

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937H

WP(C).No. 26133 of 2015 (N)

PETITIONER(S) :

1. ISMAIL N.K.,
S/O. IBRAHIM, REG.NO.110010339
2011 MBBS REGULAR BATCH
COCHIN MEDICAL COLLEGE
KOCHI.

2. SUSREE P.,
D/O. RADHAKRISHNAN
REG.NO.110011592
2011 MBBS REGULAR BATCH
KANNUR MEDICAL COLLEGE
KANNUR.

BY SENIOR ADVOCATE SRI.S.SREEKUMAR
BY ADVS.SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P. KURUVILLA

RESPONDENT(S) :

1. KERALA UNIVERSITY OF HEALTH SCIENCES
REPRESENTED BY ITS REGISTRAR
MEDICAL COLLEGE P.O., THRISSUR – 680 596.
2. THE VICE CHANCELLOR
KERALA UNIVERSITY OF HEALTH SCIENCES
MEDICAL COLLEGE P.O., THRISSUR – 680 596.
3. THE CONTROLLER OF EXAMINATIONS
KERALA UNIVERSITY OF HEALTH SCIENCES
MEDICAL COLLEGE P.O., THRISSUR – 680 596.
4. THE MEDICAL COUNCIL OF INDIA
POCKET – 14, SECTOR 8, DWARAKA PHASE -1
NEW DELHI – 110 077, REPRESENTED BY ITS SECRETARY.

5. BOARD OF ADJUDICATION OF STUDENTS GRIEVANCE
KERALA UNIVERSITY OF HEALTH SCIENCES
MEDICAL COLLEGE P.O., THRISSUR – 680 596
REPRESENTED BY ITS CHAIRMAN.
6. THE ACADEMIC COUNCIL
THE KERALA UNIVERSITY OF HEALTH SCIENCES
MEDICAL COLLEGE P.O., THRISSUR – 680 596.

R1 TO R3, R5 & R6 BY ADV. SRI.P.SREEKUMAR, SC
R4 BY ADV. SRI.TITUS MANI VETTOM, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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...3/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE MARK LIST OF THE 1ST PETITIONER DATED 3-8-2015.
- EXT.P2 COPY OF THE MARK LIST OF THE 2ND PETITIONER DATED 3-8-2015.
- EXT.P3 COPY OF THE RELEVANT PAGES OF THE REGULATIONS ON GRADUATE MEDICAL EDUCATION, 1997 ISSUED BY THE MEDICAL COUNCIL OF INDIA.
- EXT.P4 COPY OF THE RELEVANT PAGES OF THE RULES AND REGULATIONS ISSUED BY THE 1ST RESPONDENT UNIVERSITY FOR MBBS COURSE.
- EXT.P5 COPY OF THE RELEVANT PAGES OF THE REGULATIONS, CURRICULAM AND SYLLABUS OF UNDERGRADUATE MEDICAL COURSES (MBBS) ISSUED BY THE UNIVERSITY.
- EXT.P6 COPY OF THE RELEVANT PAGES OF THE MINUTES OF THE MEETING OF THE 5TH RESPONDENT.
- EXT.P7 COPY OF REPRESENTATION DATED 17-08-2015 SUBMITTED BY THE 2ND PETITIONER.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

W.P.(C)No.26133 of 2015

Dated this the 21st day of August, 2015.

J U D G M E N T

The petitioners appeared for MBBS degree examination and failed in one subject for deficiency of less than five marks in that subject. The rules that existed when the petitioner joined the MBBS degree programme provides for grant of 5 marks to students who fails in one subject for deficiency of 5 marks either in theory or practical. Subsequently without following the mandatory procedure, the 1st respondent sought to restrict the grant of moderation of 5 marks to theory paper only. When the same was challenged before this Court, the 1st respondent decided to grant moderation for practicals as well ; it is alleged. The petitioners also seek for extending that benefit to them as they are also similarly placed. It is with this background, that the petitioners have approached this Court.

2. I have heard the learned senior counsel for the petitioners and the learned Standing counsel for the respondent University.

3. The learned senior counsel for the petitioners invited my attention to the minutes of the meeting of the Board of Adjudication of Student's Grievance of the respondent University, held on 24.7.2015, which is produced and marked as Ext.P6 in this writ petition. Agenda item no.5 relates to award of grace marks to the candidates who failed in one subject. The said decision was taken by the University in the light of the direction of this Court in W.P. (C)No.20866/15. Therefore, this Court is of the view that the petitioners who are similarly situated are also entitled to get the same benefit.

Therefore, this writ petition is disposed of directing the respondent nos.1, 2, 3, 5 and 6 to award grace marks subject to a maximum of '5' to the petitioners who failed in Third Professional MBBS Degree Part I, Examinations, in

one subject, and to declare the result on the basis of the same and issue fresh mark list and the consequential Certificates if any, within a period of 3 weeks of receipt of copy of this judgment.

Sd/-
A.V.RAMAKRISHNA PILLAI,
Judge.

ami/

//True copy//

P.A. to Judge