

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
MONDAY, THE 14TH DAY OF MARCH 2022 / 23RD PHALGUNA, 1943

WP(C) NO. 7997 OF 2022

PETITIONERS:

- 1 AKSHAYA SHANTHAKUMAR,
AGED 26 YEARS,
DAUGHTER OF O.K. SHANTHAKUMAR, RESIDING AT SHANTHI
HOUSE, P.O. KOTTALI, KANNUR, PIN - 670005.
- 2 ADITHYA P,
AGED 26 YEARS,
DAUGHTER OF ASHOKAN P., RESIDING AT AKKOOLKANDIYIL
HOUSE, VENDUTTAYI, P.O. PINARAYI, THALASSERY, PIN -
670741.
- 3 NAMITHA SURESH,
AGED 26 YEARS,
D/O. C.K. SURESH, RESIDING AT CHOWKKAPARAMBIL HOUSE,
UDAYAMPEROOR P.O., ERNAKULAM, PIN - 682307

BY ADV C.K.SREEJITH

RESPONDENTS:

- 1 KERALA UNIVERSITY OF HEALTH SCIENCES,
REP. BY ITS VICE CHANCELLOR,
MEDICAL COLLEGE P.O., THRISSUR, PIN - 680596.
- 2 CONTROLLER OF EXAMINATION,
KERALA UNIVERSITY OF HEALTH SCIENCE,
MEDICAL COLLEGE P.O., THRISSUR, PIN - 680596

BY ADV SHRI.P.SREEKUMAR, SC, KERALA UNIVERSITY OF
HEALTH SCIENCES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 14.03.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

J U D G M E N T

The petitioners are final year students (2017 batch) pursuing their Bachelor of Physiotherapy course in various Colleges affiliated to the Kerala University of Health Sciences (KUHS). Petitioners 1 and 2 are yet to pass the first year Anatomy exam and the 2nd petitioner is yet to pass the 2nd year Pathology exam. As per the Regulations issued by the KUHS, supplementary examinations are conducted by the University for the benefit of the unsuccessful candidates within a period of six months from the date of announcement of the results. However, due to COVID restrictions, the University did not conduct the supplementary examinations. The regulations issued by the KUHS says that candidates would be eligible for registering for the final year examination only after they pass all the subjects of the previous year. The petitioners were not able to clear the failed papers of the 1st and 2nd year on account of the failure of the University to conduct supplementary examinations in time. In the said circumstances, the petitioners are stated to have filed Ext.P2 representation before the Vice-Chancellor on 26.2.2022. However, their valid and legitimate request was not considered in time. It is in the afore circumstances that the petitioners are before this Court seeking the following directions.

- i) issue writ of mandamus or such other writ order or direction directing the University permitting the petitioners to appear for the examination without clearing the Papers for the previous years (due to non-conducting of supplementary examinations).
- ii) issue writ of mandamus or such other order writ or direction

declaring that the clause 1.18 and 1.19 to regulation number 2016 for the courses affiliated to the Kerala University of Health Sciences for the course bachelor of Physiotherapy (BPT) is not applicable to the petitioners.

2. I have heard Sri. Sreejith, the learned counsel appearing for the petitioners and Sri. P. Sreekumar, the learned Standing Counsel appearing for the respondents.

3. It is submitted by the learned counsel that the petitioners cannot be faulted for the failure of the University in promptly holding the supplementary examinations. According to the learned counsel, the provisions of the 2016 regulations cannot be applied to the petitioners.

4. Sri. P. Sreekumar, the learned counsel submitted that the 1st and 3rd petitioners have secured as many as six chances to pass their First Year Examination and the 2nd petitioner has secured as many as four chances to clear the Second Year. In view of the above, the contention of the petitioners that the University is at fault cannot be sustained. The learned counsel would also invite the attention of this Court to Regulations and it is submitted that the request made by the petitioners cannot be accepted.

5. As rightly submitted by the learned standing counsel, clause 1.18 of the regulation stipulates that the candidate would be eligible for registering for the final year examination only after passing all subjects of the previous year. Regulation 1.19 says that though the candidate can be promoted from 1st year to 2nd year and from the 2nd year to the 3rd year if she/he fails in any

subjects, the candidates will have to pass in all subjects of the First year and Second year for appearing in the University exam for the 3rd year. The examinations having been scheduled on 17.03.2022, this Court will not be justified in tinkering with the regulations, which have been put in place by the University after much deliberations. I am therefore not inclined to grant the reliefs prayed for by the petitioners.

6. However, I find that the petitioners have already preferred a representation before the Vice Chancellor seeking leniency citing the peculiar facts of their case. The learned Standing Counsel fairly submits that Exhibit-P2 can be considered in an expeditious manner taking note of the ensuing examination.

In that view of the matter, there will be a direction to the 1st respondent to consider Ext.P2 and take a decision in a sympathetic manner expeditiously taking note of the fact that the examinations are scheduled to be held from 17.3.2022 onwards.

This writ petition is disposed of as above.

Sd/-

**RAJA VIJAYARAGHAVAN V,
JUDGE**

APPENDIX OF WP(C) 7997/2022

PETITIONER (S) EXHIBITS:

Exhibit P1 THE TRUE COPY OF THE RELEVANT PAGES OF THE
SYLLABUS RULES 2016.

Exhibit P2 THE TRUE COPY OF THE REPRESENTATION
ADDRESSED TO VICE CHANCELLOR DT. 26/2/2022

RESPONDENT (S) EXHIBITS: NIL