

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 15TH DAY OF FEBRUARY 2021 / 26TH MAGHA, 1942

WA.No.72 OF 2021

AGAINST THE JUDGMENT DATED 04.12.2020 IN WP(C) 12495/2020 (J) OF
HIGH COURT OF KERALA

APPELLANTS/WRIT PETITIONERS:

- 1 KERALA PRIVATE COLLEGE TEACHERS ASSOCIATION
(GOVT.REGISTRATION NO.G.O (MS) NO.2/06 H.EDN DT
04.04.2006) KPCTA MANDIR, TC-25/2814
MBRRA36, MATHRUBHUMI ROAD,
VANCHIYOOR, THIRUVANANTHAPURAM-695 035,
REPRESENTED BY ITS PRESIDENT DR.JOBY THOMAS.K.,
S/O. K.O.THOMAS, AGED 55 YEARS,
ASSOCIATE PROFESSOR, DEPARTMENT OF CHEMISTRY,
ST.THOMAS COLLEGE (AUTONOMOUS), THRISSUR,
RESIDING AT KAKKASSERY HOUSE,
VALUKKARAN LANE, EAST FOR THRISSUR-680 005
- 2 DR.U.ABDUL KHALAM, AGED 54 YEARS
S/O. LATE M.UMMER PILLAI, ASSOCIATE PROFESSOR,
IQBAL COLLEGE, PERINGAMALA,
THIRUVANANTHAPURAM, RESIDING AT HOUSE NO.4,
BLUE MOUNT GARDENS, PEROORKADA P.O.,
THIRUVANANTHAPURAM-695 005
- 3 JOBIN JOSE, AGED 41 YEARS
S/O. JOSEPH JOSEPH, ASSISTANT PROFESSOR
DEPARTMENT OF MALAYALAM, DEVA MATHA COLLEGE,
KURAVILANGADU, KOTTAYAM,
RESIDING AT CHAMAKALAYIL HOUSE,
THELLAKAM P.O., KOTTAYAM-686 633

BY ADVS.
SRI.ARUN.B.VARGHESE
SMT. AISWARYA V.S.

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,

GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001

2 THE PRINCIPAL SECRETARY,
DEPARTMENT OF HIGHER EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001

3 THE DIRECTOR,
DIRECTORATE OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM-695 033

4 KERALA UNIVERSITY,
REPRESENTED BY ITS REGISTRAR, PALAYAM,
THIRUVANANTHAPURAM-695 034

5 MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
PRIYADARSHINI HILLS,
ATHIRAMPUZHA, KOTTAYAM-686 560

6 CALICUT UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
TIRUR-CALIOCUT ROAD, THENHIPALAM,
MALAPPURAM DISTRICT, PIN-673 635

7 KANNUR UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
THAVAKKARA, CIVIL STATION, KANNUR-670 002

8 UNIVERSITY GRANTS COMMISSION,
REPRESENTED BY ITS SECRETARY
BAHADUR SHAH ZAFAR MARG, NEW DELHI-110 002

R4 BY ADV. SHRI.THOMAS ABRAHAM

R5 BY ADV. SRI.ASOK M.CHERIAN

R7 BY ADV. SRI.M.SASINDRAN

BY SMT.RAJI T BHASKAR, GP

R7 BY SRI.P.C SASIDHARAN., SC

R8 SRI.S KRISHNAMOORTHY, CGC

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 15.02.2021,
ALONG WITH WA.73/2021, WA.111/2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 15TH DAY OF FEBRUARY 2021 / 26TH MAGHA, 1942

WA.No.73 OF 2021

AGAINST THE JUDGMENT DATED 04.12.2020 IN WP(C) 12448/2020 (E) OF
HIGH COURT OF KERALA

APPELLANTS/WRIT PETITIONERS:

- 1 SHARAFUNNISA K.M., AGED 29 YEARS
W/O.ABDULLA POOVADAN,
POOVADAN HOUSE, PONMALA P.O., POOVAD,
MALAPPURAM-676 528.
- 2 SOYA JOSEPH, AGED 30 YEARS
D/O.JOSEPH MATHEW,
EARATH HOUSE, KOZHUR P.O.,
KUNNAMKULAM, THRISSUR-680 523.
- 3 ARYA.J.S., AGED 28 YEARS
W/O.ADV.SHYAM, DEVANANDA,
VARIYAMVILAKOM, MUKALOORMoola, OOKKADU P.O.,
NENMOM, THIRUVANANTHAPURAM-695 020.

BY ADVS.

SRI .ARUN .B .VARGHESE
SMT. AISWARYA V.S.

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 2 THE PRINCIPAL SECRETARY,
DEPARTMENT OF HIGHER EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA,

GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

3 THE DIRECTOR, DIRECTORATE OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM-695 033.

4 KERALA UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
PALAYAM, THIRUVANANTHAPURAM-695 034.

5 MAHATMA GANDHI UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
PRIYADARSINI HILLS, ATHIRAMPUZHA,
KOTTAYAM-686 560.

6 CALICUT UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
TIRUR-CALICUT ROAD, THENHIPALAM,
MALAPPURAM DISTRICT, PIN-673 635.

7 KANNUR UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
THAVAKKARA, CIVIL STATION, KANNUR-670 002.

8 NSS COLLEGES CENTRAL COMMITTEE,
REPRESENTED BY ITS SECRETARY, NSS HEAD OFFICE,
PERUNNAI P.O., CHANGANCHERRY-686 102.

9 COCHIN DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY,
ROUND NORTH, THRISSUR-620 680.

10 UNIVERSITY GRANTS COMMISSION,
REPRESENTED BY ITS SECRETARY,
BAHADUR SHAH ZAFAR MARG, NEW DELHI-110 002.

R4 BY ADV. SHRI.THOMAS ABRAHAM
R5 BY ADV. SRI.ASOK M.CHERIAN
R7 BY ADV. SRI.M.SASINDRAN
R10 BY SRI.S.KRISHNAMOORTHY, CGC
BY SMT.RAJI T BHASKAR, GP
BY SRI.P.C.SASIDHARAN, SC

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 15.02.2021,
ALONG WITH WA.72/2021, WA.111/2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 15TH DAY OF FEBRUARY 2021 / 26TH MAGHA,1942

WA.No.111 OF 2021

AGAINST THE JUDGMENT DATED 04.12.2020 IN WP(C) 10404/2020 (A) OF
HIGH COURT OF KERALA

APPELLANT/PETITIONER:

NAIR SERVICE SOCIETY
REPRESENTED BY ITS GENERAL SECRETARY,
G.SUKUMARAN NAIR, N.S.S.HEAD OFFICE,
PERUNNA, CHANGANASSERY P.O., KOTTAYAM-686101.

BY ADVS.
SRI.R.T.PRADEEP
SRI.V.VIJULAL
SMT.M.BINDUDAS
SRI.K.C.HARISH

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 2 PRINCIPAL SECRETARY,
DEPARTMENT OF HIGHER EDUCATION,
SECRETARIAT, THIRUVANANTHAPURAM-695001.
- 3 DIRECTOR,DIRECTORATE OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM -695033.

BY SMT.RAJI T BHASKAR, GP

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 15.02.2021,
ALONG WITH WA.72/2021, WA.73/2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

[WA.72/2021, WA.73/2021, WA.111/2021]

Dated this the 15th day of February 2021

A.K.Jayasankaran Nambiar, J.

All these writ appeals impugn the common judgment dated 04.12.2020 in W.P.(C)No.10404 of 2020 and connected cases. The said writ petitions were filed challenging Government Orders that took away the weightage that was granted to teaching staff taking classes in Post Graduate Courses, while reckoning the workload of teachers for the purposes of determining the number of those teachers that could be appointed in the colleges concerned whose salary and allowances were to be borne by the State Government.

2. It would appear that through Government Orders issued in the past, the State Government had, in purported implementation of the UGC Scheme that envisaged the maintenance of minimum educational standards in Colleges, permitted one teaching hour in Post Graduate classes as equivalent to 1½ hours of teaching in Under Graduate classes. Accordingly, the teaching staff who were engaged

in direct teaching in Post Graduate classes could take advantage of the weightage aforementioned and achieve the 16 hours of direct teaching per week by actually teaching for a little more than 10 hours in the post graduate classes. The aforesaid weightage was, however, taken away through the Government Order dated 01.04.2020, by the State Government, which found that its earlier orders were not in line with UGC Regulations 2010 that had been adopted by the State Government and made applicable to colleges in the State. It was also found by the State Government that the continuance of weightage to direct teaching in Post Graduate Courses would entail huge financial burden to the State which was already facing a financial crisis.

3. The writ petitions were dismissed by the learned Single Judge primarily on the ground of maintainability by holding that the petitioners in the writ petitions could not be said to be persons aggrieved by the decision of the State Government because they were not either appointees to a post that enjoyed the benefit of the weightage earlier, or persons whose legal rights had been infringed/affected by the decision of the Government aforementioned. The learned Judge also found that the writ petitions were essentially in the nature of Public Interest Litigations, and when so viewed, could not be maintained by the petitioners since the judgment of the Supreme Court in **Duryodhan Sahu & Others v. Jitendra Kumar**

Mishra & Others (AIR 1999 SC 114) had settled the law that Public Interest Litigation in service matters could be maintained only by affected parties and not by strangers.

4. Arguing for the appellants it is the contention of the learned counsel Sri. Arun B.Varghese and Sri.R.T.Pradeep that the learned Single Judge erred in dismissing the writ petitions on the ground of maintainability. It is their contention that the decision of the State Government that was impugned in the writ petitions affected the right of the petitioners to secure appointment as teachers in the respective colleges inasmuch as the immediate fall out of the impugned Government Orders would be a reduction in the number of teaching posts that became vacant for filling up through fresh appointment. The learned counsel Sri.R.T.Pradeep, who appears for the appellants in W.A.No.111 of 2021 contends that the impugned decision of the Government will inevitably lead to the dilution of academic standards and this would frustrate the attempts of the appellants to maintain high academic standards in the educational institutions established and maintained by them. It is contented that their right to run an academic institution by maintaining high standards is a right traceable to Article 19(1)(g) of the Constitution of India and hence the impugned decision of the Government ought to be struck down as violative of their fundamental rights under our

Constitution.

5. We have heard the learned counsel for the appellants, the learned Government Pleader for the official respondents of the State, the learned Standing Counsel for the respective Universities as also the learned counsel for University Grants Commission.

6. On a consideration of the rival submissions we are of the view that the appellants have not been able to establish the infringement of any legal right of theirs through the decision of the State Government impugned in the writ petitions. While those appellants who are an association of teachers, as well as teachers in various colleges, cannot point to any legal right of theirs, which would be affected through the impugned decision of the Government since they can, at best, have only an expectation to appointment to the post concerned in future, it is also well settled that a mere inclusion in any rank list drawn up in connection with a selection process cannot confer on them any right to appointment to a post in the college concerned. The appellant in W.A. No.111 of 2021 is the Nair Service Society represented by its General Secretary, which has established and maintains various colleges affiliated to the Universities in the State. They too cannot point to any legal right of theirs that has been infringed through the decision of the State

Government which only corrects the erroneous stand that was taken in the earlier Government Orders and brings about a conformity in the matter of stipulation of direct teaching hours for various teaching posts, with those prescribed by the UGC in their Regulations of 2010. The said corrective step taken by the State Government, so as to make the decision of the State Government in conformity with the UGC Regulations, cannot by any stretch of imagination be seen as infringing a right of the appellants herein.

We are therefore of the view that the judgment impugned in these writ appeals does not call for any interference. The writ appeals therefore fail and are accordingly dismissed.

Sd/-

A.K.JAYASANKARAN NAMBIAR, JUDGE

Sd/-

GOPINATH P., JUDGE

dlk/16.02.2021