IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

WA NO.1866 OF 2024

AGAINST THE ORDER DATED 07.11.2024 IN WP(C)NO.38597 OF 2024

OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 4 TO 6:

1 THE ADVISORY BOARD TO THE EDUCATION INSTITUTIONS OF ST. PETER'S AND ST. PAUL'S ORTHODOX SYRIAN CHURCH, KOLENCHERY, ERNAKULAM REP. BY ITS CHAIRMAN -FR. JACOB KURIAN, PIN - 682311

2 MATHEW PAUL S/O. C.P. PAULOSE, PUTHUPPADIYIL HOUSE, KOLENCHERY, ERNAKULAM, PIN - 682311

3 ST. PETER'S AND ST. PAUL'S ORTHODOX SYRIAN CHURCH, KOLENCHERY REP. BY ITS VICAR – FR. JACOB KURIAN, RESIDING IN CHEMMANAM VELLAMATTATHIL HOUSE, KUNNAPPILLY KARA, PERUVA, KOTTAYAM, PIN - 682311

BY ADVS. P.MARTIN JOSE
S.SREEKUMAR (SR.)
AJAY BEN JOSE
ANNA LINDA EDEN
HARIKRISHNAN S.
MANJUNATH MENON
P.PRIJITH
R.GITHESH
SACHIN JACOB AMBAT
THOMAS P.KURUVILLA

RESPONDENTS/PETITIONERS:

1 ST. PETER'S COLLEGE TRUST, KOLENCHERY
AIKKARANADU SOUTH VILLAGE, KOLENCHERY, ERNAKULAM, REP. BY ITS SECRETARY -DR. VARGHESE JACOB @ DR. VIJU JACOB, PIN - 682311

2 DR. VARGHESE JACOB @ DR. VIJU JACOB
AGED 64 YEARS
SECRETARY, ST. PETER'S COLLEGE TRUST, KOLENCHERY, AIKKARANADU SOUTH VILLAGE, KOLENCHERY, ERNAKULAM, PIN - 682311

3 BABU PAUL, AGED 69 YEARS
S/O. LATE PAILY PILLAI, CHAIRMAN, ST. PETER'S COLLEGE TRUST, KOLENCHERY, AIKKARANADU SOUTH VILLAGE, KOLENCHERY, ERNAKULAM, PIN - 682311

4 MAHATMA GANDHI UNIVERSITY
ATHIRAMPUZHA, PRIYADARSINI HILLS POST, KOTTAYAM, PIN - 686560

5 REGISTRAR
MAHATMA GANDHI UNIVERSITY, ATHIRAMPUZHA, PRIYADARSINI HILLS POST, KOTTAYAM, PIN - 686560

6 DR. BINUJA JOSEPH
PRINCIPAL IN CHARGE, ST. PETER'S COLLEGE, KOLENCHERY, ERNAKULAM, PIN - 682311

7 DR. JINU GEORGE
PROFESSOR, ST. PETER'S COLLEGE, KOLENCHERY, RESIDING IN CHANTHIATHIL, KOLENCHERY, PIN - 682311

8 DR. K.P. JOSE
PROFESSOR, ST. PETER'S COLLEGE, KOLENCHERY, ERNAKULAM, PIN - 682311

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 07.01.2025, THE COURT ON 11.04.2025 DELIVERED THE FOLLOWING:

JUDGMENT

Anil K. Narendran, J.

The appellants, who are respondents 4 to 6 in W.P.(C)No.38597 of 2024 have filed this writ appeal, invoking the provisions under Section 5(i) of the Kerala High Court Act, 1958 challenging the interim order dated 07.11.2024 of the learned Single Judge in that writ petition, which was one filed by respondents 1 to 3-writ petitioners seeking a writ of certiorari to quash Ext.P29 proceedings dated 25.10.2024 of the Registrar of Mahatma Gandhi University, rejecting the request for the approval of the appointment of the 6th respondent herein as Principal-in-charge of St.Peter's College, Kolenchery; and a writ of mandamus commanding respondents 4 and 5 herein to approve the appointment of the 6th respondent herein as Principal-in-charge of St.Peter's College, Kolenchery, as sought for in Ext.P20 representation dated 08.01.2024 made by St.Peter's College Trust, until a Principal is appointed by direct recruitment as envisaged in the University Grants Regulations, 2018 or as per the rights of a minority educational institution.

2. On 07.11.2024, when the writ petition came up for

consideration, the learned Single Judge admitted the matter on file and issued urgent notice by speed post to the 8th respondent herein. The learned Standing Counsel for Mahatma Gandhi University took notice for the University and its Registrar and other respondents entered appearance through their respective counsel. The learned Single Judge passed an interim order dated 07.11.2024 directing the University to consider the approval of the appointment of the 6th respondent herein as the Principal-in-charge, irrespective of the objection of seniority noted in Ext.P29 proceedings dated 25.10.2024 of the Registrar of the University, provisionally.

3. Feeling aggrieved, respondents 4 to 6 in the writ petition are before this Court in this writ appeal.

4. On 27.11.2024, when this writ appeal came up for consideration, the learned Standing Counsel for Mahatma Gandhi University submitted that in terms of the directions contained in the impugned interim order dated 07.11.2024, the University had already issued an order dated 22.11.2024, granting approval of the appointment of the 6th respondent herein as the Principal-in-charge, provisionally.

5. Heard arguments of the learned Senior Counsel for the

appellants-respondents 4 to 6, the learned Senior Counsel for respondents 1 to 3, the learned Standing Counsel for Mahatma Gandhi University for respondents 4 and 5 and the learned counsel for the 7th respondent.

6. The learned Senior Counsel for the appellants-respondents 4 to 6 contended that the impugned interim order dated 07.11.2024 of the learned Single Judge is per se arbitrary, illegal and the said order is one passed without referring to the provisions contained in the Mahatma Gandhi University Act, 1985 and the Statutes made thereunder, the bye-laws of the corporate educational institutions under St.Peter's and St.Paul's Orthodox Syrian Church. On 08.10.2024, the appellants filed W.P.(C)No. 36339 of 2024 seeking a direction to the 4th respondent University to take a decision on the appointment of the 7th respondent as the Principal-in-charge of the college. The said writ petition was admitted on 17.10.2024 and notice was issued to the respondents therein. Respondents 1 to 3, in the meanwhile filed the present writ petition 01.11.2024, and the learned Single Judge posted both the writ petitions together to 07.11.2024. The learned Single Judge then took up W.P.(C)No.38597 of 2024 alone, though the reliefs

claimed in both the writ petitions are rival claims seeking appointment as Principal-in-charge of the college. The learned Senior Counsel contended that though the appellants produced documents in W.P.(C)No.36339 of 2024, in order to show that the college was established by the Managing Board, based on the permission granted to the Managing Board to establish the college, and that Kerala University granted provisional affiliation of the college in the name of the Managing Board, while granting the impugned interim order dated 07.11.2024, the learned Single Judge did not consider any of those documents, since consideration by the learned Single Judge was limited to W.P.(C)No.38597 of 2024 alone. The learned Senior Counsel has also addressed arguments on the merits of the matter pending consideration before the learned Single Judge in W.P.(C)No.38597 of 2024, placing reliance on the additional documents produced in this writ appeal as Annexures A to O.

7. On the other hand, the learned Senior Counsel for respondents 1 to 3 and also the learned Standing Counsel for Mahatma University for respondents 4 and 5 contended that the learned Single Judge after considering the preliminary arguments

granted the impugned interim order, since respondents 1 to 3-writ petitioners have made out a prima facie case for the grant of such an interim order. The learned Senior Counsel for respondents 1 to 3 also addressed arguments on the merits of the matter pending consideration before the learned Single Judge in W.P.(C)No.38597 of 2024.

8. Paragraphs 4 to 8 and also the last paragraph of the impugned order dated 07.11.2024 of the learned Single Judge reads thus;

> '4. Today, when the writ petition came up for consideration, W.P.(C)No.36339 of 2024 filed by the 6th respondent herein and others was also considered along with this writ petition. The reliefs sought therein pertain to the proposal of appointment made by the 6th respondent to appoint the Principal-in-Charge for the same college. There is a dispute between the petitioner and the 6th respondent, and the question to be decided is who is the approved Educational Agency for St.Peter's College. The matter was heard for some time.
>
> 5. Sri.S.Sreekumar, the learned Senior counsel for respondents 4 and 6 pointed out the sequence of events which led to the formation of the college and according to him, the same was at the instance of the 6th respondent Church through the 4th respondent and the management of the college still vests with them. On the other hand, the

contention of Sri.Mayankutty Mather, the learned Senior Counsel for the petitioner, is that, on the basis of the decision taken as evidenced by Ext.P4, a Trust was created by assigning independent authority and powers, and thus the 1st petitioner was formed. Thereafter, the entire management of the college is being done by the 1st petitioner by following the stipulations in Ext.P5 Memorandum and Articles of Association. According to the petitioners, the University also recognized the 1st petitioner as the approved Educational Agency for the management of the college. This fact is confirmed by the University as well, which is evident from Ext.P25, an affidavit filed by the University in W.P.(C)No.15691 of 2024, which was a writ petition filed, touching upon the dispute concerning the management of the college. The relevant averments made by the University are as follows:

> "3) It is humbly submitted that, two factions are currently disputing for the manager ship of the College, with each group appointing their own Principal-in-charge. It is imperative to determine the legal authority of each individual to hold the office of the Manager, as only the proposal submitted by the legally appointed Manager can be considered for approval. *It is to be noted that educational agency by name St. Paul's Orthodox Syrian Church, Educational Institution Advisory Board with reference to the management of St. Peters College is a total alien to the University. So far as the University is concerned the Educational agency managing St. Peter's College is St. Peter's College

Trust.

All appointments made by the said trust have been approved by the University till date."

(*Underlined for emphasis)

6. Besides, it is also evident from Ext.P8 that, the Direct Payment Agreement was entered into between the 1st petitioner and the Government.

7. The learned Senior counsel for the 4th and 6th respondents pointed out that the application for commencing the college and the application for affiliation before the University were submitted by the Chairman of the St. Peter's School Board, which is the predecessor of the 1st petitioner herein. However, as far as the claim of the 4th and 6th respondents are concerned, it is a matter to be decided finally while hearing the writ petition. As of now, Ext.P8 Direct Payment Agreement along with Ext.P25 affidavit filed by the University would prima facie indicate that the 1st petitioner is continuing as the approved Educational agency. Therefore, the University has to consider the proposal submitted by the 1st petitioner, for the purpose of appointments

8. When coming to the question of rejection of the proposal of appointment of the 3rd respondent as the Principal-in-charge, apparently the same was returned merely because of the reason that the 7th respondent is Senior to the 3rd respondent. It is an admitted position that the St.Peter's college is a minority institution, in which seniority by itself may not be the sole criteria for appointment of the Head of the institution. Therefore, there shall be an interim order directing the University to consider the approval of the

appointment of the 3rd respondent as the Principal-in-charge, irrespective of the objection of seniority, noted in Ext.P29, provisionally.

9. A reading of the impugned order dated 07.11.2024 in W.P.(C)No.38597 of 2024 would show that W.P.(C)No.36339 of 2024 filed by the appellants seeking an order directing the 4th respondent Mahatma Gandhi University to take a decision on the appointment of the 7th respondent as the Principal-in-charge of the college was also listed before the learned Single Judge on 07.11.2024. The grievance of the appellants is that instead of considering the interim reliefs sought for in both the writ petitions, in which rival claims are made for appointment as Principal-in-charge of the college, the learned Single Judge considered the interim relief sought for in W.P.(C)No.38597 of 2024 by considering that writ petition alone, without passing any orders in W.P.(C)No.36339 of 2024.

10. We notice that the above issue raised by the appellant is no more *res integra* in view of the decision of a Division Bench of this Court in **Radhakrishna Panicker v. State of Kerala [2001 (3) KLT 631]**, which was one rendered taking note of the law laid down by the Apex Court in **Bir Bajrang Kumar v. State of Bihar**

[AIR 1987 SC 1345].

11. In **Bir Bajrang Kumar [AIR 1987 SC 1345]**, the Apex Court took the view that if there are two writ petitions involving identical points and one writ petition is admitted, there is no justification for dismissing the other writ petition. The Apex Court, therefore, set aside the order of the High Court and remanded the matter to the High Court to be heard along with the pending matter. Paragraph 2 of the said decision reads thus;

> "2. After going through the record of the case, it appears that one of the cases involving an identical point has already been admitted by the High Court, but another identical petition was dismissed by the same High Court. This, therefore, creates a very anomalous position and there is a clear possibility of two contradictory judgments being rendered in the same case by the High Court. In these circumstances, we allow this appeal and set aside the order dismissing C.W.J.C. No. 163 of 1985. This appeal is remanded to the High Court to be heard along with C.W.J.C. No.5728 of 1984 which is pending hearing."

12. In **Radhakrishna Panicker [2001 (3) KLT 631]**, the Division Bench held that, in case of writ petitions involving identical issues, it is not justifiable when certain original petitions are admitted, while some others are dismissed. To avoid the possibility of a contradictory order, the court has to hear all matters together

and pass a common order. If writ petitions raising the same issue are heard by different Judges on different occasions, there will be a possibility of contradictory judgments on the same issue. That may create an anomalous situation and create difficulties for the administration of justice. Paragraph 2 of that decision reads thus;

> '2. We are of the view that when a similar writ petition challenging the same order has already been admitted and pending consideration, the learned Single Judge was not justified in dismissing the present writ petition at the admission stage. The learned Judge ought to have heard all the matters together and passed a common order. We may, in this connection, refer to the decision of the Apex Court in **Bir Bajrang Kumar v. State of Bihar [AIR 1987 SC 1345]**. Apex Court took the view that if there are two petitions involving identical points and one is admitted there is no justification in dismissing the other writ petition. Apex Court, therefore, set aside the order of the High Court and remanded the matter to the High Court to be heard along with the pending matter. ……. We are of the view that if writ petitions raising the same issue are heard by different Judges on different occasions, there will be a possibility of contradictory judgments on the same issue. That may create an anomalous situation and create difficulties for the administration of justice. In this connection, it is appropriate to refer to the principle laid down by this Court in **Joy v. Regional Transport Authority [1998 (2) KLT 994]**, wherein this Court highlighted the necessity of consistency

in rendering judgments. This Court held as follows:

> "Judicial discipline demands consistency in rendering judgments. A Judicial Officer may hold different views on various aspects. A Judicial Officer may err and pass contradictory orders inadvertently. But once it is brought to the knowledge of the Judicial Officer, he is duty bound to keep track of consistency. Inconsistent orders passed by a judicial officer almost in the same fact situation, and that too on the same day, would give rise to complaint of discriminatory treatment, which will undermine the people's faith in judicial system and the rule of law. It will cause resentment and anguish and make an imprint in the mind of the litigant that he has been discriminated. A Judicial Officer may err and pass illegal orders, but he shall not err in consistency."

There may be a situation where the pendency of the original petition might not have been brought to the knowledge of the learned Single Judge inadvertently. It is for fitness of things that the parties in the litigation should bring to the notice of the Judge of the pendency of similar matters, and therefore contradictory judgments could be avoided, as we see in the present case. We are of the view that as and when the pendency of an original petition concerning the same issue is brought to the knowledge of the Court, the Court shall post all the cases together and hear the matter. In this case, when an original petition concerning an identical issue has already been admitted and is pending consideration, the learned Judge was not justified in dismissing the original petition at the admission stage by a detailed order.'

13. The principle laid down in the aforesaid decisions can also be extended to the facts and circumstances of the case on hand as well. When two writ petitions are pending, in which rival claims for appointment as Principal-in-charge of St. Peters College, Kolenchery, were raised the learned Single Judge ought to have considered the interim relief sought for in both the writ petitions together and passed an appropriate order, after considering the rival contentions with reference to the pleadings and materials in both the writ petitions, especially when such consideration by the learned Single Judge is at the admission stage.

14. In such circumstances, we find no reason to sustain the impugned order dated 07.11.2024 of the learned Single Judge in W.P.(C)No.38597 of 2024 and the same is accordingly set aside, on that sole ground, and by directing the learned Single Judge to consider the interim relief sought for in W.P.(C)No.36339 of 2024 and W.P.(C)No.38597 of 2024 afresh, after adverting to the legal and factual contentions raised by both sides. Since pursuant to the impugned order dated 07.11.2024 in W.P.(C)No.38597 of 2024 the Registrar of the Mahatma Gandhi University has issued proceedings dated 25.10.2024, provisionally approving the appointment of the

6th respondent herein as Principal-in-charge of the college, status quo as on today in respect of the post of Principal-in-charge of St. Peter's College, Kolenchery, shall continue till appropriate orders are passed by the learned Single Judge in the pending writ petitions.

The writ appeal is disposed of above; however, leaving open the legal and factual contentions raised by both sides.

Sd/-
ANIL K. NARENDRAN, JUDGE

Sd/-
MURALEE KRISHNA S., JUDGE

bkn/-

APPENDIX OF WA 1866/2024

PETITIONER ANNEXURES

Annexure -A	**TRUE COPY OF ORDER NO.DIS.27322/64 DATED 22-10-1964 OF REGIONAL DEPUTY DIRECTOR OF PUBLIC INSTRUCTION, TRIVANDRUM**
Annexure -B	**TRUE COPY OF LETTER DATED 11-03-1964 ISSUED BY THE MANAGING BOARD TO THE MEMBERS OF THE UNIVERSITY COMMISSION, TRIVANDRUM**
Annexure -C	**TRUE COPY OF LETTER DATED 16-04-1964 ISSUED BY THE REGISTRAR OF KERALA UNIVERSITY TO THE MANAGING BOARD**
Annexure -D	**TRUE COPY OF DOCUMENT NO.3324 OF 1964 DATED 18-12-1964**
Annexure -E	**TRUE COPY OF REPRESENTATION DATED 20-07-2000 SUBMITTED BY SRI.P.M.PAILY PILLAI BEFORE THE GOVERNMENT**
Annexure -F	**TRUE COPY OF AMENDED BYE-LAW OF THE MANAGING BOARD**
Annexure -G	**TRUE COPY OF MINUTES OF THE MEETING DATED 08-10-2023 OF THE 3RD APPELLANT CHURCH**
Annexure -H	**TRUE COPY OF MINUTES OF THE MEETING DATED 14-10-2023 OF THE 1ST APPELLANT**
Annexure -I	**TRUE COPY OF LETTER DATED 27-10-2023 ISSUED BY THE ADVISORY BOARD TO 1ST RESPONDENT, MAHATMA GANDHI UNIVERSITY**
Annexure -J	**TRUE COPY OF ORDER DATED 23-08-2024 OF THE 1ST APPELLANT**
Annexure -K	**TRUE COPY OF PLAINT IN O.S.NO.27 OF 2023 FILED BY THE 1ST RESPONDENT BEFORE THE SUBORDINATE JUDGE'S COURT, PERUMBAVOOR**
Annexure -L	**TRUE COPY OF COMMON JUDGMENT DATED 04-08-2023 IN W.P.(C).NOS. 15691 OF 2023 AND W.P.(C).NO.19554 OF 2023 OF THIS HON'BLE COURT**
Annexure -M	**TRUE COPY OF COMMON JUDGMENT IN WRIT APPEAL**

	NOS.1692/2023 &1985/2023 DATED 06-03-2024 OF THIS HON'BLE COURT
Annexure -N	**TRUE COPY OF THE COUNTER AFFIDAVIT DATED 26-06-2024 FILED BY THE 4TH RESPONDENT UNIVERSITY IN W.P.(C).NO.15691 OF 2023 BEFORE THIS HON'BLE COURT**
Annexure -O	**TRUE COPY OF W.P.(C).NO.36339 OF 2024 (WITHOUT EXHIBITS) FILED BY THE APPELLANTS BEFORE THIS HON'BLE COURT ON 08-10-2024**
Exhibit P4	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P4 IN WP(C) NO 38597 OF 2024**
Exhibit P7	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P7 IN WP(C) NO 38597 OF 2024**
Exhibit P11	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P 11 IN WP(C) NO 38597 OF 2024**
Exhibit P13	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P13 IN WP(C) NO 38597 OF 2024**
Exhibit P14	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P14 IN WP(C) NO 38597 OF 2024**
Exhibit P15	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P15 IN WP(C) NO 38597 OF 2024**
Exhibit P16	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P16 IN WP(C) NO 38597 OF 2024**
Exhibit P17	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P17 IN WP(C) NO 38597 OF 2024**
Exhibit P20	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P20 IN WP(C) NO 38597 OF 2024**
Exhibit P24	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P24 IN WP(C) NO 38597 OF 2024**
Exhibit P28	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P28 IN WP(C) NO 38597 OF 2024**
Exhibit P29	**TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P29 IN WP(C) NO 38597 OF 2024**