IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

W.P.(C)No.27086 OF 2020(I)

PETITIONER:

THE CHIEF EXECUTIVE TRUSTEE,
LISSIE MEDICAL AND EDUCATIONAL INSTITUTIONS,
LISSIE HOSPITAL COMPLEX, COCHIN - 682 018.

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

RESPONDENTS:

1 **THE KERALA UNIVERSITY OF HEALTH SCIENCES**
REPRESENTED BY ITS REGISTRAR,
MEDICAL COLLEGE P.O., TRICHUR - 680 596.

2 **THE REGISTRAR, KERALA UNIVERSITY OF HEALTH SCIENCES**
MEDICAL COLLEGE P.O., TRICHUR - 680 596.

R1-R2 BY ADV. SHRI.P.SREEKUMAR, STANDING COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, who is the Executive Trustee of the educational agency, which runs health care institutions in the State, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P9 communication dated 24.11.2020 issued by the 1st respondent Kerala University of Health Sciences, whereby the petitioner was informed that his application dated 04.11.2020 for enhancement of seats for B.Sc MLT course, cannot be considered for the academic year 2020-21. The petitioner has also sought for a writ of mandamus commanding the respondents to grant affiliation to the enhanced seats applied for, in B.Sc MLT course, in the petitioner's college, in the academic year 2020-21 itself; and also for a declaration that the petitioner is entitled to effect admissions to the enhanced seats in B.Sc MLT course, for which affiliation was sought for.

2. On 07.12.2020, when this writ petition came up for admission, learned Standing Counsel for the Kerala University of Health Sciences sought time to get instructions. The learned Standing Counsel was directed to make available a copy of the amended Statute referred to in Ext.P9 order and to get instructions

as to whether it has already been notified.

3. On 14.12.2020, when this writ petition is taken up for consideration, the learned Standing Counsel for the University has made available a copy of the amended Statutes, along with Notification No.2035/AC-H/2015/KUHS dated 24.12.2020 issued by the 2nd respondent Registrar of the University.

4. A statement has been filed on behalf of the respondents opposing the reliefs sought for in this writ petition. Paragraphs 3 and 4 of the statement read thus:

> "3. It is respectfully submitted that Chapter 21 of the Kerala University of Health Sciences First Statutes have been amended and the amendment has received the assent of the Chancellor. The same has been sent for publication in the official Gazette. Though the notification has not been published in the Gazette, since the Chancellor has given his assent to the same, the University is acting upon the amended Statutes to the extent possible. In the case of considering applications for enhancement of seats, the amended Statutes contemplate a provision that the first batch of the course should have been passed out of the institution. A true copy of the relevant portion of the amended Statutes is produced herewith and marked as Annexure R1A. Even prior to the amendment made to the Statutes the university had taken a decision to the said effect and it also provided that a particular minimum pass

percentage is insisted. A true copy of the order dated 17.5.2013 issued by the university is produced herewith and marked as Annexure R1B. Later the prescription of the pass percentage of 60% for the final year result was modified as 50% average of the regular examinations of the existing batches. A true copy of the order dated 16.04.2015 is produced herewith and marked as Annexure R1C.

4. It is submitted that the university is competent to fix such a prescription which is intended to ensure that the higher standards in the field of health education is maintained. The intention is to ensure that only well managed and performing institutions are given the benefit of additional seats and courses. The First Statutes empowers the University to issue directions from time to time with respect to the norms for affiliation and considering this even without the aid of the amended Statutes, the stand adopted by the University is sustainable."

5. Heard the learned Senior Counsel for the petitioner and also the learned Standing Counsel for the Kerala University of Health Sciences for the respondents.

6. The issue that arises for consideration in this writ petition is as to whether any interference is warranted on Ext.P9 order dated 24.11.2020 issued by the 1st respondent, whereby the application made by the petitioner for enhancement of seats for B.Sc MLT course stands rejected, taking note of Clause 2(5)(ii)(v) of the Statute (amendment of the First Statutes on the matter of

affiliation of colleges).

7. The petitioner's institution, namely, College of Medical Laboratory Technology, Lissie Medical and Educational Institutions, Ernakulam, is conducting B.Sc MLT course from the academic year 2017-18, on the strength of Ext.P1 no-objection certificate granted by the State of Kerala, on 05.04.2016, and Ext.P2 provisional affiliation granted by the 1st respondent University, on 15.11.2017, for 15 seats. Though, in Ext.P3 report dated 04.05.2017 of the inspection team deputed by the University, it was found that facilities are available in the petitioner's institution for admitting 30 students for B.Sc MLT course, for the academic year 2017-18, provisional affiliation in Ext.P2 order was limited to an intake of 15, since Ext.P1 no-objection certificate issued by the State was only for 15 seats. On 08.04.2019, the petitioner submitted Ext.P4 representation before the 2nd respondent Registrar seeking enhancement of intake for B.Sc MLT course as 30. The petitioner was issued with Ext.P5 reply dated 29.05.2019 in which it is stated that the petitioner can submit application as and when the University notifies for enhancement of seats. By Ext.P6 order dated 16.08.2019, the University granted extension of affiliation for B.Sc MLT course in the petitioner's institution for the academic year

2019-20. By Ext.P7 notification dated 03.01.2020, the University invited applications from affiliated medical colleges for starting/enhancement of seats in Medical PG and Medical Super Speciality courses for the academic year 2021-22.

8. The petitioner has approached this Court in W.P.(C)No.14606 of 2020 seeking enhancement of intake for B.Sc MLT course. By Ext.P8 order dated 15.10.2020, the respondents herein were directed place the matter relating to enhancement of intake for B.Sc MLT course in the petitioner's institution, for the academic year 2020-21, in the meeting of the Governing Council of the University scheduled on 17.10.2020. The Governing Council was directed to consider that request and take an appropriate decision, strictly in accordance with law. Pursuant to the direction contained in Ext.P8 order dated 15.10.2020, the petitioner was issued with Ext.P9 communication dated 24.11.2020 of the 2nd respondent Registrar, whereby the petitioner is informed that his application dated 04.11.2020 for enhancement of seats for B.Sc MLT course, cannot be considered for the academic year 2020-21. The application is valid for a period of three years, i.e., till 04.11.2023, as per the norms and as such, the application is eligible to be considered for provisional affiliation for enhancement of seats

for B.Sc MLT course, during its validity period, provided the institution satisfy the norms for enhancement of seats fixed by the University.

9. Chapter XXI of the Kerala University of Heath Sciences First Statutes, 2013, which came into force on 29.04.2013, deals with affiliation of colleges. Statute 2 of Chapter XXI deals with date of application and Statute 3 deals with form of application. Statute 10 of Chapter XXI deals with grant of affiliation. As per Statute 10(1), the University may appoint a commission to inspect the proposed site of a new college/or to make a physical verification of the facilities that may exist for starting the new college/course, if the application is considered favorably by the University. The commission will inspect the suitability of the proposed site, verify the title deeds as regards proprietary right of the Management over the land (and buildings, if any) offered, building accommodation provided, if any, assets of the Management, constitution of the registered body, capability of maintaining academic standards and all other relevant matters. Further action on the application shall be taken on the receipt of the report of the commission. As per Statute 10(2), the grant of affiliation shall depend upon the fulfillment by the Management of all the conditions that are

specified here or that may be specified later for the satisfactory establishment and maintenance of the proposed institution/courses of studies and on the reports of inspection by the commission or commissions which the University may appoint for the purpose. As per Statute 10(3), unless all the conditions are fulfilled, before the commencement of the academic year, no new college/or additional courses/or enhancement of seats shall be permitted to be started during that year.

10. Section 23 of the Kerala University of Heath Sciences Act, 2010 deals with powers of the Governing Council. As per clause (v) of Section 23, the Governing Council shall, subject to the provisions of the Act, exercise the powers to affiliate medical institutions in accordance with the terms and conditions of such affiliation provided by the Act and Statutes. Section 25 of the Act deals with powers of Academic Council. As per clause (xviii) of Section 25, the powers and duties of the Academic Council shall be to prescribe norms for granting affiliation, continuation of recognition, extension of recognition to institutions of higher learning and research for specialised studies; and as per clause (xix) to grant affiliation to colleges or institutions in accordance

with the provisions of the Statutes, Ordinances and Regulations.

11. In **Secretary, Perpetual Succour Charitable Trust, Maradu v. Kerala University of Health Sciences [2016 (3) KLT 608]** this Court noticed that, Section 23 of the Kerala University of Heath Sciences Act, 2010 deals with the powers of the Governing Council and clause (v) of Section 23 speaks of affiliation of medical institutions in accordance with the terms and conditions of affiliation provided by the Act and Statutes. Section 25 of the Act deals with powers and duties of the Academic Council, giving it the authority to provide norms, *inter alia*, for granting affiliation and also to grant such affiliation to individual colleges or institutions in accordance with the provisions of the Statutes, Ordinances and Regulations. Statute 10 of the Kerala University of Heath Sciences First Statutes, 2013 provides the procedure for grant of affiliation. Statute 10(2) specifically speaks of fulfillment by the management of all conditions that are specified here or that may be specified later for the satisfactory establishment and maintenance of the proposed institution/ course of studies and on the reports of inspection by the commission or commissions, which the University may appoint for the purpose. If it was the intention of the Statute maker that a condition of affiliation could be made only by an

amendment to the Statutes, then there was no need to use the words 'that may be specified later'. Any amendment made would definitely form a part of the Statute and acquire the character of a statutory mandate, even without the said words, since, already whatever specified in the Statute has to be fulfilled by the Management for grant of affiliation; by the first limb of the provision in the First Statutes. No words used in a Statute could be rendered redundant and it is with a specific purpose that a Statute is framed in a particular manner and employing such words as the Statute maker uses; which indicates the intention. What is 'specified later'; indicates any specification, for the satisfactory establishment and maintenance of the proposed institution/ courses of studies and it can be based on the reports by a commission or commissions, which the University may appoint for the purpose. This takes in an individual inspection of a college or the appointment of a commission to deal with academic matters and prescribe standards; as held above, for better and quality education. Therefore, this Court did not countenance the argument of the learned Senior Counsel that only a statutory amendment would clothe the University with the power to make such a prescription.

12. In **Perpetual Succour Charitable Trust**, the petitioner has approached this Court, feeling aggrieved with the insistence of the Kerala University of Heath Sciences, requiring a 300 bedded hospital for sanctioning a nursing college. Ext.P3 is the guidelines of minimum requirements for establishing a nursing college for conducting a graduate course, issued by the Indian Nursing Council, which requires only a 100 bedded own hospital as an eligibility condition to establish the graduate course. However Ext.P4 decision dated 05.03.2015 of the University prescribes a 300 bedded hospital as a preliminary requirement which goes against Ext.P3 prescription by the Apex Council. The petitioner contended that, without such prescription in the Act, Statute, Ordinances or Regulations, the Governing Council cannot prescribe such a condition. The University would be free to amend its Statutes and Ordinances, but till such time an amendment is brought in, making the minimum eligibility conditions a statutory mandate, there could be no norm insisted upon in violation of that prescribed. The Apex Council having been entrusted with the duty of providing for the standards of education, the University cannot prescribe any other condition in violation of the essential requirements as prescribed by the Indian Nursing Council. Repelling that contention, this Court

held that, admittedly, the Nursing Council has prescribed a 100 bedded hospital as an essential requirement for establishing a graduate course in nursing. The University has not attempted any dilution of such standards and has provided a further rigour in demanding a prior requirement of a 300 bedded hospital. It is trite that only a lowering of standard by the University or the State; of the standard prescribed by the Apex Council, would be considered as a violation or derogation of the standards so prescribed. An enhancement of standards, aimed at providing better and quality education, cannot be said to be in derogation or violative of the norms. The said proposition is well settled by the decisions of the Apex Court in **Ambesh Kumar v. Principal, L.L.R.M. Medical College, Meerut [(1986) Supp SCC 543]**, **Dr. Preeti Srivastava v. State of M.P. [(1997) 7 SCC 120]**, **State of T.N. v. S.V. Bratheep [(2004) 4 SCC 513]** and **Visveswaraiah Technological University v. Krishnendu Halder [(2011) 4 SCC 606]**.

13. In the instant case, Para.6 of Annexure R1B academic norms dated 17.05.2013 for granting provisional affiliation to colleges and courses and for continuation of provisional affiliation deals with increase of seats. As per Para.6(2) of the academic

norms, for increase of seats, at least the first batch has passed out of the applicant college and the college is approved as a professional teaching institution by Government of India, through Gazette notification. As per Para.6(3), for increase of seats, the final year result of the previous batch in applicant college is 60% or above; or above the University average. The learned Standing Counsel for the University would point out that, based on decision No.24.09 taken by the Governing Council of the University on 30.03.2015, it was decided to change the existing clause for granting of new courses/enhancement of seats as 'the average of pass percentage of regular examinations of all batches of the institution shall be 50% or above at the time of processing of the application". Pursuant to that decision, the 2nd respondent has issued Annexure R1C order dated 16.04.2015.

14. The Governing Council of the University, by virtue of its powers under Section 41 of the Kerala University of Heath Sciences Act, 2010, with the approval from the Government of Kerala, has amended Chapter XXI of the Kerala University of Heath Sciences First Statutes, 2013 regarding affiliation of colleges, at its meeting held on 26.08.2019. The amendments were assented to by the Chancellor on 02.12.2019. The document marked as Annexure R1A

is a copy of the relevant extract of the amended Statute along with Notification No.2035/AC-H/2015/ KUHS dated 24.02.2020 of the 2nd respondent. Statute 5 deals with the procedure to be adopted in granting affiliations. As per Statute 5(ii)(v), in the case of additional courses and/or enhancement of seats, the college shall satisfy the condition that first batch of the courses in the institution under the same stream shall be passed out and the details of the average pass percentage of previous regular examinations of all existing batches of the same course at the time of submitting the application and a declaration that the percentage is not below the minimum prescribed by the Governing Council in the notification issued by the University for the purpose of the addition/ enhancement concerned. In view of the provisions under clause (vi) of Sub-section (3) of Section 41 of the Kerala University of Heath Sciences Act, the Statute passed by the Governing Council shall come into force once assented to by the Chancellor. Therefore, though Ext.R1A notification is yet to be published in the Official Gazette, the University is acting upon the amended Statute to the extent possible.

15. In the case of the petitioner, by Ext.P9 communication dated 24.11.2020 of the 2nd respondent Registrar, he was informed

that his application dated 04.11.2020 for enhancement of seats for B.Sc MLT course, cannot be considered for the academic year 2020-21, since the first batch of B.Sc MLT students in the petitioner's college has not passed out.

16. In **K. Velayudhan Memorial Trust v. State of Kerala and Others [2010 (3) KHC 23]** the contention raised before a Full Bench of this Court was that in view of the permission granted by Indian Nursing Council (INC) in favour of each of the appellant nursing colleges, the subsequent orders passed by Kerala Nurses & Midwifes Council (KNMC), which are at variance with the permissions granted by INC are illegal and therefore, the learned Judge erred in holding that KNMC should reconsider the issue and obtain appropriate further orders from INC. Therefore, the Full Bench of this Court was dealing with an inter-se dispute between INC and KNMC in the matter of granting approval for nursing courses. In some cases, the intake approved by KNMC was less than the intake approved by INC. In some cases, KNMC even disapproved the commencement of nursing courses. The Full Bench noticed that, the question was earlier considered by a learned Judge of this Court in **National Medical Educational Charitable Trust v. Kerala Nursing and Midwifery Council [2006 (2) KLT**

612] in which it was held that, by virtue of the regulation making power contained in sub-section (1) of Section 16 of the Indian Nursing Council Act, 1947 the Central Council may prescribe the physical and clinical facilities that may be provided in an institution. The same is only for the purpose of deciding whether the training imparted in that institution, is upto the mark to enjoy the recognition for the qualification awarded pursuant to the training. Recognition or approval of institutions is essentially the function of the State Nursing Council. Clause (b) of sub-section (1) of Section 14 of the Act also recognises the said position. The Full Bench opined that, having regard to the scheme of Indian Nursing Council Act, 1947 and the Kerala Travancore Cochin Nurses and Midwives Act, 1953, the authority of the Indian Nursing Council is limited to the establishment of standards of education which includes prescribing the appropriate syllabus, norms of training, prescription of appropriate infrastructure for conducting the courses etc. whereas whether a particular institution which proposes to impart education in Nursing, etc. is to be recognised having regard to the norms and standards prescribed by the National Council and also having regard to the availability of the infrastructure, etc. of a particular institution is a matter to be decided by the State Council

established under the Kerala Act of 1953. If that is the legal position emerging from the examination of the two enactments referred to earlier, clauses (2) and (6) of Regulation 78 insofar as they purport to obligate the institutions proposing to impart training in nursing and allied courses to seek prior approval of the National Council are ultra vires the authority of the National Council. That being the case the various communications issued by the National Council, purporting to permit each of the appellants herein to commence various courses in nursing with an intake of students specified as against each of those courses, are without any basis in law. The appropriate authority to consider such applications is the State Council established under State Act of 1953, though there is a statutory appeal against such authority provided under Section 27 of the said Act. No doubt, the State Council while granting or declining permission/approval for commencement of any training course in nursing or allied courses covered under the above mentioned two enactments is bound by the norms and standards stipulated by the National Council. The Full Bench modified the judgment of the learned Single Judge, by directing the State Council to consider afresh the case of each one of the appellants for conducting various courses which are the

subject matter of dispute, in the light of the judgment, and in accordance with the norms and standards prescribed by the National Council, apart from any of the prescriptions made by the Kerala State or the State Council and take expeditious decision with reference to each of the appellants, preferably within a period of two weeks from the date of receipt of a copy of that judgment. Further the University of Kerala was also directed to give affiliation to each of the appellants in terms of the decision to be taken by the State Council as indicated, if necessary.

17. In **Mar Gregorious Memorial Muthoot Medical Centre v. Kerala University of Health and Allied Sciences [2011 (4) KHC 333]**, the question that came up for consideration before a learned Judge of this Court in W.P.(C)Nos.24933 of 2011 and 26443 of 2011 was as to whether Kerala University of Health Sciences is supposed to act just as a 'rubber stamp' in the matter of granting affiliation to institutions invoking the power under Section 50 or 53 of the Kerala University of Health Sciences Act, 2010, once approval is granted in respect of the courses and infrastructure by Indian Nursing Council and Kerala Nurses and Midwives Council. Relying on two Full Bench decisions of this Court in **Vikram Sarabhai Educational Trust & B.Ed College v.**

University of Calicut [2008 (2) KHC 647] and **K. Velayudhan Memorial Trust [2010 (3) KHC 23]** it was contended that the University does not have any power or authority to decline affiliation in respect of B.Sc Nursing course or Post Basic B.Sc Nursing course sanctioned by Nursing Council or reduce the intake by stipulating some or other norms of their choice.

18. In **Mar Gregorious Memorial Muthoot Medical Centre** this Court found considerable force in the submission made by the learned Standing Counsel for the University that the decision rendered by the Full Bench is not an authority to hold that affiliation to be given by the University is only an empty formality or that once sanction is given by the State Council as aforesaid, affiliation to be given by the University is automatic. There is no such declaration of law in the decision rendered by the Full Bench referring to the relevant provisions of the University Act/Statute or as to the relative rights and liberties of the University in relation to the powers and authority of the Indian Nursing Council/Kerala Nurses and Midwives Council. In **Upasana College of Nursing v. Kerala University for Health and Allied Sciences [2010 (4) KHC 224]** it was held that, granting of affiliation by the University is not an automatic exercise once sanction/permission is obtained

from Indian Nursing Council/ Kerala Nurses & Midwives Council. Interference was declined and the writ petitions preferred by the concerned institutions were dismissed as devoid of any merit. The matter was taken up in appeal by the aggrieved institutions. After detailed hearing, the Division Bench, vide judgment dated 13.10.2010 in W.A.No.1715 of 2010 and connected cases, held that the process of affiliation was never automatic. The grant of affiliation is not an empty formality by the University. The University which awards the degree certificates can always ensure that students undergo the proper course study in an eligible institution in accordance with the curriculum prescribed by the University. Further, referring to the relevant provisions under the Calicut University Act and the Calicut University First Statutes, 1977, it has been held by a Division Bench of this Court in **University of Calicut v. Amala Institute of Medical Sciences [2009 (2) KHC 71]** that the University is having ample power to inspect the college seeking affiliation and that the institution is bound to furnish any information called for in this regard. It has also been held that, if there is any serious deficiency in the manner of running the college, the University can definitely take action against the college and 'dis-affiliate' it; the power to dis-affiliate

being corollary to the power to affiliate and that the University is vested with the power to conduct necessary inspection and to satisfy itself as to the availability of infrastructure and such other aspects. As the primary function of the University is to guarantee quality education, maintaining/ regulating academic standards of the affiliated institutions, it is open for the University to prescribe conditions for recognition of the institutions, which is not in conflict with the norms prescribed by the INC under the Central Act. As such, the contention of the petitioners that the respondent University is bound to 'sign on the dotted lines' for granting affiliation, the petitioners having obtained sanction/approval from the Central/State Council, is wrong and unfounded.

19. In **K.V.M. Trust v. Kerala University of Health & Allied Sciences [2011 (4) KHC 948]** [W.A.No.1528 of 2011 arising out of W.P.(C)No.26443 of 2011] the appellant contended, *inter alia*, that once the Indian Nursing Council and the State Nurses and Midwives Council accorded permission for the intake of 50 students, the respondent University has no authority to restrict the intake to a lesser number. The Division Bench, relying on the decisions in **Amala Institute of Medical Sciences [2009 (2) KHC 71]** and **Upasana College of Nursing [2010 (4) KHC 224]**

and also the Regulations of the Indian Nursing Council held that the permission accorded by the Indian Nursing Council is basing upon a prima facie satisfaction of the availability of the infrastructure facilities and it is for the State Council to accord its permission as well as the respondent University to conduct inspection and satisfy the availability of the infrastructure facilities for running the course before granting affiliation. Therefore, the Division Bench upheld the finding of the learned Single Judge that granting affiliation is not an empty formality.

20. In **Maa Vaishno Devi Mahila Mahavidyalaya v. State of U.P. [2013 (2) SCC 617]** the Apex Court, in the context of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2009 held that, grant of recognition or affiliation to an institute is a condition precedent to running of the courses by the Institute. If either of them is not granted to the institute, it would not be in a position to commence the relevant academic courses. There is a possibility of some conflict between a University Act or Ordinance relating to affiliation with the provisions of the Central Act. In such cases, the matter is squarely answered in the case of **State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya [(2006) 9 SCC 1]** where the

Court stated that after coming into operation of the Central Act, the operation of the University Act would be deemed to have become unenforceable in case of technical colleges. It also observed that provision of the Universities Act regarding affiliation of technical colleges and conditions for grant of continuation of such affiliation by university would remain operative but the conditions that are prescribed by the university for grant and continuation of affiliation must be in conformity with the norms and guidelines prescribed by the National Council for Teacher Education (NCTE). Under Section 14 of the National Council for Teacher Education Act, 1993 and particularly in terms of Section 14(3)(a), the NCTE is required to grant or refuse recognition to an institute. It has been empowered to impose such conditions as it may consider fit and proper keeping in view the legislative intent and object in mind. In terms of Section 14(6) of the Act, the examining body shall grant affiliation to the institute where recognition has been granted. In other words, granting recognition is the basic requirement for grant of affiliation. It cannot be said that affiliation is insignificant or a mere formality on the part of the examining body. It is the requirement of law that affiliation should be granted by the affiliating body in accordance with the prescribed procedure and upon proper application of mind.

Recognition and affiliation are expressions of distinct meaning and consequences. In the case of **Chairman, Bhartia Education Society v. State of Himachal Pradesh [(2011) 4 SCC 527]** it was held that the purpose of recognition and affiliation is different. In the context of the Act, affiliation enables and permits an institution to send its students to participate in public examinations conducted by the examining body and secure the qualification in the nature of degrees, diploma and certificates. On the other hand, recognition is the licence to the institution to offer a course or training in teaching education. The Court also emphasised that the affiliating body/examining body does not have any discretion to refuse affiliation with reference to any of the factors which have been considered by the NCTE while granting recognition. The examining body can impose conditions in relation to its own requirements. These aspects are (a) eligibility of students for admission; (b) conduct of examinations; (c) the manner in which the prescribed courses should be completed; and (d) to see that the conditions imposed by the NCTE are complied with. Despite the fact that recognition itself covers the larger precepts of affiliation, still the affiliating body is not to grant affiliation automatically but must exercise its discretion fairly and transparently while ensuring

that conditions of the law of the university and the functions of the affiliating body should be complementary to the recognition of NCTE and ought not to be in derogation thereto.

21. As already noticed, as per Statute 10(2) of the Kerala University of Health Sciences First Statutes, 2013 the grant of affiliation shall depend upon the fulfillment by the Management of all the conditions that are specified here or that may be specified later for the satisfactory establishment and maintenance of the proposed institution/courses of studies and on the reports of inspection by the commission or commissions which the University may appoint for the purpose. In **Perpetual Succour Charitable Trust**, this Court held that, what is 'specified later'; indicates any specification, for the satisfactory establishment and maintenance of the proposed institution/courses of studies and it can be based on the reports by a commission or commissions which the University may appoint for the purpose. This takes in an individual inspection of a college or the appointment of a commission to deal with academic matters and prescribe standards; as held above, for better and quality education. Therefore, this Court did not countenance the argument of the learned Senior Counsel that only a statutory amendment would clothe the University with the power

to make such a prescription. In the said decision it was held further that, an enhancement of standards by the University, aimed at providing better and quality education, cannot be said to be in derogation or violative of the norms prescribed by the Apex Council.

22. In the above circumstances, this Court finds no reasons to interfere with the stand taken by the respondents in Ext.P9 communication that the application made by the petitioner dated 04.11.2020 for enhancement of seats for B.Sc MLT course cannot be considered for the academic year 2020-21 in view of the stipulation that for enhancement of seats, the college shall satisfy the condition that first batch of the courses in the institution under the same stream has passed out.

In the result, the challenge made in this writ petition against Ext.P9 fails. The petitioner is not entitled to any of the reliefs sought for and the writ petition is accordingly dismissed.

No order as to costs.

Sd/-

ANIL K.NARENDRAN

jv **JUDGE**

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE ORDER DATED 5/4/2016 ISSUED BY THE GOVERNMENT.**
EXHIBIT P2	**TRUE COPY OF THE RELEVANT PORTION OF ORDER NO.2016/14341/IAC2/PM/A2 DATED 15/11/2017.**
EXHIBIT P3	**TRUE COPY OF THE INSPECTION REPORT DATED 8/5/2017 BY THE KERALA UNIVERSITY OF HEALTH SCIENCES.**
EXHIBIT P4	**COPY OF THE REPRESENTATION DATED 8/4/2019 ISSUED BY THE DIRECTOR OF LISIE MEDICAL AND EDUCATIONAL INSTITUTIONS.**
EXHIBIT P5	**TRUE COPY OF THE LETTER DATED 29/5/2019 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE ORDER DATED 16/8/2019 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P7	**TRUE COPY OF THE NOTIFICATION DATED 3/1/2020 ISSUED BY THE 2ND RESPONDENT.**
EXHIBIT P8	**TRUE COPY OF THE ORDER DATED 15/10/2020 IN WP(C) NO.14604/20 OF THIS HON.COURT.**
EXHIBIT P9	**TRUE COPY OF THE ORDER DATED 24/11/2020 ISSUED BY THE 1ST RESPONDENT.**

RESPONDENTS' EXHIBITS:

ANNEXURE R1A	**TRUE COPY OF THE RELEVANT PORTION OF THE AMENDED STATUTE**
ANNEXURE R1B	**TRUE COPY OF THE ORDER DATED 17.5.2013 ISSUED BY THE UNIVERSITY**
ANNEXURE R1C	**TRUE COPY OF THE ORDER DATED 16.04.2015**