

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 22120 of 2015 (L)

PETITIONER:

**MS.SANGEETHA.N.R, STAPATHI,
NEELATTUPARAMBA, EAST NALLUR,
FEROKE, KOZHIKODE - 673 631.**

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S):

- 1. THE UNIVERSITY OF CALICUT,
REPRESENTED BY ITS REGISTRAR,
CALICUT UNIVERSITY P.O, THENJIPALAM,
MALAPPURAM DISTRICT - 673 636.**
- 2. VICE CHANCELLOR,
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O,
THENJIPALAM, MALAPPURAM DISTRICT - 673 636.**
- 3. THE CONTROLLER OF EXAMINATIONS,
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O,
THENJIPALAM, MALAPPURAM DISTRICT -673 636.**

BY ADV. SRI.SANTHOSH MATHEW, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEAR
ON 07-08-2015 ALONG WITH WPC. 23445/2015, THE COURT
ON 28-10-2015 DELIVERED THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1. TRUE COPY OF THE DEGREE CERTIFICATE ISSUED BY THE UNIVERSITY.
- EXHIBIT P2. TRUE COPY OF THE E-MAIL COMPLAINT SENT BY THE PETITIONER AND OTHER STUDENTS TO THE SECOND RESPONDENT VICE-CHANCELLOR.
- EXHIBIT P3. TRUE COPY OF THE NOTE PRESENTED TO THE STANDING COMMITTEE ON EXAMINATIONS BY THE B.TECH BRANCH.
- EXHIBIT P4. TRUE COPY OF THE MEMORANDUM SUBMITTED BEFORE THE 2ND RESPONDENT BY THE STUDENTS.
- EXHIBIT P5. TRUE COPY OF THE MARKS AWARDED TO THE 1 & II BATCH STUDENTS.
- EXHIBIT P6. TRUE COPY OF THE STATISTICS PREPARED BY THE SYSTEM ADMINISTRATOR, ON THE DIRECTION OF THE CONTROLLER OF EXAMINATIONS AND THE CHAIRMAN, BOARD OF EXAMINERS.
- EXHIBIT P7. TRUE COPY OF THE JUDGMENT IN WPC 20451/12.
- EXHIBIT P8. TRUE COPY OF THE APOLOGY LETTER TO THE 2ND RESPONDENT VICE-CHANCELLOR THAT HAD SHE KNOWN ABOUT THESE FACTS, SHE WOULD HAVE RECOMMENDED THE RE-EXAMINATION.
- EXHIBIT P9. TRUE COPY OF THE RELEVANT PAGES OF MINUTES OF DECISION TAKEN BY THE STATUTORY BODY OF THE UNIVERSITY.
- EXHIBIT P10. TRUE COPY OF THE PRESS RELEASE.
- EXHIBIT P11. TRUE COPY OF THE QUICK VERIFICATION.
- EXHIBIT P12. TRUE COPY OF THE JUDGMENT IN WPC 31792/13.
- EXHIBIT P13. TRUE COPY OF THE DECISION TAKEN BY THE HONOURABLE VICE-CHANCELLOR DATED 14.7.15 TO CONDUCT A RE-EXAMINATION.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) Nos.22120 & 23445 of 2015

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Dated this the 28th day of October, 2015

JUDGMENT

The decision taken by the Vice Chancellor of University of Calicut for cancellation of re-examination taken by the petitioners are under challenge in these writ petitions.

W.P(C) No.22120/2015

2. The petitioner was admitted to the Nehru College of Engineering, Pambadi, Thrissur for B.Tech Course. She alleges that practical examination for the VIth semester was conducted in two batches and by two examinations. The petitioner was in the 2nd batch in which there were 64 candidates, out of whom, 27 failed. For the remaining 27 candidates, 40 marks each only were given. The petitioner points out that on the other hand, the students in the 1st batch got appropriate marks as per the regulations. As the victimization was noticed by the Vice Chancellor on the

representation submitted by the petitioner and other students, re-examination was ordered by the Vice Chancellor. It is alleged that even after 1 ½ years, the order directing re-examination was not complied with and, therefore, the petitioner approached this Court with W.P(C) No.20451/2012. When that writ petition came up for hearing, the standing counsel submitted that re-examination would be conducted within ten days. In the re-examination, 23 out of 25 candidates appeared passed. However, later the Board of Adjudication of Students Grievances took a decision to conduct the re-examination.

3. The petitioner now completed her M.Tech course from Vellore Institute of Technology (VIT) which is the one of the premier institutes in India. The petitioner points out that one Mr. Stalin, Trade union Leader, filed vigilance complaint against the Enquiry Commission and Vigilance Judge, Thrissur. It was stated in the complaint that there was procedural irregularities. On the basis of

the vigilance complaint, now the Vice Chancellor ordered second re-examination cancelling the earlier examination by way of Ext.P13. The decision of the Vice Chancellor to cancel the earlier re-examination conducted as per the order of this Court and to conduct a new re-examination is under challenge in this W.P(C).

W.P(C) No.23445/2015

4. The petitioners completed B.Tech course from respondent university in 2012. Before completion, they appeared for the practical examination paper viz., Micro Processor and Micro Controller Lab Examination during 2012. It was the VIth semester paper which they attended while undergoing the VIIth semester. Subsequently, the university noticed apparent disparity in the process of valuation of practical test with respect to Batches A and B students. Therefore, it was decided by the Vice Chancellor to cancel the Batch B examination held in December, 2011 and to conduct it afresh. Accordingly, it was conducted afresh on

7.9.2012. The petitioners also passed in the said test along with others. Their grievance is that because of certain allegations, the Vice Chancellor is reviewing the earlier decision although the same was perfectly right. It was also directed to cancel the results of the earlier examination in which the petitioners have participated and came out successfully. Therefore, the decision taken by the Vice Chancellor reflected in Ext.P8 is under challenge in this writ petition.

5. As directed by this Court the learned standing counsel for the respondent university has produced the file relating to the issue and copies of the same was also submitted before this Court along with a statement. It appears from the file that a complaint was submitted on 7.4.2014 by 27 students of VIIIth semester of Nehru College of Engineering (B.Tech ECT Second batch), on the basis of which, the Controller of Examinations sought for remarks on 1.6.2012. On 7.6.2012, one Binu G.S, Assistant Professor of N.S.S College of

Engineering, Palakkad, who was one of the examiners submitted his report. Another examiner one Kiran Samuel, Assistant Professor of Royal College of Engineering, Akkikavu submitted his explanation on 15.6.2012. On 2.6.2012, the Controller of Examinations sought for the report from the System Administrator and the System Administrator submitted a report on 11.6.2012.

6. The issue came up for consideration before the standing committee in its meeting held on 31.7.2012 which resolved not to re-conduct the practical examination. Thereafter on 6.8.2012, representation was submitted by the students to the vice Chancellor. On 9.8.2012, the Pro Vice Chancellor submitted a note to the vice chancellor who directed that a panel of examiners be furnished by the Pro vice Chancellor and to submit the same to the Vice Chancellor. Accordingly, a panel of three Assistant Professors in Electronics and Communication Engineering Department, MET School of Engineering, Mala were submitted. Those examiners were Sri.Rejil

V.R, Sri.Ranjith.R, and Ms.Anza Mathew. On 14.8.2012, letters were sent by the Pro Vice Chancellor to the Principal of Nehru College of Engineering and Research requiring him to offer his remarks regarding the low marks awarded to the students and to conduct a special examination. By letter dated 17.8.2012, the Principal of Nehru College opined that there were failures in the above class even though the students were good and observed that something had gone wrong in the evaluation, and recommended that re-examination be conducted for the said subject. Accordingly, on 28.2.2012, the Vice Chancellor ordered that re-examination be conducted as a special case as recommended by the Principal.

7.By note date 3.9.2012 issued by the Pro Vice Chancellor, the Controller of Examinations was directed to conduct re-examination of Micro Processor and Micro Controller Practical Examination. Accordingly on 4.9.2012, the Joint Controller of Examinations sent a communication to the examiners to conduct re-examination.

However, on 3.9.2012, the petitioner in WP(C) No.22120/2015 has filed WP(C) No.20451/2012 for a direction to the university to comply with the directions of the Vice chancellor by conducting a re-examination of practical examination for Micro Processor and Micro Controller Lab in the VIth semester within a time frame. On 4.9.2012, the standing committee of the university based on the instructions received from the university submitted that the university shall conduct a re-examination for the failed candidates of lab examination within ten days.

8. The aforesaid writ petition was disposed of on 4.9.2012. In this writ petition, the learned standing counsel for the respondent university submitted that the examination could be held within a period of ten days which is the date of judgment i.e. in September, 2012. After conducting the re-examination, mark list was despatched to the Chief Examiner on 7.9.2012. The mark list would reveal that out of 26 students registered, two were absent.

Among the students who attended the practical examination only two candidates failed as the said candidates had obtained only 30 marks. On 20.9.2012, one student by name Sreejith.P filed W.P(C) No.21941/2012 for publication of the results of practical examination. On 20.9.2012, orders were passed by this Court directing the university to publish the result of the re-examination expeditiously or within two days if it is ready, for enabling the petitioner to produce the same. On 24.9.2012, results were published and students, who appeared for the examination, were directed to submit their mark lists in the Pareeksha Bhavan to get the revised mark list.

9. It appears from record that one T.Sudha, Associate Professor of NSS College of Engineering, Palakkad, who was the Chairman of Board of Examiners in B.Tech (ECE June, 2011, VIth semester) had submitted an explanation before the university on 17.2.2012 explaining the circumstances which led to non-recommendation to

re-conduct the said examination and clarified that she would not have opposed the request for re-examination had she been aware of the facts and she tendered unconditional apology for causing damages to the good name of the university.

10. Later, the registrar of the university addressed the Secretary to the Governor on 22.2.2013 intimating the fact of re-examination as well as the commencement of the examination thereon. The letter also contain the endorsement of apology tendered by Dr.T.Sudha, Later on 5.12.2014, a report was submitted by the Controller of the Examination to the Chancellor explaining the circumstances which led to the re-examination. From the records now placed before me, it can be seen that when the results of the practical examination were published originally, two complaints were received in the Pareeksha Bhavan with the following allegations:

- (a) The practical examinations for the EC Branch was conducted in two batches.

(b)The examiner of the first batch was very liberal in awarding marks as only two candidates stood failed in the batch.

(c)The examiner of the second batch willfully caused to fail the petitioners as there were 26 candidates stood failed in the batch.

11.The complaints received were promptly acted upon by transmitting the same to the Chairperson for the remarks, who furnished a reply denying all the allegations in the petition. She stated that there was no anomalies occurred in the conduct of the examination. She has also informed that the examination was conducted as per the norms and the students who failed to do the programmes and who could not perform well in the *viva voce* have failed. She strenuously recommended not to conduct the re-examination. However, the chairperson has later changed her stand as per the statements submitted to the Vice Chancellor on 17.2.2012. It was specifically stated by her that she came to know about the actual facts only later and, therefore, she stated that she

would not have opposed the re-examination had she known the relevant facts. Though the decision of the standing committee of the examination was not to conduct the examination, however, later the university has decided to conduct the re-examination and accordingly, re-examination was conducted and the petitioners gone through the practical examination. Thereafter they have completed the course and one of the petitioners obtained Post Graduate degree from another institute.

12. Naturally any action on the part of the respondent university to annul the examination would cause irreparable loss, injury and hardship to the petitioners and the same cannot be countenanced on any count. The university cannot drive the petitioners to the risk of taking the examination once again, especially at this point of time. It was found by the university that the re-examination taken by the petitioners were necessitated on account of certain genuine grounds. The petitioners obeyed the orders of the university and

they have once again attended the practical examination and came out successfully. Therefore, any further attempt on the part of the respondent university to annul the results enjoyed by the petitioners has to be curtailed.

In the result, the writ petitions are allowed. The orders issued by the Vice Chancellor directing the Controller of the Examination to cancel the re-examination conducted on 7.9.2012 as evidenced by Ext.P3 in W.P(C) No.22120/2015 (Ext.P8 in the other writ petition) is quashed. It is hereby declared that the re-examination of the practical paper viz., Micro Processor and Micro Controller conducted at Nehru College of Engineering and Research, Pampadi, Thrissur on 7.9.2012 on the basis of the judgment in W.P(C) No. 20451/2012 is valid and binding on the first respondent university.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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//true copy// P.A to Judge