

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 29248 of 2012 (E)

PETITIONER :

**ABDUL RASHEED P.A.,
PALLIPARAMBIL, HOUSE NO.5/1278, SEELATTU LANE
NEW ROAD, MATTANCHERY, KOCHI - 682 002.**

**BY ADVS.SRI.B.RAGUNATHAN
SRI.M.SALIM
SRI.R.SRINATH
SRI.P.PRASANTH
SRI.VIPIN VARGHESE**

RESPONDENT(S) :

- 1. VICE – CHANCELLOR
M.G.UNIVERSITY, PRIYADARSHINI HILLS
KOTTAYAM - 686 560.**
- 2. M.G.UNIVERSITY
REPRESENTED BY REGISTRAR, M.G.UNIVERSITY
PRIYADARSHINI HILLS, KOTTAYAM - 686 560.**
- 3. SPECIAL GRADE PRINCIPAL,
MAHARAJA'S COLLEGE, ERNAKULAM,
KOCHI - 682 011.**

**R1 & R2 BY ADV. SRI.VARUGHESE M. EASO, SC
R3 BY GOVT. PLEADER SRI. V.K. RAFAEK**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P-1 TRUE COPY OF THE PARTICIPATION CERTIFICATE IN THE NATIONAL WRESTLING CHAMPIONSHIP IN APRIL 2012.
- EXT.P-2 TRUE COPY OF THE PARTICIPATION CERTIFICATE IN THE NATIONAL WRESTLING CHAMPIONSHIP IN OCTOBER 2010.
- EXT.P-3 TRUE COPY OF THE CERTIFICATE OF KERALA STATE WRESTLING CHAMPIONSHIP HELD IN OCTOBER 2010.
- EXT.P-4 TRUE COPY OF THE CERTIFICATE OF KERALA STATE WRESTLING CHAMPIONSHIP HELD IN MARCH 2011.
- EXT.P-5 TRUE COPY OF THE CERTIFICATE DT.3.3.2012 ISSUED BY THE PHYSICAL EDUCATION DEPARTMENT OF M.G.UNIVERSITY.
- EXT.P-6 TRUE COPY OF THE ORDER SANCTIONING M.COM IN MAHARAJA'S COLLEGE, ERNAKULAM DATED 25.8.2012.
- EXT.P-7 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR ADMISSION UNDER SPORTS QUOTA DATED 19.10.2012.
- EXT.P-8 TRUE COPY OF THE REQUEST FOR ADMISSION DULY RECOMMENDED BY THE HOD COMMERCE DEPT. MAHARAJA'S COLLEGE, ERNAKULAM DATED 5.11.12.
- EXT.P-9 TRUE COPY OF THE GUIDELINES ISSUED BY THE 2ND RESPONDENT (RELEVANT PORTION) FOR ADMISSION UNDER SPORTS QUOTA.
- EXT.P-10 TRUE COPY OF LETTER NO.B6/2012 DATED 5.11.2012 OF THE 3RD RESPONDENT TO THE 1ST RESPONDENT.
- EXT.P-11 TRUE COPY OF LETTER NO.B6/2012 DATED 9.11.2012 OF THE 3RD RESPONDENT TO THE 2ND RESPONDENT.
- EXT.P-12 TRUE COPY OF LETTER AC BVI/1/1990/2012 OF THE 2ND RESPONDENT DT.27.11.12.

RESPONDENTS' EXHIBITS :

- EXT. R1(a) COPY OF THE UNIVERSITY ORDER NO. 4708/A1/2012/ACAD. DT. 25/8/2012 SANCTIONING PROVISIONAL AFFILIATION TO M.COM DEGREE PROGRAMME 2012-13 TO GOVT. COLLEGE, KOTTAYAM.
- EXT. R1(b) COPY OF THE STUDENT ADMISSION DETAILS OF THE STUDENT ANJANA THANKAPPAN.
- EXT. R1(c) COPY OF THE STUDENT ADMISSION DETAILS OF THE STUDENT SANDHYAMOL K.M.

WP(C).No. 29248 of 2012 (E)

- EXT. R1(d) COPY OF UNIVERSITY ORDER NO. 5694/BVI/1/2012/ACAD. DT. 5/10/.2012.**
- EXT. R1(e) COPY OF ORDER NO. 7141/AC.AVIII/2012 DT. 15/10/2012 EXTENDING THE DATE OF CLOSING OF ADMISSIONS TO 16/10/2012 AT 5 P.M.**
- EXT. R1(f) COPY OF CIRCULAR NO. AC.A1/3/2640/2006 DATED 9/11/2006.**
- EXT. R1(g) COPY OF U.O. NO. AC.AI/3/2636/2006 DATED 4/5/2006.**
- EXT. R1(h) COPY OF THE RELEVANT PORTION OF THE 11 REGULARIZED ADMISSIONS UNDER SPORTS QUOTA AT MAHARAJA'S COLLEGE, ERNAKULAM.**
- EXT. R1(i) COPY OF THE DETAILS OF STUDENTS OF M.COM DEGREE PROGRAMME AT MAHARAJA'S COLLEGE FURNISHED BY THE COLLEGE AUTHORITIES.**
- EXT. R3(a) COPY OF THE RELEVANT PAGES OF THE GUIDELINES OF THE UNIVERSITY.**
- EXT. R3(b) COPY OF ORDER NO. 5694/BVI/1/2012/ACAD. DATED 5.10.2012 OF REGISTRAR, M.G. UNIVERSITY.**
- EXT. R3(c) COPY OF THE PRESS NOTIFICATION (MATHRUBHUMI DAILY DATED 1-10-12).**
- EXT. R3(d) COPY OF THE NOTIFICATION OF THE UNIVERSITY FOR THE ADMISSION TO SPORTS/CULTURAL/PH.QUOTA).**

//TRUE COPY//

P.S. TO JUDGE

Mn

A.V.RAMAKRISHNA PILLAI, J.

= = = = =

W.P(C) No.29248 of 2012

= = = = =

Dated this the 9th day of March, 2015

JUDGMENT

Ext.P12 by which the respondent university has rejected the request for regularisation of petitioner's admission to M.Com post graduate Course in Maharaja's College, Ernakulam under sports quota is under challenge in this writ petition.

2. The petitioner alleges that he is an outstanding sportsman in wrestling. The respondents issued press notification dated 17.10.2010 for admission to M.Com course under the sports quota in the Maharaja's College, Ernakulam and he was called upon to attend the interview on 19.10.2012. According to him, eight candidates appeared for the interview under the said quota and among them, the petitioner was the most meritorious candidate. He further alleges that he was selected, admitted and remitted the fees on 19.10.2012. However, to his surprise, the respondent university has rejected the request for regularisation of admission of the petitioner by Ext.P12 which according to the petitioner, is nothing, but an illegal exercise of power which is discriminatory, arbitrary,

unreasonable and, therefore, violative of Articles 14, 21 and 51A(j) of the Constitution of India. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the respondents 1 and 2, they have contended as follows:

The university introduced Centralised Allotment Process (CAP) from 2010 admission onwards. The prospectus for admission to the post graduate programmes have been based on the regulations governing the Admission to post graduate programmes duly approved by the academic council. Admission under the sports quota is done by the colleges themselves, since majority of the colleges excel in one sports event of the other. Besides, this mode of admissions is convenient to those students who wish to develop their skills in the specific area of their preference. The seats earmarked under sports quota are met from the open quota seats. Therefore, admission under the sports quota/PH category should be done prior to the commencement of the first allotment so as to enable the university to deduct an equal number of seats from the open quota seats.

It was further stated that the college authorities are familiar with this pattern of admission which has been introduced right from the inception of the CAT. The M.Com degree programme at Maharaja's College, Ernakulam was granted belatedly and therefore, the above programme was not included upto third allotment. The above programme figured in the online allotment process during the supplementary allotment i.e. 4.10.2012. Similar colleges which had been granted affiliation belatedly were provided with facilities for entering the details of PH candidates online, upon their request. To cite an instance, two candidates were admitted under PH category for M.Com degree programme which was granted affiliation belatedly at Govt. College, Nattakom, Kottayam. The details of the candidates are given below.

<u>Appl. No.</u>	<u>Name</u>
303390	Anjana Thankachan
303399	Sandhyamol K. M

The true copy of the university order dated 25.8.2012 sanctioning provisional affiliation to M.Com degree programme 2012-13 to Government College, Kottayam is produced and marked as Ext.R1(a) and the true copies of the student admission details of the above students are produced as Ext.R1(b).

It was further stated that the supplementary allotment for PG programmes was held on 4.10.2012. The principals of affiliated colleges were authorised to fill up the vacant seats occurring after the supplementary allotment upto 10.10.2012 at 5 p.m., i.e., the date of closing of admissions which was subsequently extended upto 16.10.2012. The true copy of the university order dated 5.10.2012 authorising the affiliated colleges to fill up the vacant seats occurring after the supplementary allotment upto 10.10.2012 is produced as Ext.R1(d) and the true copy of the order dated 15.10.2012 extending the date of closing of admissions to 16.10.2012 is produced as Ext.R1(e). As per the online details of the admitted candidates furnished by the authorities of Maharaja's college, the sanctioned strength of seats, i.e., 12 in number were filled. Thus, no vacant seats occurred on 16.10.2012 i.e., the date of closing of admission. The Principal of the Maharaja's College informed vide letter dated 9.11.2012 that no applications were received from eligible candidates for admission to PG programme under sports quota upto 16.10.2012 i.e. the date of closing of admission. The Principal has admitted the petitioner after the above date which amounts to violation of admission rules. The university

has issued circular/orders fixing the personal liability of irregular admissions on the Principals of affiliated colleges concerned vide university order dated 4.5.2006. The action of the Principal in inviting the application for admission to PG programme after the closing date also amounts to violation of rules; it was contended.

According to the respondents, the Principal has no authority to issue notification for admission under any quota after the date of closing of the admission. The action of the Principal in inviting applications for admission to PG programmes is irregular and admission made thus too, is irregular. No college has made any kind of admission after the date of closing of admissions even though vacant seats occurred in these colleges.

It was further stated that the university has regularised the admission of 11 candidates made under the sports quota at Maharaja's College since these admissions were made as per the guidelines of the respondent university. However, the admission of the petitioner was not regularised since it is irregular; it was contended. The Principal, Maharaja's College requested the university to regularise the admission of the petitioner under the sports quota and the university vide letter dated 27.11.2012

informed the Principal that his request is rejected due to the reasons noted in Ext.P11 letter.

It was further stated that the admission of the petitioner after the date of closing of admission under the sports quota is irregular and therefore, cannot be regularised as per the rules of admission of the university. The names of the candidates entered by the college authorities in the online admission portal is the authentic record of admitted students as far as the university is concerned. However, in the online admission portal provided to the Maharaja's College, the date of the last student who discontinued was shown as 9.11.2012 against which the petitioner was admittedly irregularly. This is contrary to the claim of the college authorities that the petitioner was admitted on 19.10.2012 and, therefore, the claim made by the petitioner is not justifiable. True copy of the details of the students of M.Com degree programme at Maharaja's College furnished by the college authorities is produced as Ext.R1(i).

4. In the counter affidavit filed by the 3rd respondent it was contended as follows:

It was stated that the petitioner had applied for M.Com (finance) programme (Post Graduate course) in the Maharaja's College, Ernakulam under sports quota for the academic year 2012-14. The M.Com degree course was sanctioned for the first time in the Maharaja's College, Ernakulam in 2012. The total allotted strength of students sanctioned is 12.

It was further stated that the PG admission for the year 2012-13 started with sports/cultural/Ph quota admission for the existing PG courses on 6.8.12. The last date of common admission to the sports/cultural/Ph quota for existing PG courses was 9.8.2012 as per university notification. At that time, M.Com course was not sanctioned in the college. According to the University guidelines, a minimum of one seat is earmarked as sports quota seat in M.Com course. True copy of the relevant pages of the guidelines of the university is produced as Ext.R3(a). It was stated that the subsequent process of allotment was made by the university through Centralised allotment Process. Out of 12 seats, 11 students are admitted by the university by the end of Centralised Allotment Process. One seat remained vacant.

It was further stated that after the CAP of the university, sanction was accorded to the colleges to fill up the vacant seats for all PG courses as per the order dated 5.10.2012 of Registrar, MG University. True copy of the said order is produced as Ext.R3(b). This respondent published the vacancy details in the college notice board. However, no candidates applied for the sports quota vacancy till the closing date on 16.10.2012. Hence, notification was made in the dailies by the college on 17.10.2012 inviting applications for admission under the sports quota. True copy of the press notification is produced as Ext.R3(c).

It was stated that after the interview and verification of certificates the petitioner was admitted under the sports quota on 19.10.2012. After this process, this respondent requested for regularisation of the admitted student. However, the request was denied by the university pointing out that the admission was made after the closing date i.e. 16.10.2012 and admission under the sports quota should have been done prior to the filling up of the open quota seats under merit category. At the time of common admission made to all PG courses by the college under sports/cultural/persons with disabilities quota, the M. Com course was not

sanctioned in this college.

It was stated that for every PG course one seat has to be allotted under the sports quota as per the guidelines for admission. The notification of the university for admission to sports/cultural/Ph quota is produced as Ext.R3(d). The reason for the delay in the petitioner's admission was due to the time taken for notification of vacancy through the newspapers and for completing the procedural formalities.

5. Arguments have been heard.

6. It is an admitted fact that the petitioner was an applicant who responded to a press notification for admission to M.Com (finance) Programme (Post Graduate Course) in the Maharaja's College, Ernakulam under the sports quota for the academic year 2012-14. It is also admitted that M.Com degree course was sanctioned for the first time in the said college in 2012. The total allotted strength was 12 only.

7. As per the notification issued by the respondent university, the last date of non admission to sports quota and PH quota for existing PG courses was 9.8.2012. As per the guidelines issued by the respondent university one seat is earmarked as sports quota in

M.Com course. After the CAP of the respondent university, sanction was accorded to the colleges to fill up the vacant seats for all PG Courses (as per Ext.R3(b) issued by the Registrar of respondent university).

8. The petitioner who was subjected to an interview was found eligible to be admitted to the sports quota and accordingly, he was admitted on 19.10.2012. After this, the Principal made a request for regularisation of his admission. However, the same was denied by the respondent university pointing out that the admission was made after the closing date i.e.16.10.2012. The further stand taken by the respondent university is that the admission under the sports quota has to be done prior to the filling up on the open quota seats under the merit category.

9. It is crucial to note that respondent university has no case that there was another student who was more eligible than the petitioner. The wisdom of the college authorities finding the petitioner most suitable among the candidates applied for cannot be called in question. If the contention taken by the respondent university is accepted, one seat should have to be kept vacant which would serve no purpose at all. No candidates from the merit

list can be accommodated in the sports quota. It is true that the admission of the petitioner was given after the cut off date prescribed by the respondent university for the admission. However, the procedure adopted by the Principal of the college was a practical approach. He has admitted the petitioner and addressed the respondent university for regularisation. The so-called irregularity committed by the Principal can be rectified by the respondent university as no third party interest is affected.

10. Denying opportunity for higher studies to an eligible student like the petitioner, who has represented the District, College, University and State many a time under the sports quota is discriminatory, arbitrary unreasonable. It has to be noted that the petitioner was selected for admission after a due process of selection. There is no challenge regarding the eligibility of the candidates. It was considering the petitioners merit that he was preferred for admission. The denial of the request affects the petitioner's right to education and the right to life enshrined under Article 21 of the Constitution.

11. It is also crucial to note that the petitioner has been regularly attending classes from 19.11.2012 onwards i.e. from the

date of his admission. Naturally, the petitioner legitimately expected that he could continue his studies without any hindrance. It was submitted by the learned counsel for the petitioner that the petitioner was hopeful of improving his performance in sports, using the institution as a platform.

Therefore, on a consideration of the entire materials now placed on record, this Court is of the view that the petitioner is entitled to get the relief as prayed for.

In the result, the writ petition is allowed. Ext.P12 is quashed. Respondents 1 and 2 are directed to grant regularisation of admission to the petitioner for M.Com (Finance) (Post Graduate Course) in the Maharaja's College, Ernakulam during the academic year 2012-2014.

sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj