

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No.34626 of 2014 (C)

PETITIONER:

**MUHAMMED DILUFAR RASAL.P,S/O.RASUL SALEEM.P ,
AGED 20 YEARS,POOKAYIL VEEDU,PANNIYANKARA,
V K K MENON ROAD,KALLAI PO,KOZHIKODE-673003.**

**BY ADVS.SRI.ABDUL JALEEL.A
SMT.M.A.SULFIA
SRI.PAVU M.J**

RESPONDENTS:

- 1. STATE OF KERALA,REP. BY DEPARTMENT OF EDUCATION,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695001**
- 2. DIRECTOR OF HIGHER SECONDARY EDUCATION,
DIRECTORATE OF HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDING,SANTHI NAGAR,
THIRUVANANTHAPURAM-695001**
- 3. THE PRINCIPAL,
SRI GUJARATI VIDHALAYA HIGHER SECONDARY SCHOOL,
KOZHIKODE -31**

**R1,R2 BY GOVT.PLEADER SRI.RAFEEK V.K
R3 BY ADVS.SRI.SHYAM PADMAN
SRI.S.K.SAJU
SRI.A.RANJITH NARAYANAN
SRI.JOHN THITHEEMOS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12.03.2015 THE COURT ON 20-03-2015, DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1:THE TRUE COPY OF THE 1ST YEAR HIGHER SECONDARY EXAMINATION
2013.**

**EXT.P2:THE TRUE COPY OF THE 2ND YEAR HIGHER SECONDARY EXAMINATION
MARCH 2014.**

**EXT.P3:THE TRUE COPY OF THE 2ND YEAR HIGHER SECONDARY EXAMINATION
JUNE 2014 (SAY).**

**EXT.P4:THE TRUE COPY OF THE CHALLAN DTD 13/10/2014 FOR THE 2ND YEAR
EXAMINATION MARCH 2015.**

**EXT.P5:THE TRUE COPY OF THE LIST OF CANDIDATES WHO HAVE REGISTERED
FOR THE 2ND YEAR EXAMINATION MARCH 2015.**

EXT.P6:THE TRUE COPY OF THE REPRESENTATION DTD 2/12/2014.

**EXT.P7:THE TRUE COPY OF THE NOTIFICATION NO EX-II, (1)/16959/HSE/14
DTD 26/9/2014**

RESPONDENT'S EXHIBITS:

**EXT.R2(a):TRUE COPIES OF THE NOTIFICATION FOR THE YEAR 2010
EXAMINATION DATED 27.10.2009.**

EXT.R2(b):TRUE COPY OF THE G.O(MS)NO.140/08/G1 DATED 18.8.2008.

//TRUE COPY//

P.S. TO JUDGE

pk

A.V.RAMAKRISHNA PILLAI, J

WPC No.34626 of 2014

Dated this the 20th day of March, 2015

JUDGMENT

Challenging Clause-h in Ext.P7 notification dated 26.9.2014, the petitioner has come up before this Court.

2. The petitioner was a plus two student in the third respondent school during the year 2012-2014. The petitioner has passed the entire subject in the first year Higher Secondary examination during the year 2013 itself, but he has failed in two subjects for the second year Higher Secondary Examination, that was conducted during March 2014. Thereafter he appeared for the examination of the above subjects during June 2014(SAY) examination. However, the petitioner failed in both subjects. Thereafter the petitioner registered for the second year examination to be conducted on March 2015 for the above subjects and remitted fee for the same on

13.10.2014. But his name has not been included in the list of candidates who have registered for the second year examination March 2015. Aggrieved by the same, the petitioner made a representation to the 2nd respondent stating all his grievances and anxiety towards his future educations. According to the second respondent, as per clause 'h' of notification dated 26.9.2014 the student who has lost "SAY" examination can register for those subjects provided they have appeared for the first year papers of those subjects at the first year improvement/supplemental examination, August 2014. The petitioner contended that the said clause is against the basic interest of the students and the same would adversely affect their fundamental rights. It is with this background the petitioner has come up before this Court.

3. The second respondent filed a counter affidavit contending as follows:

As per G.O.(MS)No.180/2008/G.Edn. dated

30.10.2008, the Director, Higher Secondary Education was empowered to approve the Higher Secondary Examination notification from the year 2009 examination onwards. Each year specific notifications are issued without disrupting the basic structure of the examination. Candidates who were not able to attain D+Grade or above for a particular subject(s) in March or SAY examination conducted from 2010 onwards can register for those subjects provided they have appeared for the first year papers of those subjects at the first year improvement/supplementary examination, August 2014; it is stated.

The petitioner should have known the rules governing the examination which he intended to appear. The present pattern of examination was instituted in the year 2010. Wide publicity was given by the 2nd respondent regarding this system in which it is mandatory that a candidate who fails to secure D+ grade or above for a particular subject at the

March or subsequent SAY Examination should appear for the first year improvement examination of the subsequent year for that subject. True copy of the notification for the year 2010 examination dated 27.10.2009 is produced as Ext.R2(a). The same scheme is being followed even now, as evident from Ext.P7. The Principals of all Higher Secondary Schools are directed to check the official website PORTAL of the department in which notifications/circulars are uploaded.

Higher Secondary Examination is conducted every year strictly following a set of rules. The 2nd respondent being a highly responsible public servant does not purposefully disqualify any candidate. He acts only in accordance with the existing rules.

The First Year Public Examination was conducted from March 2009 onwards and the scores obtained at the Plus One and Plus Two Examination began to be reckoned for finalizing the result of a candidate from Plus Two Examination in March 2010.

Initially, the Plus One Examination was purely a school affair. The school prepared the question papers, conducted the examinations, valued the answer scripts and published the results. The condition then was that a candidate who becomes eligible to register for the Plus Two examination must qualify for the plus one examination with at least 30% marks for each subject. Candidates who failed to attain 30% marks at the Plus One final examination were given two more chances to attain 30% for all subjects during the then Plus two course. It is further stated that a demerit of this scheme was that the schools that failed to complete the portions prepared question papers on the basis of portions completed and teachers too were lenient in valuation. This resulted in students and teachers taking Plus One studies leisurely and skipping much of the first year portions which resulted in a situation wherein large number of students from State Syllabus were not able to get through the entrance

exam for professional courses. To overcome this, the Department started preparing and supplying question papers for the plus one students also. But the exams and valuation were conducted at the school level. Here, again the complaint arose that the teachers were lenient in valuation. It was with the intention of making the students and teachers take Plus One studies seriously that the present system of conducting public examination for plus one students was introduced as per G.O.(MS) No.140/08/G1.Edn. dated 18.8.2008. A true copy of G.O.(MS) No.140/08/G1.Edn. dated 18.8.2008 is produced as Ext.R2(b). Only a candidate who has registered for the Plus one examination would be promoted to the plus two course and only candidates who have appeared for all six papers at the plus one examination are eligible to register for the plus two examination. From the above, it is clear that the present pattern of examination was instituted with the sole aim of improving the quality of education. If

the student is permitted to be lax in his studies, it will in the long run, lead to irreparable loss to the society. The department cannot view matters from an individual's point of view, but can act only in accordance with the interests of the student community as a whole; it is contended.

4. Arguments have been heard.

5. The grievance of the petitioner is that he who has cleared all his papers in the first year secondary examination is being compelled to write all the papers of the first year examination in order to qualify himself to register for the secondary examination 2015. It is true that as per Ext.P1, the petitioner has cleared all his papers in the first year secondary examination. However, he failed for two subjects in the second year secondary examination 2014. The stand taken by the respondent is that the petitioner should clear off all the papers of the first year secondary examination for being qualified to appear for the second year examination 2015. The

petitioner has not been included in the list of candidates published as per Ext.P5 issued by the second respondent and thus he was denied to take the second year secondary examination 2015. According to the petitioner, the stipulations in clause-h of Ext.P7 notification 2015 is highly irrational and beyond comprehension. The candidates who failed in second year examination will have to take the first year subjects along with the failed subjects while attempting the supplementary examinations for the second year. Though the petitioner alleges that the said stipulation was made known to the petitioner while taking the second year examination for the failed subjects during the SAY Examination, the same cannot be accepted. The petitioner with his eyes wide open had joined the course. It cannot be said that he was unaware of the conditions in Ext.P7 while joining the course. It may be a difficult task for the petitioner to write the first year examination also

along with the examination in the failed papers of the second year. However, it cannot be avoided.

6. As rightly submitted by the learned Government Pleader, the petitioner who wanted to write the higher secondary examination was bound to follow the rules governing the course which he underwent. He cannot justify his ignorance by putting the blame on the second respondent. The first and second year portions are integral parts. Therefore, a candidate who fails in the second year has to write the first year examination in *toto*. Only the combined scores determine his eligibility.

7. As rightly pointed out by the learned Government Pleader, all the universities in Kerala follow this pattern. If a student fails in Part I English, he has to appear for the subsequent examination for papers taught in the first and second year. The second respondent published the first year improvement examination notification in the official website which contained the eligibility criteria for

writing the second year higher secondary examination in March 2015. It was meant for students like the petitioner. It is clear from the contentions taken by the petitioner that he got two chances to write the examination. However, he could not get through. The combined score of both the examinations is taken to determine the candidates grade. A student who fails in a paper has to re-appear for all papers to get through the exam. All the circulars/notifications are uploaded in the official website of the department and wide publicity was also given through the media regarding the examination notifications. Therefore, I see no force in the argument advanced by the learned counsel for the petitioner that the petitioner came to know about the stipulations only later. The notifications are issued by the second respondent in accordance with the rules governing the conduct of examination. The petitioner was excluded from the list of candidates eligible for writing the final year

examination as per rules.

8. If the petitioner is allowed to write the second year examination without appearing for the first year examination as prescribed in Ext.P7, the same would amount to denial of justice to many other students who were denied the chance to write examination in similar circumstances and who were compelled to take the examination in papers which they have already cleared during the first year.

9. As rightly pointed out by the learned Government Pleader, it will open a floodgate of litigations by similarly placed students.

10. As this Court cannot see any illegality, irregularity or impropriety in Ext.P7, the petitioner is not entitled to succeed.

In the result, this writ petition fails and accordingly it is dismissed.

Sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

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P.S.TO JUDGE