

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 30891 of 2014 (J)

PETITIONER:

**SONA. P. SUDHAKARAN,
(MINOR), PARUTHIVELY,
EDAPPALLY.P.O.
TOLL GATE,
KOCHI,
REPRESENTED BY HER FATHER AND NATURAL GUARDIAN,
P.K. SUDHAKARAN,
PARUTHIVELY,
EDAPPALLY.P.O.
TOLL GATE KOCHI.**

**BY ADVS.SRI.B.S.SWATHY KUMAR
SRI.REMYA MURALI
SRI.A.K.RAJESH
SRI.VENKATESH GOPI**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY,
GENERAL EDUCATION
SECRETARIATE,
THIRUVANANTHAPURAM-695001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM-695001.**
- 3. INDIAN RED CROSS SOCIETY,
KERALA STATE BRANCH,
RED CROSS ROAD,
VANCHIYOOR,
THIRUVANANTHAPURAM-695035
REPRESENTED BY ITS GENERAL SECRETARY.**

**R1 & R2 BY ADV. GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL
R3 BY ADV. SRI.BLAZE K.JOSE, SC, INDIAN RED CROSS SOCIETY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

WP(C).No. 30891 of 2014 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. TRUE COPY OF THE REPRESENTATION FILED BEFORE THE CHIEF
MINISTER OF KERALA DATED 13-12-13.**

**EXHIBIT P2. THE TRUE COPY OF THE RELEVANT PORTIONS OF THE NOTE FILE
NO. 61649/G1/2013/GEN EDN.**

**EXHIBIT P3. TRUE COPY OF THE CIRCULAR NO. Y.1/19887/2014/DPI DATED 3-3-
2014.**

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 30891 of 2014

Dated this the 23rd day of March, 2015

J U D G M E N T

The petitioner, a student studying in Std.X in the Pius Girls High School, Edappally, has come up before this Court seeking the following reliefs;

“i) to declare that the petitioner who possess 'C; level certificate possessing 'C; level certificate is legally entitled to be granted 25 grace marks in the SSLC examinations and also to be granted weightage in the higher educational course including Engineering and Medicine and further declare that the 1st respondent is legally liable to grant 25 grace marks to the petitioner and also grant weightage for higher course;

ii) issue a writ of mandamus or any other appropriate writ, order or direction commanding and compelling the respondents 1 and 2 to issue necessary orders granting 25 grace marks to the petitioner and also to grant weightage in the matter of admission to Higher Educational Course including professional;

iii) issue a writ of mandamus or any other appropriate writ, order or direction to dispose of Ext.P1 at the earliest;

iv) issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Ext.P3 and quash the same to the extent in grant grace marks 10 to Scouts and Guides, Student Police Cadet and NCC etc;

v) such other appropriate order or direction as this

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Honourable Court may deem fit and proper to meet the ends of justice.”

2. According to the petitioner, she is highly studious and very much involved in extracurricular activities especially one relating to service and environment. She is a member of the Junior Red Cross Unit (hereinafter referred to as, “the JRC”) of her school from Std.VIII and possesses the Grade A, B and C certificates. The petitioner points out that now, the JRC students are granted only 10 grace marks in the SSLC examination, whereas the students of NCC and Student Cadet Police are granted much higher grace marks, i.e., even up to 74. According to the petitioner, this is highly discriminative, because, all the students, whether they are of NCC, Student Cadet Police etc., are doing extracurricular activities, which are meant for molding the character of the students, for changing their attitude towards the society in a healthy manner and for cultivating the spirit of selfless service to the society. Therefore, according to the petitioner, the students of

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every scheme should be considered and treated equally. The petitioner, who has passed the 'C' level examination conducted by the 3rd respondent, is highly aggrieved due to the issuance of Ext.P3 order limiting the grace marks to 10 in case of JRC Students and, at the same time, granting grace marks up to 74 for other students. According to the petitioner, the act of the 1st respondent is highly illegal, which amounts to infringement of the valuable fundamental rights guaranteed under Article 14 of the Constitution of India. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the 1st respondent, it is contended as follows;

They contended that the grace mark is awarded as compensation for the loss of the class hours to a student, who participate in other extracurricular activities, which may vary according to the class hours lost, hardships that children face etc. According to them, compulsory field training, parade hours etc. are mandatory for SPC and NCC; and grace mark is given according to the levels of

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certificate they obtained. It may not be appropriate to compare the grace mark awarded in each case as they are different; it is contended. According to them, the loss of class hours for the JRC students is very low compared to other extracurricular activities. They contended that grace mark should not be the only criterion for a student to participate in such activities and it is not a matter of right, but an encouragement from the part of the Government. Allegations and instances regarding the misuse of grace marks came to the notice of Government.

They pointed out that the petitioner has made a reference to the office notes in the file No.61649/G1/2013/G.Edn. (Ext.P2). Ext.P2 file has other pages, in which it is stated that the Secretary has conducted a meeting with various Heads of Departments on the issue. In order to bring uniformity in the matter of awarding grace marks, the Government directed the Secretary, Pareeksha Bhavan to furnish a comprehensive report after examining the criteria followed by the three Heads of the Departments, viz. the Director of Public Instructions, the Director of Higher Secondary Education and the Director of Vocational Higher Secondary Education. The Secretary, Pareeksha Bhavan submitted

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the report thoroughly and would take the appropriate decision without any delay; so submitted.

The petitioner has sought for an interim relief to stay the implementation of Ext.P3 circular, which was issued by the DPI. The said circular is dealing with the issue of grace marks to the SSLC students, who participate in various activities like Arts festival, Arabic & Sanskrit fests, Science fests, Maths fests, IT fests, Scout and Guide candidates, who secure medal from the President, NCC cadets, the candidates, who present the best project report in various fests etc. According to them, if the prayer is allowed, it would hinder the whole process of SSLC examination results; and hence, the prayer might not be allowed.

According to them, the grace mark awarded to the JRC is not the least one and there are many other sectors, where less grace mark is awarded to the students, according to the activities they are asked to do and the loss of the class hours.

4. Arguments have been heard.

5. The learned counsel for the petitioner would argue that the students of JRC stand on an equal footing

with that of a students of NCC, Scouts & Guides and Student Police Cadet Scheme. According to the petitioner, all those students participate in the various activities of these organizations at the risk of the class hours; and thus, they are similarly situated; and so, they should be treated equally in the matter of awarding grace marks.

6. It is common knowledge that the students participating in the activities of JRC spend more time and effort. They have to undergo practical training as well as theory classes. They have to participate in seminars and workshops and have to write the examination conducted by the 3rd respondent and have to come out successful. In order to get a 'C' level certificate at Std.X level, they have initially to join the JRC in Std.VIII and have to come out successful in 'A' level examination and then, have to pass the 'B' level examination conducted in Std.IX level. Only then, they become eligible to write the 'C' level examination. The learned counsel for the petitioner

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pointed out that the students belonging to Police Cadet Scheme do not have to undergo such a serious training. They are simply joining the scheme and all the materials required for joining the scheme such as school uniform, shoe, belt, cap etc. are supplied by the Police Department. They are even given refreshments at the end of each session. However, the students of JRC have to spend money from their own pocket for purchasing the uniform and other materials required for the same.

7. It can be seen that the 2nd respondent has recommended the enhancement of grace marks from 10 to 25, which has been accepted as evidenced by Ext.P2. Ext.P2 shows that the recommendation of the 2nd respondent was accepted and directions given by the Special Secretary to Government, General Education Department on 30.04.2013. But, the subsequent orders were not issued.

8. Today, when the matter came up for hearing, the learned senior Government Pleader submitted that

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the matter is pending consideration before the Government. However, a final decision has yet to be taken by the Government in the matter.

9. Now, the SSLC Examination is over. Within a couple of months, the valuation and tabulation would be completed. Unless an early decision is taken in the matter, the petitioner would not be getting the benefit of the same. Therefore, this Court is of the view that the writ petition can be disposed of directing the respondents to pass final orders in the matter at the earliest.

In the result, the writ petition is disposed of directing the 1st respondent to pass final orders in the matter within a period of one month from today. To facilitate an early action, the senior Government Pleader shall make available a copy of this judgment to the 1st respondent without any further delay.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-