



WA NO. 1614 OF 2024 and conctd. case 1

2024:KER:77250

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 15<sup>TH</sup> DAY OF OCTOBER 2024 / 23RD ASWINA, 1946

WA NO. 1614 OF 2024

AGAINST THE ORDER IN WP(C) NO.35014 OF 2024 OF HIGH  
COURT OF KERALA

APPELLANT(S) /RESPONDENTS:

- 1 THE DEAN OF STUDENTS WELFARE  
CALICUT UNIVERSITY, MALAPPURAM, PIN - 673635
- 2 THE RETURNING OFFICER  
DSU ELECTION 2024-2025, UNIVERSITY OF CALICUT,  
MALAPPURAM, PIN - 673635
- 3 THE REGISTRAR UNIVERSITY OF CALICUT  
MALAPPURAM, PIN - 673635
- 4 CALICUT UNIVERSITY  
REPRESENTED BY ITS REGISTRAR, UNIVERSITY OF CALICUT,  
MALAPPURAM, PIN - 673635
- 5 VICE CHANCELLOR UNIVERSITY OF CALICUT  
MALAPPURAM, PIN - 673635

BY ADV P.C.SASIDHARAN

RESPONDENT(S) /PETITIONERS:

- 1 HIBA SHARIN K  
AGED 22 YEARS  
D/O MUHAMMED KOMBAN VALAYIL HOUSE, KAVANOR,  
MALAPPURAM, KERALA, PIN - 673639



WA NO. 1614 OF 2024 and conctd. case 2

2024:KER:77250

- 2 SHIMAL M  
AGED 18 YEARS  
S/O MANOJAN, JANU NIVAS IRINGHAL, KOILANDY KOZHIKODE,  
KERALA-, PIN - 673521
- 3 ALPHY M BINU  
AGED 21 YEARS  
S/O BINU DANIEL MARUTHIMOOTTIL KONNI P O,  
PATHANAMTHITTA KERALA, PIN - 689691

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 15.10.2024,  
ALONG WITH WA.1626/2024, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:



WA NO. 1614 OF 2024 and conctd. case 3

2024:KER:77250

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

TUESDAY, THE 15<sup>TH</sup> DAY OF OCTOBER 2024 / 23RD ASWINA, 1946

WA NO. 1626 OF 2024

AGAINST THE ORDER IN WP(C) NO.35014 OF 2024 OF HIGH  
COURT OF KERALA

APPELLANT(S) /RESPONDENTS:

- 1 THE DEAN OF STUDENTS WELFARE,  
CALICUT UNIVERSITY, MALAPPURAM, PIN - 673635
- 2 THE RETURNING OFFICER  
DSU ELECTION 2024-2025, UNIVERSITY OF CALICUT,  
MALAPPURAM -, PIN - 673635
- 3 THE REGISTRAR  
UNIVERSITY OF CALICUT, MALAPPURAM -., PIN - 673635
- 4 CALICUT UNIVERSITY,  
REPRESENTED BY ITS REGISTRAR, UNIVERSITY OF CALICUT,  
MALAPPURAM, PIN - 673635
- 5 VICE CHANCELLOR  
UNIVERSITY OF CALICUT, MALAPPURAM -, PIN - 673635

BY ADVS.

SRI.P.C.SASIDHARAN, SC, CALICUT UNIVERSITY  
P.C.SASIDHARAN



WA NO. 1614 OF 2024 and conctd. case 4

2024:KER:77250

RESPONDENT (S) / PETITIONERS:

- 1      HIBA SHARIN K  
         AGED 22 YEARS  
         D/O MUHAMMED KOMBAN VALAYIL HOUSE, KAVANOR,  
         MALAPPURAM, KERALA-, PIN - 673639
  
- 2      SHIMAL M  
         AGED 18 YEARS  
         S/O MANOJAN JANU NIVAS IRINGHAL, KOILANDY KOZHIKODE,  
         KERALA-, PIN - 673521
  
- 3      ALPHY M BINU  
         AGED 21 YEARS  
         S/O BINU DANIEL MARUTHIMOOTTIL KONNI P O,  
         PATHANAMTHITTA KERALA-, PIN - 689691

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 15.10.2024,  
ALONG WITH WA.1614/2024, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

**JUDGMENT****Amit Rawal, J.**

Two writ appeals bearing Nos. 1614 and 1626 of 2024 have been preferred against two separate orders of the Single Bench in WP(C) No.35014 of 2024. W.A No.1614 of 2024 is preferred against the ex parte interim order dated 4.10.2024 and W.A No.1626 of 2024 is preferred against the interim order dated 9.10.2024 rejecting the interim application No.1 of 2024 seeking vacation of the previous interim order.

2. The controversy, in short, revolves around election in Department of study and / or Research , which are established under Chapter 42 of the Calicut University First Statue, 1977, consisting of 29 (twenty nine) subjects. University has its own study centers within and outside the campus consisting Institutes of Engineering and Technology. They have been defined under Chapter 44 of 1977 statute, consisting of seven Study Centers. University came out with two separate notifications dated 27.9.2024 for holding elections to elect office bearers in Department of study and / or Research as well as in the Study centers vide Ext.R4(a) and Ext.P5 respectively. There are two types of electorates eligible to caste vote, i.e.,one for Department Students Union (DSU) falling



under the Chapter 42 of the statute and another list for Study Centers under Chapter 44. Throughout, the University had been holding elections separately. However, owing to the promulgation of two notifications, three students-petitioners in the writ petitions, aggrieved of the action of University in not including their name in the electoral list meant for elections in the Department of study and/or Research invoked the jurisdiction of Article 226 of the Constitution of India claiming the following main and interim reliefs:

i) *Issue a writ of mandamus or any appropriate writ, order or direction commanding the 1st and 2n respondent to include the petitioners and other students who aggrieved in the department of MSC FST, BPES (Integrated) BPED Thame in the Final OF voters list, in the interest terest of Justice.*

ii) *Issue a writ of mandamus organ appropriate order or direction commanding the 1<sup>st</sup> and 2<sup>nd</sup> respondent to permit the petitioners and other students who are aggrieved in the department of MSC FST, BPES (Integrated), BPED for casting their vote's upcoming election as per the Exhibit P6 notification in the interest of justice.*

iii) *Issue a writ of mandamus or any appropriate writ, order or direction to declare the exclusion of the petitioners and similarly situated students are illegal, void in the interest of justice.*

### **Interim Prayer**

*For the reasons stated in the memorandum of writ petition and in the accompanying affidavit, it is humbly prayed that this Honorable Court may be pleased to direct the 1st and 2nd respondent not to publish the final electoral roll and include the petitioners and other in the department of MSC FST, BPES(integrated) BPED disposal of the Writ Petition (civil).*



3. Both the reliefs ie., main reliefs and interim relief are one and the same. Be that as it may. Request was made for listing after lunch session and was taken before the Single Bench on 4.10.2024 and the following order was passed.

*Admit.*

*Standing Counsel takes notice for respondents.*

*This writ petition is filed on the premise that the petitioners, who are studying as students of University centres for MSC FST, BPES(integrated), BPED under the Self Financing Scheme. When Ext.P7 Electoral roll published, the name of the students in the petitioners' department were not included. As per Ext.P5, the election is scheduled to be conducted on 10.10.2024. The election notification was published on 27.09.2024. The publication of preliminary voters list was scheduled on 03.10.2024. The last date and time for correction and addition in the preliminary electoral roll is on 04.10.2024 and publication of final electoral roll is on 04.10.2024. The last date and time of submission of nomination is on 05.10.2024 Saturday at 12 noon. The date and time of scrutiny of nomination is on 05.10.2024 at 2.00 p.m. The date and publication of the list of valid nomination is on 05.10.2024 at 5.00 p.m.*

*2. Due to some technical issue, there was a delay in considering the writ petition. That shall not prejudice the interest of the petitioners in participating the election, which is scheduled to be conducted on 10.10.2024. In order to maintain balance of convenience, there will be a direction to respondents 1 and 2 to publish the voters list with respect to the students of University centres for MSC FST, BPES(integrated), BPED under the Self Financing Scheme along with final voters list and permit them to submit the nominations and follow the procedures prescribed in Ext.P5 notification. The order will be subject to the result of the writ petition. Post on 07.10.2024. The Standing Counsel shall intimate the order passed on 04.10.2024 to the respondents today itself.*

4. Vide aforementioned order, University was directed to include



the name of the petitioners in the electoral list meant for the elections in Department of study and / or Research. Against that, Writ Appeal, for the sake of repetition, bearing No.1614 of 2024 has been preferred.

5. University adopted a proper procedure for vacation of the ex parte interim order, by submitting an application, which has also been rejected vide order dated 9.10.2024, primarily on the ground that in the electoral list meant for Department of study and/or Research, representatives from two Centers, outside the campus are included. It is in that background, W.A No.1626 of 2024 has been preferred.

6. Learned counsel for the appellant, Sri. P.C Sasidharan, assisted by Sri. E.S Ashraf submitted that two other centers included in the electoral list are teaching departments of the University outside the campus but would not fall within the Study Centers as defined under Chapter 44 of the 1977 Statute. Only three students-petitioners belonging to three different Study Centers have approached this Court for not including their name in the electoral list, for, they are not the freshly inducted students. They have been undertaking classes in the study center for past three years. Though for the previous year, the election was not held, but previous to previous, election was held at different centers and their





name were never included in the electoral list meant for Department of study and/or Research.

7. Elections for the Study Centers have already been held on 10.10.2024 but the name of the petitioners were not included, owing to the interim order dated 4.10.2024. University is not averse in causing a fresh notification for holding election in three (3) study centers ie., MSC FST, BPES (Integrated), BPED to which respondent writ petitioners belong.

8. On the other hand, learned counsel appearing on behalf of the writ petitioners-respondents submitted that the notification Ext.P5 notifying the election for College / University Centers Union Election 2024-2025 was signed by the competent person whereas, the notification R4(a) meant for Department Students Union Election was not signed. University had included the representatives of other department and therefore there is discrimination. It is in that background, cause of action accrued to approach this Court. Petitioners could not agitate the issue as no election for both, the departments and Study Centers, was held in the last year. But as far as the election qua previous to previous year, he has no instructions regarding the inclusion of the names of the petitioners in either of the electoral lists.

9. We have heard the learned counsel for the parties and



appraised the paper book.

10. The main relief claimed in the writ petition and the interim relief are same. The interim relief if granted tantamounts to allowing the writ petition as, nothing would be left in the writ petition for adjudication in case, the petitioners in the writ petition/respondents in the writ appeal are permitted to caste their vote in the election of Department of Students Union. The argument that the notification for Departments Students Union election for 2024-2045 was not signed would not help the petitioners in the writ petition-respondents for the reason that their main grievance was to include their names in the electoral list meant for the aforementioned election. Thus they cannot be permitted to blow hot and cold by alleging that it is a false and fabricated document whereas on the contrary, the election notification dated 27.9.2024 for College / University centers, the last date and time for polling and counting was 10.10.2024, which is already over. The contention that the representatives of other two study centers were included in the electoral list meant for elections for the Departments Students Union has been answered eloquently by Mr. P.C Sasidharn that they are not study centers but are the teaching departments of the University situated outside the campus and therefore would be covered under Chapter 42 and not Chapter 44 of the 1977 Statute.



For the sake of brevity, Chapter 42 and 44 of the 1977 Act reads as under:

**CHAPTER 42**

**University Departments**

1. *Department of study and / or Research : A University Department of Study and / or Research is one established by Statute and under the direct control of the University.*

2. *Names of Department of study and Research :*

(1) *The following shall be the Departments of Study and / or Research in the University :-*

1. *Department of Chemistry*
  2. *Department of Botany*
  3. *Department of Zoology*
  4. *Department of History*
  5. *Department of Commerce*
  6. *Department of Physics*
  7. *Department of English*
  8. *Department of Malayalam and Kerala Studies \*\*\*\*\**
  9. *Department of Hindi*
  10. *Department of Education*
  11. *Department of Philosophy*
  12. *Department of Psychology*
  13. *Department of Mathematics*
  14. *School of Drama*
  15. *Department of Economics*
  16. *Department of Arabic*
  17. *Department of Physical Education*
  18. *Department of Adult and Continuing Education and Extension Services \*\*\*\*\**
  19. *Department of Sanskrit \**
  20. *Department of Journalism and Mass Communication \**
  21. *Department of Life Science \**
  22. *Department of Library Sciences \**
  23. *Department of Russian \*\**
  24. *Academic Staff College \*\*\**
  25. *School of Distance Education \*\*\*\**
  26. *Department of Biotechnology \*\*\*\*\**
  27. *School of Folklore Studies \*\*\*\*\**
  28. *Kunhali Marakkar Centre for West Asian Studies \*\*\*\*\**
  29. *Such other departments as may be instituted by the Senate from time to time.*
- (2) *Each Department of Study and Research shall be under a Head*



*of the Department who shall be a teacher of the University.*

**CHAPTER 44 \***

***University Study Centres / Institute of Engineering and Technology.***

*1. Study Centres / Institute of Engineering and Technology : Study Centres / Institute of Engineering and Technology is one established under Statute for running cost based courses and under the direct control of the University.*

*2. Names of Study Centres/Institute of Engineering and Technology :*

*(i) Study Centre, Calicut.*

*(ii) Study Centre, Vatakara*

*(iii) Computer Centre, Calicut University Campus.*

*(iv) Centre for Printing Technology, Calicut University Campus.*

*(v) Teacher Education Centres at Vatakara, Calicut, Wayanad, Manjeri, Palakkad and Thrissur.*

*(vi) School of Health Sciences, Calicut University Campus. (vii) Institute of Engineering and Technology, Calicut University Campus*

11. On perusal of the aforementioned chapters, number of the departments have already been specified under Chapter 42 whereas the Study Centers under Chapter 44.

12. We have been during the course of the argument, shown the electoral list for Study Centers and notification dated 30.9.2023 for holding the elections for the department, which totally belies the stand of petitioners, of not holding the election in the previous year for department of Study and/or Research. Obviously, their name were not included in the electoral list but did not agitate any grievance despite the fact that the elections were held peacefully.

13. For the reason aforementioned, we thus set aside the interim orders passed on 4.10.2024 and 9.10.2024 and consequently



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dismiss the writ petition as, the interim relief and the relief sought in the main case are identical and same. However, we issue directions to the University to cause a notification within a period of one week for holding election in three research centers ie., MSC FST, BPES (Integrated), BPED and prepare a electoral list by including the names of the petitioners by fixing a schedule of the election.

Sd/-

**AMIT RAWAL**  
**JUDGE**

sd/-

**EASWARAN S.**  
**JUDGE**

sab



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APPENDIX OF WA 1614/2024

RESPONDENT ANNEXURES

Annexure R1 (a)	TRUE COPY OF THE INTERIM ORDER IN IA 1/2024 IN WPC 35014/2024 DATED 09.10.2024
Annexure R2 (b)	TRUE COPY OF THE ORDER ISSUED BY THE 5TH RESPONDENT IN THE WRIT PETITION DATED 10.10.2024