

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 21833 of 2009 (Y)

PETITIONER(S):

1. TONY ANTONY,
II YEAR PART-TIME B.TECH.(MECHANICAL) STUDENT
COLLEGE OF ENGINEERING, THIRUVANANTHAPURAM.
2. DINUP P.G.,
II YEAR PART-TIME B.TECH.(MECHANICAL) STUDENT
T.K.M.COLLEGE OF ENGINEERING, KOLLAM.
3. SANITH S.L.,
II YEAR PART-TIME B.TECH.(MECHANICAL) STUDENT
COLLEGE OF ENGINEERING, THIRUVANANTHAPURAM.
4. BINU C.P.,
II YEAR PART-TIME B.TECH.(MECHANICAL) STUDENT
COLLEGE OF ENGINEERING, THIRUVANANTHAPURAM.

BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.S.A.ANAND
SRI.RAMESH. C.R.

RESPONDENT(S):

1. UNIVERSITY OF KERALA, REPRESENTED BY
THE REGISTRAR, UNIVERSITY OF KERALA
THIRUVANANTHAPURAM., PIN: 695 034.
2. THE VICE CHANCELLOR,
UNIVERSITY OF KERALA, THIRUVANANTHAPURAM.
PIN: 695 034.

R,R1,2 BY ADV. SRI.GEORGE POONTHOTTAM,SC,KERALA UTY.
R1,R2 BY ADV. SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF
KERALA
R BY SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

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| EXT.P1 | COPY OF THE PROSPECTUS ISSUED BY THE DIRECTOR OF TECHNICAL EDUCATION, KERALA. |
| EXT.P2 | COPY OF THE RELEVANT EXTRACT OF ADMISSION REGULATIONS 1992 ISSUED BY THE AICTE. |
| EXT.P3 | COPY OF THE G.O(M.S) NO.156/2002/H.EDN. DTD. 13.11.2002. |
| EXT.P4 | COPY OF THE ORDER NO. ACAD. A. III/3/61788/02 DTD. 22.5.08 OF THE UNIVERSITY OF KERALA. |
| EXT.P5 | COPY OF THE ORDER NO.AC.A III/3/1083/2008 DTD. 12.3.09 OF THE UNIVERSITY OF KERALA. |
| EXT.P6 | COPY OF THE REPERESNTATION BEFORE THE VICE CHANCELLOR OF THE KERALA UNIVERISTY. |
| EXT.P7 | COPY OF THE LETTER NO. E1/138/08/PTDC DTD.13.4.09 OF THE 2ND RESPONDENT. |
| EXT.P8 | COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN O.P.NO.78/2003. |
| EXT.P9 | COPY OF THE RELEVANT EXTRACT OF THE PRELIMINARY MINUTES OF THE 36TH MEETING OF THE SYNDICATE HELD ON 30.6.09. |
| EXT.P10 | COPY OF THE RELEVANT EXTRACT OF THE PRELIMINARY MINUTES OF THE 37TH MEETING OF THE SYNDICATE HELD ON 30.7.09. |

RESPONDENTS EXHIBITS:

- | | |
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| EXT.R1(a) | COPY OF THE MINUTES OF THE MEETING OF THE FACULTY OF ENGINEERING AND TECHNOLOGY AND THE BOARD OF STUDIES IN ENGINEERING. |
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// TRUE COPY //

P.A TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.21833 of 2009 - Y

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Dated this the 12th day of February, 2015

J U D G M E N T

The petitioners are all Part-time students, who had got themselves admitted to the B.Tech Course in Mechanical Engineering conducted by the 1st respondent University in the academic year 2008-09. The petitioners seek similar treatment as Lateral Entry students; Diploma holders who are admitted to the B.Tech degree course they rely on Ext.P8 judgment to contend that this court had also held in favour of such equal consideration.

2. The petitioners too are Diploma holders, who had got themselves admitted to B.Tech Part-time course, as per Ext.P1 prospectus. The minimum eligibility condition as provided in paragraph 4 of the prospectus was that the candidates should have passed diploma in Engineering/Technology awarded by the State Board of Technical Education or equivalent and should be in

professional employment at the time of application with two years experience in any of the organisations indicated therein. There is no dispute as to the eligibility of the petitioners to be admitted and the petitioners were admitted and continued from the year 2008-09.

3. Even at the time of admission of the petitioners, a similarly placed Diploma holder who is admitted to the regular course, was admitted to the III semester, under the Lateral Entry system. The said Lateral Entry system was devised by the University, in accordance with recommendation made to that end by the All India Council for Technical Education (for brevity, 'AICTE'), produced at Ext.P2. By Ext.P3, the Government accepted the proposal of the University to provide for reservation to Lateral Entry students in the regular B.Tech courses. However, with a condition that they should appear in two remedial papers of the I and II semester (S1 and S2).

4. Even that condition was watered down as per Ext.P4 and the Lateral Entry students were required only to

qualify from the III semester onwards. The petitioners who are Part-time students, having a similar qualification of Diploma, as the Lateral Entry students, but were put to the rigor of qualifying from the I semester onwards, which gave rise to the above writ petition. The petitioners contend that they should be treated at par with the Lateral Entry students, since both are Diploma holders, admitted to the B.Tech, on the basis of their Diploma qualification.

5. The Standing Counsel for the University has brought out a clear distinction between the Lateral Entry students and the Part-time students. The Lateral Entry students; with respect to the minimum eligibility conditions, the mode of selection as also course content is stated to be totally different from the Part-time students. Essentially what the University contends in their counter affidavit is that, the Lateral Entry students and the Part-time students are similar only with respect to their qualification and in all other respects they are to be treated distinctly; even considering the course content of a Part-time scheme and a

Lateral Entry scheme.

6. At the outset, it is to be noticed that Ext.P8 judgment is helpful to the petitioners only insofar as the learned Single Judge having directed that it is only proper that the Diploma holders in the regular course and the Part-time Engineering Degree course, should be granted equal benefits, if the course attended and the Degree awarded are the one and the same. The observations in the judgment would in fact go against; even the Lateral Entry students being granted any concession. The Court found that if the Degree granted is one and the same and the examinations conducted are also similar, there was no reason why the Lateral Entry students should be exempted from sitting for I and II semester examinations. Essentially what the Court found was that the three year Diploma programme attended by the Diploma holders can be given benefit; insofar as providing for one year relaxation; as against the Higher Secondary students who seek for admission after a 10+2 course. But, there would be no

reason to exempt them from any examinations, since the award of Degree, grading and ranking are made on the basis of the examinations as per the identical syllabi. The Court found that, though one year relaxation could be granted to the candidates with Diploma, they should essentially be examined in the papers in which the regular students admitted after a 10+2 course are also put through. Only then, there would be an equalisation was the finding.

7. In any event, we need not at this stage go with such controversies, since petitioners seek equalisation with the Lateral Entry students, who were also having the very same qualification. It cannot be disputed that the petitioners were aware of the rigor they are to be put through in a Part-time course, since, the same was explicit in Ext.P1 prospectus. Having got themselves admitted in a course as per the specific terms of a prospectus, they cannot turn around and challenge the same.

8. The Lateral Entry students as is indicated in the counter affidavit, are admitted to the regular course in

the third semester after a competitive examination. Only students, who have obtained a minimum of 60% marks in the Diploma examination and who have cleared the Entrance Examination conducted at the State level would be qualified to be admitted to the Lateral Entry reservation seats. The State level Entrance Examination is stated to be on selected subjects of the first year B.Tech Degree course. The said stipulation is said to be in consonance with the requirement of the AICTE as disclosed in Ext.P2, which is extracted hereunder:-

A student who has acquired a diploma in Engineering through a minimum of three years of institutional study, after 10+ (Secondary School Leaving Certificate Examination) can be considered to be academically equivalent to a student who has passed the first year of the four year Engineering degree programme for which the qualifying examination is of the 12+ level.

Lateral entry for diploma holders will be allowed in the second year third semester level. Seats in addition to the sanctioned intake at first year level, limited to a maximum of 10% will be reserved for such students.

At present students obtain diploma through different programmes in different States/UTs. Such programmes have different structures and forms like the semester pattern, annual pattern, sandwich pattern, etc. In order to maintain uniformity, a common entrance examination at the State level seems essential. Further, it is necessary to select only meritorious students who have passed the diploma with good academic

record.

For being eligible to seek lateral entry to an Engineering degree programme at the second year/third semester level, a candidate must have passed the diploma in Engineering in the relevant branch with a minimum of 60 percent in the aggregate. Only candidates fulfilling these conditions would be eligible for appearing in the entrance test meant for selection of diploma holders for Lateral entry to degree programmes. The selection of candidates will be based on a State level entrance test, the merit ranking in the test being the basis of admission.

9. The Part-time students however, do not have to satisfy any such eligibility conditions. Any professionally employed person would be eligible to be admitted to the Part-time course, if such person has an experience of two years in a professional employment and a Diploma without any stipulation as to the minimum required marks. The Part-time students are also not put through any Entrance Examination and are admitted on the basis of their marks in the Diploma directly to the Part-time courses.

10. The University has also referred to the contact hours available to a Part-time student and Lateral Entry student to draw a further distinction between them, on the course conduct. The syllabi though similar, there is

wide disparity in the mode of selection and the manner in which the training is imparted, is the specific contention raised. On the basis of the specific averments of the University, with respect to the distinction between Part-time students and the Lateral Entry students, this Court cannot find any reason for equalisation.

11. The mere fact that the Lateral Entry students, have now been permitted to commence the course, from the third semester without appearing in any of the remedial papers, also is of no significance since the two are distinct classes not capable of equalisation. There is substantial difference in the eligibility stipulation, selection method and the conduct of the course which does not warrant similar treatment to the distinct class of students. The writ petition is found to be devoid of merit.

12. The petitioners have an additional grievance insofar as Ext.P5 is concerned. The laboratory curriculum in Engineering Graphics and Workshop were sought to be introduced at the fag end of the first year, which

substantially prejudiced the petitioners insofar as they were not imparted proper training in the same. The petitioners' contention is that their disqualification in the laboratory exams do not necessarily reflect their in-efficiency. The University has in the counter affidavit admitted the such introduction at the fag end of the academic year and has also undertaken that their first appearance would not be taken into account and the additional chance given along with the regular examination in 2010 would be considered as the first chance. Definitely the University would abide by such undertaking.

With the above observations, the writ petition would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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P.A to Judge