

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 31792 of 2013 (Y)

AGAINST CRMP 570/2012 of ENQUIRY COMMR.& SPL.JUDGE,THRISSUR

PETITIONER(S):

1. DR. M. ABDUL SALAM
VICE CHANCELLOR, UNIVERSITY OF CALICUT
CALICUT UNIVERSITY P.O., PIN-673 635.
2. PROF.K.RAVINDRANATH
PRO-VICE CHANCELLOR, UNIVERSITY OF CALICUT
CALICUT UNIVERSITY P.O., PIN-673 635.

BY ADVS.SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN
SRI.ARUN THOMAS

RESPONDENT(S):

1. THE DIRECTOR OF VIGILANCE
VIGILANCE DEPARTMENT, GOVERNMENT OF KERALA.
2. STALIN.V.
SWARALAYAM, THENJIOPALAM P.O.
MALAPPURAM DISTRICT-673 636.
3. THE DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE AND ANTI CORRUPTION BUREAU, MALAPPURAM.

Addl.4. SANGETHA.N.R.
D/O.RAMAKRISHNAN.N.S., STAPATHI, EAST NALLUR
FEROKE.P.O., CALICUT DISTRICT, PIN -673 631.ADDL. R4 IS IMPEADED
AS PER ORDER DATED 03/02/2014 IN IA 286/2014.

Addl.5. RAMAKRISHNAN.N.S.
S/O.SANKRANARAYANAN IYER, STAPATHI, EAST NALLUR
FEROKE.P.O., CALICUT DISTRICT, PIN -673 631.ADDL. R5 IS IMPEADED
AS PER ORDER DATED 03/02/2014 IN IA 288/2014.

R2 BY ADV. SRI.P.C.SASIDHARAN
R3 BY ADV. DIRECTOR GENERAL OF PROSECUTION SRI.ASAF ALI
R1 & R3 BY GOVERNMENT PLEADER SMT.SAREENA GEORGE.P
RADDL. BY ADV. SRI.T.G.SUNIL (PRANAVAM)
R4ADDL. BY ADV. SRI.K.R.GANESH
R5ADDL. BY ADV. SRI.ELVIN PETER P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1.TRUE COPY OF THE COMPLAINT IN CRL.MP NO.112/2013 FILED BY THE 2ND RESPONDENT BEFORE THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE, VIGILANCE, THRISSUR.

EXHIBIT P2.TRUE COPY OF THE ORDER DATED 8/3/2013 IN CRL.MP NO.112/2013 OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE, VIGILANCE, THRISSUR.

EXHIBIT P3.TRUE COPY OF THE ORDER DATED 11/10/2012 IN CRL.MP NO.568/2012 OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE, VIGILANCE, THRISSUR.

EXHIBIT P4.TRUE COPY OF THE ORDER DATED 11/10/2012 IN CRL.MP NO.569/2012 OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE, VIGILANCE, THRISSUR.

EXHIBIT P5.TRUE COPY OF THE ORDER DATED 11/10/2012 IN CRL.MP NO.570/2012 OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE, VIGILANCE, THRISSUR.

RESPONDENT(S)' EXHIBITS

EXT.R5 (a): TRUE COPY OF THE MARK SHEET OF BATCH I AND BATCH II OF THE PRACTICAL EXAMINATION IN THE 6TH SEMESTER OF B.T.ECH DEGREE EXAMINATION

EXT.R5 (b): TRUE COPY OF NOTE DATED 10.7.2012 OF THE DEPUTY REGISTRAR, B.TECH BRANCH ISSUED BY THE UNIVERSITY OF CALICUT.

EXT.R5 © : TRUE COPY OF RELEVANT PAGE OF THE MINUTES OF THE 57TH MEETING OF THE ACADEMIC COUNCIL OF UNIVERSITY, CALICUT.

EXT.R5(D): TRUE COPY OF LETTER DATED 15.06.2012 ISSUED BY THE ASSISTANT PROFESSOR TO THE HEAD OF THE DEPARTMENT.

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.

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**W.P (C ) No.31792 of 2013**

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Dated this the 9th February, 2015

J U D G M E N T

The writ petitioners are aggrieved by the Ext.P2 order passed by the Enquiry Commissioner and Special Judge, (Vigilance) Thrissur directing a fact finding enquiry on a complaint made by the 2nd respondent herein. The learned trial Judge also directed the vigilance to register F.I.R and make investigation, if so required. The petitioners seek preventive remedy on the ground that the University Statute does not allow such investigation. Such a contention cannot be acceptable at all. Crime investigation is not covered by the University Statute. What is provided under the Statute is only for departmental enquiry into the allegations of corruption and other wrongs and misdeeds. Investigation into a crime is governed by the Code of Criminal Procedure and other Special Laws including the Prevention of Corruption Act. Such investigation process under the criminal law cannot be prevented or stalled on the ground that provisions for departmental actions are

there in the University Statute. It is entirely a different area. Anyway, there is a report by the Vigilance that on fact finding enquiry, nothing could be collected to implicate these petitioners. However, the Vigilance Officer found some serious irregularities and instances of nepotism in the conduct of examination. He also found that this will have to be dealt with by the Chancellor of the University. Anyway, on fact finding enquiry, the vigilance did not find the necessity of registering F.I.R or making investigation.

2. Of course, under the impugned order, there is a direction to register F.I.R and make investigation, if found necessary, after conducting a fact finding enquiry. I find that such a direction was not necessary at that time. Such composite order may sometimes cause prejudice to the respondent. Here, while ordering a fact finding enquiry, the learned Trial Judge also directed to register F.I.R and make investigation. Anyway, now there is a report of fact finding enquiry by the Vigilance. The Enquiry Officer has submitted report before the trial court. If so, the trial court will have to take proper judicious decision on the basis of the report of

fact finding enquiry. The learned trial judge will meticulously go through the report, consider it from different angles and decide judiciously whether a case should be registered and investigated. In the above situation, this writ petition need not proceed.

In the result, this writ petition is closed with observation that the Enquiry Commissioner and Special Judge (Vigilance), Thrissur will consider the report of fact finding enquiry submitted by the Vigilance in this case, and take appropriate judicious decision.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge