

(2013) 11 KL CK 0049
In the High Court Of Kerala
Case No : W.A. No. 1710 of 2013

Immanuel C. Christopher

APPELLANT

Vs

University of Calicut, The Controller of Examinations, Dean of
Students Welfare and The Principal, St. Thomas College

RESPONDENT

Date of Decision : 11-11-2013

Acts Referred:

Citation : (2013) 11 KL CK 0049

Hon'ble Judges : M.L. Joseph Francis, J;K.T. Sankaran, J

Bench : Division Bench

Advocate : S. Easwaran, Sri. P. Muraleedharan Irimpanam and Sri. M.A. Augustine, for the Appellant; Baby Issac Illickal and Sri. Santhosh Mathew, SC, Calicut University, for the Respondent

Final Decision : Disposed Off

Judgement

K.T. Sankaran, J.—The appellant was a B.Sc. student in St. Thomas College, Thrissur. He got admission in the sports quota. It is stated that he completed the course in the year 2012. There are six semesters for the course. It is averred that the appellant was having shortage of attendance for the 5th and 6th semesters. Therefore, he could not appear for the examinations. It is fairly clear that the appellant was having shortage of attendance for the 4th semester and, on his application, the Principal of the College condoned the shortage of attendance. However, the shortage of attendance for the 5th and 6th semesters could not be condoned by the Principal since it was beyond his powers as the shortage of attendance was more than 10%. The appellant applied to the University. As per Ext. P4 order dated 29.7.2013, the University took the view that it shall be deemed that the appellant has no shortage of attendance. As per Ext. P4, the University directed the committee constituted by it to study the issue with respect to the allegations against the College and to submit specific recommendations on the actions to be taken against St. Thomas College, Thrissur.

2. St. Thomas College, Thrissur as well as the Principal of the College challenged that part of the order in Ext. P4 by which action is proposed against the College, in W.P. (C) No. 21638 of 2013, which was disposed of by a learned Single Judge as per the judgment dated 24.9.2013. The learned Single Judge recorded the submission made by the Standing Counsel appearing for the University that if at all any action is to be taken against St. Thomas College, they will be notified and heard before any action is taken. In the judgment in W.P. (C) No. 21638 of 2013, the learned Single Judge also recorded the submission of the writ petitioners therein that they had no grievance against the condonation of shortage of attendance of the student, namely, Immanuel C. Christopher.

3. Though in Ext. P5 representation dated 5.8.2013 submitted by the appellant to the Principal of St. Thomas College a request was made to allow him to continue the course of 5th and 6th semesters, the learned counsel appearing for the appellant submitted that the appellant does not press that request and what he wants is only an opportunity to enable him to appear for the 5th and 6th semester examinations.

4. The learned Single Judge disposed of the Writ Petition directing the appellant (writ petitioner) to file an application for the issue of Transfer Certificate. The fourth respondent was directed to issue the Transfer Certificate to the appellant.

5. The question to be considered is whether the appellant can be permitted to appear for the examination which is scheduled to commence today. It is true that the University has condoned the shortage of attendance. At the same time, the internal assessment marks of the appellant for the 5th and 6th semesters are to be provided by the College to the University. It is not clear whether any marks were awarded on that count. It is not possible to allow the appellant to appear for the examination commencing from today, since the Vice Chancellor of the University has to take a decision on the question of allowing the writ petitioner (appellant) to appear for the examinations. After having heard the learned counsel appearing for the parties, we dispose of the Writ Appeal with the following directions:

a) The writ petitioner/appellant is permitted to make a representation to the Vice Chancellor of the Calicut University requesting for allotting a centre for the 5th and 6th semester examinations (theory and practical) to enable the writ petitioner/appellant to appear for the same.

(b) If the writ petitioner/appellant makes such a representation, the Vice Chancellor of the University shall take a decision thereof without delay, after hearing the writ petitioner/appellant and the fourth respondent College.

(c) The Principal of St. Thomas College, Thrissur shall communicate to the University the internal assessment marks which the writ petitioner/appellant has secured for the 5th and 6th semesters of B.Sc. (Chemistry), without delay.

(d) The Vice Chancellor shall take a decision on the representation within a

period of one month from the date of submission of the representation by the writ petitioner/appellant.

The Writ Appeal is disposed of as above, in modification of the judgment passed by the learned Single Judge.