



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 18317 of 2012 (L)

PETITIONER :

THE COUNCIL OF PRINCIPALS OF COLLEGES IN KERALA,
(THE PRINCIPALS' COUNCIL),
REPRESENTED BY ITS GENERAL SECRETARY, DR.M.USMAN,
PRINCIPAL, AMAL COLLEGE OF ADVANCED STUDIES,
ERANHIMANGAD.P.O., MALAPPURAM DISTRICT-679 343.

BY ADV. SRI.BABY ISSAC ILLICKAL
SRI.ISAAC KURUVILLA ILLICKAL

RESPONDENT(S):

1. UNIVERSITY OF CALICUT,
REPRESENTED BY ITS REGISTRAR,
CALICUT UNIVERSITY.P.O. -673 635.
2. VICE-CHANCELLOR, UNIVERSITY OF CALICUT,
CALICUT UNIVERSITY.P.O. -673 635.

*ADDL.R3 IMPEADED

*Addl.R3. MUAHMED SHIHAB, AGED 29 YEARS,
S/O. KUNHIPATHU, 4/327, MOZHIKKAL,
MOZHIKKAL GRAMA PANCHAYAT,
POOKKOTTUR GRAMA PANCHAYAT,
POOKKOTTUR P.O., MALAPPURAM DISTRICT.

*ADDL.R3 IS IMPEADED AS PER ORDER DATED 14.08.2012 IN IA.NO.11163/2012.

*ADDL.R4 IMPEADED

*ADDL.R4: P.K.FIROS, AGED 32 YEARS, S/O.MAMU,
PALLULLA KANDIYIL HOUSE, KUNNAMANGALAM.P.O.,
KOZHIKODE DISTRICT.

*ADDL.R4 IS IMPEADED AS PER ORDER DATED 24/02/2015 IN IA.NO.11566/12

R1 & R2 BY ADV. SRI.SANTHOSH MATHEW, SC, CALICUTY UNIVERSITY
ADDL.R3. BY ADV. SRI.P.CHANDRASEKHAR
ADDL.R4 BY ADV. SRI.K.ABDUL JAWAD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-02-2015, ALONG WITH WP(C).NO.21428 OF 2014 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



A.V.RAMAKRISHNA PILLAI, J

WP(C) Nos. 21428/2014, 21290/2013, 18317/2012,
18813/2014, 19157/2014, 18720/2014,
18322/2012, 19565/2013, 20970/2013,
26970/2014, 20979/2014, 19990/2013,
19200/2012, 21448/2014, 26441/2013,
19876/2014, 18871/2014,
18681/2012, 22081/2012, 27887/2012,
18695/2012, 21508/2013, 34160/2007,
34162/2007, 19791/2013, 21435/2014,
22217/2014, 19626/2012, 22205/2012,
19411/2012, 19417/2012, 19431/2012,
18792/2012, 17964/2014, 19317/2013, 24335/2014,
12029/2007, 34040/2007, 19604/2013, 26168/2011,
23058/2014, 23052/2014, 20074/2014 25144/2014,
26385/2013, 19430/2012, 19766/2013, 27886/2012 and
19838/2013

Dated this the 24th day of February, 2015

JUDGMENT


The petitioners are colleges, aided as well as self financing, coming under different universities in the State. The rules/circulars/directions by which the respondent universities had insisted the petitioners to follow the presidential mode of election to the college students unions in different academic years are under challenge in these writ petitions.

2. As per the interim orders granted by this Court in these writ petitions, the petitioners were permitted

to conduct college union election according to any one of the four modes, permitted by the Apex Court in the decision reported in **University of Kerala (1) v Council, Principals' colleges, Kerala and others** (2006(8) SCC 304). The choice was left to the petitioners and accordingly, elections were conducted following the parliamentary mode. Thus the main purpose sought to be achieved by filing all these writ petitions have been served.

3. However, the question whether the respondent universities are competent to insist the petitioners to follow a particular mode of election in the college students union elections remains to be answered in these writ petitions, as the petitioners are seeking a declaration that they have a right to conduct college union election following parliamentary mode in the light of the order of the Apex Court referred to above.

4. Previously, similar instructions were issued by the M.G.University which were challenged before this Court in **Council of Principals' of Colleges v State**



of Kerala (2004(2) KLT 995). In the said case, a Division Bench of this Court set aside the direction issued by the M.G.University to individual colleges to conduct elections in the colleges following the presidential system of election. It was observed that the affiliated colleges are free to follow a system which is better for the administration and discipline in the colleges.

5. The matter was taken in appeal before the Apex Court in SLP(c) No.24295/2004. The Apex Court as per order dated 12.12.2005 appointed a committee to submit a report. Subsequently on 22.9.2006, an interim order has been passed by the Apex Court (see **University of Kerala (1) v Council, Principals' Colleges, Kerala and others** (2006) 8 SCC 304). In the interim order, the Apex Court perused the report of the committee constituted by the Ministry of Human Resources Development, Government of India in terms of the order dated 12.12.2005. The committee was headed by Mr.J.M.Lyngdoh. The committee submitted

the report making recommendations and suggestions relating to Students' Union Elections.

6. The main recommendations are the following:

“6.1.2. Where the atmosphere of the university campus is adverse to the conduct of peaceful, free and fair elections, the university, its constituent colleges and departments must initiate a system of student representation based on nominations, especially, where elections are being held at present. It would be advisable, however, not to base such nomination system on purely academic merit, as is being practised throughout the country.

6.1.7. Subject to the autonomy of the universities in respect of the choice of the mode of election, all universities must institute an apex student representative body that represents all students, colleges and departments coming under the particular university. In the event that the university is geographically widespread, individual colleges may constitute their own representative bodies, which would further elect representatives for the apex universities' bodies.

6.2. Modes of elections

6.2.1. A system of direct election of the office-bearers of the student body, whereby all students of all constituent colleges, as well as all students of university departments vote directly for the office-bearers. This model may be followed in smaller universities with well-defined single campuses (for e.g. JNU/University of Hyderabad), and with a relatively smaller student population. A graphic representation of this model is annexed herewith at Annexure IV-A.

In respect of universities with large, widespread campuses and large student bodies either of the following models may be adopted.

6.2.2 A system of elections, where colleges and campuses directly elect colleges and campus office-bearers, as well as university representatives. The university representatives form an electoral college, which shall elect the university student union office-bearers. A graphic representation of this model is annexed herewith at Annexure IV-B.

6.2.3 A system of elections where on one hand, directly elected class representatives elect the office-bearers of the college as well as the university representatives, and the campus itself directly elects the campus office-bearers and the university representatives. The university representatives shall form an electoral college, which shall elect the office-bearer of the university student union. A graphic representation of this model is annexed herewith at Annexure IV-C.

6.2.4 A system of election wherein class representatives shall be directly elected in the colleges and universities' campus and they in turn shall elect the office-bearers for the college unions and the university campus union. Also they shall elect their representatives for university student union. These elected representatives from college and university campus shall form the electoral college, which shall elect the office bearers of the university student union. This model shall be applicable to large universities with a large number of affiliated colleges. A graphic representation of this model is annexed herewith at Annexure IV-D.

6.10. Miscellaneous recommendations

6.10.1 student representation is essential to the overall development of students and, therefore, it is recommended that university statutes should expressly provide for student representation.

6.10.2 Student representation should be regulated by statute (either a Central statute, State Statute or individual university statutes) incorporating the recommendations prescribed

herein.

7. In paragraph-7 of the judgment, the Apex Court made it clear that the recommendations which were accepted to be adopted by the court as an interim measure shall be followed in college/university elections held hereinafter, until further orders. The petitioners herein are harping upon the said direction in paragraph-7 of the aforesaid order. The petitioners point out that one of the recommendation of the committee accepted to be adopted was parliamentary mode of election to college students union.

8. The learned standing counsel for the Calicut university argued that though as per the direction of the Apex Court in respect of the universities with large, widespread campuses and large student bodies any of the mode of election be adopted, if the impugned rules, circulars and directions are quashed, by a blanket order the individual colleges who have not challenged the directions issued by the

respondent Universities also would be benefited by the same. It was further argued that when the case came up for final hearing before the Apex Court, the Apex Court as per order dated 11.11.2009 (this has been reported in **University of Kerala v Council of Principals of Colleges, Kerala and others** (2010) 1 SCC 353) framed six questions of law and referred the matter to the Hon'ble Chief Justice of India for the consideration of the constitutional bench of the Supreme Court.

9. It was also pointed out that a batch of writ petitions were filed before the High Court of Judicature, Calcutta subsequently seeking for implementation of the Lingdoh committee report. The Calcutta High Court was pleased to observe that since the questions of law have been left open to be decided by a Constitution Bench of the Supreme Court of India, it would not be proper for that court to issue a writ of mandamus directing the State to implement the recommendations made in the

Lingdoh committee, **unless** an authoritative pronouncement is made.

10. However, this Court is of the view that, since it has been made clear **by** the Apex Court in the interim order that the **aforsaid** recommendations mentioned above be **accepted** and adopted as an interim measure, these writ petitions can be disposed of declaring that as far as the petitioners are concerned, they shall be free to choose any one of the four modes of election for the conduct of college students union election *de hors* the directions issued by the respondent Universities in the rules/circulars/directions impugned.

Therefore, the writ petitions are disposed of declaring that it is open to the petitioners to choose any one of the four modes of election in the college students union election as permitted by the Apex Court in the order reported in 2006(8) SCC 304 *de hors* the directions in the rules/circulars/directions impugned.

However, it is hereby made clear that the benefit of this judgment shall be confined to the petitioners only and it shall be subject to the final outcome of the decision of the larger bench of the Supreme Court now pending consideration as per the reference order reported in 2010(1) SCC 353.

**sd/-A.V.RAMAKRISHNA PILLAI
JUDGE**

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P.S.TO JUDGE

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PETITIONER(S) EXHIBITS

- P1- PHOTOCOPY OF THE RELEVANT PAGES FROM THE ANNUAL REPORT 2011 OF THE UNIVERSITY OF CALICUT.
- P2- PHOTOCOPY OF THE CIRCULAR ALONG WITH APPENDIX DATED 24.8.2011 OF THE 1ST RESPONDENT.
- P3- PHOTOCOPY OF THE CIRCULAR ALONG WITH APPENDIX DATED 17.7.2012 OF THE 1ST RESPONDENT.
- P4- PHOTOCOPY OF THE REPRESENTATION DATED 21.7.2012.
- P5- PHOTOCOPY OF THE REVISED BYE - LAWS OF THE STUDENTS UNIONS AND REVISED COLLEGE UNION ELECTION RULES.
- P6- PHOTOCOPY OF THE REPRESENTATION DATED 27.7.2012 OF THE PETITIONER TO THE 2ND RESPONDENT.
- P7- PHOTOCOPY OF THE ORDER OF THE HON'BLE HIGH COURT DATED 18.8.2008 IN W.P.NO.23577/2008.

RESPONDENTS' EXHIBITS:

NIL

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P.S.TO.JUDGE

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HIGH COURT OF KERALA
AT ERNAKULAM

Year and Number of Suit or
other Proceedings : WPC 18317/2012

Name of Applicant/Advocate : SRLBABY ISSAC
ILLICKAL

Application Number : A 15683/2015

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