

(2015) 07 KL CK 0198
In the High Court Of Kerala
Case No : W.A. No. 1137 of 2014 (N)

Arun K. Antony

APPELLANT

Vs

M.G. University and Others

RESPONDENT

Date of Decision : 29-07-2015

Acts Referred:

Citation : (2015) 07 KL CK 0198

Hon'ble Judges : Ashok Bhushan, C.J.;A.M. Shaffique, J

Bench : Division Bench

Advocate : George Abraham, for the Appellant; P. Jacob Varghese, Sr. Adv.,
Varughese M. Easo and Vivek Varghese P.J., SCs, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ashok Bhushan, C.J—Heard learned counsel for the appellant and the learned counsel for the University.

2. This writ appeal has been filed against the judgment dated 12/06/2014 in W.P.C. No. 10140/2014. The appellant is the petitioner in the writ petition. The petitioner has come up in the writ petition praying for the following reliefs:

"(a) Call for the records leading to issuance of Exhibit P12 and Exhibit P13 and quash the same, by issuance of a Writ of Certiorari or any other appropriate writ, direction or order.

(b) Declare that the petitioner has passed LL.M. Degree Course in the branch "Intellectual Property Rights and Cyber Law, on the basis of Exhibits P5 to P8 Marks Cards awarded to the petitioner.

(c) Direct the respondent university to issue Provisional as well as Degree Certificates in LL.M. to the petitioner.

(d) To grant such other appropriate reliefs to the petitioner as this Hon"ble Court may deem fit and proper in the interest of justice."

3. Brief facts necessary for deciding the writ appeal are:

"The petitioner has passed LL.B Degree from Cochin University of Science and Technology. Thereafter, he underwent LL.M course at the School of Indian Legal Thought, Kottayam and completed his LL.M Course in "Intellectual Property Rights and Cyber Law". Petitioner obtained 54 credit for the Core Subject and 18 credit for the Elective Subject. Petitioner joined in the LL.M course in 2006-2007 and completed the course in 2007-2008. After the completion of LL.M course, petitioner is practicing as an Advocate. The mark sheets of LL.M course of each semester were received by the petitioner, but he did not obtain a copy of the LL.M Degree from the University. Petitioner appeared for recruitment to 85 posts of Public Prosecutor in Central Bureau of Investigation where his name was also in the panel at Sl. No. 44. The Union Public Service Commission asked the petitioner to submit the Degree Certificate of LL.M course. After the aforesaid requirement, petitioner made an application to the University dated 25/11/2013 praying that copy of the LL.M Degree Certificate be handed over to the petitioner. University, by letter dated 03/12/2013 rejected the petitioner's request for LL.M Provisional Certificate and by subsequent letter dated 17/12/2013, petitioner's application for LL.M Degree was refused on the ground that petitioner has not obtained the required minimum graduating CPI/CGPA of 5.50. Challenging the said order issued by the University, petitioner had filed the writ petition. The learned Single Judge dismissed the writ petition holding that as per Ext. P2, petitioner could not achieve Cumulative Grade Point Average of 5.5. Petitioner's case that he was entitled for LL.M Degree was not accepted and the writ petition was dismissed. Petitioner, aggrieved by the judgment of the learned Single Judge, has come up in this appeal."

4. The learned counsel for the petitioner submits that the regulations were framed by the University with regard to admission in LL.M and other Post Graduate courses. Ext. P1 is the admission brochure for the year 2006-2007. Ext. P2 is the Regulations framed by the University for MA., M.Sc., M.Ed., LL.M, MBA and M. Phil programmes conducted for the academic year 2002-2003. With regard to LL.M, paragraph 3 of Ext. P2 regulation provided for credit requirements and Clause 10 provided for Grading system. Clause 10 further provided that the minimum graduating CGPA for all programmes shall be 4 except for M.Ed., LL.M and M.Phil for which the minimum graduating CGPA shall be 5.5.

Clauses 3.1 and 3.2 are extracted below:

"3. Credit Requirements.--

3.1 The minimum total credits required for the successful completion of a PG programme except MBA programme of the School of Management and Business Studies shall be 72 for 4-Semester programmes, (For M.Ed and M.Phil, 2-Semester programmes it shall be 36). In the case of MBA programme the minimum total credits shall be 84 (i.e., 60 credits for core courses and 24 credits

for electives).

3.2 The 72 credits shall be spread across the Core Courses, the Elective Courses, a compulsory project/dissertation, and the viva-voce at the end of the programme. Out of the 72 credits a student has to secure a minimum of 48 credits for Core Courses and a minimum of 16 for Elective Courses. The maximum credits for Core Courses and Elective shall be 60 and 24 respectively. A minimum of 4 credits shall be set apart for the project work/dissertation and 2-4 credits for the viva-voce. However, for major projects/dissertations that constitutes full-semester work, as in the case of M.Phil. and certain M.A./M.Sc. Programmes, the maximum admissible credits shall be 20. In the case of such M.A./M.Sc. programmes the minimum credit requirements for Core and Elective Courses shall be 40 and 12 and the maximum credit requirements 52 and 20 respectively. The MBA course shall have compulsory projects in the third and fourth semesters based respectively on the core and elective subjects."

5. Although Ext. P2 was in force with effect from 2002-2003 with regard to several post graduate courses including MA., M.Sc., M.Ed., LL.M, MBA and M.Phil, the University issued a revised regulation for the LL.M Degree course with effect from 2006-2007 which is filed as Ext. P3. The revised regulations contain all necessary requirements for LL.M course including Structure and Duration, Credit requirements, Specialization, Number of Seats, Eligibility, Admission, Fees, Course Teaching, Evaluation, Internal Assessment and Details of Scholastic Probation and Repeating of Courses and Examinations. Paragraph 10 indicates Grading System. The credit requirement in the revised guidelines is contained in paragraph 1.3 which is same as was in Ext. P2. In paragraph 10 which provided for Grading System, the requirement of obtaining 5.5 CGPA has been deleted. Paragraph 10 of the revised guidelines is as follows:

"10. Grading System:

The grading system followed is that of relative grading on a ten-point scale. The following table indicates the performance range and the relative value of the grades (grade points) on the scale.

The Grade Card given to the student at the end of each semester will indicate the grades he/she has obtained as well as the Semester Performance Index (SPI), which is the weighted average of the numerical value (grade point) obtained by him/her in the semester. Weighted average is calculated by dividing the sum of the products of the grade point or numerical value obtained for each course and the credit that it carries by the total number of credits earned. The Cumulative Performance Index (CPI) for the whole programme will be calculated in the same way, which will also be indicated in the Grade Card. The rank will be decided on the basis of the CPI."

6. Submission on the basis of the aforesaid revised regulation is that the requirement of achieving 5.5 CPI/CGPA for Cumulative Performance Index has been done away with the revised index, Exts. P12 and P13 are erroneous and the

University ought to have issued LL.M Degree for the petitioner.

7. Learned counsel for the University, refuting the submission of the learned counsel for the appellant, contends that requirement of achieving 5.5 CPI/CGPA as in Ext. P2 still continues since there is nothing contrary to the said regulation in the revised regulation, University's action is therefore fully justified.

8. We have considered the submission of the learned counsel for the parties and perused the records.

9. From the facts brought on record, it is clear that although the regulations issued for MA., M.Sc., M.Ed., LL.M, MBA and M. Phil in Ext. P2 were in force with effect from 2002-2003, but with regard to LL.M, revised regulation has been issued with effect from 2006-2007, as has been noted above. Relevant clause of the revised regulations has already been extracted.

10. Paragraph 10 of the Regulation in Ext. P2 and paragraph 10 of the Revised regulation are on the Grading System. The most important change in the revised regulation is the deletion of the last sentence in paragraph 10 of Ext. P2. In paragraph 10 of Ext. P2, the last sentence was as follows:

"The minimum graduating CGPA for all programmes shall be 4 except for M.Ed., LL.M and M.Phil., for which the minimum graduating CGPA shall be 5.5."

11. Paragraph 10 of the revised regulations at Ext. P3 has been extracted where the aforesaid requirement of achieving 5.5 is conspicuously absent. The change is a deliberate change. It is relevant to note that in Ext. P2, there was no column for "fail" whereas at paragraph 10 in the revised guidelines, there is one column that is Letter Grade "F" - Fail. All candidates who receive less than 4 grade point have to be treated as failed. The change in the revised guidelines is conscious and with the purpose. In any view of the matter, now the revised guidelines having been issued with regard to LL.M from 2006-2007, they shall hold the field. Petitioner, having fulfilled the requirement which is clear from the mark sheet filed along with the application, there is no issue of grade requirement. The University has rejected the application on the ground that he has not achieved 5.5 CPI/CGPA, which does not appear to be correct.

12. Learned counsel for the University has also made reference to Ext. R1(b), that is the order issued by the University dated 30/01/2004. He has referred to recommendation (iii) which is to the following effect:

"(iii) In regulation 10, the letter "F" under Letter Grade be substituted by "C" and the word "Fail" against letter grade "F" under performance be substituted by "Poor". At the end of regulation 10 the following be incorporated "The minimum graduating Cumulative Performance Index for all programmes shall be "4" except for M.Ed., LL.M and M.Phil. for which the minimum graduating Cumulative Performance Index shall be 5.5."

13. The aforesaid provision is relating to amendment in the earlier regulations

which were in force at the relevant time, that is Ext. P2. The amendment which was made in 2004 thus has no relevance with regard to the revised regulations issued in 2006-2007. Statement of Grades issued with regard to the petitioners for LL.M at Ext. P5 indicates that minimum graduating CGPA for LL.M is only 4. The said printed proforma in the mark sheet is fully in accordance with the revised regulation at Ext. P3. Thus University was well aware that students who have achieved Grade CGPA 4 is entitled to have his degree. In view of the aforesaid discussion, we are of the view that the learned Single Judge had committed error in dismissing the writ petition. Petitioner has clearly made out his case for grant of Degree of LL.M which course he has already undergone and the relevant mark sheet as having been issued petitioner having already achieved Grade Requirement and Grade CGPA of more than 4, the University committed error in refusing to issue degree.

In the result,

- "i) The judgment of the learned Single Judge is set aside.
- ii) W.P.C. No. 10140 of 2014 filed by the petitioner is allowed.
- iii) Exts. P12 and P13 in W.P.C. No. 10140 of 2014 are set aside.
- iv) University is directed to issue provisional certificate of Degree in LL.M within a period of one week and the Degree Certificate within a period of four weeks from today."

This writ appeal is allowed accordingly.