

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No.34417 of 2009 (V)

PETITIONER:

**SUJITH P.R.,S/O.C.RAGHAVAN,
SREENIVAS HOUSE,VATTAMKULAM,
EDAPPAL VIA,MALAPPURAM DISTRICT.**

**BY ADVS.SRI.M.SASINDRAN
SRI.V.VENUGOPAL**

RESPONDENTS:

- 1. UNIVERSITY OF CALICUT,
REPRESENTED BY ITS REGISTRAR,
CALICUT UNIVERSITY,CALICUT.**
- 2. UNIVERSITY GRANTS COMMISSION,
REPRESENTED BY ITS SECRETARY,
NEW DELHI.**

**R1 BY SRI.SANTHOSH MATHEW,SC,CALICUTY UNIVERSITY
R1 BY SRI.P.C.SASIDHARAN, SC,CALICUT UTY.
R2 BY SRI.S.KRISHNAMOORTHY,CGC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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W.P(C) NO.34417/2009

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:A TRUE COPY OF THE STATEMENT OF MARKS ISSUED BY THE ANNAMALAI UNIVERSITY.

EXT.P1(a):A TRUE COPY OF THE M.PHIL DEGREE CERTIFICATE ISSUED BY THE ANNAMALAI UNIVERSITY.

EXT.P2:A TRUE COPY OF THE LETTER ISSUED BY THE DIRECTOR OF THE ANNAMALAI UNIVERSITY.

EXT.P3:A TRUE COPY OF THE MEMO ISSUED BY ANNAMALAI UNIVERSITY.

EXT.P3(a):A TRUE COPY OF THE NOTIFICATION ISSUED BY THE GOVERNMENT OF INDIA DATED 25.11.1988.

EXT.P4:A TRUE COPY OF THE GOVERNMENT ORDER G.O.(MS)NO.526/PD DATED 17.7.1965.

EXT.P4(a):A TRUE COPY OF THE LETTER ISSUED BY THE STATE PUBLIC INFORMATION OFFICER DATED 18.7.2007.

EXT.P5:A TRUE COPY OF THE COMMUNICATION ISSUED BY JOINT SECRETARY, UGC DATED 5.5.2004 TO ALL THE REGISTRARS OF THE UNIVERSITY.

EXT.P6:A TRUE COPY OF THE ORDER PASSED BY THE REGISTRAR, M.G.UNIVERSITY DATED 6.9.2007.

EXT.P7:A TRUE COPY OF THE ELIGIBILITY CERTIFICATE ISSUED BY THE REGISTRAR OF THE M.G.UNIVERSITY DATED 14.9.2007 TO THE PETITIONER.

EXT.P8:A TRUE COPY OF THE ORDER DATED 3.1.2005 ISSUED BY THE REGISTRAR OF THE 1ST RESPONDENT UNIVERSITY.

EXT.P9:A TRUE COPY OF THE ORDER NO.GAI/JI/1745/03 DATED 19.7.2005 ISSUED BY THE 1ST RESPONDENT UNIVERSITY.

EXT.P10:A TRUE COPY OF THE ORDER ISSUED BY THE REGISTRAR,UNIVERSITY OF CALICUT DATED 5.9.2005 AS GAI/A1/2639/04.

EXT.P11:A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT UNIVERSITY FOR RECOGNITION OF M.PHIL (MATHEMATICS) DEGREE OF ANNAMALAI UNIVERSITY UNDER DISTANCE EDUCATION MODE.

EXT.P11(a):A TRUE COPY OF THE CHALLAN RECEIPT ISSUED FROM THE 1ST RESPONDENT UNIVERSITY.

EXT.P12:A TRUE COPY OF THE ORDER ISSUED BY THE UNIVERSITY DATED 14.10.2005 ORDER NO.GAI/JI/1745/03.

EXT.P13:A TRUE COPY OF THE JUDGMENT IN W.A. NO.201 OF 2007.

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W.P(C) NO.34417/2009

**EXT.P14:A TRUE COPY OF THE MEMO ISSUED BY THE 1ST RESPONDENT
UNIVERSITY.**

**EXT.P15:A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
ON 3.7.2007.**

**EXT.P16:A TRUE COPY OF THE REPLY ISSUED BY THE PUBLIC INFORMATION
OFFICER, CALICUT UNIVERSITY.**

**EXT.P17:A TRUE COPY OF THE APPEAL FILED BY THE PETITIONER UNDER THE
RIGHT TO INFORMATION ACT.**

**EXT.P18:A TRUE COPY OF THE ORDER ISSUED BY THE STATE INFORMATION
COMMISSION ON 10.7.2009 IN APPEAL 596 (J) 108/SIC.**

**EXT.P.19:A TRUE COPY OF THE RELEVANT PAGE OF THE NATIONAL POLICY ON
EDUCATION,1986.**

RESPONDENT'S EXHIBITS:

**EXT.R1(a):TRUE COPY OF DECISION TAKEN BY THE BOARD OF STUDIES
DATED 25.7.2006.**

**EXT.R1(b):TRUE COPY OF DECISION TAKEN BY THE ACADEMIC COUNCIL
DATED 7.10.2008.**

//TRUE COPY//

P.S. TO JUDGE

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K.VINOD CHANDRAN, J

W.P.(C).No. 34417 of 2009

Dated 14th January, 2015

JUDGMENT

The petitioner is aggrieved with the non recognition of the petitioner's course which he claims to have carried out, in the Distance Education Stream, of the Annamalai University, leading to conferment of M.Phil (Mathematics). The petitioner claims equivalency to the M.Phil Degree conferred on him by the Annamalai University; on the strength of Ext.P9.

2. Ext.P9 is an order wherein the recommendation of the Faculty of Science with respect to approval of degrees awarded by Universities under Faculty of Science; recognized by the University Grants Commission (UGC) and Association of Indian University(AIU) except those requiring approval from the apex bodies like AICTE and NCTE etc., was approved by

the Academic Council. A student similarly placed like the petitioner is said to have been issued with Ext.P10 equivalency certificate, after issuance of Ext.P9. The petitioner's application is also said to be on 18.08.2005 subsequent to which University is seen to have cancelled Ext.P9, by Ext.P12. The petitioner contends that since the application made by him was in the period when Ext.P9 was in currency, the petitioner's application ought to be considered and his M.Phil course granted equivalency in accordance with the specific directions in Ext.P9.

3. The learned Standing Counsel would submit that in fact, the petitioner was earlier before this Court seeking approval of his M.Phil Degree which was rejected by judgment in W.P. (C).4695 of 2006 for reason of the admitted case of the petitioner being that he had not

undergone any regular course of study. The petitioner along with others had filed an appeal from the said order, which is evident at Ext.P13. Ext.P13 directed consideration of the petitioner's Degree and the equivalency, if any, by the Academic Council. The Academic Council having rejected the prayer, Ext.P14 was issued to the petitioner. The specific contention of the University is that the prayers now urged before this Court was available to the petitioner even when the earlier litigation was prosecuted and what has not been urged there cannot now be taken as a contention.

4. All contentions with respect to a matter, has to be urged at the first instance, when an application is filed and even if a mere consideration of representation by the Original authority is directed, then the petitioner ought to have taken liberty to raise the other

contentions at a later stage. Mandatory recognition under Ext.P9 and the petitioner's application having been pending when Ext.P9 was in currency, was a contention available to the petitioner at the earlier stage itself. The petitioner either did not raise it or could not urge it successfully before this Court, at the earlier point.

5. The contention of the petitioner is that he was not aware of Ext.P12. However, that does not absolve the petitioner from urging consideration under Ext.P9, which stipulated a mandatory recognition. However, by Ext.P13 judgment, the Academic Council of the University was directed to consider the question of equivalency raised by the petitioner. No reservation was made, as to any other contention being left open, by the Division Bench of this Court in Ext.P13. Hence, the petitioner cannot

urge that Ext.P12 is unsustainable. Even if it is found so, the petitioner cannot urge consideration under Ext.P9, under which application for equivalency was made by the petitioner; which contention this Court declined to accept. The petitioner is bound by Ext.P13 and will have to subject himself to the decision of the Academic Council, as directed in Ext.P13.

6. The Academic Council has definitely arrived at a decision after considering the matter as directed in Ext.P13. The Division Bench, even while disposing of the earlier Writ Appeal by Ext.P13, noticed that in academic matters, this Court under Article 226 of the Constitution of India will not be justified in giving any positive direction to the University.

7. Further, the petitioner, though has approached the authorities under the Right To

Information Act, has not chosen to get a copy of the order of the Academic Council and challenge the same even now. The petitioner only challenges the memo issued to the petitioner at Ext.P14.

8. One other aspect to be noticed is the long delay in raising a challenge against the memo issued to the petitioner. Ext.P14 memo issued in compliance to Ext.P13 judgment is dated 07.09.2007. The writ petition is filed in the year 2009. The explanation that the petitioner was before the Authorities under the Right To Information Act, cannot be countenanced since it is not discernible as to what relief the Authorities under the Right To Information Act could have granted to the petitioner; as to the equivalency claimed by him. In fact, the State Information Commission has specifically noticed this and stayed its hands from

interfering, for reason of the Commission having no jurisdiction in the matter. Initiating and prosecuting a litigation before an authority who has absolutely no jurisdiction in the matter, cannot be a reason to condone the delay in approaching the appropriate forum.

For all the above reasons, the writ petition is found to be devoid of merit and the same is dismissed. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

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