
(2015) 04 KL CK 0055

In the High Court Of Kerala

Case No : W.A. No. 861 of 2015 in WP(C). 9444 of 2015

Fousi M.S.

APPELLANT

Vs

The Mahatma Gandhi University and Others

RESPONDENT

Date of Decision : 17-04-2015

Acts Referred:

Citation : (2015) 04 KL CK 0055

Hon'ble Judges : P.N. Ravindran, J;P.D. Rajan, J

Bench : Division Bench

Advocate : P.C. Sasidharan and E.S. Ashraf, for the Appellant; Varughese M. Easo, SC, Advocates for the Respondent

Final Decision : Dismissed

Judgement

P.N. Ravindran, J.

1. The appellant is the petitioner in W.P.(C) No. 9444 of 2015 on the file of this Court. She had in the said writ petition prayed for a writ of mandamus commanding the respondents to treat the admission granted to her for the M.Tech Degree course in Computer Aided Structural Engineering as regular and to grant her registration. She had also prayed for a writ of mandamus commanding the respondents to consider the representation submitted by the third respondent to the Mahatma Gandhi University, requesting the Mahatma Gandhi University to register the name of the petitioner for the first semester M.Tech Degree course during the academic year 2014-2015. The brief facts of the case are as follows:--

2. The petitioner underwent the B.Tech Degree course from a college affiliated to the Kerala University during the academic years 2010-2011 to 2013-2014. The results of the Final Semester Examination (Eighth Semester) were published on 8.6.2014. Though the petitioner passed the Eighth Semester Examination she had yet to clear one paper of the Third Semester. She appeared for the said examination as a supplementary candidate in September 2014, after the

commencement of the academic year 2014-2015. Meanwhile, the Mahatma Gandhi University granted affiliation for the M.Tech Degree course in Sree Buddha College of Engineering for Women by Ext. P1 order dated 11.11.2014. After such affiliation was granted the petitioner applied for and was granted admission for the M.Tech Degree course on a provisional basis on 19.12.2014. She had in the meanwhile submitted a representation to the Controller of Examinations, University of Kerala to communicate the marks secured by her in the supplementary examination for which she had appeared in September 2014. The marks were confidentially communicated by the Controller of Examinations, University of Kerala as per letter dated 10.12.2014. For the reason that the petitioner was given admission for the M.Tech Degree course long after the last date stipulated for the purpose namely 30.11.2014, the University did not register her name for the First Semester M. Tech Degree Examination. The Principal of the college thereupon sent Ext. P3 letter dated 3.3.2015 to the Registrar of the Mahatma Gandhi University requesting the University to register the name of the petitioner for the First Semester M.Tech Degree Examination. W.P.(C) No. 9444 of 2015 was thereupon filed on 23.3.2015 seeking the following reliefs:--

"(i) Issue a writ of mandamus, or other appropriate writ, order or direction commanding and compelling the respondents to treat the admission of the petitioner to M.Tech Degree (Computer Aided Structural Engineering) as regular course and grant registration to the petitioner.

(ii) Issue a writ of mandamus or any other writ, order or direction directing the respondents to consider the representation submitted by the 3rd respondent to the 1st respondent for granting permission to Register the name of the petitioner for first semester M.Tech Degree (Computer Aided Structural Engineering) course during the academic year 2014-2015.

(iii) To declare that the admission of the petitioner to the M.Tech Degree (Computer Aided Structural Engineering) Course for the academic year 2014-2015 is in order and she is entitled to get registration."

3. The main contention raised in the writ petition was that the University has not fixed any last date for admission of students for the M.Tech Degree course, that affiliation for the M.Tech Degree Course in Sree Buddha College of Engineering for Women was granted only on 11.11.2014 and therefore, the admission of the petitioner for the M.Tech Degree course is in order. It was also contended that marks of the Third Semester Examination for which the petitioner had appeared in the supplementary examination held in September 2014 were confidentially communicated by letter dated 10.12.2014, sent by the Controller of Examinations, University of Kerala and therefore, by no stretch of imagination can it be said that the admission given to the petitioner is illegal or it is not in order.

4. The Mahatma Gandhi University resisted the writ petition by filing a counter

statement dated 6.4.2015. Relying on Ext. P3 letter sent by the Principal of Sree Buddha College of Engineering for Women it was contended that the admission given to the petitioner was after the last date namely 30.11.2014 and that the marks of the Third Semester Examination for which the petitioner had appeared as a supplementary candidate in September 2014 were communicated only after the last date. The learned single Judge considered the rival contentions and dismissed the writ petition holding that the admission given by the third respondent to the petitioner is irregular for the reason that it was given after the last date. Hence this writ appeal.

5. We heard Sri. P.E. Sajal, learned counsel appearing for the appellant and Sri. Varughese M. Easo, learned standing counsel appearing for the Mahatma Gandhi University. We have also gone through the pleadings and the materials on record. The Principal of Sree Budha Engineering College for Women has in Ext. P3 letter dated 3.3.2015 stated as follows:--

"I am forwarding herewith an application given by Ms. Fousi M.S., First Semester M.Tech Degree student in Computer Aided Structural Engineering during the academic year 2014-15, for registering her name for the First Semester M.Tech Degree Course in Civil Engineering Specialization in Computer Aided Structural Engineering.

I would like to bring your kind attention to the fact that we have got affiliation for starting new M.Tech Degree Course in Computer Aided Structural Engineering for the academic year 2014-15 on 11/11/2014.

Meanwhile Ms. Fousi M.S. applied to join in the M.Tech Degree program. We admitted her provisionally on 19/12/2014 as per the Confidential Marklist dtd. 10/12/2014 sent by the Controller of Examinations, University of Kerala. As she qualified only after the last date for submitting the Qualifying Certificates (i.e. 30/11/2014 as per the Govt. Order No. G.O.(Rt) No. 2717/2014/H.Edn. dtd. 17/11/2014). So I request you to consider grant permission to register her for the First Semester M.Tech Degree Course during the year 2014-15."

6. It is evident from the said letter that the admission given to the petitioner on 19.12.2014 was only provisional and that such admission was given after the last date namely 30.11.2014. The said letter also discloses that the confidential mark list relating to the Third Semester Examination which was held in September 2014 was communicated only after 10.12.2014 which admittedly was also after the last date stipulated for the purpose. Though the learned counsel for the appellant contended relying on Annexure R1(a) letter produced along with the counter statement that the last date stipulated therein applies only to the University of Calicut, we find no merit or force in the said contention. A reading of the said letter discloses that the last date was extended from 31.10.2014 to 30.11.2014 in respect of candidates who were awaiting the publication of results. If the appellant's contention is accepted it would mean that the last date was not extended in the case of other Universities. The last date would then be

31.10.2014. Such a contention is in our opinion against the very interests of the petitioner. If the admission given to the petitioner after 30.11.2014 is not in order, by no stretch of imagination can it be said that the admission given will be in order if the last date is not 30.11.2014 but only 31.10.2014. Though the learned counsel for the appellant raised a larger contention that no last date has been fixed for the purpose, we find no merit or force in the said submission as well. Annexure R1(a) letter indicates that initially in terms of clause V(e) of the prospectus for M.Tech admission 2014 the result awaiting candidates were given time up to 30.9.2014 to submit their qualifying certificates. Later, the time limit was extended up to 31.10.2014. Such extension was given in view of the fact that many of the Universities had not published the results of the supplementary examinations. That date was further extended on a request made by the Joint Controller of Examinations, University of Calicut up to 30.11.2014. The petitioner who admittedly got admission only on 19.12.2014, 19 days after the last date stipulated for making admissions, cannot in our opinion contend that her admission was in order. We therefore find no good grounds to interfere with the impugned judgment.

The writ appeal fails and it is accordingly dismissed. It will be open to the appellant to move the Principal of the college for refund of the fee paid by her as also for return of the original certificates/mark lists.