

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

FRIDAY, THE 24TH DAY OF MAY 2024 / 3RD JYAISHTA, 1946

WA NO. 597 OF 2024

AGAINST THE JUDGMENT IN WP(C) NO.5660 OF 2024 OF HIGH COURT OF KERALA

APPELLANT(S)/1ST RESPONDENT/2ND RESPONDENT:

- 1 THE REGISTRAR, MAHATMA GANDHI UNIVERSITY
MAHATMA GANDHI UNIVERSITY CAMPUS KOTTAYAM, PIN - 686560
- 2 THE CONTROLLER OF EXAMINATIONS
MAHATMA GANDHI UNIVERSITY, KOTTAYAM., PIN - 686560

BY ADV. SURIN GEORGE IPE

RESPONDENT(S)/PETITIONER:

ANWAR S., S/O SAIDUMHAMMED
AGED 47 YEARS
KALAPURACKAL HOUSE, KANIRAKAD, RAYONPURAM,
PERUMBAVOOR, ERNAKULAM, PIN - 683543

BY ADV. SRI. THOMAS JACOB

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 24.05.2024, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

(W.A.No.597 of 2024 & W.P(C).No.5660 of 2024)

AMIT RAWAL, J.

The respondent-petitioner while being a student of three year LLB Course at the School of Indian Legal Thought, a statutory department of the Mahatma Gandhi University, was charged with a criminal offence under Sections 420, 468 and 471 read with Section 34 of the Indian Penal Code, on the allegation that he had forged the certificates of someone else. It is on that account, one of his examinations was cancelled as evident from Ext.P2 dated 17.10.2003 (which was not on record before the single bench). The criminal case resulted into an acquittal in 2022. A representation was submitted to the department, but also failed, giving cause to the respondent-petitioner to approach this Court vide W.P.(C.)No.5660 of 2024, claiming the following reliefs:

*"I. Issue a writ or order in certiorari or any other appropriate writ, direction, thereby setting aside Ext. P6 order and directing the respondent No.1 and 2 to allow the representation at Ext. P4.
II. Issue a writ or order in mandamus or any other appropriate writ, direction, and order commanding the respondent No.1 and 2 to release the LLB Certificate of the petitioner which is being withheld by the respondents from the year 2003 in view of the order of acquittal of the petitioner at Ext. P3.
III. To dispense with filing of English translation of documents in Malayalam.
IV. To grant such other relief as may be prayed for and as the Court deems fit to grant."*

2. Learned Single Judge by judgment dated 13.03.2024 allowed the writ petition in the following manner:

"In the above circumstances, this writ petition is only to be allowed, as the University cannot be allowed to retain the degree certificates of the petitioner. There will be a direction to respondents Nos.1 and 2 to release the LLB certificate of the petitioner withheld by them from the year 2003, in view of Ext.P3 judgment of acquittal. It shall be done within a period of two weeks from today. The petitioner will also execute a bond stating that the certificates will be returned to the University in case a superior Court reverses Ext. P3 judgment of acquittal, and it will be open to the University to take appropriate steps against the petitioner in accordance with law."

The said judgment is under challenge in the writ appeal, by way of Letter Patent Appeal. This Court by detailed interim order dated 03.05.2024 stayed the judgment of the single bench.

3. Sri. Surin George Ipe appearing on behalf of the University submitted that no doubt, there was a plea in the counter statement regarding the cancellation of examination but the document was not placed on record. With the assistance of this Court a separate application has been placed on record, therefore the directions contained in the judgment under challenge cannot be complied until and unless the respondent-petitioner takes examination afresh.

4. Learned Counsel appearing for the respondent-petitioner submitted that when action was taken against the petitioner, the matter was assailed before this Court, and this Court vide judgment dated 06.01.2004 in W.A.No.1786 of 2003, dismissed the writ appeal but granted the liberty to challenge the order

Ext.P2 in accordance with law. The operative portion of the judgment reads thus;

"5. Having heard, learned counsel for the parties and having considered the facts and circumstances of the case, we are of the view that the impugned judgment cannot be allowed to stand in view of Annexure A order dated 3-9-2003 and Annexure B order dated 17-10-2003 of the University. The just and proper course is to dismiss the Writ Petition with liberty reserved to the writ petitioner to challenge Annexure A and B orders in appropriate proceedings. Learned counsel for the University also has no objection to the above course of action. Hence the Writ Appeal is disposed of in the following terms:-

(i) The judgment dated 17-10-2003 in W. P. (C)No.27843 of 2003 is set aside.

(ii) W.P. (C)No.27843 of 2003 is dismissed.

(iii) The dismissal of W.P. (C)No.27843 of 2003 will not stand in the way of the appellant/petitioner challenging Annexure A and B orders of the University in appropriate proceedings."

However, due to inadvertence, the said order has not been assailed while claiming the relief as extracted above and seeks the indulgence of this Court for withdrawal of the writ petition.

5. Keeping in view the fact that the career of the respondent-petitioner is involved, the aforesaid prayer of the learned Counsel for the respondent-petitioner is allowed. Judgment in W.P(C).5660/24 is set aside and

the respondent-petitioner is permitted to withdraw the writ petition with liberty to challenge Ext.P2 order afresh, in accordance with law.

Writ appeal stands allowed and writ petition is dismissed as withdrawn.

Sd/-

**AMIT RAWAL
JUDGE**

Sd/-

**EASWARAN S.
JUDGE**

NB/24-5