

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 25154 of 2014 (T)

PETITIONER:

**SOUMYA K. SIVASANKARAN,AGED 22 YEARS,
IST SEMESTER MA MOHINIYATTAM
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.R.DIVAKARAN
SMT.RESMI THOMAS**

RESPONDENTS:

- 1. SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY, REP. BY ITS REGISTRAR, PIN-683 574.**
- 2. THE ASSISTANCE REGISTRAR, EXAMINATION SECTION,
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY, PIN-683 574.**
- 3. THE HON'BLE PRO VICE CHANCELLOR,
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY, PIN-683 574.**

R1 TO R3 BY SRI.ARUN B.VARGHESE,SC, SREE SANKARACHARYA UTY.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1	COPY OF THE IDENTITY CARD OF THE PETITIONER
EXT.P2	COPY OF THE MEDICAL CERTIFICATE DATED 22/12/2013
EXT.P3	COPY OF THE HALL TICKET OF THE PETITIONER
EXT.P4	COPY OF THE HALL TICKET M A ENTRANCE EXAMINATION
EXT.P5	COPY OF THE REPRESENTATION DATED 14/6/2014
EXT.P6	COPY OF THE ATTENDANCE MARKING SHEET FROM THE UNIVERSITY.
EXT.P7	COPY OF THE LETTER DATED 3/7/2014
EXT.P8	COPY OF THE LETTER DATED 11/7/2014.

RESPONDENT(S)' EXHIBITS

EXT.R1(A)	COPY OF THE REGULATIONS FOR CHOICE BASED CREDIT SEMESTER SYSTEM FOR UNDER GRADUATE PROGRAMMES 2009
EXT.R1(B)	COPY OF THE MEMO NO.4343/ACD.B2/2014/SSUS DATED 5/5/14 ISSUED BY THE UNIVERSITY.
EXT.R1(C)	COPY OF THE REPRESENTATION DATED 5/6/14 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
EXT.R1(D)	COPY OF THE LETTER NO.SSUS.MCK.EX1/2010 DATED 11/7/14 ISSUED BY THE CAMPUS DIRECTOR TO THE 3RD RESPONDENT.
EXT.R1(E)	COPY OF THE LETTER NO.4343/ACD.B2/2014/SSUS DATED 11/8/14 ISSUED BY THE UNIVERSITY
EXT.R1(F)	COPY OF THE NOTE NO.4343/ACD.B2/2014/SSUS DATED 5/9/14 ISSUED BY THE UNIVERSITY
EXT.R1(G)	COPY OF THE ORDER NO.EC/7976/SSUS/2011 DATED 23/9/14 ISSUED BY THE UNIVERSITY

/TRUE COPY/

P.A.TO.JUDGE

K. VINOD CHANDRAN, J.

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W.P.(C) No.25154 of 2014 - T

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Dated this the 8th day of January, 2015

J U D G M E N T

The petitioner who was undergoing the Ist semester M.A (Mohiniyattam) Post Graduate Degree under the 1st respondent, filed the above writ petition for publication of results of her B.A (Mohiniyattam) Degree, final semester examination. The petitioner had undergone the under graduate course, in the 1st respondent University. In the VIth semester, the petitioner had a shortage of attendance and hence was interdicted from appearing in the examinations. The petitioner filed an application for condonation of shortage of attendance. Since, that could not be considered prior to the convening of the examination, the University permitted the petitioner and other similarly placed students to participate in the examinations. It was made clear that the participation of those persons whose condonation applications are pending, would be provisional

and subject to the decision in the application.

2. The petitioner appeared for the VIth semester examination and since the regulations of the University permitted students, who had appeared in the VIth semester examination to apply for admission to the P.G course, the petitioner so applied and got admission in the M.A (Mohiniyattam) P.G Degree course. However, the petitioner's provisional registration was cancelled as per Ext.R1(g), dated 23.09.2014. Despite the petitioner having been served with Ext.R1(g), the petitioner had approached this Court without producing the said rejection order making an innocuous prayer for publication of results of final year B.A (Mohiniyattam) Degree examination. It is also to be noticed that even now, the petitioner has not raised a specific challenge against Ext.R1(g).

3. Be that as it may, the brief facts are to be noticed for proper adjudication of the writ petition. The VIth semester of the B.A (Mohiniyattam) course, which the petitioner had undergone had 75 working days. The

regulation of the University prescribed a minimum of 75% attendance for permission to participate in the examinations. The petitioner admittedly had only 43 days of attendance.

4. The Vice Chancellor had the power of condonation, but however, such power was restricted to condonation of only 10 days. The petitioner had attendance even below the condonable limit. Going by the total number of working days, the petitioner had to have a minimum of 57 days of attendance. The petitioner had only 43 days and condonation could have been granted only if the petitioner had atleast 47 days of attendance. In fact, it is also to be noticed that the petitioner's condonation application was rejected on 05.05.2014 as is revealed from Ext.R1(b). The petitioner was specifically issued with notice of the same. The petitioner has not produced the said document also before this Court; which is produced by the University as Ext.R1(b). It is pertinent that the petitioner has not only suppressed the said document but has not even mentioned

the factum of rejection of the condonation application in the writ petition.

5. Factually, there was a controversy with respect to a revision of attendance, made by the Head of the Department; upon which the University had proceeded against the Head of the Department. That need not be looked into at this stage, since, in any event, even as per the revision effected, the petitioner's attendance was below the condonable limit.

6. The petitioner was informed of the rejection of the application for condonation of attendance shortage, and was also advised to continue the VIth semester, in the under graduate course, under the University. The petitioner's letter Ext.R1(c) evidences the said communication. The petitioner's contention in Ext.R1(c) was that, she had already taken the examinations of the VIth semester and on her attendance being regularised, the results could be published. However, the admission of the petitioner to the examinations of the VIth semester graduate exam was

provisional and was subject to the result of the application for condonation of attendance shortage. On rejection of that application as a necessary consequence, the petitioner's provisional registration was cancelled as per Ext.R1(g).

7. The learned Counsel, now appearing for the petitioner, would submit that the writ petition was immediately filed after Ext.R1(g) order and the order was not received. It is also argued that Ext.R1(g) was passed without notice to the petitioner.

8. The petitioner does not have a contention that Ext.R1(g) was not received by the petitioner at the time when the writ petition was filed in the pleadings. Despite a reply having been filed to the counter affidavit, the petitioner does not refute the receipt of Ext.R1(g), at the time of filing of the writ petition. Ext.R1(g) was the order cancelling the provisional registration of the petitioner and in any event long prior to that, the application for condonation of attendance shortage was rejected. The

petitioner was aware of the rejection of the condonation application and the petitioner was also directed to resume VIth semester course; which also has not been disclosed in the writ petition. The petitioner's letter, produced at Ext.R1 (c) dated 05.06.2014, long before the filing of the writ petition clearly reveals knowledge on the petitioner, about the earlier proceedings of the University. This Court is of the opinion that the petitioner is guilty of blatant abuse of process of law and is guilty of suppression of material facts.

9. With respect to the publication of the results of the VIth semester B.A (Mohiniyattam) examination, the relief sought for in the writ petition; it is to be noticed that the petitioner's admission to the examinations was merely provisional. The application for condonation could not be considered in time and hence the University permitted provisional appearance in the examinations. Subsequently the petitioner's condonation application was rejected as per Ext.R1(b). The provisional registration granted being subject to the disposal of the condonation application,

necessarily such registration would have to be cancelled on the condonation application being rejected.

10. The contention with respect to Ext.R1(g) being issued without notice is found to be of no consequence since, a notice and a hearing could not have brought out any other result than that is indicated in Ext.R1 (g). The provisional registration was dependent upon the disposal of the condonation application and the cancellation of the provisional registration was a necessary consequence of the rejection of the application for condonation of shortage of attendance. A notice and hearing would be a useless and unnecessary formality.

11. In such circumstance, the writ petition is liable to be dismissed. Considering the deliberate suppression of material facts, this Court is constrained to impose exemplary cost of Rs.10,000/- (Rupees ten thousand only/-), which shall be paid to the Kerala State Mediation and Conciliation Centre, Ernakulam within a period of one month from today, on production of receipt of

which alone the petitioner shall be permitted to continue the VIth semester of the B.A (Mohiniyattam) course; if at all it is permissible otherwise. In any event, the Kerala State Mediation and Conciliation Centre, Ernakulam will be entitled to proceed for recovery by resort to the provisions of the Kerala Revenue Recovery Act, 1968.

The writ petition would stand dismissed with costs as directed above.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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P. A to Judge.