

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 30148 of 2014 (P)

PETITIONER:

**G.VIJAYA SUNDAR, S/O T. GURUSAMY,
CHERUKULATHIL PRADEEP HOUSE,
AIMS POST, EDAPPALLY, KOCHI - 682026.**

**BY ADVS.SRI.BABU CHERUKARA
SMT.ROSAMMA MATHEW
SRI.SEVI VARGHESE
SRI.P.A.SALIM
SRI.ANZAR BASHEER
SRI.PRATHEUSH.M.ANAND
SRI.P.ANTO THOMAS**

RESPONDENT(S):

- 1. MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY IT'S REGISTRAR,
ATHIRAMPUZHA, KOTTAYAM, PIN - 686562.**
- 2. THE PRINCIPAL,
S.D.P.Y COLLEGE OF COMMERCE,
SREE NARAYANA NAGAR,
PALLURUTHY, COCHIN - 682006.**

R1 BY SRI.VARUGHESE M.EASO, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1 : TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE BEARING REGISTER NO 273139.
- EXHIBIT P2 : TRUE COPY OF CERTIFICATE BEARING NO SL NO HSG 7638172.
- EXHIBIT P3 : TRUE COPY OF THE RECEIPT FOR THE REMITTANCE OF RS 1475/ DATED 06-11-2013.
- EXHIBIT P4 : TRUE COPY OF THE APPLICATION FOR RECOGNITION OF EXAMINATION OF OTHER UNIVERSITIES OR BODIES MADE BY THE PETITIONER FOR THE YEAR 2013.
- EXHIBIT P5 : TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF THE FEES DATED 19-11-2013.
- EXHIBIT P6 : TRUE COPY OF THE CERTIFICATE DATED 20-11-2013.
- EXHIBIT P7 : TRUE COPY OF THE TRANSFER CERTIFICATE DATED 31-05-2013.
- EXHIBIT P8 : TRUE COPY OF THE APPLICATION FOR REGISTRATION FOR THE 1ST AND 2ND SEMESTER BA/B.COM DEGREE EXAMINATION.
- EXHIBIT P9 : TRUE COPY OF THE APPLICATION FOR REGISTRATION FOR THE 1ST AND 2ND SEMESTER BA/B.COM DEGREE EXAMINATION COUNTER SIGNED BY THE 2ND RESPONDENT DATED 23-11-2013.
- EXHIBIT P10 : TRUE COPY OF THE APPLICATION FOR REGISTRATION AS MATRICULATE COUNTER SIGNED BY THE 2ND RESPONDENT.
- EXHIBIT P11 : TRUE COPY OF THE RECEIPT DATED 06-11-2013.
- EXHIBIT P12 : TRUE COPY OF THE MEMO DATED 20-03-2014 ISSUED FROM THE MAHATMA GANDHI UNIVERSITY.
- EXHIBIT P13 : TRUE COPY OF THE MIGRATION CERTIFICATE BEARING SL NO 33496 ISSUED BY THE DEPT. OF GOVT EXAMINATION, TAMIL NADU DATED 10-10-2014.
- EXHIBIT P14 : TRUE COPY OF THE RELEVANT part of CLAUSE NO.12 OF THE NOTIFICATION NO.SDE/PR-1/1/1/01/2013 DATED 22.10.2013 ISSUED BY MAHATMA GANDHI UNIVERSITY, SCHOOL OF DISTANCE EDUCATION.

RESPONDENT(S)' EXHIBITS:

- EXT.R1(A) : TRUE COPY OF NOTIFICATION FOR PRIVATE REGISTRATION DTD.22.10.2013.

/TRUE COPY/

P.S. TO JUDGE

K. Vinod Chandran, J.

=====

W.P.(C)No.30148 of 2014

=====

Dated this the 23rd day of February, 2015.

JUDGMENT

1. Petitioner is a candidate for private study in the graduate course of B.Com under the Mahatma Gandhi University, whose application for private registration was declined by Ext.P12. Petitioner, admittedly, completed his Secondary School Leaving Certificate Examination from the State, as is evidenced at Ext.P1. The higher secondary course was pursued in Chennai and the General Education Department of that State issued Ext.P2 certificate.
2. Petitioner then applied for B.Com course under the respondent University for the academic year 2013-14 under the private registration stream. Petitioner also sought for recognition of the examination conducted by the General Education Department, Chennai, which was granted by Ext.P6 certificate. However, the petitioner's application for private registration was declined on

20.3.2014, by Ext.P12, since the petitioner did not produce the migration certificate.

3. The University relies on Ext.R1(a) Regulations, which specifically speaks of recognition of qualifying examination of the University/ Board outside the State and prescribed for submission of the qualifying certificate, migration certificate, eligibility certificate and transfer certificate. Admittedly, the migration certificate was not produced by the petitioner and though recognition of the course was granted, the petitioner's private registration stood cancelled by Ext.P12. The certificates submitted by the petitioner also were returned. Petitioner, hence, is no longer registered with the respondent University.

4. Petitioner's contention is that, subsequent to Ext.P12, the petitioner had applied for migration certificate and produced it before the University. The migration certificate dated 10.10.2014 is produced along with the writ petition as Ext.P13. Amendment has also been

filed challenging the aforesaid Regulations.

5. The challenge to the Regulations has been made, only so as to enable the petitioner to continue the registration, which the petitioner obtained earlier. The petitioner applied under the private registration scheme, fully aware of the Regulations and had applied for recognition along with the certificates prescribed therein, except the migration certificate. The challenge made, only to save the petitioner from producing the migration certificate, cannot be sustained. Further, it cannot be said that, the Regulation is, in any manner, arbitrary, since, the University insists on migration certificate, to ensure that, the students do not carry on parallel course in any other University/body within the State or outside the State. The challenge to the Regulations is, hence, found to be unsustainable and the same is rejected.
6. Learned counsel for the petitioner claims equity, on the ground that the objection to the continuance of the registration, is only technical.

Petitioner is said to have been studying in a private college for the past two years and that prejudice would be caused to him, if the petitioner's private registration is now cancelled.

7. The second respondent college, in which the petitioner is said to have been studying, is not an affiliated college. It is also clear that the petitioner had not been admitted to the regular course and has only been registered as a private candidate for the B.Com course. It is not a stipulation for private registration, that a specific course of study should be undertaken in a specific college. It is only the option of the petitioner and he, on his own volition, got himself admitted to the second respondent college. The private registration obtained by the petitioner has been cancelled by Ext.P12, as early as in March, 2014. Hence, at the time of the 1st year examination, the petitioner had not been registered with the University, as a private candidate. Petitioner obtained the migration certificate only subsequently, i.e., on 10.10.2014, as is indicated at Ext.P13.

Petitioner ought to have applied for a fresh private registration and cannot seek continuance of an earlier registration, obtained irregularly, since, the same was without a migration certificate, as stipulated in the Regulations. By the time the writ petition was filed, the 1st year examinations were over and the petitioner no more was registered as a private candidate with the respondent University. In such circumstances, the petitioner cannot claim any reliefs herein. The petitioner's admission was found to be irregular and his registration was cancelled. The writ petition is devoid of merit and is dismissed. The petitioner, definitely, would be entitled to apply for a fresh registration, based on the certificates. No costs.

K. Vinod Chandran, Judge.

sl.