



..1..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

TUESDAY, THE 21ST DAY OF MAY 2024 / 31ST VAISAKHA, 1946

WP(C) NO. 41785 OF 2023

PETITIONERS:

- 1 ARUNIMA ASHOK, AGED 21 YEARS, D/O. K.N. ASHOK KUMAR, RESIDING AT A1, GOVERNMENT QUARTERS, HARIHAR NAGAR, NALANDA, KOWDIAR.P.O., THIRUVANANTHAPURAM, PIN - 695 003.
- 2 KAVYA T.S., AGED 21 YEARS, D/O. THAMPI T., RESIDING AT 'KAVYA SREE', KANJAVELY.P.O., KOLLAM, PIN - 691 602.

BY ADV. SRI. ELVIN PETER P.J. (SENIOR) ALONG WITH ADVS. M/S. K.R.GANESH, GOURI BALAGOPAL & SREELEKSHMI A.S

RESPONDENTS:

- 1 THE CHANCELLOR, UNIVERSITY OF KERALA, PALAYAM, THIRUVANANTAPURAM, PIN - 695 034.
- 2 UNIVERSITY OF KERALA, REPRESENTED BY ITS REGISTRAR, UNIVERSITY BUILDINGS, PALAYAM, THIRUVANANTHAPURAM, PIN - 695 034.
- 3 THE VICE CHANCELLOR, UNIVERSITY OF KERALA, UNIVERSITY BUILDINGS, PALAYAM, THIRUVANANTHAPURAM, PIN - 695 034.
- 4 THE REGISTRAR, UNIVERSITY OF KERALA, UNIVERSITY BUILDINGS, PALAYAM, THIRUVANANTHAPURAM, PIN - 695 034.



..2..

- 5 ABHISHEK D. NAIR, B.A. HISTORY 3RD SEMESTER  
STUDENT, B.T.M. N.S.S. COLLEGE,  
DHANUVACHAPURAM, THIRUVANANTHAPURAM, PIN - 695  
503.
- 6 DHRUVIN S.L., 5TH SEMESTER STUDENT, BACHELOR OF  
COMPUTER APPLICATION, CHRIST NAGAR COLLEGE,  
THIRUVANANTHAPURAM, PIN - 695 512.
- ADV. SRI.P.SREEKUMAR (SENIOR) ALONG WITH  
ADV. SRI.S.PRASANTH, SC FOR R-1
- ADV. SRI.THOMAS ABRAHAM, SC FOR R-2 TO R-4
- ADV.SRI.R.V.SREEJITH FOR R-5
- ADV. SRI.T.C.KRISHNA FOR R-6
- SRI.T.B.HOOD, SPECIAL GOVERNMENT PLEADER TO A.G.
- ADVS.M/S.G.MAHESWARY,T.RINI,HARIGOVIND S.NAIR,  
NIDHIN KRISHNA & ANAKHA BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 9.4.2024, ALONG WITH WP(C).NOS.41766/2023 AND  
1275/2024, THE COURT ON 21.5.2024 DELIVERED THE  
FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

TUESDAY, THE 21ST DAY OF MAY 2024 / 31ST VAISAKHA, 1946

WP(C) NO. 41766 OF 2023

PETITIONERS:

- 1 MR.NANDA KISHORE, AGED 19 YEARS, S/O. SANIL KUMAR.G, RESIDING AT "NANDA KISHORAM", NRAE 52, NEDUMBRAM LANE, PEROORKADA P.O. THIRUVANANTHAPURAM. PRESENTLY UNDERGOING III SEMESTER B.A. (ENGLISH LANGUAGE AND LITERATURE), MAR IVANIOS COLLEGE (AUTONOMOUS) THIRUVANANTHAPURAM , PIN - 695005
- 2 MR.AVANTH SEN P.S, AGED 20 YEARS, S/O. K.R. PRAVEEN SEN, RESIDING AT "PALAZHI", PAYIKUZHI, OCHIRA P.O., KOLLAM. PRESENTLY UNDERGOING V SEMESTER B.A. (ENGLISH LANGUAGE AND LITERATURE), M.S.M. COLLEGE, KAYAMKULAM, PIN - 690526

BY ADVS.M/S. M.A.ASIF & ANWIN JOHN ANTONY

RESPONDENTS:

- 1 THE CHANCELLOR, UNIVERSITY OF KERALA, KERALA RAJ BHAVAN, THIRUVANANTHAPURAM , PIN - 695099
- 2 THE UNIVERSITY OF KERALA REP BY ITS REGISTRAR, UNIVERSITY OF KERALA SENATE HOUSE CAMPUS, PALAYAM, THIRUVANANTHAPURAM , PIN - 695034
- 3 GOVERNMENT OF KERALA, REP BY PRINCIPAL SECRETARY DEPARTMENT OF HIGHER EDUCATION GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM , PIN - 695001



- 4 MS.MALAVIKA UDAYAN, B.SC. BIO-CHEMISTRY, 5TH SEMESTER NSS COLLEGE, PANDALAM, RESIDING AT SREENANDANAM, VETTIYAR B.O., PIN - 690558
- 5 SHRI. SUDHI SADAN, B.A. ECONOMICS, NSS COLLEGE PANDALAM, RESIDING AT KURUMPOLETHU PUTHEN VEEDU, NEDUKULANJIMURI, PADANILAM S.O., PIN - 690529

ADV. SRI.P.SREEKUMAR (SENIOR) ALONG WITH ADV. SRI.S.PRASANTH, SC FOR R-1

ADV. SRI.THOMAS ABRAHAM,SC FOR R-2

SRI.T.B.HOOD, SPECIAL GOVERNMENT PLEADER TO A.G FOR R-3

ADV.SRI.C.DINESH FOR R-4

ADV. SRI.SUVIN R.MENON FOR R-5

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 9.4.2024, ALONG WITH WP(C).NOS.41785/2023 AND 1275/2024 THE COURT ON 21.5.2024 DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

TUESDAY, THE 21ST DAY OF MAY 2024 / 31ST VAISAKHA, 1946

WP(C) NO. 1275 OF 2024

PETITIONER:

DR. K. N MADHUSUDANAN PILLAI, AGED 71 YEARS,  
S/O. G NEELAKANDAN NAIR, MADHUSREE, TC 47/88  
TNRA-5A, MUDAVANMUGAL, ARMADA P.O,  
THIRUVANANTHAPURAM, PIN - 695032

BY ADVS.M/S.S.BIJU (KIZHAKKANELA), JAISHANKAR  
V.NAIR, PARSHATHY S.R. , JOHN GOMEZ & ACHUTH  
KRISHNAN R.

RESPONDENTS:

- 1 THE CHANCELLOR, UNIVERSITY OF KERALA, KERALA RAJ  
BHAVAN, THIRUVANANTHAPURAM, PIN - 695099
- 2 THE UNIVERSITY OF KERALA, REP BY ITS REGISTRAR,  
UNIVERSITY OF KERALA, SENATE HOUSE CAMPUS,  
PALAYAM, THIRUVANANTHAPURAM, PIN - 695034
- 3 GOVERNMENT OF KERALA, REP BY PRINCIPAL  
SECRETARY, DEPARTMENT OF HIGHER EDUCATION  
GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN  
- 695001
- 4 MURALIDHARAN PILLAI G, KIZHAKUMBHAGATHU VEEDU,  
KOIVILA P.O, KOLLAM, PIN - 691590
- 5 DR. SHIJU KHAN J. S, SHIJU MANSIL, PATHAMKALLU,  
MANJA P.O, NEDUMANGADU, THIRUVANANTHAPURAM, PIN  
- 695541
- 6 R. RAJESH, NALLOOR KULATHIL, KOLLAKADAVU P.O,  
CHENGANNUR, PIN - 690509.



2024:KER:33079

W. P. (C) Nos. 41785 & 41766 of 2023 and  
W. P. (C) No. 1275 of 2024

..6..

ADV. SRI.P.SREEKUMAR (SENIOR) ALONG WITH ADV.  
SRI.S.PRASANTH, SC FOR R-1

ADV. SRI.THOMAS ABRAHAM,SC FOR R-2

SRI.T.B.HOOD, SPL.G.P. TO A.G. FOR R-3

ADV. SRI. ELVIN PETER P.J. (SENIOR) ALONG WITH  
ADVS. M/S. K.R.GANESH, GOURI BALAGOPAL &  
SREELEKSHMI A.S FOR R-4 TO R-6

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
9.4.2024, ALONG WITH WP(C).NOS.41785/2023 AND 41766/2023, THE  
COURT ON 21.5.2024 DELIVERED THE FOLLOWING:



MOHAMMED NIAS C. P. , J.

=====

W. P. (C) Nos. 41785 & 41766 of 2023

and

W. P. (C) No. 1275 of 2024

=====

Dated this the 21<sup>st</sup> day of May, 2024

J U D G M E N T

Writ Petitions, WP(C) Nos. 41785 and 41766 of 2023, challenge the nominations made by the Chancellor to the Senate of the Kerala University under Section 17 of the Kerala University Act, 1974 (*hereinafter referred to as 'The Act' for short*). The Senate comprises the following class of members:

1. *Ex-officio Members*
2. *Elected Members*
3. *Life Members*
4. *Other Members*

2. Under the category 'Other Members' constituting the Senate,



Sub Section (3) of Section 17, which is the issue in two Writ Petitions, reads as follows:

*“(3) Four students nominated by the Chancellor, one having **outstanding academic ability** in humanities, one having outstanding ability in science, one having outstanding ability in sports and one having outstanding ability in fine arts.” (emphasis supplied)*

3. The 1st respondent Chancellor of the University is the authority vested with the power to nominate four students to the Senate. The 1<sup>st</sup> petitioner in WP(C). No.41785/2023 is presently undergoing M.A. Music in Government College for Women, Vazhuthacaud, Thiruvananthapuram, and the 2<sup>nd</sup> petitioner is undergoing the course for M.Sc. Statistics with specialization in Data Analysis at the University College, Palayam. The 1<sup>st</sup> petitioner submits that she passed her B.A. (Music) course from the Government College for Women, Thiruvananthapuram, securing First Rank. The course B.A. Music falls under the category of Humanities. The 2<sup>nd</sup> petitioner submits that she completed her B.Sc. Mathematics course from S.N. College, Kollam, securing First Rank.

4. The petitioners rely on the judgment of this Court in **Thanga**





***Dorai v. Chancellor, Kerala University [1995 (2) KLT 663]*** wherein construing the expression 'outstanding ability' it was held that the University had to prepare a list of rank holders and place the same before the Chancellor. It was held that the student having the highest marks in Science was not included in the list that was placed before the Chancellor and as such the nominations were held to be legally unacceptable. The petitioners submit that the Chancellor has no unbridled power to nominate students disregarding rank holders or their credentials. The normal procedure adopted by the University was to identify the students who had undergone courses in Humanities, Science, Sports and Fine Arts with outstanding ability, and along with a communication and proforma, the same would be forwarded to the student to find out the willingness to be nominated as a Member of the Senate. The petitioners submit that none of these steps were followed by the Chancellor and nominated respondents 5 and 6 with no merit compared to the petitioners. They allege that the 5<sup>th</sup> respondent is only a third-semester student who has yet to prove his outstanding abilities. Likewise, the 6<sup>th</sup> respondent is only a sixth-semester student doing his Bachelor of Computer Applications and has no track record to show his abilities. Thus contending that the nominations of respondents 5 and 6 are whimsical, illegal, arbitrary and



unfair, and against the statutory provisions incorporated under Section 17, the petitioner seeks a Writ of Certiorari challenging Ext.P-5 as regards the nominations of respondents 5 and 6 and also, seeks a direction to nominate the petitioners as members of the Senate.

5. A counter affidavit has been filed on behalf of respondents 5 and 6. They contend that they were included in Ext.P-4 note prepared by the University of Kerala as eligible for nomination to the Senate. No procedure is prescribed under Section 17(3) of the Act as the only requirement is that, the four students nominated by the Chancellor should possess outstanding ability in Humanities, Science, Sports and Fine Arts. The said power is to be exercised by the Chancellor and it is not delegated to any other authority of the University. They also contend that, after the insertion of the last proviso to Section 18, the members of the Senate nominated by the Chancellor or the Government under the heading of 'Other Members' shall hold their office during the **pleasure** of the Chancellor or the Government, as the case may be and this amendment came in the year 2012 and therefore, the judgment relied on by the writ petitioners rendered in the year 1995 has no application. The respondents contend that, after the 2012 amendment, no student can



challenge the inclusion of others on the ground that they are more meritorious. That apart, it cannot be the law that only the highest rank holder in a subject can be treated as a person with outstanding ability as academic brilliance alone cannot be treated as a benchmark for deciding the outstanding ability of a student. It has to take a lot of other factors as well.

6. A statement has been filed on behalf of the Chancellor justifying the nominations and states as follows:

*“3. The office of the Chancellor addressed the Vice Chancellor to forward a list having at least three times the number of eligible persons to be considered for nomination. Though no such procedure is provided in the Act or the Statutes, the details were sought for as a part of collecting the data to make nominations. It is to be noted in this context that the input regarding the eligible persons to the Chancellor can be from different sources. No provisions in the Act or the Statute prescribe the source for nominating the persons to the Senate.*

\*\*\*\*\*

\*\*\*\*\*

*6. It is submitted that the Chancellor exercised his authority in nominating the members on ensuring that the nominees' eligibilities are assessed. The provisions in the University Act says that there shall be four student nominees, one having outstanding academic ability in humanities, one each having outstanding ability in science, sports and fine arts. The word academic is lacking in the case of nominees for science, sports and fine arts.*

*7. The contention that the rank holders are persons with outstanding*



*academic abilities cannot be accepted. The provisions in the act do not ask for outstanding performance, which may reflect through higher ranks in the examinations. The yardstick for assessing the ability of the person will be different. The social and economic backgrounds also need to be considered while considering the ability of the person. A person getting proper guidance and training, which necessarily depends on his economic and social status can perform better than another person who fights against his social and economic circumstances. The performance of the former can be better but that performance is not sufficient to say that his ability is better than that of the latter. The contentions raised by the petitioner in the writ petition are based on a notion that the word "ability" used in the provision is equal to "performance", which is not so. While making the nominations the Chancellor took into consideration not only the record and reputation but also gave due weight to the ability, promise and potential of the persons."*

7. The writ petitioners in WP(C) No. 41766/2023 question the nominations of respondents 4 and 5 in the category of Fine Arts and Sports. The 1<sup>st</sup> petitioner in WP(C). No.41766/2023 claims to have won 4 First Prizes in Kathakali, Bharathanatyam, Ottamthullal and Kerala Nadanam and 3 Second Prizes in Kuchipudi, Folk Dance and Fancy Dress in the Kerala University Youth Festival 2022-23. Having secured the highest individual points (33 points), the 1<sup>st</sup> petitioner was awarded the "KALAPRATHIBA" title in the Kerala University Youth Festival 2022-23. The 2<sup>nd</sup> petitioner has outstanding abilities in Sports and has



secured prizes at the University Level and in the All India Inter University Championships. In 2022-23 he secured a Bronze medal in the Tug of War (Mixed) competition in the All India Inter University Championship and he was placed first in the Kerala University Inter Collegiate Best Physique (men) (Inter-Zone) Championship 2021-22. It is alleged that despite the superior claims of the petitioners, the 4<sup>th</sup> and 5<sup>th</sup> respondents were not even included in Ext.P-7 list which was the list of valid studentship nominations received by the 2<sup>nd</sup> respondent and submitted to the Vice Chancellor for onward transmission to the Chancellor. The petitioner alleges that the 4<sup>th</sup> respondent has no claims except for a mere participation in the Kerala Youth Festival 2022-2023. Likewise, the 5<sup>th</sup> respondent had nothing but participation and had no valid sports credentials in preference to the 2<sup>nd</sup> petitioner. In the background of the said pleadings, the writ petitioners seek quashing of Ext.P-9 to the extent it nominates the 4<sup>th</sup> and the 5<sup>th</sup> respondents to the Senate of the University and also, pray for nominating the 1<sup>st</sup> and 2<sup>nd</sup> petitioners to the Senate.

8. WP(C) No. 1275/2024 is filed challenging the nominations of respondents 4 to 6 as the government representatives to the Senate of



Kerala University. The petitioner in the said case, claiming to be an educationist and academician with over 25 years of Post-Doctoral Research and teaching experience along with accreditation by more than 500 educational institutions across the country, alleges that respondents 4 to 6 do not have any experience in the field of higher education enabling them to be nominated as per Section 17(4) of the Kerala University Act. It is also alleged that respondents 4, 5 and 6 had several crimes registered against them, thus making them ineligible to hold the post of government representatives. A counter affidavit has been filed on behalf of the 3<sup>rd</sup> respondent Government to support the nominations of respondents 4 to 6 and the relevant portion of the same reads as follows:

*“8. The Government has nominated respondents 4 to 6 in terms of item (4) of Other Members under Section 17 of the Act, taking note of their credentials in the field of Higher Education. The fourth respondent is a BA LLB degree holder. He has more than two decades long experience in the field of Higher Education, in so far as he was a Member of the Academic Council of Kerala University during 1999-2000; was a member of the Senate and the Syndicate of Kerala University during 1999-2000, and was a member of various committees like Examination Committee, Academic and Research Committee, Affiliation Committee and various committees constituted for NAAC and NIRF accreditation of Kerala University. Further, he was the Executive Member of Kerala University Union, 1992-93 and Vice Chairman of Kerala University Union, 1996-97.*



*Moreover, he was also the Convenor of the Affiliation Committee to monitor various issues pertaining the affiliation of colleges and courses offered under the jurisdiction of University of Kerala.*

*9. The fifth respondent is a Ph.D. holder. He was a member of Senate of Kerala University during 2009. He was a member of Syndicate of Kerala University during 2009 and 2018. He has been the Convenor of Standing Committee on Student Services, 2009 and a Member of Standing Committee on Finance, University of Kerala, 2018, a Member of Standing Committee on Affiliation of Private Colleges, University of Kerala, 2018, a Member of Standing Committee on Planning and Development, University of Kerala, 2018 and a Member of Sub-committee on Online Admission, University of Kerala, 2018. He is a Member of College Development Committee, Government College, Nedumangadu, from 2021 onwards. Thus, the fifth respondent has also ample experience in the field of Higher Education. Further, he was a Member of State School Curriculum Committee, Department of General Education, Government of Kerala and also has been the General Secretary, Kerala State Council for Child Welfare, Department of Women and Child Development, Government of Kerala.*

*10. The sixth respondent is a B.Sc. Physics degree holder. He was a Member of Legislative Assembly during 2011-21. He also has sufficient experience in the field of Higher Education, in so far as he was a Member of Advisory Board of Kerala State Higher Education Council during 2016-18; a Member of Senate of Kerala University of Health Sciences during 2017-21, of Cochin University of Science and Technology during 2019-21 and of Kerala University during 2014-21; and was a Member of Syndicate of Kerala University during 2019-21. Further, he was also a member of various Legislative Assembly Committees, a Member of District Sports Council, Alappuzha during*



*2017-20; and a Member of State and District SC/ST Vigilance and Monitoring Committee.*

*11. It can be seen from the aforementioned credentials of the respondents 4 to 6 that they have been associated with the field of Higher Education in the State since years and have sufficient experience in the said field. In the said circumstances, the nomination of respondents 4 to 6, by way of Exhibit PI letter, as "persons from the field of higher education" under Section 17 of the Act, is perfectly sustainable in law and the contentions to the contrary are unsustainable in law it appears that the petitioner has not cared to make any enquiry about the credentials of the respondents 4 to 6 in the field of higher education, before approaching this Honourable Court challenging their nomination."*

9. The 4<sup>th</sup> respondent had also filed a counter affidavit opposing the prayers in the said Writ Petition.

10. Heard Sri. Elvin Peter P.J. learned senior counsel, instructed by Sri. K.R. Ganesh, learned counsel appearing for the petitioner in WP(C). No.41785/2023, Sri. M.A.Asif learned counsel appearing for the petitioner in WP(C). No.41766/2023, Sri. S.Biju, learned counsel appearing for the petitioner in WP(C). No.1275/2024, Sri. P.Sreekumar learned senior counsel, instructed by Sri. S.Prasanth learned Standing Counsel appearing for the Chancellor, Sri. Thomas Abraham, learned Standing Counsel for the Kerala University, Sri. R.V. Sreejith and





Sri. T.C.Krishna learned counsel appearing for the contesting respondents in WP(C). No. 41785/2023, Sri. C.Dinesh and Sri. Suvin R.Menon, learned counsel appearing for the contesting respondents in WP(C). No. 41766/2023, Sri. Elvin Peter P.J. learned senior counsel, instructed by Sri. K.R.Ganesh, learned counsel appearing for the contesting respondents in WP(C). No.1275/2024 and Sri. T.B.Hood, learned Special Government Pleader appearing for the State.

11. The relevant provisions as far as the nominations of the student representative speak of outstanding academic ability in Humanities, and outstanding abilities in Science, Sports, and Fine Arts going by section 17(3) of the Act. The 1<sup>st</sup> respondent Chancellor is right in stating that there is no procedure provided in the Act or statutes for making nominations or even the source for nominating the persons to the Senate. His claim that the input regarding the eligible persons can be had from different sources also cannot be disputed. It is the further contention that the word academic is lacking in the case of nominations for Science, Sports and Fine Arts. It can even be accepted that rank holders alone cannot be considered as persons with outstanding abilities as the provisions in the Act do not speak of outstanding performance reflected



through the ranks in the examinations as the only yardstick for assessing the ability of a person. It can be on other factors as well. The words “ability”, “performance”, etc., at times can be relative. However, it has to be noted that the petitioners in WP(C). No. 41785/2023 are rank holders and their claim is not seen considered at all. It is not a case where the names of rank holders, as well as the respondents, were considered and the Chancellor for some valid reason chose the contesting respondents in preference to the petitioners. Rank holders are certainly persons who should be treated as students with outstanding academic ability. Even in the statement filed by the Chancellor, there is no case that the credentials of the petitioners in WP(C).Nos. 41785 and 41766 of 2023 were also considered. Their credentials do not look inferior to those of the students nominated. Even though no procedure as such is stated in the statute, the section compels the persons nominated to be of outstanding academic ability when it comes to Humanities and outstanding ability when it comes to the other three nominations. The term outstanding ability certainly denotes a superior ability/ performance. No credentials of the respondents are shown which makes them superior to the writ petitioners in the two cases. No single factor of the nominated students is shown superior to be abilities of the writ petitioners. True, it is only a



nomination and there is an element of discretion involved while making choices. Even for that, eligibility criteria fixed in the statute cannot be forgotten even though it is only a nomination and not a selection. There is no comparative assessment of the writ petitioners and respondents 5 and 6 in the above writ petitions. As stated above, no credentials of the nominated students are seen to be superior to the writ petitioners.

12. It is trite that there is no unbridled power vested with the Chancellor while making the nominations in terms of the statutory provisions. As stated above, there is an infraction of statutory provisions rendering the nomination bad. Though it is a case of nomination, in the exercise of the statutory power, if the nomination made is contrary to the requirement of the statute or if relevant factors were not considered or if irrelevant factors were considered in making the decisions, which no reasonable person would have done, the nominations will have to be interfered with by the Constitutional Courts. The insertion of the last proviso to Section 18, that the members of the Senate nominated by the Chancellor or the Government under the heading of 'Other Members' shall hold their office during the **pleasure** of the Chancellor or the Government, as the case may be, cannot be an answer for making a



nomination or for withdrawing a nomination contrary to the requirements of the statute. True, there is no procedure set out for making nominations. However, as stated above, nominations at the very least should conform to the statutory requirements. Any arbitrary use of power violates not only the rule of 'Equality' enshrined in Article 14 of the Constitution of India but also the rule of 'Discrimination' inbuilt in Article 16. An unguided, unfettered and unbridled power is foreign to the exercise of any power, constitutional or statutory. It is trite that even in the exercise of discretionary power, the requirements of reasonableness, rationality, impartiality, fairness and equity are inherent to such exercise and can never be according to any private opinion.

13. Under such circumstances, the nominations made as per Exts. P-5 & P-9 in W. P. (C) Nos. 41785 & 41766 of 2023 are to be interfered and accordingly, they are quashed. There will be a direction to the Chancellor to make fresh nominations considering the claims of the writ petitioners as well in the light of the observations made above and in tune with Section 17(3) of the Act. This shall be done within a period of six weeks from the date of receipt of a copy of this judgment.

14. As regards W. P. (C) No. 1275/2024, the contention is that the



nominations made by the government are against Section 17(4), the relevant portion of which is extracted as under:

*"not more than five members nominated by the government from the field of higher education of which one shall be a woman and one shall be from the Scheduled Castes/ Scheduled Tribes."*

15. On a perusal of the credentials of respondents 4 to 6 as stated in the counter affidavits filed by the government and the party respondents, it is difficult to hold that they are not from the field of higher education. No dispute is raised by the writ petitioner over the credentials claimed by the said respondents. The essential contention of the said writ petitioner is the number of criminal cases registered against them, a perusal of which would show that they are all registered, as part of their activities in public life. That apart, they are all cases pending investigation and no court of law has found respondents 4 to 6 guilty of the offences alleged and therefore, mere pendency of cases cannot be treated as a disqualification making respondents 4 to 6 ineligible for nomination under Section 17(4) of the Act. Given my findings that they cannot be said to be persons not connected with the field of higher education, I do not find any merit in WP(C). No.1275/2024 to interfere with the nomination and accordingly,



2024:KER:33079

W. P. (C) Nos. 41785 & 41766 of 2023 and  
W. P. (C) No. 1275 of 2024

..22..

the said writ petition is dismissed.

WP(C).Nos. 41785 and 41766 of 2023 are allowed as above.

WP(C). No.1275/2024 is dismissed.

Sd/-

MOHAMMED NIAS C. P. ,

JUDGE

MMG



APPENDIX OF WP(C) .NO.41785/2023

PETITIONER'S EXHIBITS:

- EXHIBIT P1                    TRUE COPY OF THE JUDGMENT REPORTED IN  
1995 (2) KLRT 663 DATED 28.09.1995 IN  
O.P. NO.10799/1995 OF THIS HON'BLE  
COURT.
- EXHIBIT P2                    TRUE COPY OF THE MEMO DATED 23.08.2023  
AND THE PRESCRIBED PROFORMA SENT BY THE  
UNIVERSITY OF KERALA.
- EXHIBIT P3                    TRUE COPY OF THE LIST PREPARED BY THE  
2ND RESPONDENT
- EXHIBIT P4                    TRUE COPY OF THE NOTE PREPARED BY THE  
UNIVERSITY OF KERALA WHICH AGAIN WAS  
OBTAINED BY SUBMITTING AN APPLICATION  
UNDER THE RIGHT TO INFORMATION ACT BY  
SRI. PRAVEEN P.S. AND THAT WAS SERVED  
TO THE PETITIONERS.
- EXHIBIT P5                    TRUE COPY OF THE NOTIFICATION DATED  
04.12.2023 ISSUED BY THE 4TH RESPONDENT



APPENDIX OF WP(C) .NO. 41766/2023

PETITIONERS' EXHIBITS:

- EXHIBIT P1                    TRUE COPY OF THE LIST OF STUDENTS WITH  
OUTSTANDING ABILITIES IN HUMANITIES,  
SCIENCE, FINE ARTS AND SPORTS  
RECOMMENDED BY THE UNIVERSITY  
AUTHORITIES CONCERNED AND OBTAINED  
UNDER RIGHT TO INFORMATION ACT FROM THE  
2ND RESPONDENT
- EXHIBIT P2                    TRUE COPY OF THE MEMO DATED 23-08-2023  
ISSUED BY THE 2ND RESPONDENT UNDER  
RIGHT TO INFORMATION ACT
- EXHIBIT P3                    TRUE COPY OF THE MEMO DATED 07-09-2023  
SUBMITTED BY THE 1ST PETITIONER UNDER  
RIGHT TO INFORMATION ACT
- EXHIBIT P4                    TRUE COPY OF THE REVISED MEMO DATED 19-  
09-2023 AND THE REVISED LIST OF 10  
STUDENTS AS PER THE NEW CRITERIA  
OBTAINED UNDER RIGHT TO INFORMATION ACT  
FROM THE 2ND RESPONDENT
- EXHIBIT P5                    TRUE COPY OF THE REVISED MEMO THE  
REVISED LIST OF 10 STUDENTS AS PER THE  
NEW CRITERIA OBTAINED UNDER RIGHT TO  
INFORMATION ACT FROM THE 2ND RESPONDENT
- EXHIBIT P6                    TRUE COPY OF THE PROFORMA DATED 21-09-  
2023 SUBMITTED BY THE 2ND PETITIONER  
WHICH IS OBTAINED FROM THE 2ND  
RESPONDENT UNDER RIGHT TO INFORMATION  
ACT





EXHIBIT P7 TRUE COPY OF THE LIST OF VALID STUDENTSHIP NOMINATIONS RECEIVED BY THE 2ND RESPONDENT AND SUBMITTED TO THE VICE-CHANCELLOR FOR ONWARD TRANSMISSION TO THE CHANCELLOR WHICH IS OBTAINED FROM THE 2ND RESPONDENT UNDER RIGHT TO INFORMATION ACT

EXHIBIT P8 THE CHANCELLOR FOR NOMINATING 4 STUDENTS TO THE SENATE WHICH IS OBTAINED FROM THE 2ND RESPONDENT UNDER RIGHT TO INFORMATION ACT

EXHIBIT P9 TRUE COPY OF THE NOTIFICATION NO. ELECTION/N/OM/2023 DATED 04-12-2023 ISSUED BY THE 2ND RESPONDENT WHICH IS OBTAINED FROM THE 2ND RESPONDENT UNDER RIGHT TO INFORMATION ACT

RESPONDENTS' EXHIBITS

EXHIBIT R2 (A) THE TRUE COPY OF THE COMMUNICATIONS RECEIVED FROM DIRECTOR OF PHYSICAL EDUCATION, UNIVERSITY OF KERALA

EXHIBIT R2 (B) THE TRUE COPY OF THE COMMUNICATION RECEIVED FROM DIRECTOR OF STUDENT SERVICE, UNIVERSITY OF KERALA

EXHIBIT R2 (C) THE COMMUNICATION RECEIVED FROM PRINCIPAL, N.S.S COLLEGE, PANDALAM ON 20-01 OF PHYSICAL ECONOMICS COLLEGE, KEP IN NSS THIRUVANANTHAPURAM REGISTRAR FIRST THREE POSITIONS. 2024 THROUGH EMAIL



APPENDIX OF WP(C) .NO.1275/2024

PETITIONER'S EXHIBITS:

- EXHIBIT P1                    A TRUE COPY OF THE LETTER NO.  
B2/82/2023-HEDN            DATED            30-06-2023  
ISSUED BY RESPONDENT NO. 3 TO  
RESPONDENT NO. 2
- EXHIBIT P2                    A TRUE COPY OF THE INFORMATION  
FURNISHED BY THE ADDL. SP, DISTRICT  
POLICE OFFICE DATED 10-08-2023 BEARING  
NO. G3-54534/2023/T
- EXHIBIT P3                    A TRUE COPY OF THE INFORMATION  
FURNISHED BY THE DEPUTY COMMISSIONER  
OF POLICE (CRIMES & ADMINISTRATION),  
BEARING NO. G1(A)-51267/2023/TC DATED  
22-08-2023
- EXHIBIT P4                    A TRUE COPY OF THE REPLY ISSUED BY  
ADDITIONAL SUPERINTENDENT OF POLICE,  
CITY POLICE OFFICE, KOLLAM DATED 24-  
08-2023            BEARING            NO.            G3(B)-  
38681/2023/QC
- EXHIBIT P5                    A TRUE COPY OF THE REPLY BEARING NO.  
1324/RTI-45/2023/CSD DATED 21.08.2023  
ISSUED BY            DEPUTY            POLICE  
SUPERINTENDENT, CHENGANNOOR
- EXHIBIT P6                    A TRUE COPY OF THE REPRESENTATION  
DATED 8/1/2024            SUBMITTED BY THE  
PETITIONER TO RESPONDENT NO. 3