

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 30399 of 2014 (Y)

PETITIONER:

MUHAMMED SHAMEEM M AGED 32 YEARS
S/O.MUHAMMED HANEEFA MOULAVI, VALIYAKALAYIL HOUSE
MANGARAM, KONNI, PATHANAMTHITTA. 689 691.

BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SRI.C.S.SAJIN
SRI.MATHEW CHACKO

RESPONDENTS:

1. MAHATMA GANDHI UNIVERSITY
REPRESENTED BY ITS REGISTRAR, PRIYADARSHINI HILLS
ATHIRAMPUZHA, KOTTAYAM. 686 001.
2. THE CONTROLLER OF EXAMINATIONS
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS
ATHIRAMPUZHA, KOTTAYAM. 686 001.

R1,R 2 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FIRST SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 09.04.2002.

EXT.P1(A)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FIRST SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 14.03.2003.

EXT.P1(B)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FIRST SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 18.03.2004.

EXT.P1(C)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FIRST SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 12.11.2004.

EXT.P1(D)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FIRST SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 09.12.2009.

EXT.P2- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR SECOND SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 23.05.2002.

EXT.P2(A)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR SECOND SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 30.08.2003.

EXT.P2(B)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR SECOND SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 29.04.2004.

EXT.P3- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR THIRD SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 30.08.2003.

EXT.P4- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FOURTH SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 21.07.2003.

EXT.P4(A)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FOURTH SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 29.04.2004.

EXT.P5- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FIFTH SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 01.08.2003.

EXT.P5(A)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR FIFTH SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 05.07.2004.

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EXT.P6- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR SIX SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 14.08.2003.

EXT.P6(A)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR SIX SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 13.08.2004.

EXT.P6(B)- TRUE COPY OF THE MARK LIST OF THE PETITIONER FOR SECOND SEMESTER B.SC DEGREE EXAMINATION ISSUED BY THE 1ST RESPONDENT DATED 03.05.2010.

EXT.P7- TRUE COPY OF THE PROVISIONAL CERTIFICATE DATED 03.05.2010 ISSUED BY THE RESPONDENTS TO THE PETITIONER.

EXT.P8- TRUE COPY OF HALL TICKET ISSUED TO PETITIONER BY RESPONDENTS.

EXT.P9- TRUE COPY OF REPRESENTATION DATED 31.10.2014 SUBMITTED BY PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

TRUE COPY

P.A TO JUDGE

K. VINOD CHANDRAN, J

W.P(C) No.30399 of 2014

Dated this the 18th day of March, 2015

J U D G M E N T

The petitioner is aggrieved with the stand taken by the University after very many years, that he failed to qualify for award of degree in the B.Sc graduate course, he undertook in the academic year 2000-2003. The specific denial was on the ground that the petitioner failed to qualify in the 5th semester examination, in one of the papers, viz., Data Communication.

2. Ext.P5 is the mark list issued by the University which indicates that the petitioner had qualified with minimum marks required being 50. The petitioner had appeared for the said examination in February, 2003 and the results were declared as per Ext.P5 on 01.08.2003. The petitioner then appeared for the balance papers, the marklists of which are produced at Ext.P6 series. Eventually the petitioner was also issued with a provisional certificate , produced at Ext.P7. The petitioner on the basis of the provisional certificate went abroad and obtained a job.

3. When he returned in 2014, he applied for a Degree Certificate. The University then, found that there was a mistake in tabulation and the petitioner had obtained only 22 marks in the external of Data Communication. The petitioner hence was short of 8 marks from the required minimum of 50. It was in such circumstances that the denial was made.

4. However, the compelling circumstances herein is that the petitioner appeared for the examination in 2003 and the petitioner was notified of the mistake in 2014. Admittedly the University committed the mistake even going by the counter affidavit filed. It was also found in an equity that one of the "Assistants" was responsible for the mistake. He has also been asked to bear the expenses for the conduct of the supplementary examination of the petitioner. However, that is in no mitigation to the grievance expressed by the petitioner herein.

5. The petitioner had completed the course long back in 2003 and he is to asked to write the paper in the graduate course after 11 years. In a circumstance in which

rectification of the marks awarded, as grace marks, was sought to be made after four years, this Court in **Sajaikumar v. State of Kerala [2003(3)KLT SN case No.84 (62)]** held that the petitioner therein had acquired a right to be awarded the degree certificate, after obtaining the mark lists, and if at all a mistake had crept in, the same should have been rectified within a reasonable time and otherwise great hardship will visit the candidate. The said principle squarely applies in the above case. The petitioner shall be awarded the degree and shall also be issued with a degree certificate. However, if the University so intends, the University can proceed against the "Assistant " who caused the above mistake, for reimbursing the cost of the expenses of the writ petition incurred by the University.

Writ petition is disposed of. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

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P A to Judge