

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No. 17905 of 2015 (K)

PETITIONER(S):

**ARAVINDSEKHAR U.J., AGED 20 YEARS,
II YEAR BDS (2013-2014 ADMISSION),
GOVERNMENT DENTAL COLLEGE, CALICUT,
S/O.T.R.UNNIKRISHNAN NAIR, ATHIRA,
KANAVILA VENPAKAL P.O., ARALUMOODU VIA, NEYYATTINKARA,
THIRUVANANTHAPURAM - 695 123.**

**BY ADVS.SRI.A.RANJITH NARAYANAN
SMT.A.SIMI
SRI.S.K.SAJU**

RESPONDENT(S):

- 1. KERALA UNIVERSITY OF HEALTH SCIENCE, THRISSUR,
REPRESENTED BY ITS REGISTRAR, THRISSUR -680 596.**
- 2. THE VICE CHANCELLOR,
KERALA UNIVERSITY OF HEALTH SCIENCE,
THRISSUR - 680 596**
- 3. THE CONTROLLER OF EXAMINATIONS,
KERALA UNIVERSITY OF HEALTH SCIENCE,
THRISSUR - 680 596.**
- 4. THE PRINCIPAL,
GOVERNMENT DENTAL COLLEGE, CALICUT - 673 008.**

**R1-R3 BY ADVS. SRI.P.SREEKUMAR, SC
SRI.BECHU KURIAN THOMAS, SC
R4 BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 17905 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE EXAMINATION RESULT SHEET PUBLISHED ON 2.12.2014 AND ISSUED TO THE PETITIONER HAVING REGISTRATION NUMBER 130020149.**
- EXT.P-2: TRUE COPY OF THE EXAMINATION RESULTS PUBLISHED ON 30.5.2015.**
- EXT.P-3: TRUE COPY OF THE REQUEST LETTER/REPRESENTATION DATED 8.6.2015 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT WITH COPY TO THE 1ST RESPONDENT.**
- EXT.P-4: TRUE COPY OF THE REQUEST LETTER DATED 8.6.2015 ISSUED TO THE 3RD RESPONDENT.**
- EXT.P-5: TRUE COPY OF THE NOTIFICATION NO.0276/AC II/BOS/2012(DENT) DATED 25.9.2014 ISSUED BY THE REGISTRAR, KERALA UNIVERSITY OF HEALTH SCIENCES.**
- EXT.P-6: TRUE COPY OF ORDER NO.0276/AC II/BOS/2012 (DENT) DATED 5.1.2015 ISSUED BY THE REGISTRAR, KERALA UNIVERSITY OF HEALTH SCIENCES.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V.RAMAKRISHNA PILLAI, J

WPC No.17905 of 2015

Dated this the 8th day of July, 2015

JUDGMENT

The petitioner is seeking permission to write first and second year BDS examination simultaneously in August 2015 so as to avoid losing of six academic months.

2. The petitioner is doing his second year BDS at the Government Dental College, Calicut after securing admission in the academic year 2013-2014. The petitioner had written two papers out of the total three during his first year regular examination, viz. Anatomy and Dental Anatomy. He passed the said examinations conducted in August 2014. The petitioner had appeared and unfortunately failed in the remaining paper, viz. General Human Physiology and Bio-Chemistry during February 2015, when the first year BDS supplementary examinations were conducted. However, the petitioner was attending the second year BDS classes from 3.8.2014 by way of provisional promotion under Regulation 10K of

the Dental Council of India Regulations. Presently, he has completed full attendance of the second year class and aspires to write the second year examination along with the failed 1st year paper, both to be conducted in August 2015. Citing technical embargos, the petitioner faces denial of permission for the same; it is alleged. Exts.P3 and P4 are pending before the respondents. If permission is not granted, the petitioner would be losing six academic months, whereas, if permission is granted on a provisional basis, no comparative hardship is caused to the respondents. It is with this background the petitioner has come up before this Court.

3. In the counter affidavit filed by the respondent University, it was contended as follows:

The petitioner's claim in the writ petition and the relief sought for in the writ petition are contrary to the existing regulations of the University and the Dental Council of India. The petitioner in the writ petition was permitted to attend the 2nd year BDS classes only on the basis of a concession extended to the students who have

cleared two out of the three papers in the first year. Without the benefit of “Allowed to Keep Term” the petitioner would not have been permitted to sit in the 2nd year. The said provision is extracted in paragraph 2 of the writ petition which is specific to the point that the student who is permitted to sit in the 2nd year would be permitted to appear in the examination in the next higher class only on passing the failed paper. The petitioner could not seek a direction to the University to permit him to appear in the 2nd year examination without passing the failed paper in the 1st year.

It is contended that the petitioner is not entitled to seek the reliefs sought for in the writ petition. His contentions regarding the clinical studies etc. are irrelevant in the context as the same relates to the 3rd year only. The point to be decided in the present writ petition is whether the petitioner could be permitted to sit in the 2nd year in violation of the BDS regulations which is not even challenged in the writ petition. The petitioner is well aware of the regulations and he availed the benefit of

the “Allowed to Keep Term”, knowing fully well that he could appear in the 2nd year examination only if he passes all the papers in the 1st year BDS course. The University cannot act contrary to the existing regulations and the University is not competent to dilute the norms already fixed by the experts in the field.

4. Arguments have been heard.

5. It was strenuously argued by the learned counsel for the petitioner that attending the IInd year examination simultaneously in August 2015 along with the failed 1st year examination would not in any way cause serious prejudice to the University or the Dental College and the comparative hardships that shall arise from denial of such an opportunity most definitely outweighs the earlier. It is settled law that this Court while dealing with academic matters would show restraint in interfering with the decision of the academic bodies, especially, when it is intended to maintain the standards of education. The regulation governing the BDS course is framed by the competent authorities and the same cannot be relaxed for

the petitioner. He, like every other BDS student, had two opportunities to clear the first year papers without losing any academic year. However, he failed to pass the examination and he alone is to be blamed for the same. As the regulation says that no student who did not pass all the papers in the 1st year BDS course could be permitted to appear in the 2nd year examination, the petitioner could not be permitted to sit in the examination. A reading of the clause would show that the same does not permit simultaneous appearance in the 1st and 2nd year examination in BDS.

On a consideration of the entire materials now placed on record, this Court is of the view that the petitioner is not entitled to get the relief prayed for. In the result, this writ petition fails and accordingly, dismissed.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

css/

true copy

P.S.TO JUDGE