

**R.C. Jayaprasad Vs. Controller of Examinations, University of Kerala, Trivandrum and ors.**

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**Court :** Kerala

**Decided On :** Sep-03-1987

**Reported in :** AIR1988Ker191

**Judge :** K.S. Paripoornan and; K. Sreedharan, JJ.

**Acts :** [Constitution of India](#) - Article 226; [Kerala University Act, 1974](#) - Sections 23 and 23(21); Kerala University First Ordinances, 1978

**Appeal No. :** O.P. No. 3220 of 1983-B and W.A. No. 127 of 1984

**Appellant :** R.C. Jayaprasad

**Respondent :** Controller of Examinations, University of Kerala, Trivandrum and ors.

**Advocate for Def. :** T.P. Kelu Nambiar and; P. Gopalakrishnan Nair, Advs.

**Advocate for Pet/Ap. :** S.A. Nagendran,; K.B. Subhagamani and; T. Ravikumar,

**Disposition :** Appeal dismissed

**Judgement :**

**Sreedharan, J.**

1. O.P. No. 3220 of 1983 and Writ Appeal No. 127 of 1984 are by the same person. When he approached the University for registration to the B.Sc. (Engineering) Semester Examinations (III to VII Semesters) of April/May 1982 and Oct./Nov. 1982. the University rejected the same by Exts. P9 and P10 memos dt. 19-10-82. O.P. 3220 of 1983 was filed for quashing those memos and for a writ of mandamus directing the University to forbear from giving effect to the order, debarring him from appearing in examinations. Subsequently, the University enquired into the acts and conduct of the petitioner. A member of the Syndicate who enquired into the matter filed a report to the Syndicate, finding the petitioner guilty of using false and forged Pre-Degree Mark List for getting admission in the Engineering College. Thereupon the petitioner was asked to show cause why Pre-Degree Examination and B.Sc. (Engineering) Examination of I to VII Semesters be not cancelled and he be debarred permanently from taking any University Examination's in the future. The petitioner submitted a detailed reply. After considering the reply and the report of the Enquiry Officer, the Syndicate by Ext. P14 order dt. 10-10-1983, imposed the punishment already proposed. O.P. No. 9989 of 1983 was filed challenging Ext. P14 order. When it came up for admission, a learned single Judge dismissed the same. So the Writ Appeal 127 of 1984 has been preferred. Since Exts. P19 and P10 memos no longer subsist by virtue of Ext. P. 14. O.P. No. 3220 of 1983 has become infructuous and the same is accordingly dismissed,

2. A Division Bench of this Court while disposing of a batch of Original Petitions by judgment dt. 23-12-1981, detected various irregularities in the conduct of examinations, preparation of mark listsetc. In pursuance to the said decision when the authorities enquired into the various aspects relating to the conduct of the examinations, and admission of students to professional courses, a large number of malpractices came to light. Bogus and fake mark lists were seen to have been used for securing admission to professional courses like medicine and engineering. It was revealed that the appellant before us had resorted to such a course for securing admission to B.Sc. (Engineering) course. Consequently proceedings were taken and the University passed Ext. P14 order. That order is under challenge. The main grounds of attack are threefold. They are :

- (i) The Syndicate had no authority to pass an order like Ext. P14,
- (ii) The enquiry conducted by the Member of the Syndicate was in violation of the principles of natural justice, and
- (iii) That there was no necessity for the petitioner to have an inflated mark list as alleged, because even on the basis of the marks secured by him as per the registers maintained in the University, he could have secured admission to the course.

We will proceed to deal with these contentions one by one.

3. The first ground of attack is that the Syndicate has no power to pass an order like Ext. P14. This ground of attack was not taken before the Syndicate when the petitioner filed his objection in pursuance to Ext. P12 memo dt. 7-4-1983. The reply to Ext. P12 memo is, marked in this case as Ext. P13. Nowhere in the said objection had the petitioner taken the contention that the Syndicate did, not possess an authority to impose the punishment suggested in Ext. P. 12. When the lack of jurisdiction of the Syndicate was not urged before the Syndicate, the petitioner cannot be allowed to raise that issue in exercising the discretionary jurisdiction under Article 226 of the Constitution. In *Trivandrum Co-operative District Wholesale Society v. Dy. Registrar of Co-operative Societies, Trivandrum*, 1975 Ker LT 589 : (AIR 1976 Kerala 124), a Division Bench of this Court observed :

'It is thus clear that this Court has been for nearly two decades declining jurisdiction when the lack of jurisdiction of a Tribunal or authority was not taken before that Tribunal or authority but was urged for the first time in proceedings under Article 226 of the Constitution. The exercise of a writ jurisdiction being discretionary in nature this Court ordinarily must exercise its discretion against those who take the chance of a decision and were not diligent enough to urge the lack of jurisdiction of a Tribunal or authority before the Tribunal or authority itself.'

When it is seen that the competence of the Syndicate to pass Ext. P14 was not taken up before that authority when the petitioner filed Ext. P13 representation,

this court should decline to entertain the contention of the petitioner, that the Syndicate acted without jurisdiction. On this sole ground the petitioners claim has to be found against.

4. Even in the Original Petition or in the Memorandum of Appeal, the petitioner had not specifically taken the ground that the Syndicate had no authority to pass an order like Ext. P14. The ground (i) in the Original Petition is :

'Neither the charge nor the enquiry proceedings nor even the impugned order discloses the power under which the University presumes to act. Without even knowing the source of power the petitioner cannot make an answer about the jurisdiction to impose punishment.'

This ground cannot be taken as one questioning the jurisdiction of the Syndicate to pass an order like Ext. P14. Even so, since the learned Counsel appearing for the petitioner addressed us in detail on this aspect, we are dealing with the same in detail.

5. Section 5 of the [Kerala University Act, 1974](#), enumerates the powers of the University. Clause (v) of that section enables the University to grant diplomas, certificates or other distinctions to persons who shall have pursued a prescribed course of study under prescribed conditions. Clause (vi) of the same section gives power to the University to withdraw or cancel degrees, titles, diplomas, certificates or other distinctions under conditions that may be prescribed by the Statutes, after giving the person affected a reasonable opportunity to present his case. Section 19 of the Act deals with the powers and functions of the Senate. Sub-section (j) to Clause (2) of that section empowers the Senate to cancel any degree, diploma, title or any other distinction granted to any person in accordance with the provisions of the Statutes. The powers of the Syndicate are dealt within Section 23 of the Act. Clause (xv) of this section empowers the Syndicate to conduct University Examinations and approve and publish the results thereof. Clause (xxi) gives power to the Syndicate to withhold or cancel the result of any candidate at any University examination. According to the learned counsel appearing for the appellant, the University granted a certificate to the appellant showing that he had successfully completed the Pre-Degree Course. That certificate must be deemed

to have been issued by the Senate and it could be cancelled only by the Senate as provided by Sub-section (j) of Clause (2) of Section 19. The Syndicate which could not have cancelled the certificate has now resorted to a dubious method of cancelling the examination and it is ultra vires its powers.

6. To appreciate the above arguments it is necessary to see whether the Pre Degree Certificate can be considered to be a certificate issued by the Senate. Chapter 5 of the University First Statutes deals with the powers of the Senate. Clause (ii) of this Chapter empowers the Senate to grant diplomas, titles, certificates and other academic distinctions to persons who shall have pursued a prescribed course of study under prescribed conditions. Chapter 27 of the University First Statutes enumerates the various degrees, diplomas, certificates and titles that may be conferred by the University.

The certificate of Pre-Degree Examination is not one mentioned therein. In this circumstance, the certificate granted on successful completion of the Pre-Degree Course cannot be considered to be a certificate granted by the Senate which could be cancelled only by the Senate. Therefore it cannot be said that the Senate is the only authority which can cancel a certificate. Now we will have to consider whether the Syndicate has got power to cancel the Pre-Degree Examination taken by the appellant in 1975-76. As stated earlier, Clause (xxi) of Section 23 of the Kerala University Act, empowers the Syndicate to cancel the result of a candidate at any University Examination. This power of the Syndicate is subject to the provisions contained in the Act and Statutes. Chapter 6 of the Kerala University First Statutes relates to the Syndicate. Clause (3) therein enumerates the powers and duties of the Syndicate. Sub-clauses (xxv) and (xxvi) of Clause (3). Chap. 6 are relevant for deciding the issue before us. We read the same :

(xxv) 'the Syndicate may cancel the examination of a candidate and/or debar him/her from appearing at any examination of the University for one or more years, if it is discovered afterwards that the candidate was in any manner guilty of misconduct in connection with his/her examination and/or was instrumental in the tampering of the University records including the answer books, mark sheets, result sheets, diploma and the like;

(xxvi) The Syndicate may cancel the examination of a candidate and/or debar him/her from appearing at examination of a candidate and/or debar an examination of the University for one or more years, if it is discovered afterwards that the candidate had obtained admission to the examination by misrepresentation of facts or by submitting false certificates or by forging document.'

Sub-clause (xxv) quoted above is clear enough to indicate that the Syndicate can cancel the examination of a candidate if it is established that the candidate had tampered with the mark-sheet given by the University. Argument of the learned counsel is that the Syndicate is concerned with the conduct of the examination and the publication of result alone. Once the results are published, it is argued, the Syndicate cannot cancel the examination. This is devoid of any substance in view of the specific provisions in the Statutes quoted above. Tampering of a mark-sheet can happen only after the results are published and mark-lists issued thereafter. If it is found that such a mark sheet has been tampered with, the examination taken by the candidate can be cancelled at a later stage.

7. Chapter 7 of the University First Ordinances, 1978, deals with the conduct of examinations. Ordinance 23 in that chapter is in the following terms.

'Debarring candidates and quashing results : --

If at any time after the publication of results, it is found that a candidate was not eligible for taking the examination, or that he has secured admission to the course or the examination, or production of false information in the application form or that he has used unfair means at an examination the Syndicate shall have power to quash the results of the examination, taken by the candidate, and/or debar him from appearing for any examination of the University permanently or for a specified period according to the gravity of the offence committed by the candidate.'

'Provided further that it shall be competent for the Syndicate to suspend the results already published of a candidate suspected of having resorted to unfair means at an examination taken by him pending an enquiry into the result.

On the basis of the enquiry report, the Syndicate shall also have the power to quash or cancel results of the candidate in the examination taken by him while the enquiry proceedings over the use of unfair means at that examination were pending.'

This provision makes it clear that the Syndicate has not only got the power to cancel the examination taken by a candidate wherein he had secured admission on production of false information but also to debar him from appearing for any examination in future. A combined reading of the Statutes and Ordinances quoted above shows that Syndicate has power not only to cancel the examination, mark list of which has been tampered but also the subsequent examinations taken by the candidate the admission to which has been secured by production of false information as well. In this view of the matter, we hold that the Syndicate was well within its competence to pass an order in the nature of Ext.P14, cancelling the Pre-Degree Examination and the subsequent examinations taken by the appellant. Accordingly we do not find any merit in the first ground of attack urged by the appellant.

8. The second contention raised by the learned Counsel appearing for the appellant is violation of the principles of natural justice, in conducting the enquiry by the 5th respondent. The learned counsel would contend that the 5th respondent should have issued copies of the documents sought to be relied on by him in the enquiry and the list of witnesses to be examined by him along with Ext. P. 3 notice issued to the appellant. In the absence of the said documents, it is said that the petitioner could not make an effective defence in the enquiry and that vitiated the entire procedure. We are not impressed with this argument.

9. In *Union of India v. T.R. Varma*, AIR 1957 SC 882 a Constitution Bench of the Supreme Court of India observed :

'Stating it broadly and without intending it to be exhaustive, it may be observed that rules of natural justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no

materials should be relied on against him without his being given an opportunity of explaining them.'

Another Constitution Bench of the Supreme Court in *State of Mysore v. Shivbasappa Shivappa Makapur*, AIR 1963 SC 375 went into the question of the principles of natural justice to be followed by Tribunals, and laid down the law in the following terms :

'For a correct appreciation of the position, it is necessary to repeat what has often been said that Tribunals exercising quasi-judicial functions are not Courts and that therefore they are not bound to follow the procedure prescribed for trial of actions in courts nor are they bound by strict rules of evidence. They can, unlike Courts, obtain all information material for the points under enquiry from all sources, and through all channels, without being fettered by rules and procedure which govern proceedings in Court. The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to the party against whom it is to be used and give him a fair opportunity to explain it. What is a fair opportunity must depend on the facts and circumstances of each case but where such an opportunity had been given, the proceedings are not open to attack on the ground that the enquiry was not conducted in accordance with the procedure followed in courts.'

In *Prem Prakash Kaluniya v. Punjab University*, AIR 1972 SC 1408, dealing with the natural justice contemplated in an enquiry to be conducted by the University Authorities, it was observed :

'The law on this point is well settled that an examinee must be adequately informed of the case he has to meet and given a full opportunity of meeting it. As to what the extent and content of that information should or ought to be would depend on the facts of each case. The examinee can ask for more information or details with regard to the material or evidence which may be sought to be used against him and normally if he makes a request in that behalf, the University authorities, in order to inform him adequately of the case he has to meet, would supply him the necessary particulars or details of the evidence. In the very nature of things no hard and fast rule can be laid down and so long as the Court is

satisfied that the opportunity which was afforded to the examinee was adequate and sufficient. It will not interfere with any orders prejudicial to him which may have been made by the University Authorities.'

Again in *Hira Math Mishra v. Principal, Rajendra Medical College. Ranchi.* AIR 1973 SC 1260, dealing with an enquiry conducted by the Educational Authorities, their Lordships quoted with approval the observation of Harman, J. in *Byrne v. Kinematograph Renters Society Ltd.*, (1958) 2 All ER 579.

'What, then, are the requirements of natural justices in a case of this kind? First, I think that the person accused should know the nature of the accusation made: secondly that he should be given an opportunity to state his case; and thirdly, of course, that the tribunal should act in good faith, I do not think that there really is anything more'.

In *University of Ceylon v. Fernando*, (1960) 1 All ER 631 the facts were as follows :

The Vice-Chancellor of the University of Ceylon appointed a Commission of Enquiry, consisting of himself and two others, to enquire into certain allegations which had been made by B., a woman student, and which, if they were true, were explicable only on the footing that F., a student, who was taking a university examination, had acquired knowledge of a German passage in one of the examination papers before taking the examination. F. was informed by letter to the allegations against him, and the appointment of the Commission and was asked to attend before the Commission. When the Commission examined B. and other witnesses F. was not present. He did not ask that he should be allowed to question any of the witnesses. The Commission found that the allegation against F. was true. On the basis of the report, the Board of Residence and Discipline found F. guilty and suspended him indefinitely from all university examinations. F. challenged that action contending that the Commission acted against the principles of natural justice. Repelling this contention the Privy Council held :

'Their Lordships are, therefore, satisfied that the interviews, so far as they went, were fairly conducted and gave the plaintiff an adequate opportunity of stating his

case. But it remains to consider whether, in the course they took, the interviews must be held to have fallen short of the requirements of natural justice on the ground that the plaintiff was given no opportunity of questioning Miss Balasingham. She was the one essential witness against the plaintiff and the charge in the end resolved itself into a matter of her word against his. In their Lordships' view, this might have been a more formidable objection if the plaintiff had asked to be allowed to question Miss Balasingham and his request had been refused. But he never made any such request, although he had ample time to consider his position in the period of ten days or so between the two interviews. There is no ground for supposing that, if the plaintiff had made such a request, it would not have been granted. It, therefore, appears to their Lordships that the only complaint which could be made against the Commission, on this score was that they failed to volunteer the suggestion that the plaintiff might wish to question Miss Balasingham or in other words to tender her unasked for cross-examination by the plaintiff. Their Lordships cannot regard this omission, or a fortiori the like omission with respect to other witnesses, as sufficient to invalidate the proceedings of the commission as failing to comply with the requirements of natural justice in the circumstances of the present case.'

In *Trimbak Pati Tripathi v. Board of High School and Intermediate Education, U.P., Allahabad*, AIR 1973 All 1 a Full Bench of the Allahabad High Court, after surveying the entire case law on the point came to the conclusion that the essential of principles of natural justice that are to be observed by an authority dealing with the case of examinees using unfair means in examinations while acting quasi-judicially are as follows :

'(1) The person whose rights are to be affected must be given notice of the case or the charges which he has to meet.

(2) He must be given an opportunity to make a representation and to explain the allegations made against him and to have his say in the matter; and

(3) The authority conducting the proceedings must not be biased and should act in good faith.'

10. In *Maxwell v. Department of Trade and Industry*, (1974) 2 All ER 122, Lawton LJ observed :

'From time to time during that period lawyers and judges have tried to define what constitutes fairness. Like defining an elephant, it is not easy to do, although fairness in practice has the elephantine quality of being easy to recognise. As a result of these efforts a word in common usage has acquired the trappings of legalism : 'acting fairly' has become 'acting in accordance with the rules of natural justice', and on occasion has been dressed up with Latin tags. This phrase in my opinion serves no useful purpose and in recent years it has encouraged lawyers to try to put those who hold inquiries into legal strait-jackets. It is pertinent to this connection to recall what Lord Shaw of Dunfermline said in *Local Government Board v. Arlidge* (1915 AC 120 at p. 1381.

And the assumption that the methods of natural justice are ex-necessitate those of courts of justice is wholly unfounded..... In so far as the term 'natural justice' means that a result of process should be just, it is a harmless though it may be a high-sounding expression; insofar as it attempts to, reflect the old *jus naturale* it is a confused and unwarranted transfer into the ethical sphere of a term employed for other distinctions; and, insofar as it is resorted to for other purposes, it is vacuous.'

In *E. K. Joy v. Tom Jose*, (1987) 1 Ker LT 478. one of us (Paripoornan, J.) observed :

'The word 'natural justice' is not capable of static or precise definition. It cannot be imprisoned in the straitjacket of a cast iron formula. All that it means, is fairness in action. No definite and fixed-definition to this term has ever been given. The principles will vary with varying situations of statutory bodies and rules prescribed by the Act, under which they function. The application of the principles will depend upon the nature of the jurisdiction conferred on the authority and the nature and character of the rights of the persons affected, the scheme and the policy of the statute and other attendant circumstances. It is a very flexible principle which can be adjusted and adapted according to the exigency of the situation.'

11. The enquiry conducted by respondent 5 was only a fact finding enquiry. No procedure was prescribed by law for such a fact finding enquiry. The enquiry officer was not to treat the matter as if he was holding a trial. In such a case we are of the opinion that principles of natural justice will be adequately complied with if the person accused was made known of the accusation leveled against him; that he was given a reasonable opportunity to state his case and if the officer had acted fairly and in good faith. The appellant has nowhere alleged any mala fides on the part of the 5th respondent. It is pertinent to note that the appellant did not avail of the opportunity to put forward his case, even though it was made available by the 5th respondent. We are of the opinion that the appellant was advised against appearing before the Enquiry Officer and explaining the charges put forth against him. The appellant was acting with an eye to future legal remedy. Such conduct goes against his plea that he had no opportunity to defend his case and that proceedings were conducted in violation of the principles of natural justice. In view of the determined refusal of the appellant to participate in the enquiry proceedings, it is difficult to say that the principles of natural justice were violated. A departmental proceeding is a two-sided affair -- the officer holding the enquiry must be reasonable and helpful in allowing the delinquent to meet the case put forth against him; equally, the latter must participate in the enquiry, instead of attempting to block or stultify the enquiry. In the case on hand, the appellant was trying to prevent the enquiry officer from proceeding with the enquiry. Therefore we are unable to hold that the principles of natural justice were violated.

12. Even so, we proceed to examine whether 5th respondent had violated the principles of natural justice. Ext.P3 is the first notice issued to the appellant. In it respondent 5 had given the details of marks obtained by the appellant as per the University records. He had also given the marks furnished by the appellant while seeking admission to the B.Sc. (Engineering) Course in the Mar Athanasious Engineering College, Kothamangalam. The differences in the marks were detailed in Ext.P3. On account of these differences, the appellant was called upon to answer the charge that he used a false and forged Pre-Degree marklist for getting admission to the Engineering College. The notice further stated that the action in using a false and forged mark list for getting admission is a serious malpractice. After giving all these details, the appellant was asked to give his explanation to the

charge. A reading of Ext.P3 shows that the appellant was made known of the accusation made against him. He was called upon to give his reply. In reply to Ext.P3 the appellant sent Ext.P4 communication to the 5th respondent. Therein he had stated :

'It is my belief that there is no variation at all, in my case and I believe that whatever records the University may have as original will tally with the list given to me.'

To prove this point it is essential that the University Original records have to be seen. I may be allowed to see these as also my answer papers, before I put forward my defence as without these I will not be able to make an effective reply.'

On getting 'Ext.P4, the 5th respondent by Ext.P5 communication dt. 26-8-1982 requested the appellant to appear before him on 7-9-1982, He was requested to bring along with him the Pre-Degree mark-list used by him to secure admission in the Engineering College so as to compare with the records of the University as desired by him in Ext.P4. Without going over to the University on 4-9-1982, the appellant sent Ext.P6 letter on 28-8-1982. According to the appellant, Ext.P5 was not a reply to his request for inspection of relevant papers. He further made an allegation that he has not been allowed to peruse the relevant records and that the enquiry officer has not informed about the records that are sought to be relied on by him. Therefore, he requested to make available to him the original relevant records. The 5th respondent gave Ext.P7 reply to the appellant on 18-10-1982, It was stated therein that even as per Ext.P5, the appellant was informed that he can have the records of the University perused and that some of the relevant records will be brought to his notice when he appears before the enquiry officer. The appellant was then requested to appear before the enquiry officer on 5-11-1982. The appellant refused to appear before the enquiry officer. Nor did he file any statement of defence. If the appellant had appeared before the enquiry officer and had made specific requests for perusing certain documents the situation would have been entirely different. After appearance if the appellant's requests were turned down by the enquiry officer, then the appellant could have contended that he was denied the chance of making an effective defence in the case. That is not

the position here. The appellant was told about the accusations made against him. There was no ambiguity as far as that aspect is concerned. But the appellant did take a hostile attitude and wanted to have all the original records given to him for perusal. If the original documents were given to him as requested that would have given him a chance to tamper with the same. We are of the view that the requests made by the appellant were very much overtoned and it could not have been granted by any prudent enquiry officer. Therefore, we hold that the enquiry conducted by respondent 5 was in no way violative of the principles of natural justice. The appellant who was afforded sufficient opportunity to defend himself, did not avail of that opportunity. Thereafter he cannot be allowed to contend that he was not given an effective opportunity to contest his case.

13. The learned Counsel appearing for the appellant raised yet another contention., namely that respondent 5 being a member of the Syndicate should not have taken part in the deliberations of the Syndicate where Ext.PI4 decision was taken. In ground (K) of O.P. No. 9989/1983 the appellant had stated as follows :

'It appears that the 5th respondent is also a member of the Syndicate. Under Section 23 of Ch. VII of the Kerala University First Ordinances, 1978, Syndicate shall have power to quash the results of the examination taken by the candidate, and/or debar him from appearing for any examination of the University permanently or for a specified period according to the gravity of the offence committed by the candidate. One of the principles of natural justice is that no man can act as a prosecutor and a judge. In the instant case he has been appointed by the Syndicate to conduct an enquiry against the petitioner. As a member of the Syndicate he was also a party to the decision of the Syndicate to conduct an enquiry against the petitioner to take action under Section 23 of Ch. VII of the Kerala University First Ordinances.1978. On the basis of his enquiry, report a final decision under Section 23 was taken by the Syndicate in which he is a member. Thus he was violating the principle no man shall be judge in his own cause'.

We are not impressed with this argument. The power and functions of the Syndicate in the field of taking action against a student and imposing punishment on him are not appellate powers. The Syndicate is the original authority to take

action. It decided to take action. Instead of the entire Syndicate holding the enquiry, the enquiry was conducted through one of its members. That member who enquired into the charge was only making a report to the Syndicate. He did not enter a finding. The Syndicate was not sitting in judgment over that finding. Therefore, the petitioner cannot import the theory of the Syndicate being the judge in its own cause cannot go to the facts of this case. In the above circumstances, we are of the view that the conditions raised by the appellant based on violation of principles of natural justice are devoid of any merit.

14. The last contention raised by the learned Counsel appearing for the appellant was that the appellant could have secured admission to the B.Sc. (Engineering) degree course on the basis of the marks entered in the University records and so there was no necessity to have a fake mark list showing inflated marks. This argument is on the ground that the appellant being a member of the Ezhava Community, a socially and educationally backward community, need have only a lesser percentage of marks. Reliance is placed on Exts. P1 and P.2. Ext.P1 is the prospectus for 1977-78 for admission to the Engineering Colleges. Clause (2) deals with the eligibility of candidates for admission to the course. Sub-clauses (i) and (ii) of that Clause are relevant for the purpose of this case. They are :

'(i) Candidates with a pass in the Pre-Degree Examination of Kerala/Calicut Universities with Mathematics, Physics and Chemistry as Optional under Part-II. or any other Examination accepted as equivalent thereto securing a minimum of 46% marks in Mathematics and 50% marks in Mathematics, Physics and Chemistry put together alone are eligible to apply for admission.

(ii) Candidates belonging to Socially and Educationally backward classes, referred to in G.O. (P) 208/66/Edn.. dt. 2-5-1966 who have secured 41% marks in Mathematics and 45% marks in Mathematics, Physics and Chemistry put together are eligible to apply for admission.'

As per Clause (9) of the prospectus 15% of the seats in private institutions can be filled up by the management from among eligible applicants who have applied for admission to me Director of Technical Education. According to the learned Counsel appearing for the appellant, the appellant had secured marks required to

come within this 15% seats allowed to the Management. To come within the said 15%, the appellant should show that he is one among the eligible applicants. His eligibility for admission will not depend solely on account of his being a member of the Ezhava community. For a member of socially and educationally backward classes to be eligible for admission he must satisfy a further condition that he comes within the purview of G.O. (P) 208/66 dt. 2-5-1966. i.e. he must show that the total annual income of all the members of his family was less than Rs. 10,000/- . Nowhere in the original petition or in the Memorandum of appeal has the petitioner stated that the annual income of all the family members to which he belongs was less than Rs. 10,000/-. Thus he has not satisfied Clause 6(iv) of Ext. P1 to become eligible for claiming admission as a member of the socially and educationally backward community. This is further clear if note (I) of Clause (9) of Ext.P1 is looked into. That note states :

'Only the applicants who are members of families which have an aggregate income, i.e.. income of all members in the family from all sources taken together' of less than 10,000/- (Rs. Ten thousand only) per annum and which belong to Castes and Communities mentioned in the Annexure to G.O.P. 203/66/Edn.. dt. 2-5-1966 will be considered as socially and educationally backward classes for purpose of reservation referred to above.'

In this view of the matter we do not find any substance in the contention of the appellant that he would have secured admission to the B.Sc. (Engineering) Degree Course even with the marks entered in the University records.

15. The learned Counsel appearing for the appellant, on the basis of the decision in *Krishnan v. Kurukshetra University*. Kurukshetra, AIR 1976 SC 376, raised a contention that the University has acted beyond its power in cancelling the examination after having allowed the appellant to take the subsequent examinations. According to the learned counsel, the University, after verifying the records relating to the result in Pre-Degree Examination allowed the appellant to take B.Sc. (Engineering) Examinations (I to IV Semesters). Subsequently, under the cover of a malpractice said to have been resorted to by the appellant, the University should not have passed an order in the nature of Ext.P. 14.

16. In the decision relied on by the learned Counsel for the appellant. Their Lordships interfered with the decision taken by the Kurukshetra University to cancel the candidature of the student because by force of the University Statutes, the University had no power to withdraw the candidature. The situation in the instant case is entirely different. The provisions of the Act, Statutes and Ordinances quoted above confer power on the Syndicate to cancel the examination and also to debar the student from appearing in examinations to be conducted in future. Therefore, the decision relied on by the learned Counsel has no application to the facts of this case.

17. In view of what has been stated above. We find no merit in this Writ Appeal. It is accordingly dismissed. The decision of the learned single Judge is confirmed.

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