

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

FRIDAY, THE 27TH DAY OF DECEMBER 2013/6TH POUSHA, 1935

WP(C).No. 32310 of 2013 (K)

PETITIONER :

**DR.A.V.GEORGE,
VICE CHANCELLOR, MAHATMA GANDHI UNIVERSITY,
PRIYADARSINI HILLS, P.O.KOTTAYAM-686 560**

**BY SRI.N.NANDAKUMARA MENON,SENIOR ADVOCATE
ADVS.SRI.P.K.MANOJKUMAR
SMT.HENA BAHULEYAN**

RESPONDENT(S):

- 1. THE HON'BLE CHANCELLOR,
MAHATMA GANDHI UNIVERSITY, KERALA RAJ BHAVAN,
KERALA GOVERNORS CAMP, POST-OFFICE,
VELLAYAMBALAM, THIRUVANANTHAPURAM-695 001**
- 2. THE STATE OF KERALA, REPRESENTED BY THE CHIEF
SECRETARY TO GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001**
- 3. DR.K.M.ABRAHAM, ADDITIONAL CHIEF SECRETARY,
(HIGHER EDUCATION AND SOCIAL JUSTICE) SECRETARIAT,
THIRUVANANTHAPURAM-695 001**
- 4. M.G.UNIVERSITY, REPRESENTED BY ITS REGISTRAR IN CHARGE
PRIYADARSHINI HILLS, ATHIRANPUZHA,P.O.KOTTAYAM-686 560**
- 5. T.K.SAJEEV, S/O.M.K.KRISHNA KURUP, THULASI BHAVAN,
MURINGOORTHOTTATHIL, KAVIYOOR.P.O., THIRUVALLA TALUK,
PATHANAMTHITTA,PIN-689 582**

**R1 & R4 BY DR.PLEELAKRISHNAN, SC, M.G.UNIVERSITY
R2 BY SR GOVERNMENT PLEADER SRI.S.JAMAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-12-2013, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C)NO.32310/2013

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE COUNTER AFFIDAVIT FILED BY THE STATE GOVERNMENT IN WP(C)NO.1847/2013 BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM
- P2 COPY OF THE REPRESENTATION DATED 25/4/2013 SUBMITTED BY THE T.K.SAJEEV, PRESIDENT KAVIYOOR GRAMA PANCHAYAT, BEFORE THE HON'BLE CHANCELLOR, M.G.UNIVERSITY
- P3 COPY OF THE COMMUNICATION NO.35044/B2/12/H.EDN DATED 27/8/2013 ISSUED BY THE ADDITIONAL CHIEF SECRETARY, HIGHER EDUCATION & SOCIAL JUSTICE
- P4 COPY OF THE ORDER DATED 23/7/2013 IN SPECIAL LEAVE TO APPEAL(CIVIL) NO.24421/2013 PASSED BY THE HON'BLE SUPREME COURT OF INDIA
- P5 COPY OF THE COMPLAINT DATED 29/11/2013 SUBMITTED BY THE MAJ. JHNYKUTTY J. OZHUKAYIL NCC OFFICER & HEAD, DEPT. OF PHYSICS, MES COLLEGE, NEDUMKANDOM P.O., IDUKKI, BEFORE HIS EXCELLENCY THE GOVERNOR OF KERALA
- P5(A) COPY OF THE COVERING LETTER DATED 2/12/2013 SUBMITTED BY THE MAJ. JOHNYKUTTY J. OZHUKAYIL, TO THE VICE CHANCELLOR, M.G.UNIVERSITY, KOTTAYAM
- P6 COPY OF THE SHOW CAUSE NOTICE NO.GS3-1716/2012 DATED 21/12/2013 ISSUED BY THE SECRETARY TO CHANCELLOR, M.G.UNIVERSITY, TO THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

C.K. ABDUL REHIM, J.

W.P.(C)No. 32310 of 2013

Dated this the 27th day of December, 2013

J U D G M E N T

The petitioner, who is the Vice Chancellor of Mahatma Gandhi University, is challenging Ext.P6 show cause notice issued from the office of the 'Chancellor' of the university. In Ext.P6 the petitioner was requested to submit explanation/objection if any, with respect to allegations and statements made against him, contained in the requests submitted before the 'Chancellor' by the Government and by one Sri. T.K.Sajeev, and to show cause as to why the petitioner shall not be removed from the post of 'Vice Chancellor'. The explanation/objection was directed to be submitted within 7 days of receipt of the said notice, failing which it was informed that steps will be taken as if the petitioner has nothing to say in the matter.

2. Contention of the petitioner is that, the impugned notice will indicate that the 'Chancellor' had accepted

Ext.P3 report submitted by the Government. It is pointed out that, there is no power vested with the Government to make a request to the 'Chancellor' to remove the 'Vice Chancellor'. Learned senior counsel appearing for the petitioner contended that, no proceedings for removal of the 'Vice Chancellor' can be initiated by the Governor acting under powers vested by virtue of Article 154 of the Constitution of India, on the advice of the Council of Ministers. On the other hand, provisions contained in the Mahatma Gandhi University Act, 1985, only authorises the 'Chancellor' to initiate steps to remove the 'Vice Chancellor', in accordance with the procedure contemplated under Section 7 (10) of the said Act. It is pointed out that the impugned notice had extracted the entire report submitted by the Government (Ext.P3). Therefore it is evident that the Chancellor has not initiated any proceedings independently on his own, but acted only on the basis of the report of the Government. Hence it is contended that the show cause notice itself is issued in an

illegal, improper and irregular manner and the same is not sustainable. Learned senior counsel had placed reliance on a Division Bench decision of this court in **Gopalakrishnan v. Chancellor, University of Kerala [1990 (1) KLT 681]**.

It is held therein that, it is imperative that the Chancellor in exercising his powers and functions under law governing the university, should act on his own discretion, unhampered by, without the necessity of seeking or following the aid and advice of his Council of Ministers.

3. Ext.P6 notice contains extraction of the entire report submitted by the Government, which contains various allegations against the 'Vice Chancellor'. Sum and substance of the main allegation is that the petitioner had submitted wrong information in the bio-data furnished at the time of selection. After extracting details of the allegations contained in Ext.P3, the notice proceeds on the basis that the Government had clarified that, experience of the petitioner would not be admissible for being considered for appointment as 'Vice Chancellor' under the relevant

U.G.C. Regulations. The show cause notice also indicates that a person named Sri.T.K.Sajeev, who had filed two writ petitions before this court, had also filed a representation seeking removal of the petitioner from the office of the 'Vice Chancellor'. A copy of the said representation was also enclosed along with the show cause notice for reference of the petitioner. The show cause notice also mentioned about a further request made by Sri. T.K.Sajeev pursuant to order passed by a Division Bench of this court in W.P.(C) Nos.1847, 13317 & 24003 of 2013. In the representation Sri. T.K. Sajeev had requested the 'Chancellor' to process the report received from the Government and to terminate the appointment of the petitioner. But in the operative portion of Ext.P6, the petitioner was specifically requested to submit explanation/objection with respect to allegations contained in the request of the Government and that of Sri. Sajeev, and to show cause as to why the petitioner shall not be removed from the post of the 'Vice Chancellor'.

4. This court is of the considered opinion that the

challenges against Ext.P6 are highly premature in nature. Going by provisions contained in Section 7 (10) of the Mahatma Gandhi University Act, 1985, a detailed procedure is contemplated for removal of the 'Vice Chancellor' or Pro Vice Chancellor from the office. If the petitioner has got a contention that the 'Chancellor' cannot remove him from without resorting to such procedure, the petitioner will be at liberty to point out the same before the Chancellor. He can also raise contention to the effect that the proceedings initiated on the basis of Ext.P6 is not legally sustainable since the 'Chancellor' had not acted independently on his discretion, but acted only on the basis of Ext.P3 report of the Government, when the Government is not empowered to make any such request. All these aspects, including objection/explanation with respect to the factual allegations, can be raised by the petitioner before the 'Chancellor'. This court cannot presume that if any such objection is submitted by the petitioner, the 'Chancellor' will not take note of such objections or will omit to consider its' merits.

5. Under the above mentioned circumstances this writ petition is disposed of granting liberty to the petitioner to submit objection/explanation to Ext.P6 notice before the 1st respondent. Since the petitioner was persuing challenge against the show cause notice in this writ petition, it is only justifiable on principles of equity to enlarge the time stipulated for submitting objection/explanation.

If the petitioner submits any explanation/objection to Ext.P6 notice within one week from the date of receipt of a copy of this judgment, the 1st respondent will consider the same as an objection submitted within the time stipulated.

Sd/-

C.K. ABDUL REHIM
JUDGE

shg/