

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

Wednesday, the 15th day of June 2016/25th Jyaishta, 1938

WP (C) .No.17725/2016 (M)

PETITIONERS

1. ROBERSE THOMAS, URAVIL HOUSE, KANJIRAMATTOM P.O., KOTTAYAM, PIN-686585.
2. JUSTIN K.SEBASTIAN,KIZHAKKAYIL HOUSE, KOODALLOOR P.O., KOTTAYAM-696587.
3. SHYJU M.K., MUNDUMMALKKUNNU HOUSE, MOORKKANAD P.O., KOLATHUR (VIA), MALAPPURAM DISTRICT-679338.
4. APRESHGI K.P., KOLOTHUTHARA HOUSE, PUTHUVYPU P.O., ERNAKULAM-682508.
5. ATHIRA NAGENDRAN, KIZHAKKATHIL HOUSE, NEERAZHI LANE, ULLOOR, MEDICAL COLLEGE P.O.-695011.
6. SANDEEP G., 'RESMI' KVRA-32, KARYAVATTOM P.O., THIRUVANANTHAPURAM.
7. BIJIL BABU R., VADAKKEL MUTHU VILAS, AZHOOR, PATHANAMTHITTA P.O., PIN-689645.
8. SIVAKUMAR C.K., CHOKANAD ESTATE, SOUTH DIVISION, MUNNAR P.O., IDUKKI, KERALA-685612.

RESPONDENTS

1. THE UNIVERSITY GRANTS COMMISSION (UGC) BAHADUR SHAH ZAFAR MARG, NEW DELHI-110002, REPRESENTED BY ITS SECRETARY.
2. THE KERALA UNIVERSITY, REPRESENTED BY ITS REGISTRAR, UNIVERSITY OFFICE, PALAYAM, THIRUVANANTHAPURAM.
3. THE REGISTRAR, THE KERALA UNIVERSITY, UNIVERSITY OFFICE, PALAYAM, THIRUVANANTHAPURAM.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation of Ext.P5 and P6 to the extent to which the 2nd Respondent has directed that a Research Supervisor shall not be eligible to continue as a Supervisor to his already existing research scholars after his/her retirement and the further direction to reallocate the existing Research Scholars to supervisors of regular faculty, pending disposal of this Writ Petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SMT.INDU SUSAN JACOB, Advocates for the petitioner, SRI.S.KRISHNAMOORTHY, Standing Counsel for R1 and of SRI.PAUL JACOB, Standing Counsel for R2 and R3, the court passed the following

p.t.o

K. Vinod Chandran, J


W.P.(C) Nos.17725 of 2016-M & 20438 of 2016-D

Dated this the 15th day of June, 2016

ORDER

The above writ petitions are filed by the research scholars under the respondent-University, contending that they are entitled to continue under the research guides allotted to them, even after the retirement of the latter. The said practice was in vogue in the University and the research guides allotted to a research scholar would be allowed to continue for the purpose of continuity of the research project, even after the retirement of the guide. There is also no allowance or remuneration given to such retired research guides. The University suspended such practice only by reason of the clarification issued by the University Grants Commission [for brevity "UGC"] as per Exhibit P3 [produced in W.P.(C) No.17725 of 2016].

2. The learned Standing Counsel for the University submits that Clause 12 of Exhibit P2 [in W.P.(C) No.17725 of 2016] read with the clarification at Exhibit P3 would restrict the University from continuing the research scholars under the



research guides, to whom they were allotted initially; but retired in the course of the research project . The learned Standing Counsel would also point out that the regulations or the clarifications have not been challenged by the petitioners.

3. Clause 12 of Exhibit P2 and the clarification at Exhibit P3 are extracted hereunder:

Clause 12:

"The allocation of the supervisor for a selected student shall be decided by the Department in a formal manner depending on the number of student per faculty member, the available specialization among the faculty supervisors, and the research interest of the student as indicated during interview by the student. The allotment/allocation of supervisor shall not be left to the individual student or teacher".

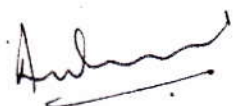
Clarification:

"Universities shall allocate the supervisor from amongst the regular faculty members in a department or its affiliated PG Colleges/Institutes depending on the number of students per faculty member, the available specialization among the faculty supervisors and the research interest of

the student. It is further clarified that any Ph.D./M.Phil degree awarded by a University under the supervision of a supervisor who is not a faculty member of the University or its affiliated PG Colleges/Institutes would be in violation of UGC (Minimum standards and procedure for award of M.Phil./Ph.D.) Regulations, 2009".

4. Admittedly a research scholar should normally complete the research work within a period of three years or in the extended period of another two years. Hence, on allotment, a research guide would be normally continued for five years or till the completion of the thesis and award of the degree. There is also the question of continuity, since a research scholar who initially starts a project under a research guide and proceeds considerably under his/her guidance, has to necessarily have the guidance of such research guide throughout the project; at least for the five year period in which the research project has to be completed.

5. A reading of the clauses above extracted and the clarification also does not lead to a conclusion that they stand



against such continuance of retired research guides; when they are allotted with research scholars during the period they were in service. The extracted clause would only indicate that at the time of allotment, only a regular faculty member shall be allocated as research guide. The clarification is also insofar as allocating a supervisor from amongst the regular faculty members in a department or its affiliated PG Colleges/Institutes depending on the number of students per faculty member. However, once a research scholar has been allotted to a research guide and is continued for a considerable time, merely for reason of he/she having retired, the research scholar need not be allotted to another guide.

6. In such circumstances, in the case of research guides appointed earlier to their retirement; they shall be continued even after their retirement for the entire duration of five years, which is the maximum permitted duration for completion of a research project. This shall not stand in the way of the University verifying whether the research guides appointed

initially were faculty members of the University or its affiliated PG Colleges/Institutes. If it is not so, definitely, as per the clarification, the research guide would have to be changed, failing which the carrying on of the project would go against the regulations of the UGC and would affect the students themselves. Further the University should also take care to ensure that only faculty members who have a tenure of 5 years or above should be allotted with research scholars. With the above reservation, the interim order is granted, subject to the final result of the writ petitions.

The UGC shall file its counter affidavit, if any, within a period of one month positively; failing which the contentions in the writ petition would be taken as un-controverted.

Handover the over to all sides

Sd/-
K.VINOD CHANDRAN, JUDGE

(True Copy)


Assistant Registrar

vku/-

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16/6/16

EXT.P2. A TRUE COPY OF THE U.G.C. REGULATION 2009.

EXT.P3. A TRUE COPY OF THE CLARIFICATION DATED 06-07-2015 ISSUED BY U.G.C.

EXT.P5. A TRUE COPY OF THE ORDER DATED 08-01-2016.

EXT.P6. A TRUE COPY OF THE ORDER DATED 01-02-2016 ISSUED BY RESPONDENT UNIVERSITY.