

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 29822 of 2014 (C)

PETITIONER :

**ASHIF K.A, AGED 25 YEARS
SEVENTH SEMESTER(FINAL YEAR) B-TECH
COMPUTER SCIENCE AND ENGINEERING,
DEPARTMENT OF COMPUTER SCIENCE AND ENGINEERING,
MUSALIAR COLLEGE OF ENGINEERING AND TECHNOLOGY,
PATHANAMTHITTA, PIN 689 653**

BY ADV. SRI.K.P.HARISH

RESPONDENTS :

- 1. THE VICE-CHANCELLOR
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS PO
KOTTAYAM, 686 560.**
- 2. MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY REGISTRAR, MAHATMA GANDHI UNIVERSITY
PRIYADARSINI HILLS PO, KOTTAYAM, 686 560**
- 3. THE CONTROLLER OF EXAMINATIONS,
MAHATMA GANDHI UNIVERSITY, PRIYADARSINI HILLS PO
KOTTAYAM, 686 560**
- 4. THE PRINCIPAL,
MUSALIAR COLLEGE OF ENGINEERING AND TECHNOLOGY
MUSALIAR COLLEGE PO, PATHANAMTHITTA , PIN 689 653.**

**R1 TO R3 BY SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY
R4 BY ADV. SRI.M.K.THANKAPPAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : COPY OF THE RESULT SHEET OF THE SIXTH SEMESTER B-TECH EXAMINATIONS OF THE PETITIONER
- EXHIBIT P2 : COPY OF THE MEDICAL CERTIFICATES DATED 13/9/2014 ISSUED BY THE ASST.SURGEON P.H.CENTRE UDMA
- EXHIBIT P3 : COPY OF THE MEDICAL CERTIFICATE DATED 30/10/2014
- EXHIBIT P4 : COPY OF THE COURSE REGULATIONS OF B.TECH DEGREE COURSE(REVISED) (WITH EFFECT FROM 2010 ADMISSIONS) OF MAHAT GANDI UNIVERSITY
- EXHIBIT P5 : COPY OF THE APPLICATION DATED 6/11/2014 FOR CONDONE THE SHORTAGE OF ATTENDANCE
- EXHIBIT P5(A) : COPY OF THE STATEMENT OF ABSENCE DATED 6/11/2014

RESPONDENT(S)' EXHIBITS

- EXHIBIT R4(a) : TRUE COPY OF THE ABSENTEES REGISTER IN 7TH SEMESTER
- EXHIBIT R4(b) : TRUE COPY OF THE MONTHLY DETAILS OF ATTENDANCE IN JUNE 2014
- EXHIBIT R4(c) : TRUE COPY OF THE MONTHLY DETAILS OF ATTENDANCE IN JULY 2014
- EXHIBIT R4(d) : TRUE COPY OF THE MONTHLY DETAILS OF ATTENDANCE IN AUGUST 2014
- EXHIBIT R4(e) : TRUE COPY OF THE MONTHLY DETAILS OF ATTENDANCE IN SEPTEMBER 2014
- EXHIBIT R4(f) : TRUE COPY OF THE MONTHLY DETAILS OF ATTENDANCE IN OCTOBER 2014
- EXHIBIT R4(g) : TRUE COPY OF THE CONSOLIDATED ATTENDANCE DETAILS OF THE 7TH SEMESTER DATED 17.10.2014.
- EXHIBIT R4(h) : TRUE COPY OF THE DETAILS OF ATTENDANCE PARTICULARS.

/TRUE COPY/

PA TO JUDGE

VS

K.VINOD CHANDRAN, J

W.P.(C) No.29822 of 2014

Dated this the 20th day of January, 2015

JUDGMENT

The petitioner comes before this court seeking appearance in an examination, in which the petitioner was allegedly denied participation for reason of attendance shortage. This court had granted an Interim order at the stage of admission. Obviously such an interim order was passed on the petitioner producing Ext.P5 application for condonation, which was said to have been recommended by two members of the staff, in which the petitioner has claimed a total number of attendance of 45 days out of 65 days, which according to the petitioner would come within the condonable limit.

2. The Standing Counsel for the University submits that, the minimum requirement, for being participated in an examination in a semester, is 75% attendance, and only 10% absence can be condoned. Hence even the Vice Chancellor would have power to condone only to the extent of 10%. The learned Counsel

appearing for the respondent college, stoutly refutes the claim in Ext.P5. The fourth respondent college has filed a detailed statement, in which the attendance registers have also been produced. According to the fourth respondent college, out of a total of 65 days, the petitioner had been physically present in the college only for 28 days, which would bring the percentage of attendance to only 43%. However, even adding the solitary periods in which the petitioner participated, as also the three day attendance for college-tour and including the leave granted when the petitioner was suffering from chicken pox, the petitioner would have only an attendance of 54%. The same would be below the condonable limit is the specific contention.

3. Considering the conflicting claims made, this court is of the opinion that, the same cannot be looked at under Article of 226 of the Constitution of India. However the petitioner has now filed an application before the Vice Chancellor, produced at Ext.P6. The petitioner has also by virtue of the interim order, appeared for the

examinations, the results of which are not published. The appearance in the examinations was provisional and subject to the result of the writ petition.

4. In such circumstances, a consideration of the claim of the petitioner can be made by the Vice-Chancellor in Ext.P6, after hearing both parties. The petitioner and the authorised representatives of the fourth respondent college shall appear before the office of the Vice-Chancellor on 5.2.2015. The office of the Vice-Chancellor shall then intimate a date of hearing, after receiving personal acknowledgment from both parties. The matter shall be heard and decided within a period of three months from the date of appearance.

5. In any event, since the passing of 7th semester is not a condition for promotion to the 8th semester, the petitioner shall be allowed to be enrolled in the 8th semester classes. The publication of the results of the 7th semester examinations shall be subject to the decision of the Vice Chancellor. The admission of the petitioner to the 8th semester shall also be provisional and

subject of the result of Ext.P6, since if condonation of attendance shortage is declined, petitioner will have to repeat the 7th semester.

Writ petition is disposed of. No costs.

Sd/-
K.VINOD CHANDRAN
JUDGE

/TRUE COPY/

PA TO JUDGE

VS

