

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

W.P.(C).No.35108 of 2014 (K)

PETITIONER(S):-

SHEHIN.S, AGED 20 YEARS, S/O.SHAJI,
SANU NIVAS, NEAR THOPPIL CHURCH,
PALLITHOTTAM, KOLLAM DISTRICT - 691006.

BY ADVS.SRI.P.A.MOHAMMED SHAH
SRI.S.PRASANTH
SRI.SOORAJ T.ELENJICKAL
SRI.T.S.SARATH
SMT.P.M.MAZNA MANSOOR.

RESPONDENT(S):-

1. UNION OF INDIA, REPRESENTED BY SECRETARY,
MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT,
ROOM NO. 740, 'A' WING, SHASTRI BHAVAN,
DR.RAJENDRA PRASAD ROAD, NEW DELHI - 110 001 (INDIA).
2. STATE OF KERALA, REPRESENTED BY ADDITIONAL CHIEF SECRETARY,
DEPARTMENT OF SOCIAL JUSTICE, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
3. SECRETARY,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
4. UNIVERSITY GRANTS COMMISSION,
REPRESENTED BY ITS SECRETARY
OFFICE OF UNIVERSITY GRANTS COMMISSION,
BAHADUR SHAH SAFAR MARG, NEW DELHI - 110 002.
5. MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS REGISTRAR,
MAHATHMA GANDHI UNIVERSITY, PRIYADARSINI HILLS P.O.,
KOTTAYAM DISTRICT - 696 560.

6. CONTROLLER OF EXAMINATION,
MAHATHMA GANDHI UNIVERSITY, PRIYADARSINI HILLS P.O.,
KOTTAYAM DISTRICT - 696 560.

7. PRINCIPAL, ST.THOMAS COLLEGE, ARUNAPURAM, PALAI,
KOTTAYAM DISTRICT - 686 574.

R1 BY ASSISTANT SOLICITOR GENERAL OF INDIA SRI.N.NAGARESH.
R2 & R3 BY GOVERNMENT PLEADER SRI.R.RANJITH.
R4 BY STANDING COUNSEL SRI.S.KRISHNAMOOTHY.
R5 & R6 BY STANDING COUNSEL SRI.VARUGHESE M.EASO.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE DISCHARGE SUMMARY DATED 30/07/2008
ISSUED BY NEUROSURGERY UNIT OF CHRISTIAN MEDICAL
COLLEGE, VELLORE.
- EXHIBIT P2: TRUE COPY OF THE ORDER OF THE DISCHARGE SUMMARY
DATED 13/01/2008 ISSUED BY DEPARTMENT OF PAEDIATRIC
ORTHOPAEDICS.
- EXHIBIT P3: THE TRUE COPY OF THE MEDICAL CERTIFICATE IN RESPECT OF
PHYSICALLY HANDICAPPED ISSUED FROM MEDICAL COLLEGE,
VELLORE DATED 18/11/2008.
- EXHIBIT P4: THE TRUE COPY OF THE STANDING DISABILITY ASSESSMENT
BOARD CERTIFICATE DATED 13/03/2013 FROM GOVT. MEDICAL
COLLEGE HOSPITAL, KOTTAYAM.
- EXHIBIT P5: THE TRUE COPY OF THE MARKS STATEMENT OF SECONDARY
SCHOOL EXAMINATION DATED 10/06/2010.
- EXHIBIT P6: THE TRUE COPY OF THE CERTIFICATE DATED 15/05/2012 ISSUED
BY SECRETARY, BOARD OF HIGHER SECONDARY EXAMINATION.
- EXHIBIT P7: THE TRUE COPY OF THE GRADE CARD ISSUED BY THE
6TH RESPONDENT DATED 06/06/2013.
- EXHIBIT P8: THE TRUE COPY OF THE GRADE CARD ISSUED BY THE
6TH RESPONDENT DATED 15/11/2013.
- EXHIBIT P9: THE TRUE COPY OF THE REPRESENTATION FILED BEFORE
THE 5TH RESPONDENT DATED 17/12/2014.
- EXHIBIT P10: THE TRUE COPY OF THE OFFICE MEMORANDUM DATED 26/02/2013
ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P11: THE TRUE COPY OF THE ORDER ISSUED BY THE
5TH RESPONDENT DATED 18/10/2013.
- EXHIBIT P12: THE TRUE COPY OF THE ARTICLE PUBLISHED IN MATHRUBHOOMI
DAILY DATED 18/05/2012.
- EXHIBIT P13: THE TRUE COPY OF THE GUIDELINES ISSUED BY CALICUT
UNIVERSITY.

RESPONDENT(S)' EXHIBITS

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J.

W.P.(C) No.35108 of 2014-K

Dated this the 25th day of February, 2015

JUDGMENT

The petitioner seeks for a scribe in the examination which is scheduled to commence on 16.03.2015. The petitioner, admittedly, is a differently abled person, who comes within the ambit of Section 2(t) of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 [for brevity "Disabilities Act"]. The petitioner, on the basis of Exhibit P4 certificate issued by the Government Medical College Hospital, Kottayam, contends that he has a permanent disability of 60% and, hence, requires a scribe to help him to appear in the examinations.

2. The learned Standing Counsel for the University specifically refers to Exhibit P11, in which a similar request was made in the year 2013 which was allowed only to the extent of permitting "extra time" in the examinations. The University Regulations, according to the learned Standing Counsel, would only permit extra time and not a scribe.

3. The learned Assistant Solicitor General of India refers to Exhibit P10 guidelines issued by the Government of India in the Ministry of Social Justice & Empowerment, Department of Disability Affairs, under the Disabilities Act; as also the order of the Chief Commissioner of Persons with Disabilities in its order dated 23.11.2012 in Case No.3929 of 2007 in the matter of **Shri Gopal Sisodia, Indian Association of the Blind v. State Bank of India & Others**. Reference is specifically made to Clauses-III and XI of the said guidelines at Exhibit P10, which are extracted hereunder:

“III. The facility of Scribe/Reader/Lab Assistant should be allowed to any person who has disability of 40% or more if so desired by the person.

xxx

xxx

xxx

XI. The word “extra time or additional time” that is being currently used should be changed to “compensatory time” and the same should not be less than 20 minutes per hour of examination for persons who are making use of scribe/reader/lab assistant. All the candidates with disability not availing the facility of scribe may be allowed additional time of minimum of one hour for examination of 3 hours duration which could further be increased on case to case basis”.

The said guidelines is said to have been issued to the University and necessarily the statutory mandate requires the University to comply with such guidelines.

4. In the event of the accepted position that the petitioner suffers from 60% permanent disability, it is only appropriate that the petitioner be permitted to appear for the examination with a scribe; not only in the present examination but for any ensuing examination of the course.

Writ petition allowed. No costs.

Sd/-
K. Vinod Chandran,
Judge

vku/

[true copy]