

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C) .No. 15130 of 2012 (M)

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PETITIONERS:

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1. SULFIKKAR. P.P., AGED 47 YEARS,  
S/O.HUSSAIN KOYA, AYESHA MANZIL, VELLIMADUKUNNU,  
MARIKKUNNU P.O, KOZHIKODE-673 012.

2. NISHAJ. P.P.,  
S/O.SULFIKKAR, -DO-.

BY ADV. SRI.M.KRISHNAKUMAR

RESPONDENTS:

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1. THE AWH POLYTECHNIC COLLEGE,  
KUTTIKKATTOR, KOZHIKODE-8,  
REPRESENTED BY THE RECEIVER ADV.K.N.NAMBOOTHIRI  
(IN OS 667/2010 MUNSIF COURT-1-P, KOZHIKODE)  
KOZHIKODE-673 001.

2. THE DIRECTOR OF TECHNICAL EDUCATION,  
DEPARTMENT OF TECHNICAL EDUCATION,  
THIRUVANANTHAPURAM-695 001.

3. STATE OF KERALA,  
REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
DEPARTMENT OF HIGHER EDUCATION,  
THIRUVANANTHAPURAM-695 001.

R1 BY ADV. SRI.R.SURENDRAN

R2 & R3 BY GOVERNMENT PLEADER SRI. V.K. RAFAEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY  
HEARD ON 13-11-2015, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

APPENDIX

WP(C) .No. 15130 of 2012 (M)

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PETITIONER(S) EXHIBITS

EXHIBIT P1. A TRUE COPY OF THE FIRST AND LAST PAGES OF  
THE PROSPECTUS FOR POLYTECHNIC COLLEGES.

EXHIBIT P2. A TRUE COPY OF THE PRESCRIPTION DATED  
15.9.2011.

EXHIBIT P3. A TRUE COPY OF THE PRESCRIPTION DATED  
19.10.2011.

EXHIBIT P4. A TRUE COPY OF THE APPLICATION DATED  
18.11.2011.

EXHIBIT P5. A TRUE COPY OF THE PAYMENT RECEIPT DATED  
4.7.2011.

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P.S. to Judge

**K. HARILAL, J.**

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**W.P. (C) No.15130 of 2012-M**  
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**Dated this the 13<sup>th</sup> day of November, 2015**

**JUDGMENT**

The 1<sup>st</sup> petitioner is the father of the 2<sup>nd</sup> petitioner. The 1<sup>st</sup> respondent is a Polytechnic College, which is allowed to conduct Diploma Courses in Engineering, according to Ext.P1 prospectus set by the 2<sup>nd</sup> respondent and approved by the 3<sup>rd</sup> respondent. The 2<sup>nd</sup> petitioner joined the 1<sup>st</sup> respondent college for Diploma Course in Electronics and Communications in July, 2011. But, due to certain incidents in the college, he became mentally ill and now he is undergoing psychiatric treatment. Consequently, he discontinued the course on 15/9/2011. The 2<sup>nd</sup> petitioner had obtained medical advise that treatment will take a long time and it may not be possible to attend the

course for the time being. In the above circumstance, the 2<sup>nd</sup> petitioner has taken a decision to discontinue his education and the 1<sup>st</sup> petitioner, therefore, applied to the 1<sup>st</sup> respondent, on behalf of the 2<sup>nd</sup> petitioner, to issue a Transfer Certificate and to return all the certificates which were given at the time of admission so that the 2<sup>nd</sup> petitioner can continue his education with some other course, after he is getting cured of his illness and with this request, he has submitted Ext.P4 application.

2. But, to their utter shock and dismay, the 1<sup>st</sup> respondent was not willing to return the certificates to the petitioners on demand of entire fees for the entire course, as a condition for returning the certificates.

3. The entire Diploma Course is for three years consisting of 6 Semesters. According to the petitioners, as per the prospectus, the candidate, who discontinues the course, needs to pay only the fee till the Semester he last attended. In this case, the 2<sup>nd</sup> petitioner attended the course only for six weeks and

therefore, the 2<sup>nd</sup> petitioner is liable to pay fee only for single Semester. The 2<sup>nd</sup> petitioner has already paid Rs.10,000/- on 4/7/2011, which is evidenced by Ext.P5. According to the 1<sup>st</sup> petitioner, the 1<sup>st</sup> respondent is liable to return all the certificates and he can claim fee for one Semester only.

4. The 2<sup>nd</sup> respondent filed a counter affidavit stating that as per the report of the Principal, AWH Polytechnic College, Kozhikode, the 2<sup>nd</sup> petitioner was a student for Diploma Course and he discontinued the course from 15/9/2011 and after the discontinuance, he requested the 1<sup>st</sup> respondent to return his certificates. But, the 1<sup>st</sup> respondent is not willing to return the certificates and he is demanding payment of the entire fee for the entire course as a condition for returning the certificates. According to the 2<sup>nd</sup> respondent, the 1<sup>st</sup> respondent college is a self financing Polytechnic College and the Government and the educational agency of the Polytechnic College have executed an agreement for the academic year

2011-2012 with specific terms and conditions. According to the said agreement, the educational agency of the Polytechnic College may collect Rs.22,500/- as annual tuition fee during the entire course of study from each student from the list published by the Director of Technical Education and as per the agreement, 50% of the total seats shall be filled up by the educational agency. Each student, who is admitted from the above mentioned 50% seats, shall pay annual tuition fee up to Rs.37,500/-. The students seeking higher options before 30<sup>th</sup> June, 2011 are entitled to get the amount collected from them as fees. But, after 30<sup>th</sup> June, 2011, if the student discontinues his course for his own reason, the educational agency shall be entitled to collect tuition fee for the entire course as fixed under the agreement. It is also contended that Ext.P1 is the prospectus for the year 2012-2013 and the same is not applicable to the instant case as the academic year was 2011-2012.

5. Heard the learned counsel for the petitioners, the learned Government Pleader and the learned counsel appearing for the 1<sup>st</sup> respondent.

6. As rightly submitted by the respondents, Ext.P1 is the prospectus for the year 2012-2013 and in the instant case, the course of year is 2011-2012. Therefore, Ext.P1 cannot be pressed into service to find out whether the 1<sup>st</sup> respondent is entitled to collect tuition fee for the entire course from the petitioners. Similarly, no material has been produced in this writ petition to decide the question whether the 2<sup>nd</sup> petitioner has the right to get back the entire certificates entrusted with the 1<sup>st</sup> respondent college at the time of admission, without remitting the tuition fee for the entire course. In short, all these questions are disputed questions which cannot be resolved under the writ jurisdiction. However, the grievance of the petitioners cannot be remained unattended by competent authorities under law.

7. In the above view of the matter, the petitioners

are directed to file a representation before the 2<sup>nd</sup> respondent and in that event, the 2<sup>nd</sup> respondent shall address the issue and pass orders accordingly, after affording an opportunity of being heard to the petitioners, within a period of one month from the date of receipt of a copy of this judgment.

These writ petitions are disposed of accordingly.

Sd/-

**(K. HARILAL, JUDGE)**

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P.S. to Judge