

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 27971 of 2015 (V)

PETITIONER:

**DR. VIJAYAKUMARAN C.P.V.
S/O. P. ACHUTHAN NAIR, "KARTHIAYANAM"
KANHANGAD SOUTH (PO)
KANHANGAD (PO), KASARAGOD DISTRICT, PIN - 671 531.**

**BY ADVS.SRI.ELVIN PETER P.J.
SRI.T.G.SUNIL (PRANAVAM)
SRI.K.R.GANESH**

RESPONDENTS:

- 1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY
MINISTRY OF HUMAN RESOURCES DEVELOPMENT DEPARTMENT
SHASTRI BHAVAN, (2) JEEVAN DEEP BUILDING
PARLIAMENT STREET (3), WEST BLOCK-1, R.K PURAM
NEW DELHI - 110 001.**
- 2. THE CENTRAL UNIVERSITY OF KERALA
REPRESENTED BY ITS REGISTRAR, THEJASWINI HILLS
PERYE (PO), KASARAGOD - 671 316.**
- 3. THE REGISTRAR
CENTRAL UNIVERSITY OF KERALA, THEJASWINI HILLS
PERYE (PO), KASARAGOD - 671 316.**
- 4. UNIVERSITY GRANTS COMMISSION
BAHADUR SHAH ZAFAR MARG, NEW DELHI -110 002.**

**BY ADVS. SRI.S.KRISHNAMOORTHY, CGC
SRI.V.SAJITH KUMAR, SC, CENTRAL UNIVERSITY OF KERALA
SRI.B.PREM KUMAR, CGC
SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
SRI.V.SAJITH KUMAR, SC, CENTRAL UNIVERSITY OF KERALA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

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|-----------|---|--|
| EXT.P1 | - | COPY OF THE M.A. DEGREE CERTIFICATE OF THE PETITIONER AWARDED BY THE UNIVERSITY OF CALICUT. |
| EXT.P1(A) | - | COPY OF THE RANK CERTIFICATE DATED 19-08-1978 ISSUED TO THE PETITIONER BY THE UNIVERSITY OF CALICUT. |
| EXT.P2 | - | COPY OF THE MASTER OF PHILOSOPHY CERTIFICATE ISSUED TO THE PETITIONER BY THE UNIVERSITY OF CALICUT. |
| EXT P2(A) | - | COPY OF THE RANK CERTIFICATE DATED 05-01-1982 ISSUED TO THE PETITIONER BY THE UNIVERSITY OF CALICUT. |
| EXT.P3 | - | COPY OF THE M.PHIL CERTIFICATE AWARDED TO THE PETITIONER BY THE UNIVERSITY OF CALICUT. |
| EXT.P4 | - | COPY OF THE DIPLOMA CERTIFICATE IN RUSSIAN LANGUAGE AWARDED TO THE PETITIONER BY THE UNIVERSITY OF CALICUT. |
| EXT.P5 | - | COPY OF THE CERTIFICATE IN SPANISH LANGUAGE AWARDED TO THE PETITIONER BY THE VALLODOLID UNIVERSITY, SPAIN. |
| EXT.P6 | - | COPY OF THE CERTIFICATE IN GANDHIAN STUDIES ISSUED TO THE PETITIONER BY THE UNIVERSITY OF CALICUT. |
| EXT.P7 | - | COPY OF THE EXPERIENCE CERTIFICATE ISSUED TO THE PETITIONER BY THE PAYYANNUR COLLEGE, PAYYANNUR. |
| EXT.P8 | - | COPY OF THE NOTIFICATION PUBLISHED BY THE 3RD RESPONDENT IN MATHRUBHUMI DAILY DATED 13-03-2013. |
| EXT.P9 | - | COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR APPOINTMENT TO THE POST OF PROFESSOR IN COMPARATIVE LITERATURE IN THE 2ND RESPONDENT UNIVERSITY. |
| EXT.P10 | - | COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR APPOINTMENT TO THE POST OF ASST. PROFESSOR IN HINDI IN THE 2ND RESPONDENT UNIVERSITY. |
| EXT.P11 | - | COPY OF THE LETTER DATED 01-09-2014 ISSUED BY THE 3RD RESPONDENT. |
| EXT.P12 | - | COPY OF THE NOTIFICATION PUBLISHED BY THE 2ND RESPONDENT IN THE HINDU DAILY DATED 11-03-2015. |
| EXT.P13 | - | COPY OF THE CENTRAL UNIVERSITIES ACT, 2009. |

[CONTD.....]

- EXT.P14 - COPY OF THE GUIDELINES ISSUED BY THE UGC IN 2006.
- EXT.P15 - COPY OF THE LETTER DATED 25-08-2006 ISSUED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT.
- EXT.P16 - COPY OF THE CERTIFICATE DATED 10-03-2015 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.
- EXT.P17 - COPY OF THE NOTIFICATION DATED 05-03-2015 ISSUED BY THE 2ND RESPONDENT.
- EXT.P18 - LIST OF CANDIDATES CALLED FOR INTERVIEW PUBLISHED BY THE 2ND RESPONDENT UNIVERSITY IN THEIR OFFICIAL WEB SITE.
- EXT.P9 - COPY OF COMMUNICATION DATED 20.02.2015 ISSUED BY THE 4TH RESPONDENT UGC TO THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.

W.P(C). No.27971 of 2015

Dated this the 8th day of October, 2015.

JUDGMENT

The issue raised in the above writ petition is the reservation granted to the post of Professor and Associate Professor for Other Backward Classes as per Exts.P8 and P12 notifications. Section 7 of the Central Universities Act, 2009 [for brevity, the Act of 2009] empowers the University to make special provisions for the employment of or to persons belonging to weaker sections of society, and, in particular, of the Scheduled Castes, the Scheduled Tribes and the other socially and educationally backward classes of citizens. However, the same has to be in accordance with the UGC norms is the short contention raised.

2. The UGC norms as indicated in Ext.P19 would show that the reservation to the post of Professors and Associate Professors are confined to members of Scheduled Castes and Scheduled

Tribes and specifically prohibited in the case of Other Backward Classes.

3. The University had filed a Counter Affidavit asserting the University's power to make reservations as per Section 7 of the Act of 2009. It is also to be noticed that the University specifically submits that being a Central University, they are bound by UGC Regulations as well as the regulations issued by the Government of India, specifically the Ministry of Human Resources Development. The University's contention with respect to the reservation for OBC for the post of Professors and Associate Professors is as follows:

"7. As per the D.O. Letter No.F.22/98-U dated 9th October, 2006 issued by the Department of Secondary and Higher Education, Ministry of Human Resources, reservation for OBC has to be implemented in academic positions up to the level of Assistant Professor. The same was reiterated in the Letter No.F.1-4/1994(SCT) dated 24.01.2007 by the University Grants Commission. However there is no express prohibition in providing reservation for OBC up to the level of Professor.

8. Since those two instructions never came to the notice of the University which was established in the year 2009, the policy of reservation as directed in Exhibit P14 was

adopted and was being followed. It is learned that other Central Universities including JNU adopted the D.O. letter No.F.22-1/98-U dated 9th October, 2006 and is providing reservation for OBC in Academic Positions up to the level of Asst. Professor. The Exhibit P19 is not a communication to this respondent. It is a communication to the Registrar, Visva Bharathi University, West Bengal."

Hence, the University categorically admits that the reservation was made without noticing the regulations of the UGC, which stood modified from that of the 2006 regulations.

In such circumstance, it is only proper that the University re-notify the post of Professor and Associate Professor, where the reservation had been granted to the Other Backward Community.

The writ petition is disposed of. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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//True Copy//

P.A. to Judge.