



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

FRIDAY, THE 28TH DAY OF FEBRUARY 2025 / 9TH PHALGUNA, 1946

WA NO. 313 OF 2021

AGAINST THE JUDGMENT DATED 16.12.2020 IN WP(C)NO.29128 OF
2019 OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS:

- 1 MAHATMA GANDHI UNIVERSITY REPRESENTED BY ITS REGISTRAR
PRIYADARSHINI HILLS, MAHATMA GANDHI UNIVERSITY CAMPUS
P.O, KOTTAYAM 686 560
- 2 THE CONTROLLER OF EXAMINATIONS,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS,
MAHATMA GANDHI UNIVERSITY CAMPUS P.O, KOTTAYAM 686 560

BY ADVS.

SHRI.SURIN GEORGE IPE, SC, M.G. UNIVERSITY
K.GOPALAKRISHNA KURUP (SR.)

RESPONDENT/PETITIONER:

SUNI THOMAS,AGED 41 YEARS
D/O. THOMAS P JOSEPH, FOURTH SEMESTER LLB STUDENT,
GOVERNMENT LAW COLLEGE, ERNAKULAM, RESIDING AT
AMPRAYIL HOUSE, E.R.G ROAD, KOCHI 682 016

BY ADVS.

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

THIS WRIT APPEAL WAS FINALLY HEARD ON 11.02.2025, THE COURT
ON 28.2.2025 PASSED THE FOLLOWING:

**JUDGMENT**

Muralee Krishna, J.

The respondent in this writ appeal was a three-year LLB student at Govt. Law College Ernakulam, affiliated to the 1st respondent Mahatma Gandhi University. He filed W.P.(C) No.29128 of 2019 under Article 226 of the Constitution of India, seeking a writ of certiorari to quash regulation 14.2 of Ext.P5 notification to the extent it mandates second revaluation if the increase in the marks after the first revaluation is greater than or equal to 15% of the maximum marks of the paper; to declare that regulation 14.2 of Ext.P5 as unreasonable and violative of the Article 14 of the Constitution of India and to issue a writ of mandamus commanding the respondents to grant him marks equivalent to 15% of the maximum marks of the revalued answer paper of the subject legal language, i.e., 12 marks, in the first-semester examination held on May 2018. As per the impugned judgment dated 16.12.2020, the learned Single Judge allowed the writ petition, and the regulation in question was set aside. Being aggrieved, the respondents filed the above writ appeal under Section 5(i) of the Kerala High Court Act, 1958.



2. According to the appellant, she performed well in the first-semester examination held in the month of May 2018 and the result was published in the month of January 2019. Except in the subject legal language, the appellant secured high marks. For the subject legal language she was awarded only 38 marks out of 80. She had performed well in that examination also. Therefore, the appellant submitted an application for revaluation of the answer paper of the subject legal language. But as per Ext.P1 memo dated 24.08.2019, the 2nd respondent Controller of Examinations informed her that she was awarded the original marks after revaluation also. Thereafter the appellant filed Ext.P2 application under the Right to Information Act, 2005 requesting for the details of the marks obtained by her in the revaluation, as she got reliable information from the university that her paper was revalued twice. As per Ext.P3 reply dated 18.09.2019, the 1st respondent University intimated the appellant that she secured 53 out of 80 marks in the first revaluation and 33 out of 80 marks in the second revaluation. It was further informed that as per regulations, if the increase in the marks in the first revaluation is greater than or equal to 15% of the maximum marks of the paper, a second



reevaluation shall be conducted. After the second reevaluation, the average of the nearest two marks from the three valuations, that is the original valuation, the first reevaluation and the second reevaluation shall be awarded. If the marks after the first reevaluation or the average after the second reevaluation happens to be less than the original marks, the original score will stand. Contending this regulation as arbitrary and unjust the appellant approached this Court with the writ petition. The respondents filed a statement in the writ petition sticking on Ext.P5 notification pertaining to the amendment of some of the existing university regulations. After considering the materials on record and hearing the rival contentions of both sides, the learned Single Judge allowed the writ petition as said above.

3. Heard the learned Standing counsel for the appellants and the learned counsel for the respondent.

4. The learned Standing Counsel for appellants argued that there is no illegality or arbitrariness in the regulation which directs second reevaluation in the case of securing more than 15% of the maximum marks of the paper and the direction to take the average of the nearest two marks from the three valuations, since



it would secure maximum transparency in the revaluation of answer papers. The learned counsel by relying on the judgment of the Apex Court in **Ganpath Singh Gangaram Singh Rajput v. Gulbarga University [(2014) 3 SCC 767]** argued that in academic matters the Court cannot act as an appellate authority and the issue must be left to be decided by the expert body.

5. On the other hand, the learned counsel appearing for the respondent argued that regulation 14.2 in Ext.P5 is arbitrary and unjust. A student who obtained less than 12 marks difference from the original marks in the first revaluation will be granted the same marks and whereas a student who secures more than 12 marks will be subjected to a second revaluation which is violative of Article 14 of the Constitution of India. The learned counsel relied on the judgment of the Apex Court in **Sanchit Bansal v. Joint Admission Board (JAB) [(2012) 1 SCC 157]** and that of the Madras High Court in **D. Shanmuga Raja v. Principal Secretary to Government, Tamil Nadu [AIR 2019 Mad. 141]** in support of his arguments. According to the learned counsel, no interference is needed to the impugned judgment.

6. The appellant secured high marks in all other subjects in



the first-semester examination, except for the subject Legal Language. For the paper legal language she secured 38 out of 80 marks for the written examination and 17 out of 20 marks as internal assessment and thus a total marks of 55 out of 100. Dissatisfied with the marks awarded in the written examination she applied for revaluation. In the first revaluation, she secured 53 out of 80 marks. As per regulation 14.2 which was amended with effect from 25.01.2017, if the increase in marks of the first revaluation is greater than or equal to 15% of the maximum marks, a second revaluation shall be conducted. After the second revaluation, the average of the nearest two marks from the three valuations that is the original valuation, first revaluation, and second revaluation shall be awarded to the candidate. The appellant is claiming this regulation as arbitrary and unjust. She pointed out that if a student secures below 15% hike in marks in the first revaluation, he or she will be awarded that mark, whereas if the student secures equal or more than 15% hike in marks in the first revaluation he or she will not be awarded that marks and the same is discrimination among students. The appellant secured 12 marks more in the first revaluation, which is equal to 15% of



the maximum marks of the paper. If she had secured only 11 marks, that would be awarded to her. Hence according to the appellant, this is discrimination between equals.

7. While going through regulation 14.2 in Ext.P5 notification it could be seen that the regulation does not say that the second revaluation is insisted on for the purpose of reducing the higher marks secured by the student in the first revaluation. If in the second revaluation the student again obtains more than or equal to 15% of the maximum marks of the paper, then the average of the first and second revaluations will be given to that student. On going through Ext.P5 notification dated 25.01.2017, it could be gathered that even prior to the said notification, the regulation 14.2 stipulated a second revaluation if the increase in marks on the first revaluation is greater than or equal to 10% but less than or equal to 25% of the maximum marks. If the change in marks after the second revaluation is less than or equal to 25% of the maximum marks, the average of the nearest two marks from among that of the original valuation, first revaluation and second revaluation shall be awarded to the candidate. This regulation was amended by making the increase in marks in the first revaluation



as greater than or equal to 15%, by Ext.P5 notification. The learned Standing counsel for appellants submitted that the revaluations are conducted without disclosing the identity of the students and also without disclosing whether it is the first or second revaluation. While considering all these aspects, we find force in the submission of the learned Standing Counsel that this regulation is a thought out one of the academic experts to secure transparency in the revaluation and awarding of marks.

8. In **Shanmuga Raja [AIR 2019 Mad. 141]** it is held by the Madras High Court that rules can be struck down on the ground of manifest arbitrariness if the classification is irrational. Manifest arbitrariness means a law being disproportionate, excessive, or otherwise manifestly unreasonable or when it is not fair, not reasonable, discriminative, not transparent, capricious, biased, with favoritism or nepotism and not in pursuit of promotion of healthy competition and equitable treatment. Regulation 14.2 in Ext.P5 cannot be said as the one suffering from manifest arbitrariness, for the reason that it is transparent and intended to achieve more accuracy in revaluation.

9. In **Sanchit Bansal [(2012) 1 SCC 157]** the Apex Court



held that the Court would interfere if, the process of ranking in the selection of candidates was done in violation of any enactment, statutory rules and regulations; malafides or ulterior motives to assist or enable private gain to someone or cause prejudice to anyone; or were procedure adopted is arbitrary and capricious. Regulation 14.2 in Ext. P5 cannot be said as issued with malafides or ulterior motives. By that regulation, there is no personal gain for any person. There is no violation of any statutory rule in that regulation. Therefore the judgment in **Sanchit Bansal** (supra) is also not applicable to the instant case.

10. In **Ganpath Singh [(2014) 3 SCC 767]** the Apex Court held thus;

“Main thrust in the appellant’s contention is that when an expert body i.e. Board of appointment consisting of high academicians, has found Ganpat eligible and qualified and which has been approved by the Syndicate, another expert body, the High Court ought not to have acted as a Court of appeal, examined the pros and cons and come to the conclusion that Ganpat did not possess the requisite qualification. There is no difficulty in accepting the broad submission that academic issues must be left to be decided by the expert body and the court cannot act as an appellate authority in such matters. It deserves great respect. When



two views are possible and the expert body has taken a view, the same deserves acceptance. However, to say that expert body's opinion deserves acceptance in all circumstances and is not subject to judicial review does not appeal to us. In our constitutional scheme the decision of the Board of appointment cannot be said to be final and absolute. Any other view will have a very dangerous consequence and one must remind itself of the famous words of Lord Action "power corrupts and absolute power corrupts absolutely."

(emphasis supplied)

11. It is trite that as far as academic matters are concerned, the Courts are loathe to interfere since the decisions are to be left for academicians who are experts in the field unless the decisions are arbitrary and unjust. In the instant case, it is clear that regulation 14.2 in Ext.P5 is not of such a nature which can be said as arbitrary and unjust or violative of any statutory provisions. It brings only transparency in the revaluation by placing the answer paper in the hands of two different valuers. The learned Single Judge erred in properly appreciating these facts in its proper perspective while allowing the writ petition and hence the impugned judgment is liable to be set aside.

In the result, the appeal is allowed by setting aside the judgment dated 09.12.2020 in W.P.(C)No.29128 of 2019.



Considering the nature of the dispute parties are directed to bear their respective costs.

Sd/-

ANIL K.NARENDHAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

MSA



Vide order dated 04.03.2025 in W.A No.313 of 2021 following corrections are made in the judgment dated 28.02.2025.

(i) The word 'appellant', wherever it occurs in paragraphs 2 and 6 of the judgment is corrected as 'respondent'.

(ii) The word 'respondent' occurring in line number 3 of paragraph 1 and in line numbers 9 and 15 of paragraph 2 of the judgment is corrected as 'appellant'. The word 'respondents' occurring in line numbers 11 and 17 of paragraph 1 and in line number 28 of paragraph 2 is corrected as 'appellants.'

(iii) The word 'He' in line number 3 of paragraph 1 is corrected as 'She'.

Sd/- Deputy Registrar