

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 26961 of 2015 (U)

PETITIONER:

**FATHIMA MEMORIAL EDUCATIONAL TRUST
REPRESENTED BY ITS CHAIRMAN, A YOUNUS KUNJU
PALLIMUKKU, VADAKKEVILA P O, KOLLAM 10**

**BY ADVS.SRI.M.R.ANISON
SMT.K.P.GEETHA MANI
SMT.P.A.RINUSA
SMT.ANNIE JACOB
SRI.AUGUSTUS BINU**

RESPONDENTS:

- 1. STATE OF KERALA
REP BY ITS SECRETARY TO GOVERNMENT
HIGHER EDUCATION DEPARTMENT, GOVT. SECRETARIAT
THIRUVANANTHAPURAM 695001**
 - 2. THE UNIVERSITY OF KERALA
REP BY ITS REGISTRAR, UNIVERSITY CAMPUS
THIRUVANANTHAPURAM 695001**
 - 3. THE NATIONAL COUNCIL FOR TEACHER EDUCATION
REP BY ITS REGIONAL DIRECTOR
SOUTHERN REGIONAL COMMITTEE, IST FLOOR, CSD BUILDING
HMT POST, BANGALORE 560031**
- R1 BY GOVERNMENT PLEADER SMT. SANJEETHA K.A.
R2 BY SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY OF KERALA
R3 BY SRI.V.M.KURIAN, SC, SRC-NCTE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- P1:- TRUE COPY OF THE MINORITY CERTIFICATE DTD 11/12/2007**
- P2:- TRUE COPY OF THE ORDER DTD 29/5/2009 ISSUED BY THE NCTE
SANCTIONING ADDITIONAL 100 SEATS**
- P3:- TRUE COPY OF INTERIM ORDER DTD 16/6/2010 IN WPC NO 17675/2010**
- P4:- TRUE COPY OF THE ORDER DTD 8/9/2010 ISSUED BY THE UNIVERSITY
ACCORDED SANCTION FOR 200 SEATS**
- P5:- TRUE COPY OF RELEVANT PAGES OF NCTE REGULATION 2014 ISSUED AS
PER NOTIFICATION DTD 28/11/2014 ISSUED BY THE 3RD RESPONDENT**
- P6:- TRUE COPY OF THE ORDER DTD 13/5/2015 ISSUED BY THE NCTE
SANCTIONING 100 SEATS DURING 2015-16**
- P7:- TRUE COPY OF RELEVANT PAGES OF THE PROSPECTUS ISSUED BY THE
UNIVERSITY ALONG WITH NOTIFICATION DTD 20/5/2015**
- P8:- A TRUE COPY OF REPRESENTATION DTD 25/5/2015 SUBMITTED BEFORE
THE UNIVERSITY**
- P9:- TRUE COPY OF REPRESENTATION DTD 20/7/2015 SUBMITTED BEFORE
THE UNIVERSITY**
- P10:- TRUE COPY OF THE REPRESENTATION DTD 2/7/2015 SUBMITTED
BEFORE THE HON'BLE MINISTER FOR EDUCATION**
- P11:- A TRUE COPY OF THE LETTER DTD 30/7/2015 ISSUED BY THE GOVT**
- P12:- A TRUE COPY OF THE LETTER DTD 21/7/2015 ISSUED BY THE
UNIVERSITY**
- P13:- A TRUE COPY OF THE CERTIFICATE OF ACCREDITATION ISSUED BY THE
NAAC**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 26961 OF 2015

Dated this the 17th day of September, 2015

JUDGMENT

Heard the Government Pleader for the first respondent, Standing Counsel Sri. Bechu Kurian Thomas for the second respondent and Standing Counsel Sri. V.M. Kurian for the third respondent.

2. There is justification in the contention of the petitioner that the dictum laid down in the following cases have not been followed in passing Ext. P12 decision:-

- i) **State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and Others [(2006) 9 SCC 1]**
- ii) **Vikram Sarabhai Ednl. Trust and B.Ed. College v. University of Calicut and Another [2008 (2) KHC 647] and**
- iii) **Maa Vaishno Devi Mahila Mahavidyalaya v. State of Uttarpradesh and Others [(2013) 2 SCC 617]**

3. The second respondent on the other hand relies on **Chairman, Bhartia Education Society and Another v. State of Himachal Pradesh and Others [(2011) 4 SCC 527]**. The fact remains that all aspects of the matter

have not been adverted to by the second respondent.

4. I quash Ext. P12 decision to enable a fresh decision to be taken on Exts. P8 and P9 representations. The same shall be done with notice to the petitioner within a period of one month.

The writ petition is allowed. No costs.

**V. CHITAMBARESH
JUDGE**

DCS