IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 01ST DAY OF DECEMBER 2020 / 10TH AGRAHAYANA, 1942

WP(C).No.26142 OF 2020(P)

PETITIONER:

AYSHA ANAN, AGED 25 YEARS, D/O.MOHAMED SAGIR, AYYARIL KARIKULAM, AZHIKODE P.O., LIGHT HOSE, THRISSUR - 680 666.

BY ADVS.SHRI.BALAMURALI K.P.
SHRI.VISHNU RAJAGOPAL
SHRI.ARJUN S BENEDICT

RESPONDENTS:

1 **MAHATHMA GANDHI UNIVERSITY REPRESENTED BY THE VICE CHANCELLOR, PRIYADHARASHANI HILLS, ATHIRAMPUZHA, KOTTAYAM DISTRICT - 686 560.**

2 **VICE CHANCELLOR, MAHATMA GANDHI UNIVERSITY, PRIYADHARASHANI HILLS, ATHIRAMPUZHA, KOTTAYAM DISTRICT - 686 560.**

3 **PRINCIPAL, GOVERNMENT LAW COLLEGE, PARK AVENUE, ERNAKULAM - 682 016.**

R1 & R2 BY ADV. SRI.ASOK M.CHERIAN
BY SRI. V.MANU - SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 1st day of December 2020

The petitioner has approached this Court seeking the same benefits that were granted to the petitioners in W.P.(C)Nos. 23372/2018 and 35381/2018, the judgments of which have been produced on record as Exhibits P11 and P12 respectively.

2. According to the petitioner, she was pursuing the Integrated V Year LL.B. Course, leading to the degree of B.A. (Criminology) LL.B.(Hons.) during the period 2014-19, but that, on account of certain extenuating physical reasons, she was not able to attend the classes regularly, thus being able to secure only three marks in the internal examinations for the paper 'Women and Law' of the first semester and zero marks in 'Constitutional Law-I' of the fifth semester.

3. The petitioner says that the medical records, appended to this writ petition as Exhibits P15 to P18, would establish the debilitating deceases she is suffering and that this made it impossible for her to sit for long hours and thus incapacitating her from attending the classes or fairing well in the internal examinations.

4. The petitioner, therefore, prays that the University be directed to allow her to redo the internal examinations for these two papers, particularly because, she has scored much less than eight marks, which is the minimum fixed by the University while granting such benefit to other students, consequent to Exhibits P11 and P12 judgments. The learned counsel for the petitioner asserts that his client is identically situated to the petitioners in Exhibits P11 and P12 judgments and that B.A. (Criminology) LL.B. (Hons.) is a vanishing one, the last of such batch having been admitted only in the year 2015.

5. In response, the learned Standing Counsel for the University submitted that the case of the petitioner is different from those involved in Exhibits P11 and P12 judgments because they belonged to the 2011-15 batch and the then applicable Regulations prescribed minimum pass marks for the internal examinations also. He submitted that in the case at hand, there is no such minimum requirement, but conceded that since the petitioner has scored only three and zero marks in the two papers, it would be virtually impossible for her to secure a pass through the written examinations, since the minimum percentile required is 50.

6. Considering the afore submissions, it is needless to say that the petitioner cannot seek an opportunity to redo the internal examinations as a matter of right, but taking note of the extenuating circumstances pleaded by her, particularly the medical condition, as evidenced through the certificates mentioned above, I am of the view that she must be offered lenitude of being able to redo her internal examinations in terms of the liberty granted to similarly placed persons through Exhibits P11 and P12 judgments.

7. When I say this, I am fully aware that in certain other cases this Court has refused to exercise discretion, but the facts involved therein were to the effect that the student had obtained higher marks in the internal examinations, which would enable to secure pass marks by bettering the written examinations alone. In the present case, such an opportunity would be virtually impossible to the petitioner and unless she is able to better the internal examinations, the chances of securing a pass through the written examinations alone is chimerical.

In the afore circumstances, I allow this writ petition as a special case and without it being construed to be a precedent in future and consequentially direct the University to permit the petitioner to redo her internal examinations in the two papers,

namely, Women and Law of the first semester and Constitutional Law-I of the fifth semester, as per law.

Sd/-
Devan Ramachandran, Judge

tkv

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**THE TRUE COPY OF THE RELEVANT PAGES OF THE REGULATIONS THE FIVE YEAR INTEGRATED DOUBLE DEGREE B.A.(CRIMINOLOGY)LLB(HONOURS) COURSE 2014-2015.**
EXHIBIT P2	**THE TRUE COPY OF THE ORDER ISSUED BY THE MAHATMA GANDHI UNIVERSITY DATED 16/03/2018.**
EXHIBIT P3	**THE TRUE COPY OF THE ORDER ISSUED BY THE MAHATMA GANDHI UNIVERSITY DATED 23/08/2017.**
EXHIBIT P4	**THE TRUE COPY OF THE ORDER ISSUED BY THE MAHATMA GANDHI UNIVERSITY DATED 16/03/2018.**
EXHIBIT P5	**THE TRUE COPY OF THE RELEVANT PAGES OF THE COLLEGE CALENDAR ISSUED IN THE YEAR 2011-2012.**
EXHIBIT P6	**THE TRUE COPY OF THE RELEVANT PAGES OF THE REGULATIONS FOR 3 YEAR LL.B COURSE ISSUED IN THE ACADEMIC YEAR 2014-2015.**
EXHIBIT P7	**THE TRUE COPY OF THE ORDER ISSUED BY THE MAHATMA GANDHI UNIVERSITY DATED 17/01/2018.**
EXHIBIT P8	**THE TRUE COPY OF THE RELEVANT PAGES OF THE REGULATION RELATING TO BBA LL.B INTEGRATED DEGREE COURSE.**
EXHIBIT P9	**THE TRUE COPY OF THE NOTIFICATION ISSUED BY THE UNIVERSITY OF KERALA DATED 17/05/2018.**
EXHIBIT P10	**THE TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C) NO.24058 OF 2017 DATED 06/03/2018.**
EXHIBIT P11	**TRUE COPY OF THE JUDGMENT DATED 8/10/2018 IN W.P.(C) NO.23372 OF 2018.**
EXHIBIT P12	**TRUE COPY OF THE JUDGMENT DATED 30/10/2018 IN W.P.(C) NO.35381 OF 2018.**

EXHIBIT P13	**TRUE COPY OF THE NOTIFICATION ISSUED BY THE M G UNIVERSITY.**
EXHIBIT P14	**TRUE COPY OF THE EMAIL COMMUNICATION DATED 4/6/2020.**
EXHIBIT P15	**TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED FROM CHANGARAMKULAM MOTHER & CHILD HOSPITAL.**
EXHIBIT P16	**TRUE COPY OF THE DISCHARGE SUMMARY DATED 16/02/2016 ISSUED FROM THE MEDICARE HOSPITAL KODUNGALLUR.**
EXHIBIT P17	**TRUE COPY OF THE MEDICAL PRESCRIPTION ISSUED TO THE PETITIONER FROM GOVT. GENERAL HOSPITAL, THRISSUR.**
EXHIBIT P18	**TRUE COPY OF THE DISCHARGE SUMMARY ISSUED TO THE PETITIONER FROM GENERAL HOSPITAL ERNAKULAM.**
EXHIBIT P19	**TRUE COPY OF THE JUDGMENT DATED 18/11/2020 IN W.P.(C) NO.24885/2020.**

/TRUE COPY/

P.S. TO JUDGE