IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 11TH DAY OF DECEMBER 2020 / 20TH AGRAHAYANA, 1942

W.P.(C) No.25502 OF 2020(K)

PETITIONER:

THE MANAGER, ST.STEPHENS COLLEGE
MALOOR COLLEGE P.O., PATHANAPURAM-689 695,
KOLLAM DISTRICT.

BY ADVS.
SRI.KURIAN GEORGE KANNANTHANAM (SR.)
SRI.TONY GEORGE KANNANTHANAM
SRI.THOMAS GEORGE
ALEX AUGUSTINE
EBEE ANTONY KANNANTHANAM

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2 **UNIVERSITY OF KERALA**
REPRESENTED BY ITS REGISTRAR,
PALAYAM, TRIVANDRUM-695 034.

R2 **BY SRI.THOMAS ABRAHAM, SC, UNIVERSITY OF KERALA**
R1 **SRI. RENJITH K.R., GOVERNMENT PLEADER**

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.12.2020, ALONG WITH WP(C).25670/2020(G), WP(C).25709/2020(K), WP(C).26177/2020(V), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 11TH DAY OF DECEMBER 2020 / 20TH AGRAHAYANA, 1942

WP(C).No.25670 OF 2020(G)

PETITIONER:

THE MANAGER, ST.CYRIALS COLLEGE,
ADOOR-691 526.

BY ADVS.
SRI.KURIAN GEORGE KANNANTHANAM (SR.)
SRI.TONY GEORGE KANNANTHANAM
SRI.THOMAS GEORGE

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2 **UNIVERSITY OF KERALA,**
REPRESENTED BY ITS REGISTRAR,
PALAYAM, TRIVANDRUM-695 034.

R2 **BY SHRI.THOMAS ABRAHAM, SC, UNIVERSITY OF KERALA**

R1 **SRI. RENJITH K.R., GOVERNMENT PLEADER**

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.12.2020, ALONG WITH WP(C).25502/2020(K), WP(C).25709/2020(K), WP(C).26177/2020(V), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 11TH DAY OF DECEMBER 2020 / 20TH AGRAHAYANA, 1942

W.P.(C) No.25709 OF 2020(K)

PETITIONER:

THE MANAGER
ST. GREGORIOUS COLLEGE,
PULAMON P.O, KOTTARAKKARA-691 531.

BY ADVS.
SRI.KURIAN GEORGE KANNANTHANAM (SR.)
SRI.TONY GEORGE KANNANTHANAM
SRI.THOMAS GEORGE
SHRI.EBEE ANTONY

RESPONDENTS:

1 **STATE OF KERALA**
REP. BY PRINCIPAL SECRETARY TO GOVT.
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2 **UNIVERSITY OF KERALA,**
REP. BY ITS REGISTRAR,
PALAYAM, TRIVANDRUM-695 034

R2 **BY SHRI.THOMAS ABRAHAM, SC, UNIVERSITY OF KERALA**
R1 **SRI. RENJITH K.R., GOVERNMENT PLEADER**

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.12.2020, ALONG WITH WP(C).25502/2020(K), WP(C).25670/2020(G), WP(C).26177/2020(V), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 11TH DAY OF DECEMBER 2020 / 20TH AGRAHAYANA, 1942

WP(C).No.26177 OF 2020(V)

PETITIONERS:

1 THE MANAGER,
AQUINAS COLLEGE, EDACOCHIN, KOCHI-682 010.

2 THE PRINCIPAL - IN – CHARGE,
AQUINAS COLLEGE, EDACOCHIN, KOCHI-682 010.

BY ADVS.
SRI.N.JAMES KOSHY
SRI.T.SANJAY

RESPONDENTS:

1 STATE OF KERALA
REP.BY THE PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHER EDUCATION (B) DEPARTMENT,
SECRETARIAT, THIRUVANNATHAPURAM-695 001.

2 MAHATMA GANDHI UNIVERSITY,
ADMINISTRATIVE BLOCK, PRIYADARSINI HILLS POST,
UNIVERSITY CAMPUS RD, ATHIRAMPUZHA,
KEARALA-686 560, REP. BY ITS REGISTRAR

3 THE SYNDICATE,
MAHAMTA GANDHI UNIVERSITY
ADMINISTRATIVE BLOCK, PRIYADARSINI HILLS POST,
ATHIRAMPUZHA, KOTTAYAM-686 560
REP. BY THE CONVERNOR,AFFILIATION COMMITTEE

R2 BY ADV. SRI.ASOK M.CHERIAN
R1 SRI. RENJITH K.R., GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.12.2020, ALONG WITH WP(C).25502/2020(K), WP(C).25670/2020(G), WP(C).25709/2020(K), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Since common issue is raised in these writ petitions, they are heard together and are being disposed of by this common judgment.

2. The petitioners in W.P.(C) Nos.25502, 25670 and 25709 of 2020 are the Managers of Aided Arts and Science Colleges having affiliation with the University of Kerala and the 1st petitioner in W.P.(C) No.26177 of 2020 is the Manager of an Arts and Science College having affiliation with the M.G.University. The petitioners have filed these writ petitions under Article 226 of the Constitution of India, mainly seeking a writ of mandamus commanding the 1st respondent State to grant administrative sanction to start new courses applied for by the respective managements, on the strength of the recommendation made by the affiliating body. They are feeling aggrieved by non-inclusion of the courses in their respective institutions, in the Government order dated 05.11.2020 granting administrative sanction, for the academic year 2020-21, for starting new courses in Government and Aided College in the State.

3. On 02.12.2020, when these writ petitions came up for consideration, the learned Government Pleader was directed to get instructions as to whether the rejection of request made by the petitioner in the respective writ petitions for administrative sanction to start new courses, based on the recommendation by the University, is supported by reasons and whether those reasons have already been communicated to the respective institutions.

4. Today, when these writ petitions are taken up for consideration, a statement on behalf of the 1st respondent is placed on record by the learned Government Pleader. Paragraphs 3 and 4 of that statement read thus;

> "3. It is submitted that, the Government has to pay salaries of faculty at UGC approved levels in aided colleges. On an average each new programme requires 3 to 5 new faculty posts. Hence Government cannot sanction new programmes in every college every year. In the budget speech 2020 Government had made its intention clear that 60 new generation programme would be sanctioned giving weightage to the NAAC score. Universities had been asked to recommend programmes accordingly. However, Universities recommended programmes for all colleges, as they are neither pay-master not incentivizing institutions based on quality parameters. Besides, many of the programmes

recommended by the Kerala University were not 5 year programmes like in other universities or new generation courses.

4. It is submitted that out of the 33 aided colleges recommended by the University of Kerala 21 colleges were accorded sanction to start innovative new generation course. The Government taking into concern the financial implications in the first 5 years for payment under guest lecturers salary and thereafter at UGC scale, necessity of maintain parity between universities, the regional imbalances or aided institutions and taking into consideration of the recommendations of the University has decided on the programmes as per G.O.(MS)No.389/2020/HEdn. Dated 05.11.2020."

5. Heard the learned Senior Counsel/the learned counsel for the petitioner in the respective writ petitions, the learned Government Pleader for the 1st respondent State and also the learned Standing Counsel for the respondent University.

6. In **Malu M. and others v. State of Kerala and others [ILR 2015 (3) Ker. 869]**, this Court held that the object underlying the rules of natural justice is to prevent miscarriage of justice and secure fair play in action. The recording of reasons by an administrative or quasi-judicial authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures

a degree of fairness in the process of decisions making. It would apply equally to all decisions made by such authority and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. At the same time, it is not the requirement that, the reasons should be as elaborate as in the decision of a court of law. What is necessary is that, the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. Hence, it is an essential requirement of the rule of law that, some reasons, at least in brief, must be disclosed in the order passed by an administrative or quasi-judicial authority.

7. During the course of arguments, the learned Government Pleader would submit that the reason for rejecting the request made by the petitioner in the respective writ petitions for administrative sanction to start new courses in their Aided Arts and Science Colleges, during the academic year 2020-21, are not disclosed in the Government order dated 05.11.2020. Those reasons are also not communicated to the petitioner in the respective writ petitions. The learned Government Pleader would submit that the 1st respondent shall communicate those reasons

within a time limit to be fixed by this Court.

8. The learned Senior Counsel/the learned counsel for the petitioner in the respective writ petitions would submit that the petitioner in the respective writ petitions may be given an opportunity of being heard, before taking a decision on their request for grant of administrative sanction to start the new courses as applied for.

9. Having considered the submissions made by the learned counsel on both sides, these writ petitions are disposed of, leaving open the legal and factual contentions raised by both sides, with the following directions;

i) On or before 15.12.2020, the 1st respondent shall communicate the petitioner in the respective writ petitions the reason for non-inclusion of their courses, in respect of which administrative sanction was sought for, in the Government order dated 05.11.2020.

ii) The petitioner in the respective writ petitions shall submit their reply/explanation to the 1st respondent, on or before 19.12.2020.

iii) Thereafter, the 1st respondent shall conduct a personal hearing, with notice to the petitioner in the respective writ petitions, subject to COVID-19

restrictions, and take an appropriate decision, strictly in accordance with law, on their request for grant of administrative sanction to start new courses in the respective institutions.

iv) The decision so taken by the 1st respondent, after adverting to the legal and factual contentions raised by the petitioner in the respective writ petitions, shall be communicated to them on or before 31.12.2020.

Sd/-
ANIL K. NARENDRAN
JUDGE

bpr

APPENDIX OF W.P.(C) NO.25502/2020

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE CERTIFICATE DATED 09.05.2014 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P2	**TRUE COPY OF THE LETTER OF CONSENT DATED 20.05.2014 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P3	**TRUE COPY OF THE CERTIFICATE OF ACCREDITATION DATED 01.05.2015.**
EXHIBIT P4	**TRUE COPY OF THE LETTER OF CONSENT OF AFFILIATION DATED 15.06.2015 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P5	**TRUE COPY OF THE LETTER DATED 13.08.2020 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE GAZETTE NOTIFICATION DATED 05.10.2020 ISSUED BY THE GOVERNMENT.**
EXHIBIT P7	**TRUE COPY OF THE NOTIFICATION DATED 06.10.2020 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P8	**TRUE COPY OF THE APPLICATION DATED 08.10.2020 FROM THE PETITIONER.**
EXHIBIT P9	**TRUE COPY OF THE LETTER DATED 19.10.2020 WITH LIST OF RECOMMENDED PROGRAMS.**
EXHIBIT P10	**TRUE COPY OF THE ORDER DATED 05.11.2020 ISSUED BY THE GOVERNMENT.**
EXHIBIT P11	**TRUE COPY OF THE REPRESENTATION DATED 06.11.2020 TO THE HON.MINISTER FOR HIGHER EDUCATION.**
EXHIBIT P12	**TRUE COPY OF THE REPRESENTATION DATED 11.11.2020 TO THE CHIEF MINISTER.**

APPENDIX OF W.P.(C) NO.25670/2020

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE CERTIFICATE DATED 21.09.2011 ISSUED BY THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTION.**
EXHIBIT P2	**TRUE COPY OF THE CERTIFICATE OF ACCREDITATION DATED 08.02.2019.**
EXHIBIT P3	**TRUE COPY OF THE GAZETTE NOTIFICATION DATED 05.10.2020 ISSUED BY THE GOVERNMENT.**
EXHIBIT P4	**TRUE COPY OF THE NOTIFICATION DATED 06.10.2020 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P5	**TRUE COPY OF THE APPLICATION DATED 07.10.2020 FROM THE PETITIONER.**
EXHIBIT P6	**TRUE COPY OF THE LETTER DATED 19.10.2020 WITH LIST OF RECOMMENDED PROGRAMS.**
EXHIBIT P7	**TRUE COPY OF THE ORDER DATED 05.11.2020 ISSUED BY THE GOVERNMENT.**

APPENDIX OF W.P.(C) NO.25709/2020

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE CERTIFICATE DATED 9.10.2013 ISSUED BY THE NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTION.**
EXHIBIT P2	**TRUE COPY OF THE CERTIFICATE ACCREDITATION DATED 1.5.2015.**
EXHIBIT P3	**TRUE COPY OF THE LETTER DATED 13.8.2020 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P4	**TRUE COPY OF THE GAZETTE NOTIFICATION DATED 5.10.2020 ISSUED BY THE GOVERNMENT.**
EXHIBIT P5	**TRUE COPY OF THE NOTIFICATION DATED 6.10.2020 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE APPLICATION DATED 8.10.2020 FROM THE PETITIONER.**
EXHIBIT P7	**TRUE COPY OF THE LETTER DATED 8.10.2020 FROM THE PETITIONER.**
EXHIBIT P8	**TRUE COPYOF THE ORDER DATED 5.11.202O ISSUED BY THE GOVERNMENT.**
EXHIBIT P9	**TRUE COPY OF THE REPRESENTATION DATED 5.11.2020 TO THE HON'BLE MINISTER FOR HIGHER EDUCATION.**

APPENDIX OF W.P(C) NO.26177/2020

PETITIONERS' EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE STATEMENT REGARDING THE COURSES NOW BEING CONDUCTED IN THE PETITIONER'S COLLEGE**
EXHIBIT P2	**TRUE COPY OF THE ORDER NOB3/207/2020-HEDN DATED 9.9.2020 ISSUED BY THE 1ST RESPONDENT**
EXHIBIT P3	**TRUE COPY OF THE ORDER NO.B3/2017/2020-HEDN DATED 18.9.2020 ISSUED BY THE 1ST RESPONENT**
EXHIBIT P4	**TRUE COPY OF THE NOTIFICATION NO.23076/AC A1-1/2020/ACAD DATED 6.10.2020 ISSUED BY THE 2ND RESPONDENT**
EXHIBIT P5	**TRUE COPY OF THE ORDER NO.4877/AC A1/2020/MGU DATED 22.10.2020 ISSUED BY THE 2ND RESPONDENT, RECOMMENDING THE PETITIONER'S COLLEGE TO 1ST RESPONDENT**
EXHIBIT P6	**TRUE COPY OF THE ORDER NO.G.O.(MS) NO.389/2020/HEDN DATED 5.11.2020 ISSUED BY THE 1ST RESPONDENT GRANTING ADMINISTRATIVE SANCTION TO 197 COURSES**
EXHIBIT P7	**TRUE COPY OF THE REPRESENTATION NO.AC/NGC/2020 DATED 6.11.2020 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONENT**
EXHIBIT P8	**TRUE COPY OF THE LETTER DATED 8.11.2020 SUBMITTED BY THE 1ST PETITION ENCLOSING A COPY OF THE EXHIBIT -P7 REPRESENTATION BEFORE 2ND RESPONDENT**
EXHIBIT P9	**TRUE COPY OF THE LIST/STATEMENT OF PARTICULARS OF DEGREE LEVEL AND POST GRADUATE LEVEL SEATS AVAILABLE IN THE NEIGHBOURING 7 COLLEGES WITH EXPLANATORY JUSTIFICATION**