

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 16489 of 2014 (I)

PETITIONER:

**NEENA B. JOLLY,
40/1101, CHETTUPUZHAKAREN HOUSE,
MULLASERRY CANAL ROAD, KOCHI-682 011.**

BY ADV. SRI.P.SREEKUMAR

RESPONDENTS:

- 1. THE KERALA UNIVERSITY,
REPRESENTED BY ITS REGISTRAR, UNIVERSITY CAMPUS,
PALAYAM, THIRUVANANTHAPURAM, PIN-695 034.**
- 2. THE DENTAL COUNCIL OF INDIA,
REPRESENTED BY ITS SECRETARY, ALWAN-E, GALIB MARG,
KOTLA ROAD, NEW DELHI-110 002.**
- 3. THE VICE CHANCELLOR,
KERALA UNIVERSITY, UNIVERSITY CAMPUS, PALAYAM,
THIRUVANANTHAPURAM, PIN-695 034.**

**R1 & R3 BY ADV. SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA
SRI.GEORGE POONTHOTTAM,SC,KERALA UTY.**

R2 BY ADV. SRI.TITUS MANI VETOM, SC, DENTAL COUNCIL OF INDIA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 COPY OF THE NO-OBJECTION CERTIFICATE ISSUED BY THE NITTE UNIVERSITY, MANGALORE DATED 13-5-2013.
- EXT.P2 COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE PMS COLLEGE OF DENTAL SCIENCE AND RESEARCH DATED 24/5/2013
- EXT.P3 COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE IST RESPONDENT DAZTEAD 24.5.2013
- EXT.P4 COPY OF THE NO OBJECTION CERTIFICATE DATED 3/7/2013 FROM THE 2ND RESPONDENT
- EXT.P5 COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE MAHATMA GANDHI UNIVERSITY FOR A STUDENT PERMITTING HER TO UNDERGO INTERNSHIP AT A.B.SHETTEY MEMORIAL INSTITUTE OF DENTAL SCIENCES,MANGALORE DATED 22-4-2013.
- EXT.P6 COPY OF THE MEMO ISSUED BY THE IST RESPONDENT DATED 23/12/2013
- EXT.P7 COPY OF THE REQUEST DATED 8/3/2014 SUBMITTED BEFORE THE VICE CHANCELLOR OF THE IST RESPONDENT
- EXT.P8 COPY OF THE MEMO DATED 25/3/2014 ISSUED BY THE IST RESPONDENT
- EXT.P9 COPY OF THE COMMUNICATION DATED 9/12/2013
- EXT.P10 COPY OF THE CURRICULUM FOLLOWED BY THE IST RESPONDENT UNIVERSITY FOR THE BDS COURSE DATED 20-5-2013.
- EXT.P11 COPY OF THE CERTIFICATE ISSUED BY THE A.B.SHETTEY MEMORIAL INSTITUTE OF THE DENTAL SCIENCES,MANGALORE DATED 3/6/2014
- EXT.P12 COPY OF THE COMMUNICATION DATED 2/6/2014 OF THE 2ND RESPONDENT
- EXT.P13 COPY OF THE JUDGMENT IN WP(C).NO.14335 OF 2014 OF THIS HON'BLE COURT DATED 18/6/2014
- EXT.P14 COPY OF THE MEMO DATED 26.6.2014 ISSUED BY THE 3RD RESPONDENT.
- EXT.P14(A) COPY OF THE RELEVANT PORTION OF THE MINUTES OF THE OF THE MINUTES OF THE ACADEMIC COUNCIL HELD ON 29/5/2007 AND 30/5/2007

WP(C).NO.16489/2014

- EXT.P15 COPY OF THE INFORMATION FURNISHED BY THE 1ST RESPONDENT.
- EXT.P16 COPY OF THE INTERNSHIP PROGRAMME PUBLISHED AND SOLD BY THE DENTAL COUNCIL OF INDIA.
- EXT.P17 COPY OF THE INSTRUCTION PROVIDED TO THE PETITIONER WHEN SHE SUBMITTED EXHIBIT P3 APPLICATION.
- EXT.P18 COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT IN RESPONSE TO THE PETITIONERS APPLICATION FOR TRANSFER OF INTERNSHIP

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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K. VINOD CHANDRAN, J.

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W.P.(C) No.16489 of 2014 - I

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Dated this the 19th day of February, 2015

J U D G M E N T

The petitioner seeks for a grant of the degree certificate, in the B.D.S course, she has completed, from the PMS College of Dental Science and Research, affiliated to the 1st respondent University. Admittedly, the petitioner has only completed her academic course having a duration of 4½ years from the said affiliated college. For the internship, which is an essential requirement, she sought admission in one college under Nitte University, from which she is said to have now completed her internship. The petitioner on the basis of the Dental Council of India (DCI) Regulations contend that, the requirement is only completion of internship from a recognised institution and hence, the college under the Nitte University also being a recognised institution of the DCI, necessarily, the 1st respondent University is required to grant her the graduate

certificate.

2. The brief facts to be noticed are that, the petitioner completed her B.D.S course in the year 2012, more specifically in the final year examinations conducted in September, 2012. The petitioner was declared as passed with a First Class. The petitioner; desirous of doing her internship outside the State, applied for permission of the Nitte University, which was granted as per Ext.P1. The college in which she undertook her academic course also permitted the same, as per Ext.P2. The petitioner then, made an application to the respondent University, for completing the internship under the Nitte University as per Ext.P3, dated 24.05.2013. The petitioner did not wait for a concurrence from the University, which is a pre-condition even as per Exts.P1 and P2 and is said to have joined an affiliated college under the Nitte University on 29.05.2013.

3. The respondent University by Ext.P6 dated 23.12.2013, declined her application. The petitioner approached the Vice-Chancellor after three months, but

proceeded with her internship at the Nitte University. The application filed before the Vice-Chancellor itself was only in 08.03.2014 as is evidenced by Ext.P7, just prior to the completion of the internship. The Vice-Chancellor refused to consider her application for transfer of internship, as per Ext.P8, dated 25.03.2014. The petitioner even then, did not think it fit to approach this Court and continued her internship under the Nitte University. After completion of the internship, leisurely on 27.06.2014, she approached this Court with a prayer for grant of a graduate degree from the Kerala University.

4. The learned Counsel for the petitioner places specific reliance on the B.D.S course regulation brought out by the DCI, a copy of which has been handed over across the bar. The duration of the course is prescribed as four calender years, with a paid rotating internship in the dental colleges. The internship as per the regulations is permitted by the DCI in "a dental college" and the same is to be understood as permitted in any college recognised by the

DCI, is the contention raised. The learned Counsel for the petitioner would also invite this Court to compare the syllabi of the two Universities, which is asserted to be identical.

5. The mere fact that the Nitte University conducts a course of four year duration, does not reflect on the efficacy of the internship. Under the Kerala University and the Nitte University the internship is for the duration of one year. The academic course having been qualified from the Kerala University and the internship having been completed from a recognised college, nothing prevents the Kerala University from granting the degree certificate, is the argument. The learned Counsel also assails Ext.P14(a) resolution of the Academic Council, which requires concurrence of the University before undergoing internship outside the parent University. The petitioner also alleges discrimination, and specifically refers to number of instances where the students, similarly situated to the petitioner was granted permission.

6. The learned Standing Counsel for the University however, opposes the prayer primarily on the contention of delay in approaching this Court. It is also submitted that the petitioner had without concurrence joined the internship, under the Nitte University and cannot claim any equity; for issuance of graduate certificate from the University of Kerala. The learned Counsel would point out that Exts.P1 and P2 issued by the Nitte University and the affiliated college of the Kerala University; was on the condition that the concurrence of the Kerala University would be obtained before the transfer is made. The subsequent clarification issued by the DCI at Ext.P12 also specifically indicates that the internship has to be commenced and completed after taking transfer from the University, in which the academic course, has been completed.

7. The discrimination pointed out, is also answered by the University, by specific reference to the various cases in which; all the persons are said to have

obtained prior concurrence from the University in the case of transfer. The one single case where post-concurrence was granted, is an instance of transfer made within the State, to another college under the Calicut University. The specific stand taken is that, within the State, the University does not insist for a prior concurrence especially since the students in all the Universities under the State come from a common Entrance Examination and are put through a common syllabi and the duration of the course is also identical, which is prescribed by the State under Entry 25 List II of the VIIth schedule to the Constitution of India.

8. The petitioner applied to the University, for a transfer to the Nitte University, by Ext.P3 dated 24.05.2013. Admittedly, the petitioner did not wait for any concurrence and joined the internship at the outside University on 29.05.2013 itself. This is irregular insofar as, both Exts.P1 and P2 insist that before transfer is taken, the concurrence has to be obtained from the Kerala University. The petitioner cannot place any reliance on Exts.P1 and P2 to

contend that the transfer has to be regularised, after completion of the internship. The concurrence of the college as also the Nitte University was on a specific condition of prior concurrence of the Kerala University, the parent University from which the academic course has been completed.

9. As pointed out by the Learned Standing Counsel, it is also to be noticed that, the University having considered the application for transfer; rejected it by Ext.P6 on 11.12.2013. However, the petitioner did not do any thing in the matter and continued with the internship under the outside University. After about three months, she filed a representation before the Vice-Chancellor, evidenced at Ext.P7, which also was rejected with all expedience on 25.03.2014. Even then, the petitioner did not choose to approach a Court of law. The petitioner then, without having obtained a prior concurrence and having been issued with specific rejection of such transfer of internship, completed the internship in the outside University and

approached this Court with the above writ petition seeking grant of the degree certificate from the respondent University.

10. The DCI definitely, has prescribed only the condition that the internship should be completed in “a dental college”. However, that cannot be interpreted to mean that the internship is the choice of the student and could be taken at the students will. The Regulation cannot be interpreted as permitting the internship in “any” recognised college. Internship postulates hands-on-experience in dealing and treating patients and the rigor of the Regulation is insofar as restricting the internship, to a hospital attached to a Dental College and nowhere else. The mere fact that the DCI speaks of internship from a recognised dental college cannot be said to be a permission, to the student; on his/her own volition to complete the course in 'any' dental college of his/her choice.

11. It is also indicated that the regulations of the DCI mandates only a duration of four years, for the B.D.S

graduate course. As far as the B.D.S course conducted by the University within the State of Kerala, the duration is 4½ years, which does not go against the regulation of the DCI. It has been reiterated by this Court and the Hon'ble Supreme Court that a University conducting a course has the competence to provide for conditions, which do not in any manner dilute or lower the conditions and standards prescribed by an Apex Body. The DCI only mandates certain standards in awarding professional qualification in Dentistry, which a University cannot dilute or lower.

12. It cannot be disputed that the graduate certificate can be issued only by the University, in which the academic course has been completed. It also cannot be disputed that the completion of the internship alone, would qualify a student for issuance of such degree certificate. In such circumstance, it cannot at all be said that, unless there is a specific regulation that, the internship should be completed in an affiliated college of the University itself; the University cannot insist on such condition. The award of

degree from a University would definitely be on the course, with all the necessary requirements, being completed from that University or its affiliated Colleges.

13. The University carries on a professional course, with a specific duration of academic study and internship, as prescribed by DCI; the Apex Body in the context of the professional course in dentistry. There need not be a specific provision in the Regulation of such University that the graduate degree would be awarded only if the academic course and internship is completed under the University itself. The DCI cannot direct one University to grant degree to a student who has completed part of the professional course from another University. Nor does the prescription of the DCI, relied on by the petitioner, lead to any such conclusion or interpretation.

14. The question of “resolution” by the Academic Council in the absence of specific regulations, would be of no relevance. The University asserts that the grant of degree certificate would be only if the course is completed

from an affiliated college of the University. No specific regulation on that aspect is required and as was noticed above, if the University requires to deviate from the same, then probably there would be need for regulations. Merely for the fact that a specific thing is not prohibited in the regulations, there cannot be a contention taken that the same would be deemed to be permitted. The learned Standing Counsel for the University has also handed over the curriculum of the B.D.S issued in March 1995 wherein, the curriculum of dental internship programme reads as under:-

The duration of internship shall be one year. All parts of internship shall be done in the dental college in which the candidate had undergone clinical training programme in the various branches of dentistry. The interns shall be paid stipend during the period of internship not extending beyond a period of one year. The internship shall be compulsory and rotating as per the regulations prescribed for the purpose. B.D.S degree shall be granted after satisfactory completion of internship.

15. The exemption granted in the case of certain students for completing internship outside the college,

would depend upon various factors and is an exception, for which the University could, provide for in the regulations. None has a case that the regulations prescribe for such a transfer or the mode in which it is to be done. The University asserts that prior- concurrence is required on the basis of a decision of the Academic Council and in the present case, undisputedly, there is no prior concurrence obtained by the petitioner/student. Transfer, to a different University, is not a matter of right and can only be at the will of the parent University, which awards the degree. There can be no illegality found in prior-concurrence being required otherwise than by regulation.

16. The question of comparison of curriculum or syllabi would be outside the scope of the jurisdiction exercised by this Court under Article 226 of the Constitution of India and in any event, there would be no purpose for such examination since, the academic course admittedly was completed under the University of Kerala. If

the contention of the petitioner for completion of internship in any dental college, recognised by the DCI is accepted, then there would be nothing standing in the way of the petitioner, in seeking a graduate certificate, from the Nitte University also.

For all the above reasons, the writ petition is found to be devoid of merit and the same is dismissed. However, reserving the right of the petitioner to approach the University to complete the internship in any of the self financing colleges affiliated to the University and then to seek issuance of the degree certificate after completion of such internship.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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P.A to Judge