

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 32463 of 2014 (G)

PETITIONER:

**VISHNU K.J,
S/O.JAYAKUMAR K.N, PLUS TWO STUDENT,
KANNADI HIGHER SECONDARY SCHOOL,
KANNADI, KANNADI P.O, PALAKKAD DISTRICT,
RESIDING AT KOLAPPADAM HOUSE,
KUNISSERY P.O, ALATHUR TALUK,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P**

RESPONDENT(S):

- 1. THE DIRECTOR OF HIGHER SECONDARY EDUCATION,
BOARD OF HIGHER SECONDARY EXAMINATION,
HOUSING BOARD BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE PRINCIPAL,
KANNADI HIGHER SECONDARY SCHOOL,
KANNADI, KANNADI P.O,
PALAKKAD DISTRICT - 678 501.**

R1 BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1 : TRUE COPY OF THE SCORE SHEET ISSUED BY THE RESPONDENT NO. 1 REGARDING FIRST YEAR HIGHER SECONDARY EXAMINATION OF THE PETITIONER, HELD IN MARCH, 2014.

EXHIBIT P2 : TRUE COPY OF THE MEDICAL CERTIFICATE DATED 02-03-2014 ISSUED TO THE PETITIONER.

EXHIBIT P3 : TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED ON 10-08-2014 TO THE PETITIONER.

EXHIBIT P4 : TRUE COPY OF THE FEES RECEIPT ISSUED ON 31-10-2014.

EXHIBIT P5 : TRUE COPY OF THE NOTIFICATION (UP TO PAGE 5) ISSUED IN CONNECTION WITH THE HIGHER SECONDARY EXAMINATIONS, 2015 ISSUED BY THE RESPONDENT NO.1.

EXHIBIT P6 : TRUE COPY OF THE REPRESENTATION DATED 22-11-2014 SUBMITTED BY THE FATHER OF THE PETITIONER TO THE RESPONDENT NO. 1.

EXHIBIT P7 : TRUE COPY OF THE CERTIFICATE ISSUED BY THE RESPONDENT NO.2.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.32463 OF 2014

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Dated this the 27th day of January, 2015

JUDGMENT

Whether the petitioner, who admittedly did not participate in all the examinations of 'Plus One' course could be permitted to take part in the 'Plus Two' examinations is the subject matter involved herein. The petitioner is a student of the 2nd respondent institution, who completed the first year and was doing the studies for 'Plus Two'. The petitioner participated in all examinations but for one in the subject of Political Science. Petitioner has remitted the fees for participating the examinations in the second year. The grievance of the petitioner is that the petitioner has been virtually prohibited from participating in the second year examinations as per Exts.P4 and P6, which are per se, wrong and unsustainable and hence under challenge.

2. The petitioner has approached this Court with the following prayers:

"(i) to call for the records relating to Exhibits P1 to P7;

(ii) to issue a writ of certiorari or other appropriate writ or order or direction quashing Clause (a) against the caption "Eligibility" in Ext.P5, if it is to the effect of disqualifying the petitioner from appearing for the second year examinations of the higher secondary school to be held in 2015, March;

(iii) to issue a writ of mandamus or other appropriate writ or order or direction, directing the respondents, with particular reference to the respondent No.1 to include the petitioner in the nominal roll published by the same respondent, in connection with the second year examinations of the higher secondary school for the year 2015;

(iv) to issue a writ of mandamus or other appropriate writ or order or direction, directing the respondent No.1 to dispose of Ext.P6 in a time limit to be fixed by this Hon'ble Court, after hearing the petitioner; and

(v) to pass such other and further orders as are deemed fit and necessary in the interests of justice."

3. A statement has been filed on behalf of the 1st Respondent mainly contending that the idea and understanding of the petitioner as to the eligibility to take part in the second year examinations without appearing for all the papers of the first year is not at all correct or sustainable either on facts or in law. The 1st respondent contends that

participation in all the subjects is a mandatory requirement, which cannot be changed under any circumstance.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader appearing for the respondents.

5. During the course of hearing, the learned counsel for the petitioner points out that the rigor of the rule cannot be said to be of such extent that it ought to be considered as a mandatory requirement. The learned counsel sought to place reliance on the decisions rendered by this Court reported in '**Arun v. Central Board of Secondary Education**' [2010 (1) KLT 960] and '**Sreeraj R. Nath v. Central Board of Secondary Education**' [2013 (2) KLT 430].

6. After hearing both the sides, this Court finds that the requirement as per the rule has been well explained by the 1st respondent in their statement, particularly in paragraphs 4, 5 and 6, which are reproduced below for convenience of reference:

"4. According to the Higher Secondary Examination Notification of 2015, no student is eligible to attend the Plus Two Examination of 2015 unless he/she has appeared for all the subjects in Plus One March or

the Improvement Examination in September, 2014. The Plus Two Mark list issued to the students consists of both first year and second year marks with total marks. If a student attends any subject of Plus Two Examination without attending its Plus One Examination, his result cannot be published in the absence of the same.

5. It is the system formed and approved by the Government and is being continued since the advent of Grading System and it cannot be changed or modified for the sake of one student abruptly. If so, the entire programme will be in trouble and it will affect the whole system of the Higher Secondary Examination where the future of more than nine lakhs students is being dealt with every year. If the first respondent permits one student to attend both Plus One and Plus Two Exam together it will affect the timely publication of Plus Two result and also it will adversely affect the future prospects of nine lakhs students.

6. It is submitted that, the examination manual produced as Exhibit P5 is followed throughout State of Kerala by lakhs of students without any room for complaints. Petitioner has produced Exhibit P2 & P3 Medical Certificates showing that, he was suffering from fever on 03.03.2014 and from Diarrhoea on 11.08.2014, which prevented him from writing the above examination. It is very difficult to believe the contentions raised in the above Writ Petition and also the certificates produced by the petitioner to come to the

conclusion that, he was actually prevented from writing the examination due to the above illness. According to Exhibit P5, if by any chance, the student was prevented from writing the March 2015 examination, he will be able to write the said examination during the month of September of the same year under the save one year (SAY) examination. In the above case, petitioner has not written the March 2014 examination or the SAY examination during September 2014. So the contentions raised by the petitioner cannot be accepted and he should not be allowed to write the March 2015 examination. It is submitted that, if Exhibit P5 notification is the given go back to enable one student to write the examination it will cause serious difficulties to the entire examination process. So this Honourable Court may not interfere with the decision taken by the authorities in accordance with Exhibit P5 examination manual."

7. The reliance sought to be placed on the decisions rendered by this Court, as mentioned above, does not appear to be correct or sustainable for the reason that the subject matter involved in the said case was with reference to the rigour of the stipulation as to the correctness of 'date of birth' to be effected in the school records. It was with reference to the specific observations made by the Division Bench of this

Court in W.P.(C) No.36281 of 2009, as extracted in the decision reported in 2010 (1) KLT 960, that interference was made, to cause correction of 'Date of Birth' in the school records notwithstanding the time limit mentioned to effect such correction. The said decisions do not come to the rescue of the petitioner in any manner. This Court finds that there is absolutely no merit or bonafides in the writ petition. It is dismissed accordingly.

Sd/-
P.R.RAMACHANDRA MENON
JUDGE

//true copy//

P.S. To Judge

St/-