



2024/KER/50213

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

WEDNESDAY, THE 26TH DAY OF JUNE 2024 / 5TH ASHADHA, 1946

WP(C) NO. 21154 OF 2024

PETITIONERS:

- 1 ANU GEORGE,
AGED 26 YEARS
D/O. GEORGE. P.K., RESIDING AT PUNCHALAYIL HOUSE,
'ANU VILLA', OER ROAD, THEKKUMBHAGAM, TRIPUNITHURA,
ERNAKULAM, PIN - 682301
- 2 NEEMA JOHNSON,
AGED 24 YEARS
D/O. JOHNSON, RESIDING AT KANNAMALIYIL HOUSE,
SAHAYAGIRI.P.O., PATTOM COLONY, MARAYOOR,
IDUKKI, PIN - 685620
- 3 BENINU.B.S.,
AGED 26 YEARS
S/O. BENSYAR.C., RESIDING AT SIBIYA NIVAS,
PONNAMBI, VELLARADA.P.O.,
THIRUVANANTHAPURAM,
PIN - 695505
- 4 LIJITH.K.A.,
AGED 25 YEARS
S/O. ALIAS.K.P., RESIDING AT KUNJIMATTATHIL HOUSE,
MARUTHANCHERY, KAIRADY.P.O., NEMMARA, PALAKKAD,
PIN - 678510

BY ADVS.
ELVIN PETER P.J. (SR.)
K.R.GANESH
GOURI BALAGOPAL
SREELEKSHMI BEN

RESPONDENTS:

- 1 THE NATIONAL AGRICULTURAL EDUCATION ACCREDITATION BOARD
REPRESENTED BY ITS SECRETARY, ROOM NO. 332, KAB-II,
ICAR, PUSA, NEW DELHI,
PIN - 110012



- 2 THE REGIONAL CENTRE,
NATIONAL AGRICULTURAL EDUCATION ACCREDITATION BOARD
(NAEAB), REPRESENTED BY ITS SECRETARY,
INDIAN INSTITUTE OF HORTICULTURE RESEARCH,
BANGALORE, PIN - 560010
- 3 STATE OF KERALA
REPRESENTED BY THE SECRETARY, AGRICULTURE
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-,
PIN - 695001
- 4 THE KERALA AGRICULTURAL UNIVERSITY
REPRESENTED BY ITS REGISTRAR, MAIN CAMPUS, KAU.
P.O., VELLANIKKARA, THRISSUR, PIN - 680656
- 5 THE DIRECTOR OF EDUCATION
KERALA AGRICULTURAL UNIVERSITY, MAIN CAMPUS, KAU.
P.O., VELLANIKKARA, THRISSUR, PIN - 680656
- 6 THE REGISTRAR,
KARUNYA INSTITUTE OF TECHNOLOGY AND SCIENCES,
KARUNYA NAGAR, COIMBATORE, PIN - 641114

BY ADV
ADV M.V.ANANDAN - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13.06.2024, THE COURT ON 26.06.2024 DELIVERED THE FOLLOWING:



JUDGMENT

The short question that arises in this case is whether a person can be denied his rights merely because he could not perform an act or comply with a condition that is impossible to perform or comply with. The relevance of the “Doctrine of Impossibility” and its applicability in the matters relating to legal rights are also to be considered. The brief facts that are necessary to adjudicate the said issue are as follows:

The petitioners have acquired Degree of Bachelor of Science (Honours) in Agriculture, from Karunya Institute of Technology and Sciences, Karunya Nagar, Coimbatore. They had undergone the said course during the academic year 2017-18 and completed it in 2021. Exts.P1 to P4 are the degree certificates of the petitioners. To apply for various posts through the Kerala Public Service Commission, an equivalency certificate has to be obtained from any of the Universities in Kerala where similar courses are conducted. The petitioners have approached the fourth respondent University, for the said purpose. The same was declined as per Exts.P17 and P18. The reason for the rejection of the petitioners' requests for equivalency certificates is that the institute in which the petitioners underwent the course did not have accreditation from the ICAR (Indian Council for Agricultural Research) during the period of their study. It is in these circumstances that this writ



petition is filed by petitioners seeking the following reliefs:

- “(i) To issue a writ of certiorari calling for the records leading to Ext. P17 and P18 orders and quash the same;*
- (ii) To issue a writ of mandamus, or any other appropriate writ, order or direction directing the 4th respondent to issue equivalency certificate to the petitioners as has been granted to their juniors;*
- (iii) To declare that the petitioners are entitled to be granted equivalency certificate by the 4th respondent;*
- (iv) It is humbly prayed that this Hon'ble Court may be pleased to dispense with filing of English translation of Vernacular Documents.*
- (v) To issue such other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”*

2. The contention raised by the petitioners is that, the petitioners are the students of the first batch of the institution, and as far as the accreditation of ICAR is concerned, the same is governed by Ext.P9 guidelines. As per clause 4 of the guidelines, the Higher Agricultural Institutes shall be eligible to apply for accreditation if they have a record of at least one batch of students passed out and fulfil the other conditions or are covered by the other provisions, if any. Therefore, it was pointed out that, by virtue of the stipulations contained therein, the accreditation of the institution could have been secured by the institution only after the first batch of the students, to which the petitioners belong, have completed their course. In the case of the petitioners, after successful completion of the course of the first batch to which the petitioners belonged, the institution applied for accreditation and as evidenced by



Ext.P10, the said institution was granted accreditation from 11.10.2022 to 10.10.2027 for a period of five years. Therefore, it was pointed out that, as the accreditation was possible only after the completion of the first batch of students, it was not practically possible for the petitioners to comply with the condition, which was insisted by the respondent University for issuing the equivalency certificate. The petitioners also relied on the Ext.P11 notice issued by the ICAR, which provides for exemption to the first batch of the students, taking note of this eventuality, from the requirement of obtaining accreditation to pursue further studies. The reliefs in the writ petition are sought in such circumstances.

3. A detailed counter affidavit has been submitted by respondents 4 and 5 denying the averments made in the writ petition. According to them, as per Section 18 Sub-section (2)(k) of the Kerala Agricultural University Act, the Academic Council has to take a decision with regard to the requirements for issuing equivalency certificates to the degree certificates of other Universities and to grant recognition of examination of the other Universities. In exercise of the said powers, the Academic Council specifically took a decision with respect to the issuance of an equivalency certificate, vide Ext R4(b), as per which, the institution must have accreditation of ICAR, as on the date on which the applicant took admission. Therefore, it was contended that, since the accreditation of the institution in which the petitioners had completed the



course was granted only after completion of the course the petitioners, no equivalency certificate, as requested by them, can be given. Therefore, they sought the dismissal of the writ petition.

4. I heard Sri. Elvin Peter P.J., learned Senior Counsel appearing for the petitioners and Sri.M.V. Anandan, learned counsel for the respondents 4 and 5.

5. The only question that arises for consideration is whether the petitioners are entitled to an equivalency certificate for B.Sc. (Honours) in Agriculture, which they had undergone in the institution named Karunya Institute of Technology and Sciences. As mentioned above, the only reason for denying the equivalency certificate is that, the institution in which the petitioners have undergone the said course, was lacking accreditation during the period of their study. However, the crucial aspect to be noticed is that, Ext.P9 guidelines stipulated by the ICAR, which regulates the manner in which the accreditation is to be granted, specifically contemplates that, an accreditation can be applied by the institution only after the course of the first batch is completed.

6. In this case, there is no dispute that the petitioners belong to the first batch of the institution, and Ext.P10 shows that the institution was granted accreditation after the petitioners had completed the course. Since the essential requirement for getting the accreditation of ICAR, is completion of the course of the first batch, the stand taken by the



respondents cannot be justified. This is particularly because the purpose of fixing the time to apply for accreditation by the institution after completion of the first batch is evidently to ensure that the institution has fulfilled all the requirements in terms of facilities, faculties and infrastructure for the course. Therefore, the accreditation is evidently granted, taking note of the performance of the institution during the period in which the first batch underwent the course. The fact that they have successfully complied with all the conditions/requirements by completing the first batch of the institution could be the reason that prompted the ICAR to grant accreditation to the institution from 2022 onwards for a period of five years. Therefore, merely because the period of study of the petitioners was not granted accreditation, a different treatment cannot be given to them, particularly in the matter of the genuineness and validity of the course they underwent.

7. Moreover, the difficulties that are likely to arise due to the lack of specific accreditation for the first batch of students in an institution have been specifically taken note of by the ICAR, in Ext.P11, and a specific exemption has been granted to them, to pursue higher studies based on the degrees so acquired. I do not find any reason for not extending the benefits of such exemption to the case of equivalency certificate by the fourth respondent University as well. It is also to be noted in this regard that one of the essential criteria for issuing the



equivalency certificate by the fourth respondent University, is the accreditation of ICAR for the institution. Therefore, the University regards the ICAR as the proper authority to ensure the quality of the course and treats their accreditation as the acknowledgement of the standards of the course. Thus, when the very same authority by a specific order granted exemption to the first batch of students, who have completed the course without any accreditation, I do not find any justification on the part of the University, in denying the benefits of the same to the persons concerned. Even though specific averments were made by the petitioners in the writ petition by placing reliance upon Ext.P11 with specific reference to the exemption provided therein, there is no specific answer in the counter affidavit with respect to the same. Since the accreditation of ICAR is treated as the basic criteria for granting an equivalency certificate, as observed above, the exemption provided by the same authority cannot be ignored by the fourth respondent University in the matter of equivalency certificate.

8. There is yet another aspect, which makes the stand taken by the fourth respondent University unsustainable. As far as the scheme and procedure for granting accreditation to an institution is concerned, there is no provision for providing accreditation from the date on which the students of the first batch secured admission. As mentioned above, accreditation can only happen after the first batch has completed the



course. Now, the consequence of the decision taken by the fourth respondent by insisting the accreditation from the date of admission of the applicant is that the first batch of students will be denied an opportunity to get an equivalency certificate to pursue their career opportunities available in Kerala based on the degrees they have obtained, forever. Therefore, practically, respondents 4 and 5 require the petitioners and other similarly situated persons to perform something impossible to be performed. As far as the stipulation prescribed by the Academic Council in Ext.R4(b) is concerned, so long as that denies an opportunity to a particular class of persons forever, it cannot be treated as a legally sustainable one. This is particularly because the same denies the right of a class of persons to get an appointment in public employment without any fault attributable to them or even that of the institutions in which they had undergone the course. This would undoubtedly violate the laudable object behind the mandate contemplated under Article 14 of the Constitution of India since it amounts to unreasonable classification. Besides the same, the learned counsel for the petitioners also relied on the decision rendered by the Honourable Supreme Court in **Indore Development Authority v. Manoharlal and Others** [(2020) 8 SCC 129] and **State of Madhya Pradesh Vs. Narmada Bachao Andolan and another** [(2011) 7 SCC 639], wherein it was observed by the Honourable Supreme Court that a



person cannot be required to perform something impossible.

9. To be precise, in **Manoharlal's** case (supra), it was observed by the Honourable Supreme Court that, if an order of the court disables a person to take any action, the doctrine "*nemo tentur ad impossible*" would be applicable, i.e., the law in general excuses a party which is disabled to perform a duty and impossibility to perform is a good excuse. The Latin maxim "*lex non cogit ad impossibilia*", i.e., the law does not compel a man to do something which he cannot possibly perform, was also referred to.

10. The doctrine of impossibility is discussed in detail in **Narmada Bachao Andolan's** case (supra) in para 38, and the said observations read as follows:

"38. DOCTRINE OF IMPOSSIBILITY: The Court has to consider and understand the scope of application of the doctrines of "lex non cogit ad impossibilia" (the law does not compel a man to do what he cannot possibly perform); "impossibilium nulla obligatio est" (the law does not expect a party to do the impossible); and impotentia excusat legem in the qualified sense that there is a necessary or invincible disability to perform the mandatory part of the law or to forbear the prohibitory. These maxims are akin to the maxim of Roman Law Nemo Tenetur ad Impossibilia (no one is bound to do an impossibility) which is derived from common sense and natural equity and has been adopted and applied in law from time immemorial. Therefore, when it appears that the performance of the formalities prescribed by a statute has been rendered impossible by circumstances over which the persons interested had no control, like an act of God, the circumstances will be taken as a valid excuse. (Vide: Chandra Kishore Jha v. Mahavir Prasad and Others, AIR 1999 SC 3558; Hira Tikoo v. Union Territory, Chandigarh and Others, AIR 2004 SC 3648; and Haryana Urban Development Authority and Another v. Dr. Babeswar Kanhar and Another, AIR 2005 SC 1491)."



11. This is a fit case in which the said principles have to be applied, as the decision taken by respondents 4 and 5 as per Ext.R4(b), results in insisting for the petitioners to perform an impossible task and such a decision is resulting in denial of opportunities for the petitioners forever. In such circumstances, the rejection of the application submitted by the petitioners for equivalency certificates to the course of Bachelor of Science (Honours) in Agriculture from the Karunya Institute of Technology and Sciences, Coimbatore, on the reason for lack of accreditation of ICAR is not all justifiable.

In such circumstances, this writ petition is disposed of, directing respondents 4 and 5 to issue equivalency certificates to the petitioners without insisting on ICAR accreditation, taking note of the specific exemption provided by the ICAR in Ext.P11. The certificates shall be issued to the petitioners within one month from the date of receipt of a copy of this judgment.

Sd/-

**ZIYAD RAHMAN A.A.
JUDGE**

APPENDIX OF WP(C) 21154/2024

PETITIONERS' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE B.SC. (HONS) AGRICULTURAL DEGREE CERTIFICATE AWARDED TO THE 1ST PETITIONER FROM THE KARUNYA INSTITUTE OF TECHNOLOGY AND SCIENCES DATED 07.08.2021.
- EXHIBIT P2 TRUE COPY OF THE B.SC. (HONS) AGRICULTURAL DEGREE CERTIFICATE AWARDED TO THE 2ND PETITIONER FROM THE KARUNYA INSTITUTE OF TECHNOLOGY AND SCIENCES DATED 07.08.2021.
- EXHIBIT P3 TRUE COPY OF THE B.SC. (HONS) AGRICULTURAL DEGREE CERTIFICATE AWARDED TO THE 3RD PETITIONER FROM THE KARUNYA INSTITUTE OF TECHNOLOGY AND SCIENCES DATED 07.08.2021.
- EXHIBIT P4 TRUE COPY OF THE B.SC. (HONS) AGRICULTURAL DEGREE CERTIFICATE AWARDED TO THE 4TH PETITIONER FROM THE KARUNYA INSTITUTE OF TECHNOLOGY AND SCIENCES DATED 07.08.2021
- EXHIBIT P5 TRUE COPY OF THE OFFICE MEMORANDUM NO. F.6-4/2000 (CPP-I) DATED JULY, 2004 ISSUED BY THE SECRETARY, UNIVERSITY GRANTS COMMISSION.
- EXHIBIT P6 TRUE COPY OF THE NOTIFICATION ISSUED BY THE U.G.C. AND THE RELEVANT EXTRACT OF THE LIST OF UNIVERSITIES.
- EXHIBIT P7 TRUE COPY OF THE CIRCULAR NO. 12/2018 DATED 22.10.2018 ISSUED BY THE KERALA PUBLIC SERVICE COMMISSION.
- EXHIBIT P8 TRUE COPY OF THE SPECIAL RULES PUBLISHED IN THE GAZETTE VIDE G.O.(P) NO. 3/2021/AGRI DATED 12.02.2021 ISSUED BY THE GOVERNMENT.
- EXHIBIT P9 TRUE COPY OF THE GUIDELINES FOR ACCREDITATION OF HIGHER AGRICULTURAL EDUCATIONAL INSTITUTIONS IN INDIA ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P10 TRUE COPY OF THE LIST OF ACCREDITED PRIVATE COLLEGES/GOVERNMENT COLLEGES IN GENERAL UNIVERSITIES PUBLISHED IN THE WEBSITE OF THE 1ST RESPONDENT AND DOWNLOADED FROM THE WEBSITE OF THE 1ST RESPONDENT.
- EXHIBIT P11 TRUE COPY OF THE PUBLIC NOTICE F. NO. 1(6)/2018-EXAM CELL-PART (IV) DATED 26TH JULY, 2022.
- EXHIBIT P12 TRUE COPY OF THE PROVISIONAL DEGREE



- CERTIFICATE AWARDED TO THE 1ST PETITIONER FROM THE SAM HIGGINBOTTOM UNIVERSITY OF AGRICULTURE, TECHNOLOGY AND SCIENCES, (U.P.) DATED 12.10.2023.
- EXHIBIT P13 TRUE COPY OF THE PROVISIONAL DEGREE CERTIFICATE AWARDED TO THE 2ND PETITIONER FROM THE SAM HIGGINBOTTOM UNIVERSITY OF AGRICULTURE, TECHNOLOGY AND SCIENCES, (U.P.) DATED 22.06.2023.
- EXHIBIT P14 TRUE COPY OF THE PROVISIONAL DEGREE CERTIFICATE AWARDED TO THE 3RD PETITIONER FROM THE SAM HIGGINBOTTOM UNIVERSITY OF AGRICULTURE, TECHNOLOGY AND SCIENCES, (U.P.) DATED 12.10.2023.
- EXHIBIT P15 TRUE COPY OF THE PROVISIONAL DEGREE CERTIFICATE AWARDED TO THE 4TH PETITIONER FROM THE SAM HIGGINBOTTOM UNIVERSITY OF AGRICULTURE, TECHNOLOGY AND SCIENCES, (U.P.) DATED 11.07.2023.
- EXHIBIT P16 TRUE COPY OF THE CERTIFICATE OF ACCREDITATION GIVEN BY THE 1ST RESPONDENT ON NOVEMBER, 2017.
- EXHIBIT P17 TRUE COPY OF THE ORDER NO. KAUEDU/967/2024-EDU B2(4) DATED 19.05.2024 ISSUED BY THE 5TH RESPONDENT REJECTING THE APPLICATION SUBMITTED BY THE 2ND PETITIONER.
- EXHIBIT P18 TRUE COPY OF THE ORDER NO. KAUEDU/967/2024-EDU B2(5) DATED 19.05.2024 ISSUED BY THE 5TH RESPONDENT REJECTING THE APPLICATION SUBMITTED BY THE 4TH PETITIONER.
- EXHIBIT P19 TRUE COPY OF THE APPLICATION SUBMITTED BY 4TH PETITIONER FOR THE YEAR 2023-2024.
- EXHIBIT P20 TRUE COPY OF THE APPLICATION SUBMITTED BY 2ND PETITIONER FOR THE YEAR 2023-2024.
- EXHIBIT P21 TRUE COPY OF THE APPLICATION SUBMITTED BY 1ST PETITIONER FOR THE YEAR 2023-2024.
- EXHIBIT P22 TRUE COPY OF THE LIST OF APPLICATIONS SUBMITTED BY CANDIDATES SEEKING ADMISSION FOR PH.D. COURSE WHOSE APPLICATIONS ARE REJECTED AND WHICH ARE PUBLISHED IN THE WEBSITE OF THE 4TH RESPONDENT.
- EXHIBIT P23 TRUE COPY OF THE EQUIVALENCY CERTIFICATE ISSUED BY THE 4TH RESPONDENT TO THE 2ND PETITIONER DECLARING THAT THE M.SC. DEGREE IN AGRICULTURE OBTAINED BY THE PETITIONERS FROM SAM HIGGINBOTTOM UNIVERSITY OF



- AGRICULTURE IS EQUIVALENT TO THE M.SC. (AGRICULTURE) DEGREE OFFERED BY THE 4TH RESPONDENT DATED 04.08.2023.
- EXHIBIT P24 TRUE COPY OF THE EQUIVALENCY CERTIFICATE ISSUED BY THE 4TH RESPONDENT TO THE 4TH PETITIONER DECLARING THAT THE M.SC. DEGREE IN AGRICULTURE OBTAINED BY THE PETITIONERS FROM SAM HIGGINBOTTOM UNIVERSITY OF AGRICULTURE IS EQUIVALENT TO THE M.SC. (AGRICULTURE) DEGREE OFFERED BY THE 4TH RESPONDENT DATED 07.09.2023.
- EXHIBIT P25 TRUE COPY OF THE EQUIVALENCY CERTIFICATE ISSUED BY THE 4TH RESPONDENT TO THE 3RD PETITIONER DECLARING THAT THE M.SC. DEGREE IN AGRICULTURE OBTAINED BY THE PETITIONERS FROM SAM HIGGINBOTTOM UNIVERSITY OF AGRICULTURE IS EQUIVALENT TO THE M.SC. (AGRICULTURE) DEGREE OFFERED BY THE 4TH RESPONDENT DATED 10.01.2024.
- EXHIBIT P26 TRUE COPY OF THE EQUIVALENCY CERTIFICATE NO. ACAD.B2/2023/101/10050 (10) DATED 21.11.2023 ISSUED BY THE 4TH RESPONDENT TO MR. ASISH PRATHAP.S.
- RESPONDENT EXHIBITS
- EXHIBIT R4 (A) TRUE COPY OF THE CLAUSE 18(2) (K) OF KERALA AGRICULTURAL UNIVERSITY (KAU) ACT 1971
- EXHIBIT R4 (B) TRUE COPY OF THE MINUTES OF THE 136TH ACADEMIC COUNCIL HELD ON 21.04.2021
- EXHIBIT R4 (C) TRUE COPY OF THE MINUTES OF THE MEETING OF EQUIVALENCY COMMITTEE OF KAU HELD ON 16.12.2023
- EXHIBIT R4 (D) TRUE COPY OF THE MINUTES OF THE MEETING OF SPECIAL ACADEMIC COUNCIL HELD ON 12.04.2024
- EXHIBIT R4 (E) TRUE COPY OF THE PROSPECTUS FOR P.G./PH.D. ADMISSIONS OF KAU FOR THE ACADEMIC YEAR 2023-24