contention that the moderation was granted to one subject, it is to be noticed that, the Pass Board had prescribed only three marks moderation in the said examination. That however, cannot be said to be violative of the DCI regulations, since, the DCI only prescribes certain minimum standards, the dilution of which is not permissible. A more rigorous stipulation definitely, is the exclusive premise of the

University. There is no mandate on the University that, in all cases, five marks should be granted as grace marks. The above position is declared by this Court in W.P.(C) No. 27673 of 2013 dated 11.03.2014 [**Princymol T.B v. Kerala University of Health Sciences and another**] following the judgments in **Board of School Education, Haryana v. Arun Rathi and others (1994) (2) SCC 526** and **Maharashtra State Board of Secondary & Higher Secondary Education v. Amit and another [(2002)6 SCC 153]**. The submission of the University that in the present examination only three marks would be granted, hence cannot be challenged. The petitioner in any event has failed for want of five marks.

For all the above reasons, this Court does not find any infirmity in the denial of moderation to the petitioner and the writ petition is devoid of merit. Hence, the writ petition would stand dismissed.

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

SB

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P.A to Judge.