

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 16717 of 2015 (K)

PETITIONER(S) :

1. ABISHEK UNNI AGED 19 YEARS
S/O.SUKUMARAN K.MECHEERI HOUSE, KOTTUPURA P.O.
MANJERI, MALAPPURAM DISTRICT 676 122.
2. AIRASHID SYED, AGED 20 YEARS
S/O.SYED MOHAMMED T.M, THUNDIYIL HOUSE
EDAKKUNNAM P.O., PANAMODE, KOTTAYAM
KERALA.
3. ANAZ AFFRIN N.K., AGED 20 YEARS
D/O.N.K.NASRUDEEN, NELLIKKURUSSI HOUSE, H.S ROAD
CHERPALACHERY P.O., PALAKKAD DISTRICT.
4. AIYSHA ZAMRIN HUSSAIN
D/O.ZAKKIR HUSSAIN, KARUATH HOUSE, KARUATHKUNNU
THELAKKAD POST, MALAPPURAM 679 325.
5. FATHIMA LIYANA C. AGED 21 YEARS
D/O.BASHEER CHAKKERI, CHAKKERI HOUSE, KURUPATH
KONDOTTY P.O., MALAPPURAM DISTRICT.
6. FATHIMATH RESHA, AGED 22 YEARS
D/O.MADALA HAMZA, MADALA HOUSE, POST ELAD
VIA CHERUKARA, PERINTHALMANNA, MALAPPURAM DISTRICT.
7. FATHIMATH SAJUMA, AGED 21 YEARS
D/O.SIRAJUDEEN, CHIRATHODI HOUSE, CHERUKARA P.O.
MALAPPURAM DISTRICT.
8. JAMSHIDA M.K., AGED 22 YEARS
D/O.MAJEED, MADOLKANDIYIL HOUSE, THALIYIL P.O.
KUTTIYADI, CALICUT
9. JESNA JASMI P., AGED 21 YEARS
D/O.A.MOHAMMEDKUTTY, SHAS MAHAL, KUNNATHKAVU P.O
CHERUKARA, PERINTALMANNA, MALAPPURAM DISTRICT.
10. K.H.MOHAMMED HAFIZ
S/O.K.M.HARRIS, HOUSE NO.1/1130A, KADAVATH HOUSE
KUNNAMPURAM, FORTKOCHI 682 001.
11. NAJIYA NASRIN,
D/O.HAMSA P., PARAYANKUNDIL HOUSE, KULATHUR P.O.
MALAPURAM.

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12. NASIHA ISMAIL,
D/O.ISMAILKUTTY, DARUSALAM HOUSE, PULIYOOR VACHI
NORTH PARAVUR, THAZAVU P.O., KARUNAGAPPALLI
KOLLAM.
 13. NUHA BADARUDHEEN,
D/O.BADARUDHEEN, ZAIBU MANSIL, KALLUPARAMBAN ROAD
CHEMMAD, THIRURANGADI P.O., MALAPPURAM DISTRICT
676 306.
 14. RAHUL C.M.,
S/O.MURALEEDHARAN C., CHENDRATHIL HOUSE
MARAKKARAR P.O., KADAMPUZHA, MALAPPURAM DISTRICT.
 15. SALVA, AGED 21 YEARS
D/O.MOHIYUDEEN SALEEM MUNDODAN, MUNDODAN HOUSE
KARULAI, KARULAI P.O., NILAMBUR
MALAPPURAM DISTRICT.
 16. S.AYSHA
PUTHENOURA HOUSE, MALAYAMPALLAMVADAVANNUR P.O.
PALAKKAD 678 504.
 17. SHANIJA HASHIM AGED 21 YEARS
D/O.P.K.M.HASHIM, S.H.HOUSE, PADA SOUTH
KARUNAGAPPALLY P.O., KOLLAM DISTRICT
 18. SHERIN K., AGED 20 YEARS
D/O.ABDUL RAZACK, KOTTIYIL HOUSE, PAYYOLIANGADI P.O.
KOZHIKODE.
 19. SUBAIDA V.P.
D/O.ALI MOHAMMED, LOVELY CORNER P.O., KIZHAYUR
PATTAMBI, PALAKKAD.
 20. THASNEEM A AGED 21 YEARS
D/O.BASHEER A., ALATHOOR HOUSE, VATTAMKULAM POST
EDAPPAL, MALAPPURAM.
 21. VISHNU A.V. AGED 22 YEARS
S/O.A.V.MANOHRAN, AYYANAM VEEDU, KODAKKALA PARAMBA
PAROPPADY, MALAPARAMBA P.O., KOZHIKODE.
 22. JESNA JALEEL AGED 22 YEARS
D/O.JALEEL, PARACKAL HOUSE, PARATHODE P.O.
KANJIRAPPALLY, KOTTAYAM DISTRICT.
 23. MOHASINA AGED 22 YEARS
D/O.MOHAMMEDUPPA, KOLAYIL HOUSE, VELIKKAD P.O.
PALAKKAD DISTRICT.
 24. NIDHASH SIDEEQ AGED 21 YEARS
S/O.SIDHEEQ, PUTHIYAVEETIL HOUSE, P.O.VELIANKODE
MALAPPURAM DISTRICT, 679 579.
 25. AKTHAR RAMEES M.K
S/O.ANDURAHIMAN M, MANAMKANDATH SHALIMAR HOUSE
KOKKUR P.O., MALAPPURAM DISTRICT.

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26. JALIBA SHIRIN A.P
D/O.SUBAIR, MYTHREE HOUE, CHALIYAM P.O.
KOZHIKODE.

BY ADVS.SRI.P.SAMSUDIN
SRI.JITHIN LUKOSE

RESPONDENT(S) :

1. THE CONTROLLER OF EXAMINATIONS
KERALA UNIVERSITY FOR HEALTH AND ALLIED SCIENCE
MULANKUNNATHKAVU - 680 030, THRISSUR
2. THE PRINCIPAL,
MES DENTAL COLLEGE, MALAPARAMBA-679 338
PERINTHALMANNA, MALAPPURAM DISTRICT.
3. THE DIRECTOR AND SECRETARY,
MUSLIM EDUCATIONAL SOCIETY, HEAD OFFICE, BANK ROAD
KOZHIKODE - 678 3001.
4. MUSLIM EDUCATIONAL SOCIETY
REPRESENTED BY ITS DIRECTOR AND SECRETARY
HEAD OFFICE BANK ROAD, KOZHIKODE 673 001.
5. ADMISSION SUPERVISORY COMMITTEE AND FEE
REGULATORY COMMITTEE FOR PROFESSIONAL COLLEGES OF
KERALATC 15/1553-4 PRASHANTHI BUILDINGS
MP APPAN ROAD, VAZHUTHAKKAD
THIRUVANANTHAPURAM (RAM MOHAN PALACE
OLD HIGH COURT BUILDING, ERNAKULAM - 682 031)

R1 BY ADV. SRI.P.SREEKUMAR,SC,KERALA UTY.HEALTH &
R3-R4 BY ADV. SRI.BABU KARUKAPADATH
R5 BY SMT.MARY BENJAMIN, SC, ADMISSION SUPERVISORY COMMITTEE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE COURSE STRUCTURE AND SCHEME OF EXAMINATION OF
BDS

EXT.P2: TRUE COPY OF THE NOTIFICATION NO.KUHS/BDS-SUPPLEMENTARY/EXAM-
1 /2011 ISSUED BY THE 1ST RESPONDENT DATED 26/12/2011.

EXT.P3: TRUE COPY OF THE RECEIPT DATED 6/1/2015 FOR PAYMENT MADE BY
PETITIONERS 1, 10 AND 21

EXT.P4: TRUE COPY OF THE NOTICE DATED 5/5/2015 APPEARED IN THE NOTICE
BOARD OF THE COLLEGE

EXT.P5: TRUE COPY OF THE ORDER ISSUED BY THE 5TH RESPONDENT DATED
7/3/2015.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

vdv

K.SURENDRA MOHAN & MARY JOSEPH, JJ.

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W.P.(C) No.16717 of 2015

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Dated this the 4th day of June, 2015

JUDGMENT

Surendra Mohan,J.

The petitioners, students of the BDS course of the 2nd respondent's college, have filed this writ petition seeking the following reliefs:

- a) Issue a writ of certiorari or any other appropriate writ order or direction calling for records leading to Ext.P4 and quash the same.
- b) Issue a writ of certiorari or any other appropriate writ order or direction calling for records leading to Ext.P5 and quash the same.
- c) Issue a writ of mandamus or any other appropriate writ order or direction directing the respondents 2 to 4 to permit the petitioners to attend their respective classes and pursue their studies.
- d) Issue a writ of mandamus or any other appropriate writ order or direction directing the respondents 2 to 4 to refund the excess tuition fee of Rs.45,000/- each collected from petitioners 25 and 26.
- e) Issue such other reliefs as this Hon'ble Court deems fit to grant in the nature of this case.

2. The petitioners are students who have joined for the BDS course either during 2013 - 2014 or 2010 - 2011 academic years. They are students who have not been able to clear all the papers. Therefore, they have been appearing for supplementary examinations. They are aggrieved by Ext.P4 notice by which students who had appeared for the supplementary examination have been directed to pay additional tuition fees at the rate of Rs.15,000/- per paper. Ext.P4 also states that non-payment of the additional tuition fee before 18.05.2015 would attract a fine of Rs.50 per day. They also complain that, they are not permitted to attend classes from 27.05.2015 for non payment of the additional tuition fees. Their enquiries revealed that Ext.P4 notice has been issued on the basis of the Ext.P5 order passed by the 5th respondent. They complain that the said order has been passed without hearing them.

3. Advocate Smt.Mary Benjamin, who appears for the 5th respondent, submits that, the representatives of the students as well as the colleges were heard before the issue of Ext.P5 order. It is practically impossible to issue notice to and hear all the

students studying in the various Dental Colleges across the State. According to the learned counsel, the order was passed after due deliberations and consideration of the arguments put forth by the various sections of people. In spite of the above, if the students have any grievance, it is submitted that, it shall be open for them to approach the 5th respondent and seek redress thereof. Since the petitioners have approached this Court without approaching the 5th respondent, it is contended that, no relief could be granted at this stage.

4. Advocate Sri.P.Sreekumar, who appears for the 1st respondent points out that the students who have failed in the regular examinations have to be given additional classes as a separate batch. Since they are entitled to the benefit of carry forward, they would be attending classes in the next semester and therefore, it would not be possible for them to be permitted to attend the classes along with the junior batch. Advocate Sri.Babu Karukappadath appears for respondents 2, 3 and 4.

5. Having heard the counsel appearing for the respective parties, we are of the opinion that, it is for the 5th respondent to

make necessary modifications in Ext.P5, if the grievances voiced by the petitioners are justified. We are not in a position to enter into the question of fixation of fees for want of adequate inputs. Since the 5th respondent is the authority constituted for the said purpose, it is only appropriate that the said authority goes into the question in the light of the grievances put forward by the petitioners. As rightly pointed out by the counsel for the petitioner, even as per Ext.P5, a candidate who pays Rs.15,000/- as additional tuition fees, is permitted to appear for two supplementary examinations. Therefore, a student who passes in the 1st supplementary examination and for whom it is not necessary to take the second supplementary examination, is over charged. The above is an aspect that the 5th respondent would have to address while considering the grievances of the petitioners.

This writ petition is therefore disposed of directing the petitioners to approach the 5th respondent with a suitable petition highlighting their grievances and seeking redressal thereof. If such a petition is preferred, the 5th respondent shall

consider the same expeditiously and shall pass appropriate orders thereon, in accordance with law, after hearing the affected parties. It is made clear that, it shall be sufficient for the 5th respondent to hear a representative or representatives on behalf of the petitioners. If a suitable petition is preferred by the petitioners within a period of ten days of the receipt of a copy of this judgment, they shall be permitted to attend classes until final orders are passed by the 5th respondent in the matter, in accordance with the above directions.

Sd/-
K.SURENDRA MOHAN, JUDGE

Sd/-
MARY JOSEPH, JUDGE

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