

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 11429 of 2015 (C)

PETITIONER:

**TEENU SUSAN TITUS,
D/O.TITUS THOMAS, KANJIRAMANNIL HOUSE,
MALLAPUZHASERI,
ARANMULA PO - 689 533.**

BY ADV. SMT.INDU SUSAN JACOB

RESPONDENT(S):

- 1. VICE CHANCELLOR,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS
KOTTAYAM.**
- 2. CONTROLLER OF EXAMINATION,
MAHATMA GANDHI UNIVERSITY, KOTTAYAM.**
- 3. THE DEPUTY REGISTRAR II, (B.TECH)
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS
KOTTAYAM.**
- 4. THE PRINCIPAL,
CARMEL ENGINEERING COLLEGE, PERUNADU.**

R1 TO R3 BY SRI.VARUGHESE M.EASO,SC, M.G.UNIVERSITY.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17/07/2015, THE COURT ON 22-07-2015 DELIVERED THE
FOLLOWING:**

vmr.

WP(C).No. 11429 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: A TRUE COPY OF THE MEMO DATED 01.09.2014.

EXT.P2: A TRUE COPY OF THE RECEIPT DATED 03.09.2014.

EXT.P3: A TRUE COPY OF THE JUDGMENT DATED 13.11.2014 IN WP(C) NO.30157/14.

**EXT.P4: A TRUE COPY OF THE ORDER DATED 19.02.2015 ISSUED BY THE 2ND
RESPONDENT.**

EXT.P5: A TRUE COPY OF THE REPRESENTATION TO THE 2ND RESPONDENT.

EXT.P6: A TRUE COPY OF THE REPRESENTATION TO THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

/TRUE COPY/

P.S.TO JUDGE

vmr.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 11429 of 2015

Dated this the 22nd day of July, 2015

J U D G M E N T

Ext.P1 order, by which the petitioner was charge sheeted for copying answers in the examination hall from the neighbour's answer scripts during third semester B.Tech Degree Examination held in 2013 by the University, and Ext.P4 order, by which the examination taken by the petitioner was cancelled and she was debarred from appearing for any examination earlier than November 2014, are under challenge in this writ petition.

2. The petitioner is a student of 6th semester B.Tech (Civil Engineering). According to her, she was the class topper in the 3rd semester subject, Fluid Mechanism, in their batch and had secured 78 marks. A colleague of the petitioner, who was sitting on the back row, secured just 38 marks for the said subject. The petitioner alleges that though the exam invigilator had not reported any

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case of malpractice, the valuation camp reported that a few answers of the petitioner and the said colleague, who sat on the back row, were similar; and hence, malpractice was alleged against the petitioner; and pursuant to the same, Exts.P1 & P4 orders are issued. According to the petitioner, Ext.P4 order, debarring the petitioner from examination, has been passed without conducting any enquiry and also without giving the petitioner an opportunity of being heard. The petitioner submitted Exts.P5 & P6 representation, which are also not considered. Hence, this writ petition.

3. In the statement filed by the respondent University, they have contended as follows;

The petitioner is a student of the 6th semester B.Tech (Civil Engineering) of Carmel Engineering College, Perumedu (Reg.No.12002982) and she has written the 3rd semester examination in November, 2013. During the valuation of 3rd semester B.Tech Degree Examination, November 2013 of paper, Fluid Mechanics, extreme

similarities were observed between papers with false No.700997 and 700998 (Reg.No.12002982 and 12002983 respectively) for answers to questions 13(9), 14(b)(1) & (II) and 15(a). It is reported that answers to questions 13 (a), 14(b)(1) and (ii) were correct in both the answer scripts and the steps written in paper with false No.700998 were wrong in many places. For Q.No.15(a), final answer was wrong also in both the papers. The additional examiner suspected that answer sheet with false No.700998 copied from paper with false No.700997. Memo was sent to the petitioner on 01.09.2014 to show cause and reply was furnished on 03.09.2014. A panel of experts has been constituted to verify the answer script of the candidate on 31.10.2014 and reported similarities between the answer scripts in answers 13(a), 10, 14(b)(i) as reported from the camp. The file was ordered to place before Syndicate on 17.12.2014. Meanwhile, the petitioner filed WP(C) No.30157/2014 and on 13.11.2014, this Court directed the respondent to issue hall tickets

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provisionally (3rd semester supplementary and 5th semester) and directed the university to conclude the malpractice proceedings within a period of three months from the date of the judgment. Considering the exigency of the matter, the Vice Chancellor, exercising power under Section 3.10(17) of the Mahatma Gandhi Act, 1985, decided on the matter and ordered to cancel the 3rd semester, B.Tech Degree Examination, November 2013 taken by the petitioner as well as the other student alleged of malpractice and debarred them from appearing for any University Examinations before November 2014.

4. Arguments have been heard.

5. The allegation against the petitioner is that during the third semester B.Tech Degree Examination held in November, 2013, the petitioner had copied answers from her neighbour's answer sheets. The learned counsel for the petitioner would submit that the allegation is absolutely false as the petitioner is, academically, a brilliant student, who had secured higher

marks all through her school and college education. It was also pointed out that the petitioner has good marks for her previous semesters B.Tech Examinations. It was further argued that the allegation was only on the basis of presumption and not based on any evidence.

6. What is contended by the respondent university is that during the valuation of the examination taken by the petitioner in the paper, Fluid Mechanics, extreme similarities were observed between paper with false No.700997 and 700998 (Reg.No.12002982 and 12002983 respectively) for answers to questions 13(9), 14(b)(1) & (II) and 15(a). However, it is crucial to note that even according to the statement, the answers to questions 13 (a), 14(b)(1) and (ii) in the answer paper with False No.700998 are correct and the steps written in that paper were wrong in many places. That answer script pertained to Reg.No.12002983 was belonging to the other candidate. The petitioner's register number is 12002982, which corresponds to False No.700997. According to the

petitioner, the neighbour candidate was sitting behind her; and therefore, there was no possibility for the petitioner to copy answers of her neighbour. Moreover, the University does not have a case that the steps written by the petitioner to arrive at the conclusion in respect of the aforesaid question numbers were wrong. The other allegation of the University is that the final answer pertaining to question no.15(a) is wrong in both papers. However, the University does not have a case that both the candidates have committed the same mistake.

7. It is surprising to note that the suspicion of the additional examiner was that the petitioner's neighbour had copied the petitioner's answers. However, in the charge sheet, the petitioner was blamed for copying answers from the paper of her neighbour. This inconsistent stand taken by the University creates a genuine doubt against the charge levelled against the petitioner; and therefore, this Court is of the view that the proceedings were initiated against the petitioner without

application of mind.

In the result, the writ petition is allowed. Exts.P1 & P4 are quashed. Respondents 2 & 3 are directed to award the marks secured by the petitioner in the paper, Fluid Mechanic, for the third semester B.Tech Degree Examinations held in November 2013 and to issue mark sheets on the basis of the same without delay.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-