

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5137-5150 OF 2012  
(Arising out of SLP(Civil) Nos. 8804-8817/2012)

KERALA UNIVERSITY FOR HEALTH & SCIENCES Appellant(s)

VERSUS

FAWAS AJMAL & ORS. ETC. Respondent(s)

## O R D E R

Heard learned counsel for the parties.

Leave granted.

These matters relate to the Regulation, Scheme & Syllabus of BDS Course from 2010-2011 of the Kerala University of Health Sciences. Prior to 2010, the norms prescribed by the University, inter alia, were that the candidate shall secure a minimum aggregate of 50% marks in theory section, which will include University theory examinations, viva examination and internal assessment and he should also secure a minimum of 45% in the University theory. By an amendment carried out in the midst of the academic session 2010-2011, it was prescribed by the revised regulations that the candidate shall secure a minimum aggregate of 50% marks in theory section, which will include University theory examinations, viva examination and internal assessment and he should also secure a minimum of 50% in the University theory.

A writ petition was filed by the respondents who were studying in the 1st year BDS Course against the revised regulations before the Kerala High Court

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but the learned single Judge did not grant any relief to the respondents. On appeal, the Division Bench of the High Court, in the judgment impugned before us, has held that the revised regulations of the University had not taken birth as contemplated in the Statute and that the revised regulations will not be applicable to the students of BDS Course for 2010 admissions. By the impugned judgment, the Division Bench has also directed the University to revise the declaration of results of the students of 1st year BDS Course in accordance with the regulations which existed prior to the revised regulations. Aggrieved, the University has come up in the special leave petitions.

Having heard learned counsel for the parties at length, we think that in the interest of good academics, the respondents and all other 1st year BDS

students who had taken the 1st year BDS examinations for the session 2010-2011 but did not succeed because of the amendment of the regulations in the midst of the academic session should be allowed to take the second supplementary examination in accordance with the revised regulations commencing from the first week of August, 2012 as scheduled. Those candidates who have not remitted the fees for the second supplementary examinations will be allowed to remit the fees within one week from today. In case these students pass the second supplementary examinations as per the revised regulations and in case they satisfy the requirements of attendance percentage in the second year BDS, they will be permitted to take the second year BDS examinations. In case the results of the 1st year supplementary BDS examinations held in August 2012 are not published in time, they will be permitted provisionally to take the second year BDS

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examinations subject to the results of the 1st year second supplementary examinations.

We make it clear that the candidate Fawas Ajmal may not take the theory examinations as he has passed the first supplementary examination. He has to, however, pass the practicals.

Without going to the merits of the issues decided in the impugned judgment of the Division Bench of the High Court, we set aside the impugned judgment subject to the aforesaid directions.

The appeals are allowed.

The IAs stand disposed of.

.....J.  
(A.K. PATNAIK)

.....J.  
(SWATANTER KUMAR)

NEW DELHI  
JULY 11, 2012.

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ITEM NO.311(PH)

Court No.10

SECTION XIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8804-8817/2012

(From the judgement and order dated 24/02/2012 in WA No.192/2012,WA No.225/2012,WA No.227/2012,WA No.228/2012,WA No.229/2012,WA No.230/2012,WA No.231/2012,WA No.232/2012,WA

No.234/2012,WA No.235/2012,WA No.236/2012,WA No.246/2012,WA  
No.249/2012,WA No.267/2012 of The HIGH COURT OF KERALA AT  
ERNAKULAM)

KERALA UNIVERSITY FOR HELATH & SCIENCES

Petitioner(s)

VERSUS

FAWAS AJMAL & ORS. ETC.

Respondent(s)

(With appln(s) for vacating stay and intervention and impleadment  
and requisitioning the record for translation and bring on record  
the subsequent events/directions and impleadment and permission  
to place addl. documents on record and with prayer for interim  
relief and office report)

Date: 11/07/2012            These Petitions were called on for hearing  
today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK  
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s)            Mr. V. Shekhar, Sr. Adv.  
                                  Mr. P. Sreekumar, Adv.  
                                  Mr. Venkita Subramoniam T.R.,Adv.

For Respondent(s)            Mr. V. Giri, Sr. Adv.  
                                  Mr. P.A. Noor Muhamed, Adv.  
                                  Mr. Muhammed Sadique, Adv.  
                                  Ms. Giffara S., Adv.  
                                  Mr. Nishe Rajen Shonker ,Adv

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UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeals are allowed in terms of the  
signed order.

The IAs stand disposed of.

(DEEPAK MANSUKHANI)

Court Master

(Signed order is placed on the file)

(M.S. NEGI)

Court Master