

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 30782 of 2014 (W)

PETITIONER(S):

1. SUMESH V.M., VAZHAYIL HOUSE,
PANAMARAM P.O., WAYANAD, PIN -670 721.
2. BIJU E.K, ERATTU HOUSE, KALIYARAMBAM,
MUNDARI P.O., KALPETTA, WAYANAD, PIN - 673 721.
3. JESTIN KURIAKOSE, KATHANADAN HOUSE,
ARATTUTHARA, MANANTHAVADY, WAYANAD, PIN - 670 645.

**BY ADVS.SRI.BENNY VARGHESE
SRI.ANIL PARATHARA
SRI.SHAJU JOSEPH (VADAKKAN)
SRI.PRASAD M.BABY**

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, GOVT. OF KERALA,
3RD FLOOR, SECRETARIAT ANNEX,
THIRUVANANTHAPURAM, PIN - 695 001.
2. REGIONAL OFFICER,
ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
MBA BLOCK ROAD, AMBADI NAGAR,
THIRUVANANTHAPURAM, PIN - 695 016.
3. DIRECTOR OF TECHNICAL EDUCATION DEPARTMENT,
PADMAVILASAM ROAD, THIRUVANANTHAPURAM,PIN - 695 023.
4. THE PRINCIPAL, GOVERNMENT ENGINEERING COLLEGE,
MANANTHAVADY, THALAPUZHA P.O.,
WAYANAD DISTRICT, PIN - 670 644.
5. THE REGISTRAR, KANNUR UNIVERSITY, UNIVERSITY CAMPUS,
MORAZHA KANNAPURAM ROAD, KANNUR, PIN - 670 567.

**R1, R3 & R4 BY SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
R2 BY SRI.S.KRISHNAMURTHY,SC
R5 BY SRI.V.A.MUHAMMED, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P-1:** TRUE COPY OF THE PROSPECTUS PUBLISHED BY THE
2ND RESPONDENT FOR THE B.TECH EVENING COURSE.
- EXT.P-2:** TRUE COPY OF THE GENERAL INFORMATION ISSUED BY THE
3RD RESPONDENT.
- EXT.P-3:** TRUE COPY OF THE REQUEST LETTER SENT BY THE
4TH RESPONDENT TO THE REGISTRAR OF KANNUR UNIVERSITY
DATED 1.7.14.
- EXT.P-4:** TRUE COPY OF THE APPLICATION SUBMITTED UNDER THE RIGHT TO
INFORMATION ACT BEFORE THE 4TH RESPONDENT DATED 30.9.2014.
- EXT.P-5:** TRUE COPY OF THE REPLY GIVEN BY THE 4TH RESPONDENT UNDER
THE RIGHT TO INFORMATION ACT DATED 27.10.2014.
- EXT.P-6:** TRUE COPY OF THE APPLICATION SUBMITTED BEFORE THE PUBLIC
INFORMATION OFFICER GOVERNMENT ENGINEERING COLLEGE
KANNUR DATED 13.9.2014.
- EXT.P-7:** TRUE COPY OF THE REPLY GIVEN BY THE PUBLIC INFORMATION
OFFICER, GOVERNMENT ENGINEERING COLLEGE, KANNUR
DATED 27.9.2014.
- EXT.P-8:** TRUE COPY OF THE INFORMATION SUPPLIED BY THE
4TH RESPONDENT DATED 14.10.2014.
- EXT.P-9:** TRUE COPY OF THE APPLICATION SUBMITTED TO GET THE COPY OF
THE EXHIBIT P8 INFORMATION.
- EXT.P-10:** TRUE COPY OF THE INFORMATION DATED 21.10.2014 ISSUED BY THE
INFORMATION OFFICER, TKM ENGINEERING COLLEGE.
- EXT.P-11:** TRUE COPY OF THE APPLICATION SUBMITTED UNDER THE RIGHT TO
INFORMATION ACT FOR OBTAINING COPY OF THE EXHIBIT P10
INFORMATION FROM TKM ENGINEERING COLLEGE AND P12
INFORMATION FROM GOVT.ENGINEERING COLLEGE, THRISSUR.
- EXT.P-12:** TRUE COPY OF THE INFORMATION OBTAINED UNDER THE RIGHT TO
INFORMATION ACT DATED 14.10.2014 FROM THE INFORMATION
OFFICER, GOVERNMENT ENGINEERING COLLEGE, THRISSUR.
- EXT.P-13:** TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE
3RD RESPONDENT.
- EXT.P-14:** TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.30782 of 2014

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Dated this the 4th day of March, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers:

- I To issue a writ of mandamus or any other appropriate writ, order or direction directing the 4th respondent to start the evening course in Electrical and Electronics Engineering in the Government Engineering College, Wayanad by accepting the eligible lists of applicants prepared by the 3rd respondent for admission purpose to the branch in Electrical and Electronics Engineering in Govt. Engineering College, Wayanad.
- II To issue a writ of mandamus or any other appropriate writ, order or direction, directing the 3rd respondent to consider and pass orders in Ext.P13 representation within a time frame as fixed by this Hon'ble Court.
- III To pass such other reliefs as deem fit and proper in the facts and circumstances of the case.

2. The learned counsel for the petitioners submits that, there is inordinate delay on the part of the concerned respondent in starting the evening course in Electrical and Electronics Engineering in the Government Engineering College, Wayanad. It is also stated that the petitioners have already moved the 3rd respondent by filing Ext.P13

representation, which is still to be acted upon.

3. A detailed statement has been filed by the 3rd respondent, of which paragraph 2 to 6 are extracted below for reference:

“2. It is submitted that the Government vide G.O(Rt) No.1824/13/H.Edn dated 04.09.13 sanctioned B.Tech (Evening) Course in Electronics & Communication Engineering, Electrical & Electronics Engineering and Computer Science & Engineering Branches in the Government Engineering College, Wayanad for the academic year 2013, with an intake of 30 students each. The fourth respondent vide letter dated 12.09.13 forwarded a request to the Office of this respondent to admit students for the aforesaid courses during the year 2013. The courses could not be started during the year 2013 as the admission process for the said year was almost over and that University has directed not to admit students to the newly sanctioned courses in anticipation of getting affiliation. In the above circumstances, the fourth respondent was instructed vide letter dated 29.10.13 to take steps to obtain AICTE approval and University affiliation for conducting the aforesaid course.

3. As a matter of fact, the fourth respondent reported that they had requested the University vide letter dated 09.10.13 to issue necessary affiliation for the aforesaid courses. But the University insisted that AICTE approval is necessary before giving affiliation to the courses. As per the AICTE norms, application can be submitted for approval for only one course in a particular year and accordingly the principal applied for approval for Electronics & Communication Engineering Branch due to the reason that the same is the first course started in Government Engineering College, Wayanad and that the lab facilities and teaching strength in the said branch are much better

than the other branches. Relevant clauses which deals with procedure for approval and allotment of intake in part time programmes in the Approval Process Hand Book for the year 2013 -14 issued by AICTE reads as "One Division or variation in any of the existing Courses at the Under Graduate level". The above Clause restricted the authorities to apply for approval in respect of one course only.

4. As a matter of fact, in the meanwhile, the above courses were included in the prospectus for the year 2014 and applications were invited from the candidates anticipating affiliation from the University. The fourth respondent reported vide letter dated 09.07.14 that AICTE granted approval only for Electronics & Communication Engineering Branch only and that provisional affiliation for the said course is under process. The provisional affiliation for Electronics & Communication Engineering Branch was issued by the Kannur University thereafter. In the above circumstances, direction was issued to the Principal, College of Engineering, Thiruvananthapuram, whom the admission process is entrusted, to stop admission process in respect of Electrical & Electronics Engineering and Computer Science & Engineering Branches in Government Engineering College, Wayanad. The above direction was issued considering the fact that if the admissions are continued without University affiliation, the same will lead to other difficulties for the students. Moreover, if the courses are conducted without University affiliation and in violation of University direction, the students may not be permitted to write the examination which will lead to further agony and problems.

5. Clause 13(a) of the prospectus issued by the third respondent for the year 2014 mandates that the courses can be commenced only if there are 60% eligible candidates of the sanctioned intake are available. After first round of allotment, even the course for which AICTE approval was received viz. Electronics & Communication Engineering Branch was

decided to be cancelled among other courses in other Engineering Colleges due to insufficient number of eligible candidates. Thereafter, after considering requests from various zones, it was decided to conduct spot admission by considering fresh applicants. The spot admission was conducted on 07.10.14 and fresh applicants came forward to join the course and accordingly altogether 22 allotments were made as against sanctioned intake of 30.

6. It is submitted that Electrical & Electronics Engineering and Computer Science & Engineering Branches will be started in the Government Engineering College, Wayanad after getting University affiliation and that the existing applicants will be given preference.

4. Heard the learned counsel appearing on behalf of the parties on both sides including the learned Government Pleader and the learned Standing Counsel for the respondent University and also the AICTE. The learned Government Pleader points out that approval by the AICTE as well as the University is very much essential to start the course and in fact, the 4th respondent has made the application only in respect of one course (Electronics and Communication Engineering) for the year 2014 - 15 and on getting approval from the AICTE, the said course has already been started. Subject to obtaining further approval, steps will be taken to

start the course as specifically stated in the statement filed on behalf of the 3rd respondent. In view of the contents of the statement, this Court finds that no further orders are called for.

The writ petition stands disposed of with liberty to the petitioners to pursue the matter before the concerned respondent/ AICTE/ University and, once approval is obtained, to have the course started accordingly, as pointed out by the 3rd respondent.

The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the concerned Magistrate for further steps.

Sd/-

P.R.RAMACHANDRA MENON, JUDGE

vdv

The last paragraph of the judgment dated 04.03.2015 in WP (C) 30782/2014 "The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the

concerned Magistrate for further steps.” is corrected and substituted as “The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.” as per order dated 25.05.2015 in W.P.(C) 30782/14.

Sd/-
REGISTRAR (JUDICIAL)