
(2013) 03 KL CK 0025

In the High Court Of Kerala

Case No : Writ Petition (C) No. 4234 of 2013

Sandhya M.

APPELLANT

Vs

University of Kerala and Others

RESPONDENT

Date of Decision : 06-03-2013

Acts Referred:

Citation : (2013) 2 KHC 396

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : Shoby K. Francis, for the Appellant; George Poonthottam, Standing Counsel, Kerala University, for the Respondent

Final Decision : Allowed

Judgement

P.R. Ramachandra Menon, J.—The petitioner sought for admission to the post graduate course in M.A. (English language and literature), which however was denied by the concerned respondents, in respect of the academic year 2012-"13. The college authorities took steps to fill up the available vacancy by conducting spot admission on 08/11/2012. Since the procedure followed by the concerned authorities was not in conformity with the statutory requirement, the petitioner sought to challenge the same by filing WP (C) No. 26996 of 2012, to direct the respondents to admit the petitioner in one of the seats for the academic year 2012-"13. When the matter came up for consideration on 05/12/2012, the 4th respondent institution filed an affidavit/statement pointing out that one seat was vacant and that the University can take a decision whether a candidate can be accommodated in the said vacancy, since admission to the said course had already been closed. The learned standing counsel appearing for the University submitted that the University will take appropriate steps in terms of the allotment roster, if there was no legal impediment. Recording the said submission, the matter was disposed of, as per Ext. P1 judgment, directing the University to finalize the matter accordingly. Pursuant to the above verdict, the matter was considered by the University, who issued Ext. P2 order dated

19/12/2012 expressing sanction accorded by the Vice Chancellor for admitting the petitioner to the M.A. (English) course in the 4th respondent institution for the academic year 2012-"13, if she is otherwise eligible. Based on the said order, the petitioner remitted the requisite fee as borne by Ext. P3 receipt and she started attending the classes accordingly. The position was duly let known to the University by the 4th respondent as well, vide Ext. P4 dated 20/12/2012.

2. While so, the petitioner was informed by the 4th respondent that the petitioner will not be permitted to attend examination or to pursue further studies, because of shortage of attendance as communicated to the 4th respondent. This made the petitioner to file Ext. P4(a) representation before the second respondent for immediate intervention. The University has informed vide Ext. P6 dated 01/01/2013 (actual date is 01/02/2013 in view of the initials thereon; the date affixed on the envelop and sought to be explained by the respondents in the counter-affidavit) that the petitioner cannot be permitted to attend the examination this year, since the shortage is beyond the condonation limit and that she has to obtain re-admission for the next year course. This made the petitioner to approach this Court again by filing the present writ petition.

3. The stand of the University as revealed from the counter-affidavit is that, as per the relevant Rules, minimum attendance required for a candidate to appear for examination is 75% and that the maximum extent of condonation of shortage of attendance is 20 days, whereas in the case of the petitioner, the shortage is beyond the said limit. The learned counsel for the petitioner submits that there is absolutely no fault on the part of the petitioner in attending the classes and that the petitioner has attended all the days ever since the date of admission and as such, the petitioner is entitled to pursue studies and appear in the examinations.

4. It is to be noted that the University has stated in paragraph 4 of the counter-affidavit, that the matter was actually placed before the Syndicate of the University on 13/12/2012 i.e. after passing Ext. P1 judgment on 05/12/2012, but the meeting of the Syndicate was postponed. It was in the meanwhile, that the matter was considered by the Vice Chancellor and Ext. P2 order was issued, granting admission; but the University contends that it did not get sufficient time to verify the position, particularly with regard to the necessity to have the requisite extent of attendance. This Court finds that the University was very much a party before this Court when Ext. P1 judgment was rendered and there was no such case for the University, at that point of time. Similarly, the matter was considered by the second respondent Vice Chancellor and Ext. P2 order was issued granting admission, based on which the petitioner joined the course in the 4th respondent college and was pursuing studies there. It is not in dispute that, there is no fault on the part of the petitioner for the shortage of attendance. This being the position, this Court finds that the submission made by the learned standing counsel for the University at the time of finalization of Ext. P1 to the effect that the University will take appropriate steps, in terms of the allotment roster, if there was no other legal impediment, has to be read and understood in

favour of the petitioner, in view of the subsequent turn of events leading to Ext. P2 admission given to the petitioner. The delay, if at all on the part of the University including adjournment of the meeting of the Syndicate or such other reasons cannot be a ground to deny the petitioner to pursue the studies, particularly when the matter was caused to be finalized by this Court by way of Ext. P1 and the proceedings cannot be made a mockery of. In the said circumstances, this Court finds that the petitioner is entitled to succeed. There will be a direction to the respondents to permit the petitioner to pursue studies based on Ext. P2 admission already given to her and write examination for the first semester. The shortage of attendance if any, shall not stand in the way of the petitioner for pursuing the studies for the academic year 2012-"13. In view of the finding as above, the petitioner will stand permitted to attend the second semester classes as well and to pursue the studies accordingly.

It is open for the petitioner to write the examinations for the first semester examination, along with second semester examination, if the first semester examination is already over. The decision will stand confined to the particular facts of this case.

The Writ Petition is allowed to the said extent. No cost.