

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 31615 of 2004 (L)

PETITIONERS:

1. ASSOCIATION OF REGULAR MUSIC POST GRADUATES (REG.NO.R.517/04),
REPRESENTED BY ITS SECRETARY, M.S PARAMESWARAN,
MANTHATTAMANA VENKITANGU, THRISSUR.
2. ARACKAL NANDAKUMAR, PRESIDENT,
ASSOCIATION OF REGULAR MUSIC POST GRADUATES,
NAVANEETHAM, T.B.ROAD THATHAMANGALAM, PALAKKAD.
3. ARAVINDAKSHAN K., PULLAYIL HOUSE,
PEMBRA P.O., VIA. KARAKURISSI PALAKKAD DISTRICT.

BY ADVS.SRI.BABU VARGHESE
SRI.MANJU ANTONEY
SRI.T.J.THOMAS (ALUVA)

RESPONDENTS:

1. THE PRINCIPAL,
RADHA LEKSHMI VILASOM COLLEGE OF MUSIC AND
INSTITUTE OF FINE ARTS, TRIPUNITHURA.
2. THE MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY ITS REGISTRAR
PRIYADARSHINI HILLS P.O., KOTTAYAM.
3. UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR, UNIVERSITY BUILDING
PALAYAM, THIRUVANANTHAPURAM.
4. UNIVERSITY OF CALICUT,
REPRESENTED BY ITS REGISTRAR, UNIVERSITY CAMPUS P.O.
THENJIPPALAM, MALAPPURAM DISTRICT.
5. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF
HIGHER EDUCATION, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

6. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, P.M.G. JUNCTION, THIRUVANANTHAPURAM.

7. THE UNIVERSITY GRANTS COMMISSION,
REPRESENTED BY ITS SECRETARY, NEW DELHI.

8. THE CHANCELLOR,
M.G.UNIVERSITY AND OTHER UNIVERSITIES IN KERALA
RAJ BHAVAN, VELLAYAMBALAM, TRIVANDRUM.

ADDITIONAL RESPONDENT

**ADDLR9 SRU. BALASUBRAMANIAN 'KOUSTHUBHAM'
KUMARANASAN ROAD, KALOOR P.O., KOCHI
TEACHER FOR MRIDHANAGAM AT RADHALEKSHMI VILASOM
COLLEGE OF MUSIC AND INSTITUTE OF FINE ARTS, THIRIPUNITHURA
(IN HIS PERSONAL CAPACITY AND THE REPRESENTATIVE CAPACITY
OF AFFECTED PERSON)**

**ADDITIONAL R9 IMPEADED AS PER ORDER IN I.A. NO.15899/2004
DATED 9.12.2004**

**R4 BY ADV. SRI.S.GOPAKUMARAN NAIR, SC, CALICUT UTY
R2 & R8 BY ADV. SRI. T.A. SHAJI, SC, M.G.UNIVERSITY
R3 & R8. BY ADV. SRI.M.K.CHANDRAMOHAN DAS,SC,KERALA UTY.
R7 BY ADV. SRI.MOHAN IDICULLA ABRAHAM, ADDL.CGSC
R1,5 & 6 BY GOVERNMENT PLEADER SRI. T.R. RAHESH
ADDL.R9 BY ADV. SRI.P.C.SASIDHARAN
R2 BY ADV. SRI.V.A.MUHAMMED, SC, M.G.UNIVERSITY
R3 BY ADV. SRI.S.GOPAKUMARAN NAIR, SC KERALA UTY.
ADDL,R9 BY ADV. DR.K.P.SATHEESAN
ADDL,R9 BY ADV. SRI.K.K.GOPINATHAN NAIR
ADDL,R9 BY ADV. SRI.K.K.RAJEEV
R3 BY ADV. SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.
R3 BY ADV. SRI.GEORGE POONTHOTTAM,SC,KERALA UTY.
R2 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G. UNIVERSITY
R BY SRI.T.PM.IBRAHIM KHAN,ASST.S.G OF INDIA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-10-2015,
ALONG WITH WPC. 11245/2005, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE ORDER U.O. NO. AC AIII/RLV-17/2000 DATED 26.4.2004 OF MAHATMA GANDHI UNIVERSITY
- P2 : TRUE COPY OF ORDER G.O.(P) N.147/98/H.EDN. DATED 5.12.1998 OF GOVERNMENT OF KERALA
- P3 : TRUE COPY OF THE LETTER SENT IN ANOTHER MATTER BY THE UNIVERSITY, CLARIFYING THAT UNIVERSITY CANNOT DILUTE QUALIFICATION PRESCRIBED BY THE U.G.C.
- P4 : TRUE COPY OF MINUTES OF THE MEETING OF ACADEMIC COUNCIL OF THE UNIVERSITY OF KERALA
- P4(A) : TRUE COPY OF THE LETTER OF THE REGISTRAR DATED 3.7.2004
- P5 : TRUE COPY OF THE JUDGMENT IN O.P. NO.4261 OF 2001-G DATED 28.6.2001
- P6 : TRUE COPY OF MEMO DATED 15.2.2000 OF MAHATMA GANDHI UNIVERSITY
- P7 : TRUE COPY OF THE REPRESENTATION FILED BEFORE THE HON'BLE CHANCELLOR DATED 20.9.2004
- P8 : TRUE COPY OF THE PROFORMA ISSUED BY THE M.G. UNIVERSITY
- P9 : TRUE COPY OF U.O. NO.AC A1/1/a AFFN/RLV/97 DATED 4.6.1997

RESPONDENT'S EXHIBITS

- R3(A) : TRUE COPY OF THE REGULATIONS RELATING TO THE BRIDGE COURSE

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 31615 of 2004

&

W.P.(C) No. 11245 of 2005 (L)

Dated this the 21st day of October , 2015

J U D G M E N T

The petitioners are aggrieved with the Bridge Course permitted for the teachers of the three colleges in Fine Arts and the provision for admission to the Post Graduate course provided to the Diploma holders of the said Colleges.

2. The issue agitated in these writ petitions arose when the three Colleges, namely Sree Swati Thirunal College of Music, Thiruvananthapuram, RLV College of Music and Fine Arts, Thripunithura and Chembai Memorial Government Music College, Palakkad, which carried on Diploma, Post Diploma and National Diploma Courses in Fine Arts were taken into the University stream. Earlier, these colleges were under the Director of Public Instructions.

3. The Government thought it fit that the said Fine Arts Colleges be equipped to conduct Graduate or Post Graduate Courses and on such conversion, required that the Diploma holders, Post Diploma holders and National Diploma holders should be provided an avenue for carrying on the Post Graduate Course. Earlier, a lower qualification acquired from either of the said colleges would have been sufficient qualification for a higher course offered by the said colleges. However, when University stream was introduced, there were only Graduate and Post Graduate courses to which the Diploma holders could not seek an admission. The Diploma holders were conferred with such diploma after three year and five year courses and it was thought fit that they should be given a provision to be admitted to the Post Graduate Course.

4. A Bridge Course, for the benefit of such diploma holders and the teachers already having service in the said colleges, was also formulated. The Bridge Course enabled

the Diploma holders to obtain Graduate degrees on pursuing Part I and Part II of the Graduate examinations conducted by the University. This was since the subject syllabi was taught in the Diploma course itself and what was lacking was an examination in language papers which was necessary for granting a graduate degree.

5. The petitioners in the above writ petitions challenge such equation of diploma with regular degree on the ground that they, who are Post Graduates, would be adversely affected by conferring Post Graduation on those who are not entitled to such degrees and permitting Diploma holders to be admitted to the Post Graduate Courses.

6. The petitioners in W.P.(C) No.11245/2005 are lecturers in various Government colleges who have Post Graduation in their respective fields. The petitioners in W.P.(C) No.31615/2004 seek to ventilate the cause of such Post Graduates on the ground that their opportunities for

employment will dwindle, on implementation of the scheme formulated by the Government. The objection primarily seems to be with respect to Ext.P1 produced in W.P.(C) 31615/2004. The objectionable clauses are also specifically noticed therein as clause 8.1, 8.2, 11.2, 11.4 and 11.9, which are extracted herein.

“8.1 The diploma holders in Music and Performing Arts will be permitted to appear for the examinations in Part I English papers of B.A. degree course (Model I) through private registration at one-sitting and successful candidates will be issued certificates to the effect that, they are eligible for admission to M.A. degree course in the discipline concerned, provided the duration of the courses they have undergone after SSLC is 5 years or more.

8.2 Post Diploma holders in Music (Gana Praveena) will be permitted to appear for the examinations in Part I English Papers of the B.A. degree course (Model I) at one-sitting and successful candidates will

be issued certificates equating their qualification to M.A. degree in the subject concerned.

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11 The Bridge course for the Teachers:-

11.1 A two-year bridge course shall be conducted by the University for the teachers in their respective discipline. It shall have the same course component as the P.G. course in the respective subject.

11.2 The candidates will have to attend all the practical papers of the previous and final year examinations, along with the regular batches. They will also have to submit a dissertation in lieu of the theory examinations at the end of the second year. The total marks for the bridge course shall be 1000, and the distribution of marks for the practical papers will be the same as that of the P.G. courses, with internal marks added to the practical wherever necessary. The remaining marks will be allotted to the dissertation part.

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11.4 Dissertation: The candidates will have to select a topic for dissertation in

consultation with an expert in the field from the panel given at Appendix-II. A synopsis is not less than three pages including chapterization, approved by the expert, should be sent along with the application for the previous examinations. Three copies of the dissertation, either in English or in Malayalam, with not less than 150 typed pages in demy ¼, recommended by the expert, should be submitted to the University at the end of the second year.

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11.7 Pass requirements:-

A candidate who scores 40% and above in aggregate, shall be considered to have passed the bridge course. The result will be classified as per normal grading pattern. Those candidates, who successfully complete the bridge course, will be awarded certificates equating their qualifications with the respective P.G. degree, which will enable them to be absorbed into the mainstream and also facilitating for higher studies, provided they satisfy other eligibility conditions.

11.9 The facility for undergoing the bridge course can be availed by the teachers at Sree Swathi Thirunal Music College Thiruvananthapuram and Chembai Memorial Music College Palakkad also.”

7. Clause 8.1 enables the Diploma holders in Music and Performing Arts to seek eligibility for admission to Post Graduate course in their respective subjects, provided they qualify in Part I English paper of B.A. degree course through private registration at one-sitting and the diploma course undergone by them is of a duration of more than five years after SSLC. It is to be specifically noticed that none of these Diploma holders are conferred with the Graduate degree, but are merely enabled to seek admission to the Post Graduate course on the strength of such conditions being satisfied.

8. Clause 8.2 enables Post Graduate holders in Music to appear for Part I English paper of the B.A. degree course so as to enable their qualification to be equated to

that M.A. degree in the subject concerned. As for the Performing Arts, a different stipulation was made in Clause 8.3, wherein Post Diploma holders were obliged to qualify both in the Part I English paper and Part II additional language paper of the B.A. degree course. The NDFA holders of RLV College, Thripunithura who passed out prior to 1999 and who had passed the language for the Pre-Degree course was made eligible for admission to the Master of Fine Arts course.

9. Clause 11 dealt with the Bridge Course for the teachers, which was of a duration of two years having the same course component as the P.G. course in the respective subject. The candidates were required to attend all the practical papers of the previous and final year examinations along with the regular batches carrying on the Post Graduate course itself. They were also required to submit a dissertation in lieu of the theory examination at the end of the second year. The distribution of marks were to be

similar to that of the P.G. courses. The dissertation also was to be made in accordance with the stipulation for a P.G. course.

10. It is to be noticed that the Bridge Course was introduced to protect those teachers who were already appointed in the three colleges by selection through the Public Service Commission. They were all persons who had academic qualifications which entitled them to impart training in Diploma, Post Diploma and National Diploma courses. They had also been appointed and continued as Lecturers in the respective subjects for long. When the colleges were taken over into the University stream, the courses offered on the basis of the affiliation to the University were converted as Graduate and Post Graduate courses. There was absolutely no necessity for continuing the Diploma and Post Diploma courses and in such circumstance, the teachers would not have been qualified enough to impart training in the Graduate and Post

Graduate courses as per the University regulations.

11. The Government by the impugned order provided for a Bridge Course, which enabled them to be continued as teachers and also equip them to teach the Graduate and Post Graduate courses offered by the University. The very same course content of the Post Graduate course, in existence, was offered as the Bridge Course. The only concession was insofar as providing some time for such teachers to qualify in the same. Such a prescription made, to protect the services of the teachers with a definite requirement for passing the Bridge Course so as to ensure the quality of education imparted, cannot, at all, be interfered with by this Court. It is trite that in academic matters this Court would not cause interference merely on the ground that on a consideration of the entire facts, this Court is not satisfied with the reasonableness of the prescriptions. It is not a subjective assessment that is required and on an objective determination it cannot be

said that there is any arbitrariness in the prescriptions made to ensure the existing diploma holders to continue their education under the University stream and enable the services of existing teachers to be confirmed and effectively utilised in the new courses.

12. Further, it is also to be noticed that this does not in any way affect others who are said to be Post Graduates and it cannot at all be claimed that, on up-gradation of a College into the University stream, the persons employed through a proper selection should be thrown out and new appointments made to those vacancies.

13. With respect to the provisions available to the Diploma holders also, it is on the basis of the years of study and the course conducted that the University has permitted the Diploma holders in Music and Performing Arts to be eligible for admission to M.A. degree course on passing Part I English and the Post Diploma holders in Music to appear for the Part I (English) so as to equate their qualification to

a Post Graduate qualification. The further stipulation for the Post Diploma holders in Performing Arts to pass both Part I English and Part II additional language, for equating their qualification with M.A. Degree, also is a decision arrived at looking at the categories of Fine Arts and placing Music as a different genre from that of the other Performing Arts. The National Diploma in Fine Arts is conferred after a course of five year duration and they are equated to Post Graduate courses only on their having passed Pre-Degree before being admitted to the National Diploma course. The very same principle, wherein this Court would not examine the course content or the manner in which equation has to be made in academic matters, would apply herein also.

14. It is indicated as per Ext.P4(a) that the Kerala University has not accepted the scheme. That is not under challenge and the action of one University would not bind another. Each would have to go by its regulations and the decisions taken by its Academic Council.

In such circumstance, this Court does not find any reason to cause any interference to the Government Order and the writ petitions would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE