

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 18962 of 2015 (U)

PETITIONER :

**C.S.PARVATHY, D/O.C.M.SASI, AGED 22 YEARS,
RESIDING AT CHERUKARA (H),
CHANGAMPUZHA NAGAR P.O., SOUTH KALAMASSERY,
ERNAKULAM-682 033.**

**BY ADVS.SRI.K.C.ELDHIO
SRI.JIJO THOMAS
SRI.MALLENATHAN.M.
SRI.ANEESH JAMES
SRI.ANIL R.NATH**

RESPONDENT(S):

- 1. THE MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY ITS VICE CHANCELLOR,
UNIVERSITY CAMPUS, PRIYADARSHINI HILLS,
KOTTAYAM-686 560.**
- 2. THE CONTROLLER OF EXAMINATIONS,
MAHATMA GANDHI UNIVERSITY, UNIVERSITY CAMPUS,
PRIYADARSHINI HILLS, KOTTAYAM-686 560.**
- 3. THE PRINCIPAL,
SACRED HEART COLLEGE, THEVARA, COCHIN-682 013.**

R1 & R2 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, THE COURT ON 29-07-2015 DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1(A) : TRUE COPY OF THE GRADE CARD OF THE THIRD SEMESTER DEGREE EXAMINATION OF THE PETITIONER.
- EXT.P1(B) : TRUE COPY OF THE GRADE CARD OF THE FOURTH SEMESTER DEGREE EXAMINATION OF THE PETITIONER.
- EXT.P1(C) : TRUE COPY OF THE GRADE CARD OF THE FIFTH SEMESTER DEGREE EXAMINATION OF THE PETITIONER.
- EXT.P2 : TRUE COPY OF THE QUESTION PAPER GIVEN BY THE INVIGILATOR TO THE PETITIONER.
- EXT.P3 : TRUE COPY OF THE RESULT SHEET OF THE SIXTH SEMESTER DEGREE EXAMINATION OF THE PETITIONER.
- EXT.P4 : TRUE COPY OF THE QUESTION PAPER GIVEN TO ONE STUDENT BY NAME KIRAN LAL.
- EXT.P5 : TRUE COPY OF THE COMPLAINT DT. 25-5-2015 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.
- EXT.P6 : TRUE COPY OF THE REPRESENTATION DT. 18-6-2015 SUBMITTED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 18962 of 2015

Dated this the 29th day of July, 2015

J U D G M E N T

The petitioner is seeking a direction to the 2nd respondent to evaluate the answer script of the petitioner in the subject, 'Genetics & Biotechnology', in the final (6th) semester conducted by the respondent university on 17.03.2015 with reference to Ext.P2 question paper supplied to her and declare the result.

2. The petitioner, who is a final year B.Sc. (Zoology) student in the 3rd respondent's college, appeared for her final semester examination, which commenced on 13.03.2015. The examination for the subject, Genetics & Biotechnology, was conducted on 17.03.2015 and the petitioner attended the said examination. The results for the 6th semester examinations were announced on 17.05.2015. On checking her results, the petitioner realized that she was

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declared failed for the reason that she was absent for the subject, Genetics and Biotechnology examination conducted on 17.03.2015. On enquiry with the 3rd respondent college, the petitioner was informed that by mistake, the petitioner had been given the question paper of those students, who were appearing for supplementary examination for the same paper and that the petitioner ought to have been given the question paper for the regular students; and hence, the answer script of the petitioner has not been evaluated. The petitioner submitted Ext.P5 representation before the 3rd respondent explaining the injustice that has been meted out to the petitioner. The 3rd respondent addressed Ext.P6 representation to the 2nd respondent requesting to consider the predicament of the petitioner and to evaluate her answer sheet and publish the result. The petitioner's grievance is that though Ext.P6 representation has been forwarded as early as on 18.06.2015, no effective action has been taken by the 2nd

respondent so far. Hence, this writ petition.

3. The respondent university filed a statement contending that the result of the 6th semester examination was published on 17.06.2015 and not on 17.05.2015. According to them, as per the regulations pertaining to the university examinations, the answer script of a candidate can be evaluated only on the basis of the scheme and syllabus, in which he/she has undergone the course of study, i.e., the answer script should be evaluated on the basis of the scheme of valuation to the question paper allotted to that specific examination. They contended that it is the duty of the candidate to ensure that he/she is writing the examination with the question paper specifically intended to that particular candidate. The name of the exam, title of the paper, name of the programme, for which the question paper is intended, and the year of admission, for which the question paper is intended, were printed in the question paper; and there is a provision that if a candidate finds that any discrepancy

crept into the supplied question paper or if it is not intended for the candidate, she/he may immediately point out that to the invigilator and get it immediately replaced. For the CBCSS stream, there is no supplementary exam; and only regular semester exams are conducted; and the failed/readmitted candidates can appear for their respective examinations as and when the university notifies the regular exams. Hence, according to them, there is no regular/supplementary demarcation. It was further pointed out that in the question papers printed on the basis of the syllabus, it has been clearly specified that they were intended for, 'Prior to 2012 admission'. According to them, if the candidate simply reads the headings, immediately, she/he can identify that the question paper is different from that, which is intended for him/her. The website of the respondent university envisages the provision to enter WGP/GPA of a student only on the registered question paper code; and hence, according to them, the valuation of the paper with

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reference to Ext.P2 question paper is not possible. With regard to the request of the 3rd respondent, it is stated that necessary steps had already been initiated on the matter following the report of the Camp Officer, CBCSS CV camp at Ernakulam.

4. I have heard Mr.K.C.Eldho, the learned counsel for the petitioner and Mr.Varghese M. Easo, the learned Standing Counsel for the respondent University quite in extenso.

5. The writ petition is opposed by the respondent university for the reason that the answer scripts can be evaluated only on the basis of the scheme of valuation to the question paper allotted to that specific examination. The stand taken by the respondent university is that in the question paper supplied to the petitioner, it has been specified that it was intended for candidates, who secured admission during 2012 and before that.

6. The fact that Ext.P2 is the question paper supplied to the petitioner in the examination hall is not in

dispute. Evidently, and admittedly too, the petitioner was allotted Reg.No.11125579 for her final semester examination for B.Sc. (Zoology) under the respondent university, which commenced on 13.03.2015. The examination for the paper, Genetics & Biotechnology, was conducted on 17.03.2015. The respondent has no case that the petitioner has not attended the examination. The entire complication arose on account of the negligence on the part of the institution or the invigilator concerned while supplying the question papers. The candidates, who were attending the examinations under two different schemes on the same subject for the same course, were allowed to sit in the same examination hall. This Court is of the definite view that it was not proper on the part of the university also to conduct the examination for two sets of the candidates on the same day though it was submitted by the learned Standing Counsel for the respondent university that no such instances have been noticed earlier. It is a fact that such a mistake had

occurred because of the inter change of question papers. The petitioner cannot be blamed for the same. It is true that Ext.P2 contains an inscription, "Prior to 2012 admission". To my judgment, such an inscription would not attract the attention of the any student, who is taking the examination under normal circumstances. It was not printed in bold letters though the name of the examination is printed in bold letters. Normally, after getting the question paper, the candidate would proceed to answer the question papers unless special instructions are printed in bold letters, sufficient enough to attract the attention of the candidates. Therefore, it cannot be said that there was any negligence on the part of the petitioner as it was made to appear. It was the duty of the 3rd respondent, who is the Principal to ensure that the petitioner was provided with the question paper supplied to the regular students; and providing the petitioner with the question paper intended to supplementary candidates for the same subject is nothing, but, culpable negligence

on the part of the examination centre or the invigilator.

7. Admittedly, the petitioner has appeared for the examination on 17.03.2015 for the subject, Genetics & Biotechnology, and attended the examination. Therefore, respondents 1 & 2 cannot declare that the petitioner is absent. Respondents 1 & 2 ought to have evaluated the answer script of the petitioner with reference to Ext.P2 question paper supplied to her. The 3rd respondent having examined the case of the petitioner and forwarded Ext.P6 representation, it is an admitted case that there was no fault on the part of the petitioner and she was supplied with the question paper for the supplementary candidates by mistake.

8. As the petitioner has undergone the same subject and taken the examination though with a different question paper, respondents 1 & 2 are bound to evaluate her answer sheet with reference to Ext.P2 question paper and to declare the results. I am not inclined to accept the submission of the learned Standing Counsel for the

respondent university that it is open to the petitioner to appear for the next examination as the same would be detrimental to the petitioner.

In the result, the writ petition is allowed. The 2nd respondent is directed to evaluate the answer sheet of the petitioner in the subject, 'Genetics & Biotechnology', in the final (6th) semester conducted by the respondent university on 17.03.2015 with reference to Ext.P2 question paper and declare the result within a period of one month from the date of receipt of a copy of this judgment and to issue consequential mark sheet and degree certificate to the petitioner if she is otherwise eligible for the same.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-