

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 34407 of 2014 (A)

PETITIONER(S) :

DR.ARCHANA ASOK,
VADASSERY HOUSE,
VADAKKUMMURI P.O, THRISSUR 680 570

BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND.

RESPONDENT(S) :

1. THE UNIVERSITY OF CALICUT,
CALICUT UNIVERSITY P.O., THENHIPALAM,
MALAPPURAM DISTRICT, PIN - 623 635.
2. THE VICE CHANCELLOR,
THE UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENHIPALAM, MALAPPURAM DISTRICT PIN- 623 635.
3. THE PRO-VICE CHANCELLOR,
THE UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENHIPALAM, MALAPPURAM DISTRICT, PIN - 623 635
4. THE CONTROLLER OF EXAMINATIONS,
THE UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENHIPALAM, MALAPPURAM DISTRICT, PIN - 623 635.
5. THE PRINCIPAL,
GOVERNMENT HOMOEOPATHY MEDICAL COLLEGE, KOZHIKODE,
KARAPARAMBA P.O., KOZHIKODE - 10

BY SENIOR GOVERNMENT PLEADER SRI. BIJU MEENATTOOR &
R1-R4 BY SRI.SANTHOSH MATHEW, SC, CALICUT UNIVERSITY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT P1 TRUE COPY OF THE COURSE COMPLETION CERTIFICATE NO 1138/C3/10/GHMC DATED 30-05-2013 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT PRINCIPAL.
- EXHIBIT P2 TRUE COPY OF NOTIFICATION NO EPR I/MD HOMEOPART II/APRIL 2013 DATED 25-06-2013 ISSUED BY THE UNIVERSITY.
- EXHIBIT P3 TRUE COPY OF THE UNIVERSITY MEMO NO EPR.1/MD HOMOEOPART II/APRIL 2013 DATED 23-10-2013.
- EXHIBIT P4 TRUE COPY OF THE LETTER NO 398/C3/11/GHMC DATED 29-11-2013 OF THE 5TH RESPONDENT.
- EXHIBIT P5 TRUE COPY OF ATTENDANCE CERTIFICATE OF THE PETITIONER FOR THE PERIOD FROM 20-10-2011 TO 20-04-2013 COMMUNICATED BY THE 5TH RESPONDENT TO THE 1ST RESPONDENT UNIVERSITY.
- EXHIBIT P6 TRUE COPY OF THE CERTIFICATE DATED 25-10-2013 ISSUED FROM CHANDRAMATHY AMMA MEMORIAL HOSPITAL OLARIKKARA, THRISSUR.
- EXHIBIT P7 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ON 11-12-2013 BEFORE THE 3RD RESPONDENT, PRO-VICE CHANCELLOR OF THE UNIVERSITY.

RESPONDENT(S) ' EXHIBITS:

- EXHIBIT R1(1) TRUE COPY OF THE MINUTES OF THE PASS BOARD MEETING HELD ON 28/05/2013.
- EXHIBIT R1(2) TRUE COPY OF THE COMMUNICATION DATED 23/10/2013 ISSUED TO THE PETITIONER BY THE UNIVERSITY.
- EXHIBIT R1(3) TRUE COPY OF THE UNIVERSITY NOTE NO.EPR 1/MD/HOMEOPART II APRIL 2013 DATED 13/12/2013.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J

W.P(C) No. 34407 of 2014

Dated this the 5th day of March, 2015

J U D G M E N T

The petitioner in the above writ petition seeks issuance of Degree certificate, of the post graduate course in Homoeo, she completed and qualified under the respondent University. The petitioner was admitted to the M.D (Materia Medica) course under the respondent University for the academic year 2010-2013. She completed the course as is indicated in Ext.P1 course completion certificate. In April, 2013 she appeared for the examination with roll No.5002 and she qualified, as is indicated by the results published in Ext.P2. However, when the petitioner sought for provisional degree certificate, the same was rejected by the University by Ext.P3, on the ground that she did not have the required attendance in Practical/Seminar of

M.D (Homoeo) in Part II examinations, 2013.

2. Admittedly, the petitioner had taken leave on account of complication due to pregnancy. However, the fact remains that the shortage of attendance was never informed by the College to the University. The specific contention of the University is that the University had directed the Principal; herein a Principal of a Government Homoeo Medical College, that hall ticket should be issued only to candidates who have secured sufficient attendance. Hence before issuance of hall tickets, neither the Principal nor the University took steps to verify whether there is required attendance for every student. It is also submitted that on the Principal's oral instructions, hall ticket was issued and as per the minutes of the Pass Board meeting held on 28.05.2013 the petitioner also was declared as passed. However, later, on the Principal sending the

details of the attendance, it was revealed that the petitioner did not have the required attendance; is the contention.

3. The petitioner was never informed of the shortage in attendance prior to the examination. The petitioner, but for the fact that, she had taken leave is not guilty of any suppression, since the attendance has to be verified by the Principal from the records of the College and communicate it to the University. In such circumstance, the petitioner cannot be said to have had any role in the appearance in the examinations; against regulations.

4. As per the regulation of the University, the minimum required attendance is 80% with no provision for condonation. If the petitioner was not eligible to attend the examination, the petitioner should definitely have been informed before the examination or at least before the publication of the

results. In the present case, it is after the publication of the results that the petitioner was so informed about the shortage of attendance. In such circumstance, on the facts coming to fore in the above case, the petitioner shall be declared as passed in the M.D(Materia Medica) as per the results published at Ext.P2 and the certificate shall also be issued to her. It is made clear that the certificate shall be issued to her as expeditiously as possible at any rate within two months from the date of submission of the application.

Writ petition is allowed.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge