

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE MR.C.K.ABDUL REHIM

&

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 30TH DAY OF SEPTEMBER 2019 / 8TH ASWINA, 1941

WA.No.2055 OF 2019

AGAINST THE JUDGMENT DATED 05-09-2019 IN WP(C) 15561/2019(U) OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

K.S.MUHAMMED SHEFIN
HIRA, T.C. 61/1592 (1) S.N. NAGAR,
THURUVICKAL (P.O.), THIRUVANANTHAPURAM - 695 011.

BY ADVS.
SRI.ELVIN PETER P.J.
SRI.K.R.GANESH
SMT.N.R.REESHA
SMT.T.S.LIKHITHA

RESPONDENTS/RESPONDENTS:

- 1 THE UNIVERSITY OF KERALA
SENATE HOUSE CAMPUS, PALAYAM,
THIRUVANANTHAPURAM 695 034,
REPRESENTED BY THE REGISTRAR.
- 2 THE CONTROLLER OF EXAMINATIONS
UNIVERSITY OF KERALA,
SENATE HOUSE CAMPUS, PALAYAM,
THIRUVANANTHAPURAM 695 034.

R1-2 BY SRI.THOMAS ABRAHAM, SC, UNIVERSITY OF KERALA

OTHER PRESENT:

SC, UTY OF KERALA- SRI. THOMAS ABRAHAM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30.09.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**C.K. ABDUL REHIM, Ag. C.J.
&
ANU SIVARAMAN, J.**

W.A. No. 2055 OF 2019

DATED THIS THE 30th DAY OF SEPTEMBER, 2019

J U D G M E N T

Abdul Rehim Ag. C.J.:

Controversy involved in the writ petition was with respect to revaluation of the answer papers of the writ petitioner in the examinations for Five year B.A. LL.B course, with respect to the semesters I, VI, VIII, IX & X. The result of the revaluation turned out to be an endorsement as 'No change'. The writ petitioner contended that the revaluation was done in an improper manner, in non-compliance of the decision of the Syndicate dated 10-05-2018 to conduct the revaluations of the answer papers of Five year LL.B course through by examiners from outside the State. On that basis the writ petition was filed seeking direction to the 1st respondent University to implement the decision of the Syndicate and to make valuation of all the papers of the writ petitioner, in Ext.P6 to P15, by an outside examiner (examiner from outside the State).

2. The University contended that the results of the revaluation were uploaded in the website of the University on

07-11-2018 with respect to 1st Semester on 26-07-2018 with respect to VIIIth Semester and on 08-10-2018 with respect to IXth Semester. It was further contended that the answer papers are not available with the University since they are not bound to keep it beyond 6 months from the date of uploading of the result of the revaluation. The writ petitioner raised a dispute to the effect that the answer papers are available with the University. On the alternate, he contended that the copies of the answer papers got under the Right to Information Act are available, which copies are produced along with the writ petition.

3. Learned Single Judge found that the answer papers of the writ petitioner were already revalued in accordance with the 'Examination Manual' and that there is no provision in the 'Examination Manual' for another revaluation, as per the Regulations. Hence it was found that the writ petitioner cannot have any right to get the answer papers revalued again. Reliance was placed in this regard on a decision of this court in **Sruthi Rajagopal V. Mahatma Gandhi University (2014 (2) KLT 945)**. Further it was found that, the answer papers are not available with the University and therefore it is not possible to direct a second revaluation. Consequently the writ petition was

dismissed. It is aggrieved by the said judgment the writ petitioner is in appeal.

4. Sri. Elvin Peter P.J., learned counsel for the appellant contended that the contentions raised to the effect that the University is bound to revalue the papers by engaging examiners from outside the State, would apply only with respect to those examinations conducted after 10-05-2018, cannot be sustained. He had drawn our attention to the decision reiterated by virtue of a resolution adopted by the Syndicate on 29-10-2018. It is contended that the revaluation ought to have been made through valuers from outside the State with respect to all the applications for revaluation received after 10-05-2018, irrespective of whether the examinations were conducted prior to that date or not. It is pointed out that the decision of the Syndicate is taken in this respect exclusively for the revaluation of the answer papers in LL.B examination, on the wake of a widespread complaint received from the students of a particular Government Law College.

5. We are of the considered opinion that the University is not in a position to successfully dispute their obligation to have the papers of the writ petitioner revalued through examiners

from outside the State. But in the case at hand, as contended by the University, the revaluation results were published as early as in the months of July, October and November of 2018. Their contention that the University is bound to keep the answer papers only for a period of 6 months from the date of publication of the result of the revaluation, had to be accepted. Evidently the writ petition was filed only on 06-06-2019, after the lapse of more than 6 months from the date of publication of the revaluation results. We cannot agree with the proposition that a second revaluation can be made by using the copies obtained under the Right to Information Act. Moreover, as observed by the learned Single Judge a second revaluation is not at all contemplated under the 'Examination Manual'. As observed above, on the factual aspects no reliefs can be granted to the appellant/writ petitioner because the answer papers are not available and because of the delay caused in challenging the revaluation results. Therefore we do not find any ground to interfere with the conclusions arrived by the learned Single Judge.

6. However, we express our concern based on the contentions raised by the appellant with respect to the

circumstances under which the Syndicate of the University was compelled to take a decision to get the answer papers of LL.B course valued through examiners from outside the State. We hope that the University shall adhere to such decision in other cases and shall take appropriate steps to solve the issues in this respect which may affect the future of brilliant and bright students studying for the LL.B course, who nowadays get the admission through tough competitive entrance examinations.

Under the above mentioned circumstances, the writ appeal is hereby dismissed, subject to the observations contained herein above.

sd/-

C.K.ABDUL REHIM

ACTING CHIEF JUSTICE

sd/-

ANU SIVARAMAN

JUDGE

AMG

APPENDIX

PETITIONER'S EXHIBITS:

- ANNEXURE A1** TRUE COPY OF THE RELEVANT EXTRACT OF THE MINUTES OF THE MEETING OF THE SYNDICATE OF THE 1ST RESPONDENT UNIVERSITY.
- ANNEXURE A2** TRUE COPY OF THE DECISION OF THE SYNDICATE OF THE 1ST RESPONDENT UNIVERSITY HELD ON 25.4.2019 VIDE ITEM NO. 08.71.29.