

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 30914 of 2012 (L)

PETITIONER(S):

**ANJU P.KUMAR, BDS STUDENT,
KANNUR DENTAL COLLEGE, ANJARAKANDY,
P.O. MAMBA, KANNUR DISTRICT.**

BY ADV. SRI.K.R. AVINASH.

RESPONDENT(S):

- 1. THE KANNUR UNIVERSITY,
MANGATTUPARAMBA, UNIVERSITY CAMPUS. P.O,
KANNUR-670 567, REPRESENTED BY ITS REGISTRAR.**
- 2. THE CONTROLLER OF EXAMINATIONS,
KANNUR UNIVERSITY, MANGATTUPARAMBA,
UNIVERSITY CAMPUS. P.O, KANNUR-670 567.**

BY ADV. SRI.V.A.MUHAMMED, SC.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 30914 of 2012 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE MARK LIST OF THE PETITIONER OF
2ND YEAR BDS EXAMINATION.
- EXT.P2 COPY OF THE MARK SHEET OF THE PETITIONER FOR THE
EXAMINATION HELD JULY 2012.
- EXT.P3 COPY OF THE KANNUR UNIVERSITY REGULATION FOR BDS COURSE.
- EXT.P4 COPY OF THE DENTAL COUNCIL OF INDIA REGULATIONS 2007.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.M.SHAFIQUE, J

W.P.C.No.30914 of 2012

Dated this the 11th day of November 2015

J U D G M E N T

Petitioner has approached this court seeking for a declaration that Clause 5 in General Clause of Ext.P3 stipulating that a candidate should pass in all the 2nd BDS subjects before he or she is promoted to the course of study for 3rd BDS is inconsistent with the Regulations framed by the Dental Council of India (for short 'DCI') as per Ext.P4 and for a direction to the respondents to promote the petitioner to the 3rd year BDS course.

2. Even according to the petitioner, as per the University Regulations, she had to pass all the second year examinations for attending the third year course. But, she failed in one subject. It was contended that as per the DCI Regulations, which had to be accepted by the University, no such restriction had been imposed and therefore the petitioner has sought for the aforesaid reliefs.

3. An interim order had been passed by this Court on 19/02/2013 permitting the petitioner to attend the third year course. It is submitted by the learned counsel for the petitioner that she had attended the third year course by virtue of the said

interim order.

4. Statement has been filed by the respondent stating that as far as the candidate is concerned, she is bound by the Regulations of the University which was prevailing during 2007, that is Ext.P3, wherein it was clearly indicated that the candidate should pass in all the 2nd BDS subjects before he or she is promoted to the course of study for 3rd B.D.S. However, based on the DCI Regulations, the University had issued an amendment order dated 22/08/2009, by virtue of which, the said restriction had been taken away. Therefore, from 2008 onwards, there is no such restriction as far as the University is concerned.

5. In regard to the relief prayed for in the writ petition, I do not think that this Court will be justified in setting aside Clause 5 in General Clause of Ext.P3 merely on account of the fact that it is contrary to Ext.P4, DCI regulations. As far as the DCI Regulations are concerned, it has to be accepted by the University and the same has been accepted only subsequent to the date on which the petitioner got admission. Therefore, I do not think that the petitioner is entitled for challenging Clause 5 in General Clause of Ext.P3.

In regard to the second relief sought for, since the petitioner had already been permitted to participate in the third year course by virtue of an interim order passed by this Court, I do not think that, in the interest of justice, it will be fair to call upon the petitioner to discontinue the said course.

Accordingly, this writ petition is disposed of permitting the petitioner to continue the third year B.D.S course which she had been permitted to attend in terms of the interim order passed.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

