

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 34160 of 2007 (N)

PETITIONER :

**THE SECRETARY,
N.S.S. COLLEGES' CENTRAL COMMITTEE,
CHANGANACHERRY-2.**

**BY ADVS.DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)**

RESPONDENTS :

- 1. UNIVERSITY OF CALICUT, REPRESENTED BY
ITS REGISTRAR, CALICUT UNIVERSITY P.O.
MALAPPURAM DISTRICT, PIN-673 635.**
- 2. THE REGISTRAR,
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.
MALAPPURAM DISTRICT, PIN-673 635.**
- 3. THE DEAN OF STUDENTS WELFARE,
DEPARTMENT OF STUDENTS WELFARE, CALICUT UNIVERSITY
CALICUT UNIVERSITY P.O., MALAPPURAM, PIN-673 635.**

R1 TO R3 BY ADV. SRI.P.C.SASIDHARAN, SC,

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-02-2015 ALONG WITH WPC.NO.21428/2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

WP(C).No. 34160 of 2007 (N)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE LETTER NO. SW(5)/CUE/2007 DT 9/11/2007 WRITTEN BY THE R3.
- P2: COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE R2 DT 12/11/2007.
- P3: COPY OF THE ORDER OF THE HON'BLE SUPREME COURT DT 22/9/2006 IN SPECIAL LEAVE TO APPEAL (CIVIL) NO. 24295/2005.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ANTONY DOMINIC, J.

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W.P.(C) NOs.34160 & 34162 OF 2007
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Dated this the 26th day of November, 2007

O R D E R

Admit. Issue urgent notice.

2. The Secretary of N.S.S. Colleges' Central Committee has filed these cases praying for quashing Ext.P1 communication issued by the Kerala and Calicut Universities, to the extent it directs that in the election to the College Council, Article 6.2.2 of the Lyngdoh Committee Recommendations shall be followed. The petitioner also seeks a direction permitting it to follow Article 6.2.4 of the Lyngdoh Committee Recommendations. An interim direction is sought for conducting election following Article 6.2.4.

3. Petitioner submits that they are a Corporate Educational Agency having 6 Colleges affiliated to Calicut University and 9 Colleges affiliated to Kerala University. This year, these Universities have issued Exts.P1 communications requiring them to conduct election to the College Council, following Article 6.2.2 of the Lyngdoh Committee Recommendations, which is extracted below for reference:

"6.2.2: A system of elections, where colleges and campuses directly elect college and campus office

bearers, as well as university representatives. The university representatives form an electoral college, which shall elect the university student union office bearers. A graphic representation of this model is annexed herewith at Annexure IV-B".

According to the petitioner on receipt of these communication, the Principals of the Colleges forwarded it to them, requesting that they be permitted to conduct election, following Article 6.2.4 of the Lyngdoh Committee Recommendation, which is extracted below for reference:

"A system of election wherein class representatives shall be directly elected in the colleges and universities campus and they in turn shall elect the office bearers for the college unions and the university campus union. Also they shall elect their representatives for university student union. These elected representative from colleges and university campus shall form the Electoral College, which shall elect the office bearers of the university student union. This model shall be applicable to large university with large number of affiliated colleges. A graphic representation of this model is annexed herewith at Annexure IV-D. 6.3. Disassociation of Student Elections and Student Representation from Political Parties".

It is stated that thereupon they have issued Ext.P2 in these cases to the Universities, seeking to permit them to conduct election following Article 6.2.4 and since their requests were not responded, these writ petitions were filed.

4. Petitioners submit that it is essentially for the Principal concerned to decide on the Mode of Election and that in order to maintain discipline in the campus, it is necessary to follow the mode of election as provided in Article 6.2.4. They contend that, today campus elections have been hijacked by politicians, as a result of which discipline has become a causality and violence has become the order of the day. They point out the recent gruesome murder of an Assistant Sub Inspector of Police in one of the colleges under their own management, on eruption of violence following college union election. According to them, it is their right to choose the mode of election and as Calicut and Kerala are large universities, with large number of affiliated colleges, Article 6.2.4 is what is to be followed as per Ext.P3 interim order passed by the Apex Court.

5. Since Election Schedule itself has already been fixed by the Universities, when these cases came up for admission 20.11.2007, I directed the Standing Counsel for the respondent Universities to take instructions in the matter and posted the case to 23.11.2007. Accordingly, I heard the Counsel for the Universities also.

6. On behalf of the Universities, it was argued that as per Article 6.1.7 of Ext.P3, within the autonomy of the University concerned to choose the mode of election and that the Syndicate of the Universities, consisting of representatives of the students, colleges and the University had already resolved to adopt Article 6.2.2 as the mode of election and hence there cannot be a college based departure from the general pattern. It was argued for Calicut University that there are about 159 affiliated colleges and that in respect of the 6 colleges of the petitioner alone, a difficult system cannot be allowed to be followed. On behalf of the Kerala University, counsel argued, that an application with similar prayer is pending consideration of the Apex Court and also invited my attention to the order of this Court in W.P.(C) No.32780 of 2006. It was also submitted that since schedule is already fixed and substantial progress has been made, at this stage, an order sought for shall not be passed.

7. As already noticed the interim order sought for is to permit the petitioner to conduct election to the college council following Article 6.2.4 of Lyngdoh Committee Recommendation. In the nature of the contentions raised the

first issue to be considered is whether it is exclusively within the domain of the University to decide on the mode of elections and whether a departure from Article 6.2.2 is permissible in respect of the Petitioners' College. The answer to this issue necessarily depends upon Ext.P3 order of the Apex Court, accepting Lyngdoh Committee Recommendations and directing its implementation. It is true that as contended by the counsel for the Universities, Art. 6.1.7 concedes autonomy to the Universities in respect of the choice of mode of election. But then, Art. 6.2.4 expressly states that the mode recommended therein "shall be applicable to a large university with a large number of affiliated colleges". In these cases, it was pointed out that 159 colleges are affiliated to Calicut University, while this number cannot be less in so far as the Kerala University is concerned. In any case, the Learned Counsel for the Universities did not contend that they are not large Universities. In view of this, prima facie, I am inclined to accept the contention of the Petitioner that for Universities such as Calicut and Kerala Art.6.2.4 is applicable.

8. Yet another objection raised was that the Syndicate

has already resolved to adopt Article 6.2.2 and that adoption of Article 6.2.4 will upset uniformity. If the mode of election that is applicable for Universities such as Calicut and Kerala is Article 6.2.4, then the decision of the Syndicates cannot be of any support. That apart, it is specifically contended in paragraph 13 of the writ petitions that Art. 6.2.4 of Ext.P3 is being followed in colleges which are affiliated to respondent universities and even the names of these colleges are mentioned. Despite the vehement agreements, this contention of the petitioner was not disputed by the Standing Counsel for the universities. Once representatives are elected to the University Union, the mode adopted at the college level loses its significance and therefore, I do not find any substance in the contention for maintaining uniformity in the mode of election. If that be so, I fail to appreciate the sanctity of the Syndicate's Resolution and the necessity of uniformity in the mode of election that was canvassed by the counsel.

9. It was argued that in the order in W.P.(C)No.32780 of 2006 this court had rejected an identical prayer. I have gone through the said order and what I notice is that the

contention raised in that case was that in 2006 by issuing a communication similar to Ext.P1, the Mahatma Gandhi University had violated Ext.P3 order of the Apex Court. Dealing with this contention, it was rightly held that the appropriate forum for redressal of such a grievance was the Apex Court itself. Such a contention was not raised before me and in the nature of the pleas that are raised, I do not think that the said order will stand in the way of the petitioner. Regarding the contention of the Universities that much progress has been made in the election scheduled, it was pointed by the Counsel for the Petitioner that till now, they have only published in electoral roll.

10. Thus, prima facie, I am satisfied that the petitioner has made out a case for an interim order. This court has repeatedly upheld the supremacy of the Principal of Colleges in the matter of internal discipline. See in this contention, judgments in cases of **Unni Raja vs. Principal, Medical College (1983 (2) ILR Kerala 754)**, **Manu Vilson Vs. Sree Narayana College (1996 (1) KLT 788)** and **Sojan Francis Vs. M.G. University (2003 (2) KLT 582)**. The political parties alluring young students of tender age has been described as a malady in

the Apex Court judgment in the case of **Haripal Singh Vs. Devinder Singh (1997 (6) SCC 660)**. The Apex Court has with anguish noted that tender minds get galvanized on minor issues, frenzy flaring up even on trivialities, young children and adolescents unaware of the disastrous consequences befalling their own future indulge in vandalism, mayhem and killing spree against their own fellow students.

11. In our state, these incidents have become a daily occurrence and the elders in politics seem to treat our educational institutions as fertile grounds. The latest victim of this irresponsibility is an Assistant Sub Inspector of Police, who was murdered in the petitioner's own college at Changanassery.

12. If the Principals of the Colleges, under the petitioners Corporate Educational Agency, in their wisdom and experience, have concluded that Art. 6.2.4 of Ext.P3, provides a better option for maintenance of discipline in the campus, prima facie, I do not see any objection in that view.

Accordingly, I direct that the petitioner will be allowed to conduct election to the college union in the colleges mentioned in Ext.P2 in these cases, following the mode of

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election mentioned in Article 6.2.4 of the Lyngdoh Committee Recommendation, approved by the Apex Court in Ext. P3 interim order, pending disposal of the writ petition.

ANTONY DOMINIC, JUDGE.

Rp