

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 10335 of 2015 (N)

PETITIONER(S):

1. AKASH JOHN AGED 21 YEARS,
S/O M.J. YOHANNAN, MAVITHARAYIL HOUSE, PICRA III/17
KESAVAPPADY, THIRUVANKULAM PO.,
TRIPUNITHURA PO., ERNAKULAM 682 305

2. M.J. YOHANNAN, AGED 56 YEARS, S/O JOSEPH JOHN,
MAVITHARAYIL HOUSE, PICRA III/17
KESAVAPPADY, THIRUVANKULAM PO.,
TRIPUNITHURA PO., ERNAKULAM 682 305

BY ADVS.SRI.E.N.VISHNU NAMBOODIRI
SRI.P.P.NARAYANAN
SRI.S.P.SURESH KUMAR

RESPONDENT(S):

1. THE VICE CHANCELLOR,
KANNUR UNIVERSITY, KANNUR,

2. THE CONTROLLER OF EXAMINATIONS,
KANNUR UNIVERSITY, KANNUR.

3. THE REGISTRAR, KANNUR UNIVERSITY, KANNUR.

4. THE PRINCIPAL, VIMAL JYOTHI ENGINEERING COLLEGE,
JYOTHI NAGAR, CHEMPERI - 670632,
KANNUR DISTRICT

BY SRI.KURIAN GEORGE KANNANTHANAM (SR.)
BY SRI.TONY GEORGE KANNANTHANAM
BY SRI.V.A.MUHAMMED, SC, KANNUR UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 10335 of 2015 (N)

APPENDIX

EXHIBITS

- P1- TRUE COPY OF THE NOTICE DATED 12.3.2015 ISSUED BY R4
- P2- TRUE COPY OF THE MEDICAL CERTIFICATES OF THE 1ST PETITIONER ISSUED BY DR. LALY MONSON
- P3- TRUE COPY OF THE REPRESENTATION DATED 23.3.2015 SUBMITTED BY THE 1ST PETITIONER TO THE RESPONDENTS 1 TO 3
- P4- TRUE COPY OF THE SUSPENSION ORDER DATED 5.2.2015 ISSUED BY R4
- P5- TRUE COPY OF THE RECEIPT ISSUED FOR PAYMENT OF FINE REMITTED TO R4.

//True Copy//

P.S. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 10335 of 2015

Dated 1st April, 2015

JUDGMENT

The petitioners are aggrieved by the denial of participation in the 8th semester examinations to the B.Tech course in which the 1st petitioner is a student and the 2nd petitioner is his father. The denial was only due to the fact that the first petitioner did not have the required attendance to participate in the examinations. The petitioner seeks condonation of the shortage of attendance as per the Regulations of the University and also has an alternate contention with respect to the suspension order passed against the petitioner produced at Ext.P4.

2. The contention of the petitioner is that, he was suspended for the period between 05.02.2015 and 14.02.2015 which included eight

working days and imposed a fine by Ext.P4 without any reasonable cause and that if the suspension order is quashed and the attendance of eight days, lost on account of the suspension, is added to the admitted attendance of the petitioner, then he would have no shortage.

3. I have heard the learned counsel for the petitioners, the learned Standing Counsel appearing for the respondent University as also the learned Senior Counsel appearing for the 4th respondent.

4. The learned Senior Counsel for the 4th respondent in fact sought time to produce the materials to substantiate their contention against the eligibility of the first petitioner to seek for condonation as also to sustain Ext.P4 order of suspension. However, since the petitioner has pointed out the expediency

insofar as the examinations being scheduled from 07.04.2015, this Court looked into the materials handed over by the Senior Counsel across the bar, after the counsel for the petitioners, having perused the same

5. The learned Standing Counsel for the University submits that the minimum required percentage of attendance is 75% and there can be condonation effected only upto 10% by the Vice Chancellor, as per the Regulations of the University and that too only on medical ground. The petitioner has, along with the application filed before the Vice Chancellor as per Ext.P3, produced three medical certificates at Ext.P2 allegedly certifying disability to attend classes on three days. Addition of the said three days would not help him to have the required attendance of 75%. Hence the condonation on medical grounds is of no consequence.

6. Further, the learned Senior counsel for the 4th respondent would produce the Regulations of the Kannur University for the B.Tech Engineering Course from '2006 admissions', again across the bar in which clause 8 (ii), (iii) and (iv) are extracted hereunder :-

(ii). A candidate will be permitted to appear for the University examination only if he/she satisfies the following requirements:

(a). He/she must secure not less than 75% attendance (including duty leave) in the number of working hours during the first year and in each semester thereafter and shall be physically present for a minimum of 65% (excluding duty leave) of the total working hours.

(b). Maximum permissible duty leave shall be 10% of the total working hours.

(c). He/she must earn a progress certificate from the Principal of having satisfactorily completed the course of study prescribed in the semester as required by these regulations.

(iii). It shall be open to the Vice

Chancellor to grant condonation of shortage of attendance on the recommendation of the Principal in accordance with the following norms.

(a). The shortage shall not be more than 10%.

(b). Shortage of attendance upto 20% shall be condoned only once during the entire course provided such shortage is caused by continuous absence on genuine medical grounds.

(c). Shortage of attendance shall not be condoned more than three times during the entire course.

(iv). A candidate who is not eligible for condonation of attendance shall repeat the course, when it is offered again.

7. The required percentage of attendance and the marks permissible for condonation are evident from the above Regulations. It is also pertinent that as per clause 8(iii)(c), shortage of attendance cannot be condoned more than three times during the entire course. It is an admitted fact that the petitioner has been permitted condonation, three times in the prior semesters. In such circumstances, there is no

question of consideration of any condonation of attendance shortage by the Vice Chancellor as per the Regulations.

8. The further claim raised is with respect to the suspension order at Ext.P4. The learned Senior counsel would submit that the suspension was pursuant to an incident where the petitioner slapped another student of the college which incident was recorded in the C.C.TV.Cameras and on which proceedings were initiated against the petitioner. During the pendency of the proceedings, when the internals of the semester was notified, the petitioner had filed a representation before the Principal admitting the incident and apologizing for the same and had sought permission to attend the internals. Since proceedings were pending against him, the petitioner was not permitted to participate in the internals. A Committee was constituted and enquiry was conducted into the

incident, wherein also the petitioner admitted the incident. An enquiry was submitted by the Committee to the Principal on 04.02.2015, pursuant to which Ext.P4 order was passed on 05.02.2015.

9. The petitioner without demur, suffered the suspension as also paid up the fine imposed in Ext.P4 order. The petitioner at no time, after issuance of the order; either during the period of suspension or after the payment of the fine or even within a reasonable time after that, challenged the said suspension. The present challenge made, on the petitioner being notified of the attendance shortage can only be taken to be one made, to get over the attendance shortage. In any event, it is to be noticed that even if the suspension order is set aside, then also, the fact remains that the petitioner had not attended the classes during the eight working days and there could be no addition of

the same to the attendance of the petitioner.

10. Requirement of the University is that a student attending classes in a semester has a required minimum percentage of attendance, so as to be permitted to appear in the examinations. There can be no relaxation on the same, granted by this Court, and that too beyond what is permitted by the Regulations. The Academic body, it is trite, is competent to make Regulations and also insist on minimum requirements for participation in the examinations which, this Court would not interfere with, unless found to be arbitrary or grossly discriminatory. No such ground exists here nor can be successfully urged.

For all the above reasons, the writ petition would stand dismissed.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs