

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 32517 of 2010 (L)

PETITIONER(S):

1. REENA P.V., B.ED STUDENT,
DR.AMBEDKAR COLLEGE OF EDUCATION, PERIYA
KASARAGOD DISTRICT.
2. DEEPA.P., B.ED STUDENT,
DR.AMBEDKAR COLLEGE OF EDUCATION, PERIYA
KASARAGOD DISTRICT.
3. RAJANI E., B.ED STUDENT,
DR.AMBEDKAR COLLEGE OF EDUCATION, PERIYA
KASARAGOD DISTRICT.
4. VIDYA.K., B.ED STUDENT,
DR.AMBEDKAR COLLEGE OF EDUCATION, PERIYA
KASARAGOD DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S):

1. STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVERNMENT
DEPARTMENT OF HIGHER EDUCATION, SECRETARIAT
THIRUVANANTHAPURAM.
2. KANNUR UNIVERSITY,
REPRESENTED BY THE REGISTRAR, KANNUR UNIVERSITY
MANGATTUPARAMBA, KANNUR UNIVERSITY CAMPUS P.O.
KANNUR - 670567.
3. THE PRINCIPAL,
DR.AMBEDKAR COLLEGE OF EDUCATION, PERIYA
KASARAGOD DISTRICT - 671 316.
4. THE MANAGER,
DR.AMBEDKAR COLLEGE OF EDUCATION, PERIYA
KASARAGOD DISTRICT - 671 316.

PJ

....2/-

WP(C).No. 32517 of 2010 (L)

**5. THE VICE CHANCELLOR,
KANNUR UNIVERSITY, MANGATTUPARAMBA
KANNUR UNIVERSITY CAMPUS P.O., KANNUR - 670567.**

**R1 BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN
R2&5 BY ADV. SRI.V.A.MUHAMMED,SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE MEMO DATED 17/5/10**
- P2: COPY OF G.O.(RT)NO.2008/09 DATED 30/11/2009**
- P3: COPY OF THE REPRESENTATION DATED 4/6/10 SUBMITTED BY THE PETITIONERS BEFORE THE VICE CHANCELLOR OF KANNUR UNIVERSITY**
- P4: COPY OF THE JUDGMENT DATED 8/9/10 IN WPC.27885/10**
- P5: COPY OF THE COMMUNICATION DATED 15/10/10 TO THE 1ST PETITIONER**
- P6: COPY OF THE COMMUNICATION DATED 15/10/10 TO THE 2ND PETITIONER**
- P7: COPY OF THE COMMUNICATION DATED 15/10/10 TO THE 3RD PETITIONER**
- P8: COPY OF THE COMMUNICATION DATED 15/10/10 TO THE 4TH PETITIONER**

RESPONDENTS' EXHIBITS

- R2(A): COPY OF THE LETTER DATED 16/3/10 SENT BY THE UNIVERSITY TO THE COLLEGE**

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. VINOD CHANDRAN, J

W.P(C) No. 32517 of 2010

Dated this the 26th day of February, 2015

J U D G M E N T

The petitioners who got admitted to the B.Ed Degree course challenge the cancellation of their admissions directed by the respondent Kannur University by Exts.P5 to P8. The only question to be considered is as to whether they ought to have been admitted to the B.Ed course after the date prescribed for admission.

2. The admitted facts are that, the petitioners were admitted to the B.Ed course in the 3rd respondent College, affiliated to the 2nd respondent University, on 11.12.2009. Their results in the Post Graduate Course of M.Com, which is their “eligibility-qualification” for admission to the B.Ed course was published on 11.12.2009. The petitioners contend that their admissions are liable to be regularised since, by Ext.P2, Government had directed that vacancies could be filled

up even after the last date for spot allotment.

3. Ext.P2 is the Government order, taking note of the circumstance that, even after the spot allotment permitted on 21.11.2009, many seats in Government Colleges and private and aided colleges were lying vacant. By Ext.P2, it was directed that the unfilled seats may be treated as 'lapsed seats' and the management of aided and unaided colleges could fill up the vacancies in accordance with the merit and reservation principles followed by the Government. Principals of Government Training Colleges were also given the authority to fill up "lapsed seats" after following the usual procedure. The petitioners contend that their admission being after the spot allotment, can be regularised on the basis of Ext.P2.

4. However, a reading of the counter affidavit of the University indicates otherwise. The University's contention is that the Government order at Ext.P2 merely extended the date of admissions and did

not permit any person who was not qualified for admission to the academic year 2009-10 to be so admitted. The said contention has to be examined with reference to the various dates.

5. The admissions conducted in the 4th respondent College was of the year 2009-10, to the B.Ed course. Hence only persons who had qualified before such academic year could be considered for admission. The prospectus for admission, definitely, would have indicated the date on which the qualification should have been acquired. In any event, the University contends that though admissions could be made to the unfilled seats even after the spot allotment date, the qualification would have to be acquired before that date.

6. The learned counsel for the petitioner would contend that the results of the petitioners were declared on 11.12.2009, long delayed by the University and hence the petitioners would be entitled to be

admitted on the basis of Ext.P2. It is also contended that this Court had by interim order directed issuance of certificate including provisional certificate and the petitioners are all employed and hence there would be no reason for consideration of the issue afresh. Further, at the earlier instance when the petitioners had approached this Court, this Court by Ext.P4, directed the Vice Chancellor to consider the issue and Ext.P6 memo is now issued cancelling their admission, by the Syndicate and not by the Vice-Chancellor, argues counsel. The Vice-Chancellor alone could have considered the issue, is the plea.

7. At the outset it is to be noticed that interim order dated 6.6.2012 specifically made issuance of certificate, subject to the outcome of the writ petition. In Ext.P4 also the petitioners were permitted to take practical test , “at their risk”. The grounds raised that the Vice-Chancellor having not considered the issue as directed by Ext.P4, is not relevant insofar as the

Syndicate of the University, the highest body, has considered the issue. The Vice-Chancellor is a part of the Syndicate, and it is trite that the Vice-Chancellor exercises powers under the emergency provisions, when the Syndicate is not in session.

8. As to the regularisation of the petitioners' admission, the counter affidavit of the University assumes significance. All of the petitioners underwent the post graduate study in M.Com under the School of Distance Education, which is stated to be a non-semester pattern course. Admittedly the examinations were conducted in December 2008 but the results were published only on 11.12.2009.

9. The admission process of B.Ed 2009 was started by the Government by approving the prospectus for B.Ed admissions 2009-10 by a Government Order dated 25.05.2009. On the basis of the subsequent Government Order dated 04.07.2009 receipt of application commenced on 06.07.2009. The last date of

receipt of application was on 22.07.2009. Hence definitely only those persons who are qualified prior to that date would be eligible for admission. True Ext.P2 directed that the admissions could be carried on to the unfilled seats of the B.Ed admission 2009. However, there is no whisper in the writ petition as to when the petitioners were admitted to the college of the respondents 3 and 4.

10. The counter affidavit filed by the University indicates that when admissions were made by one Zainab Memorial B.Ed Centre on 12.01.2010, in the Commerce option, of a student qualified on 14.12.2009, the request was declined by the University on the ground that the said qualification was obtained after the closing date of admission. The University had then, required the B.Ed colleges under the University to furnish the details of admission of B.Ed 2009 by letter dated 16.03.2010. It was only then, the 3rd respondent herein, intimated the University by a communication

dated 30.03.2010, that four students, the petitioners herein, who qualified after Ext.P2, were admitted to the Commerce option.

11. However, even then, the date of such admissions is not made clear. It is the specific contention of the University that the cancellation of the admission of the petitioners is not for the reason that the admission was given after Ext.P1, but for the reason that the four students were qualified only after such date. The exemption insofar as filling up of the vacant seats made by Ext.P2 could only be of such students whose results were declared prior to Ext.P2, is the specific contention.

12. The mere fact that Ext.P2 permitted admissions to be made to fill up the vacant seats cannot permit the colleges to admit students who qualified much later to the commencement of the admission for the academic year. Nor could such admissions be made at any time of the academic year. Students admitted to

the course, will necessarily have to be imparted training and Ext.P2 does not permit admissions even at the close of the academic year, permitting appearance at the examinations alone. An admission made will have to be proximate to Ext.P2 and that too of students whose results stood declared prior to Ext.P2. Herein there is no clarity as to the date on which the petitioners were admitted. The petitioners too are silent about the date of admission. But for stating the date of publication of results nothing further is stated. Even the date of publication of results is stated to be 11.12.2009, and the issuance of mark lists would be still later. Hence an admission made at the fag end of the academic year has to be held to be an irregular one. In such circumstance and also considering the fact that there is no disclosure as to the date of admission of the petitioners, in the college of respondents 3 and 4, this Court would decline the relief sought for in the writ petition.

13. This Court having found that the petitioners are not entitled to be admitted to the B.Ed Course for the year 2009-10, the publication of results, provisionally, would be of no avail to the petitioners. The University is directed to withdraw the certificates issued to the petitioners herein, since the admissions are found to be irregular.

Writ petition would stand dismissed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

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//P.A to Judge//