

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 21080 of 2015 (H)

PETITIONER(S) :

**NIVEDITHA V.R, AGED 18 YEARS
D/O.BABURAJAN NAIR, PARASSERY UNRA L 20,
TC 8/1828/6, UDAYARIGI NAGAR, THIRUMALA.P.O.
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY TO TECHNICAL
EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. COMMISSIONER OF ENTRANCE EXAMINATIONS
OFFICE OF THE COMMISSIONER OF ENTRANCE EXAMINATIONS
5TH FLOOR, HOUSING BOARD BUILDINGS, SANTHI NAGAR
THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER ROSHEN D. ALEXANDER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 21080 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE MARK SHEET DATED 25.5.2015.**
- EXT.P2 - TRUE COPY OF THE RELEVANT PAGES OF THE PROSPECTUS
FOR THE ADMISSION TO PROFESSIONAL DEGREE COURSE.**
- EXT.P3 - TRUE COPY OF THE DATA SHEET OF THE PETITIONER.**
- EXT.P4 - TRUE COPY OF REVALUATION RESULT DATED 3.7.2015
ISSUED BY THE CBSE.**
- EXT.P5 - TRUE COPY OF THE REPRESENTATION DATED 7.7.2015
PREFERRED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT.**
- EXT.P6 - TRUE COPY OF THE RELEVANT PORTION OF THE
PROSPECTUS FOR JEE.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.VINOD CHANDRAN, J

W.P.(C).No.21080 of 2015

Dated this the 15th day of July, 2015

JUDGMENT

The petitioner appeared for the Kerala Engineering, Agricultural, Medical (KEAM) Entrance Examinations, 2015 on the basis of the mark list issued by the Central Board of Secondary Education, produced as Ext.P1 and in compliance with the prospectus extract of which is produced at Ext.P2.

2. The petitioner had submitted an application for revaluation to the Central Board of Secondary Education and by Ext.P4 the petitioner was informed that the petitioner's marks in the English Core subject is enhanced from 76 to 87. Hence the petitioner obtained an additional 11 marks. The petitioner seeks that the same may be added in the computation of the marks for determining the rank in the KEAM, 2015 specifically for the Architecture course. The petitioner also relies on Ext.P6, wherein the Joint Entrance Examinations(JEE Main)

has a procedure by which, re-totalling and revaluation of the marks can be taken into consideration if the revised mark sheet/transcript is produced before an allotment is made. In the present case, the first and the second allotment is over and the petitioner seeks only consideration in the third allotment. The petitioner also relies on Clause 14.3 in Ext.P2 to contend that the Commissioner of Entrance Examinations has absolute powers to make such modification in the event of compelling situation arising.

3. The learned Senior Government Pleader however submits that the Commissioner's powers cannot extend to something which is specifically provided in the prospectus. Attention specifically is drawn to Clause 9.7.9, which reads as follows.

“The rank list for Architecture will be published after this date. The marks of the qualifying examination and NATA score received on or before 31.05.2015 alone will be considered for preparing the Architecture Rank list. The rank list so published will be final and the marks received subsequently will not be considered under any circumstances. The CEE will not be responsible for any delay in the

publication of the result of the qualifying examination or NATA”.

4. The prospectus specifically provides that the marks of the qualifying examination and NATA score received on or before 31.05.2015 alone will be considered for preparing the Architecture Rank list. It is also stated that marks received subsequently will not be considered under any circumstances. True, the petitioner's case is one requiring sympathetic consideration. Unfortunately, the prospectus having not provided for the same. This Court has considered an identical situation in which it has been laid down as follows :

“The fact remains that online allotment process is based on a set of rules with respect to rank and option that have to be exercised by the candidates for examination. Any sympathetic consideration by this Court will amount to change of rules, which may affect the ranking process. It may not be proper for this Court to exercise powers to interfere in such process when the dead line is over. It is not for the judicial wisdom to suggest how a well oiled system for admission based on Entrance Examination should work. Any interference would derail entire process, unless petitioner establishes any violation of pre-established right. There may arise many situations like one pointed out in this case, if in each

situation the Court start interfering based on sympathy, I am sure it will set a "new Rule" substituting the wisdom of the Administration".

5. In view of the aforesaid findings, this Court would not permit any recasting of the rank list, already published, on the basis of the enhanced marks obtained by the petitioner.

The writ petition is dismissed. However, it is only appropriate that the Commissioner of Entrance Examination/Government should consider at least as to how such an anomaly can be set at naught, even during the admission process, especially since it is not due to the fault of the student such a mistake occurred and it is only by reason of mistake occurred at the hands of one or the other authority.

Sd/-
K.VINOD CHANDRAN
JUDGE

VS