

Battu Prasad vs Kerala University of Health Sciences

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Court : Kerala

Decided On : May-23-2024

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : WP(C)/18505/2024

Appellant : Battu Prasad

Respondent : Kerala University of Health Sciences

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 23RD DAY OF MAY 2024 / 2ND JYAISHTA, 1946
WP(C) NO. 18505 OF 2024 PETITIONER: BATTU PRASAD AGED 25
YEARS S/O. BATTU CHANDER, RESIDING AT
PADINJAREKANNEZHATH, PANAVALLY.P.O, CHERTHALA,
ALAPPUZHA DISTRICT, PIN - 688526 BY ADVS. B.S.SIVAJI DHANYA
SREENIVASAN PARVATHY B. RESPONDENTS:

1 KERALA UNIVERSITY OF HEALTH SCIENCES
MULANKUNNATHUKAVU, THRISSUR DISTRICT, REPRESENTED BY
ITS REGISTRAR., PIN - 680596 2 THE CONTROLLER OF

EXAMINATIONS KERALA UNIVERSITY OF HEALTH SCIENCES,
MULANKUNNATHUKAVU, THRISSUR DISTRICT, PIN - 680596 3
NATIONAL COMMISSION FOR INDIAN SYSTEM OF MEDICINE
JAWAHAR LAL NEHRU BHARTIYA CHIKITSA AVAM HOMEOPATHY
ANUSANDHAN BHAVAN, 61- 65, INSTITUTIONAL AREA, JANAKPURI
'D'. BLOCK, NEW DELHI , REPRESENTED BY ITS SECRETARY., PIN -
110058 4 THE PRINCIPAL GOVERNMENT AYURVEDA MEDICAL
COLLEGE, PUTHIYAKAVU, THRIPUNITHURA, ERNAKULAM
DISTRICT., PIN - 682301 BY ADV Kiran M.S. ADV BINNY THOMAS-
SC, KUHS, ADV M S KIRAN -SC, NCISM ADV.NISHA BOSE-GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23.05.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: ..2.. ZIYAD RAHMAN A.A., JUDGE
===== W.P.(C) No.18505 of 2024
===== Dated this the 23rd day of May, 2024

JUDGMENT

The petitioner in this case, is a student of BAMS in Kerala University of Health Sciences in various Colleges affiliated to the said University. The said student has completed First and Second Professional BAMS examinations. The grievance of the petitioner is that, he was not permitted to appear for the Final Professional examinations, mainly on the ground that, he could not complete certain papers in Third Professional Examinations.

2. The specific contention raised by the petitioner is by

placing reliance upon Ext.P2, which is the relevant pages of Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations, 2016, in which Regulation 6(3)(c) contemplates that, a failed student of third professional who have passed all the subjects of first and second professional examination shall be allowed to ..3.. appear in final professional Examination. However, the learned Senior Counsel appearing for the University pointed out that, as per Ext.P3 Regulations of the University, vide 1.18(d), it has

been made mandatory that the students shall pass all the subjects of previous years, before registering for final year examinations. Therefore, it was pointed that in the light of the Regulations of the University, which is applicable to the petitioner in this case, the prayers sought by the petitioner cannot be entertained.

3. However, the learned counsel for the petitioner

pointed out that, the conflict between the provisions in the Ext.P2 and P3 Regulations was considered by this Court in Ext.P4 judgment, and specific directions in this regard were passed by this Court. It is seen from Ext.P4 judgment that, in paragraph 6 thereof, the following observations and directions were made by this Court:

This Court is of the view that the Regulations of the University can be safeguarded by allowing the students to write the final examination without clearing the previous examination. However, the University need not release such results unless the students clear the previous examinations. This is ..4..

the possible reconciliation between the two Regulations to maintain higher standard and the purpose for which such Regulation is formulated by the University. Therefore, the University can permit such students to appear for the final year provisional examination without clearing the previous examination and the University need to publish such results only along with the clearing of the previous examination. This would be more practical and convenient for the University as well, otherwise the University has to keep hold on such examination which may result in unforeseen consequences as well. If that be so, in the light of the CCIM Regulations, the students may be permitted to appear for the examination on condition that the results will not be declared without clearing the previous year examination.

Since this Court has already passed orders and issued directions, reconciling the provisions contained in Exts.P2 and P3 Regulations, the petitioner who is a similarly situated person can also be given the benefits of the same. In such

circumstances, this writ petition is disposed of, permitting the petitioner to appear for the final professional examinations, however, the results of such examinations shall not be published, unless and until the petitioner clear all the examinations of the third professional. It is further clarified that, this benefit shall be available, only if the petitioner has ..5.. cleared all the examinations of the first and second professionals and registered for the third professional examination. With the above directions this writ petition is disposed of. Sd/- ZIYAD RAHMAN A.A. JUDGE ACR ..6.. APPENDIX OF WP(C) 18505/2024 PETITIONER EXHIBITS Exhibit-P1 TRUE COPY OF THE NOTIFICATION NO.5041/2024/EX-AYUSH A4/KUHS (1) DATED 02.04.2024 ISSUED BY THE 2ND RESPONDENT. Exhibit-P2 TRUE COPY OF THE RELEVANT PAGES OF THE

INDIAN MEDICINE CENTRAL COUNCIL (MINIMUM STANDARDS OF EDUCATION IN INDIAN MEDICINE) AMENDMENT REGULATIONS, 2016 PUBLISHED AS PER NOTIFICATION DATED 07.11.2016 . Exhibit-P3 TRUE COPY OF THE RELEVANT PAGES OF THE BAMS COURSE REGULATION ISSUED BY THE 1ST RESPONDENT UNIVERSITY . Exhibit-P4 TRUE COPY OF THE JUDGMENT DATED

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