

(2021) 08 KL CK 0071

In the High Court Of Kerala

Case No : Writ Petition (C) No.15749 Of 2021

**Hariharan Vs Vice Chancellor, APJ Abdul Kalam Technological University
And Kerala Technological University**

Date of Decision : 09-08-2021

Acts Referred:

Citation : (2021) 08 KL CK 0071

Hon'ble Judges : Anu Sivaraman, J

Bench : Single Bench

Advocate : Varghese P.Chacko, Dennis Varghese

Judgement

Anu Sivaraman, J.

1. This writ petition is filed by 29 persons who state that they are 6th Semester students in various Engineering Colleges under the 1st respondent

University. It is contended that the UGC in view of the Covid 19 pandemic had issued Exhibit P2 guidelines in July 2021 providing that intermediate

semester/ year students, assessment shall be based on internal evaluation and previous semester as suggested in 2020 guidelines. It is submitted that

the insistence on offline examinations by the 1st respondent when the respondent UGC has clearly mandated that assessment shall be made only by

internal Evaluation and previous semester is totally illegal. It is submitted that the Honourable Supreme Court in Praneeth K. vs UGC and Ors (2020

SCC online 688) has held that the guidelines of the UGC have statutory force. It is contended that in view of the raging Covid 19 pandemic, the

petitioners lives will be put to peril, if they are forced to attend the offline examination.

2. The learned counsel for the petitioner submits that they had filed an impleading petition in Writ Appeal No.948 of 2021 and made a submission

before the Bench. But the Hon'ble Division Bench clarified orally that the entire subject matter of the writ appeal is only with regard to the 1st and 3rd

semester examinations and that it has nothing to do with the 6th semester examination or notification thereof.

3. Sri.Elvin Peter, the learned standing counsel appearing for the 1st respondent submits that Exhibit P2 is a truncated version of the guidelines issued

by the U.G.C. The guidelines are specifically subject to the directives to be issued by the specific Apex statutory bodies like the AICTE, NCTE, BCI

etc. It is submitted that the UGC guidelines have no binding force on the 1st respondent, which is a technological university and that the AICTE has

not issued any guidelines whatsoever in the matter. Even otherwise, it is contended that with regard to the conduct of the intermediary semester

examinations also, the guidelines specifically state that the assessments should be as suggested in the the 2020 guidelines. It is submitted that the 2020

guidelines provided that for intermediate Semester/ Year students, the Universities may conduct examinations after making a comprehensive

assessment of their level of preparedness, residential status of students, status of Covid 19 pandemic spread in different region/ state and other

factors. It is the submitted that the University has been conducting offline examinations with all preparations and following the Covid protocol and no

incidents of spread of Covid due to conduct of examinations has been reported from any quarters. It is further contended that the State Government

has specifically considered the issue of conduct of examinations and by a Government Order issued on 4.8.2021 taking note of all relevant aspects of

the matter, had specifically provided that all competitive, recruitment and university examinations/sports trials shall be permitted. It is contended that

the prayer of the writ petitioners stands squarely covered by the interim order of a Division Bench of this Court in Writ Appeal No.948/2021 in the

case of 1st and 3rd semester students, where the University was permitted to go on with the conduct of the offline examinations and that the present

writ petition is totally misconceived and is liable to be dismissed. It is further submitted that the UGC guidelines with regard to the conduct of

intermediate semester examinations in technical courses were purely directory and it was left to the University to decide on the mode of the

examinations. It is further submitted that the University does not have the functional capability to conduct the entire exams online and any direction in

that regard would result in the indefinite postponement of the intermediate semester exams.

4. The learned Government Pleader also submitted on instructions that the UGC guidelines may not have any binding force as far as the 1st

respondent University is concerned. It is further contended that the Government had conducted specific consultations with the Vice Chancellors of all

the Universities in Kerala on 16.6.2021 and it was decided that the offline examinations could go on, following the Covid protocol and even permitting

Covid positive students to appear for the examinations with necessary precautions. It is submitted that a meeting was conducted on 16.6.2021 and the

Government had taken note of all the relevant aspects of the matter and had permitted the intermediate examinations to be conducted in the offline

mode. It is submitted that several examinations including the SSLC, Plus two and several competitive examinations are being conducted in the offline

mode and no untoward incident have been reported. It is further submitted that all necessary precautions have been directed to be taken in the

conduct of the examinations and the State Government is extending all necessary assistance to the Universities for the proper conduct of the

examinations.

5. I have considered the contentions advanced. From a reading of Exhibit P2, I notice that the guidelines with regard to the conduct of intermediate

semester/year assessments are specifically made subject to the advisories/directives issued by the Apex statutory bodies/councils concerned

eg.AICTE, NCTE etc. Exhibit P2 itself specifically says that the assessment of intermediate semester students should be as suggested in the 2020

guidelines. The 2020 guidelines provides for conducting terminal semester examinations keeping in mind the protocols of social distancing. A reading

of the 2020 guidelines would also make it clear that the mode of assessment of intermediate semester/year students has been left to the discretion of

the University. In the above view of the matter, I am unable to accept the contention of the learned counsel for the petitioners that Exhibit P2

guidelines have been violated by the University in conducting offline examinations. Moreover, the petitioners are only 28 in number and in view of the

fact that large number of students who are taking the examinations are not party to the writ petition, I am of the opinion that it is for the University to

take an appropriate decision with regard to the conduct of examinations in the colleges affiliated to it, after considering all relevant aspects and after taking all due precautions. It is made clear that the examinations shall be conducted strictly following the Covid protocol and the case of students who are unable to attend the examinations due to Covid related reasons shall be considered appropriately by the University.