**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE AMIT RAWAL**

**&**

**THE HONOURABLE MRS. JUSTICE C.S. SUDHA**

**THURSDAY, THE 18TH DAY OF JANUARY 2024 / 28TH POUSHA, 1945**

**WA NO. 231 OF 2020**

**AGAINST THE JUDGMENT DTD.28.11.2019 IN WP(C) 29010/2019 OF HIGH COURT OF KERALA**

**APPELLANTS/RESPONDENTS 3 & 4:**

1 THE PRINCIPAL
MES COLLEGE, MARAMPALLY, ALUVA, MARAMPALLY P. O., ERNAKULAM - 683 102.

2 THE VICE PRINCIPAL
MES COLLEGE, MARAMPALLY, ALUVA, MARAMPALLY P. O., ERNAKULAM - 683 102.

BY ADVS.
BABU KARUKAPADATH
M.A.VAHEEDA BABU
P.U.VINOD KUMAR
AVINASH P RAVEENDRAN
ARYA RAGHUNATH
SMT.SNEHA SUKUMARAN MULLAKKAL
SRI.SHELLY PAUL

**RESPONDENTS/PETITIONER & RESPONDENT Nos.1 & 2:**

1 AFSAL K. A.
AGED 20 YEARS
S/O. ABDUL KHADER K. P., KOTTAPURATH HOUSE, SREEMOOLANAGRAM P. O., ERNAKULAM - 683 580.

2 VICE CHANCELLOR
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS P. O., KOTTAYAM - 686560.

3 CONTROLLER OF EXAMINATIONS
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS P. O., KOTTAYAM – 686560.

BY ADV SRI.ASOK M. CHERIAN, SC, M.G. UNIVERSITY

**OTHER PRESENT:**

SRI SURIN GEORGE IYPE SC MG UNVTY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**AMIT RAWAL & C.S. SUDHA, JJ.**

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W.A.No.231 of 2020

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Dated this the 18th day of January, 2024

**JUDGMENT**

**Amit Rawal, J .**

Respondent No.1/petitioner, a BBA student of 5th semester, MES College, Marampally, Aluva, vide order dated 22nd of July, 2019, was suspended for his misbehaviour with immediate effect.

2. The afore-mentioned order was assailed in writ petition before the Single Bench of this Court with the following prayers:-

> *"i). Issue a writ of certiorari or other appropriate writ or direction to call for the records of Exhibits P2 and quash the same and direct the respondents to grant attendance for the illegal suspension/dismissal period.*
>
> *ii). Issue a writ of mandamus or any other appropriate writ or directions directing the 1st and 2nd respondents to permit the petitioner to write the Vth semester exams.*
>
> *iii) Issue a writ of mandamus or any other appropriate writ or directions directing the 3rd respondent to permit the petitioner attend the VIth semester classes.*
>
> *iv) Issue such other order or directions, as this Hon'ble Court deems fit and proper, in the interest of justice."*

3. Learned Single Judge without commenting upon the veracity and peace of the University as well as of the College, disposed off the writ petition in the following manner:-

> *"3. Anyhow, the permission sought for by the petitioner to sit for the examinations is no more surviving for consideration, since the examinations are all over.*
>
> *4. However, learned counsel for the petitioner submitted that, situation would suffice if the petitioner is permitted to sit in the same class and then participate in the supplementary examinations and the regular examinations.*
>
> *5. In that view of the matter, after hearing respective counsel across the Bar, this writ petition is disposed of, directing the respondents to permit the petitioner to attend the Vth semester class during the next academic year, i.e., 2020- 2021.*
>
> *The writ petition is disposed of accordingly."*

4. Learned counsel appearing on behalf of the appellants submitted that since there was no interim order, the 1st respondent/petitioner had already sat in the examination and cleared. He has been issued degree certificate but if the order is allowed to sustain, it may

create a bad precedent for, the order of suspension (Ext.P2) had not been specifically set aside.

5. We agree with the afore-mentioned contention and make it clear that the judgment of the Single Bench will be construed to be in the peculiar circumstances but not as a judgment *in rem* for the purpose of deciding the issue as and when such controversy arises at any stage.

The writ appeal, with the afore-mentioned observation, stands disposed off.

Sd/-

**AMIT RAWAL**
**JUDGE**

Sd/-

**C.S. SUDHA**
**JUDGE**

skj