IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 3RD DAY OF NOVEMBER 2026 / 12TH KARTHIKA, 1948

W.A.NO.2276 OF 2026

AGAINST THE ORDER DATED 30.10.2026 IN I.A.NO.2 OF 2026 IN

W.P.(C)NO.35256 OF 2026 OF THE HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS/RESPONDENTS:

1 SREE SANKARACHARYA UNIVERSITY OF SANSKRIT
KALADY, KALADY P.O., ERNAKULAM DISTRICT,
REPRESENTED BY ITS REGISTRAR, PIN - 683574

2 THE SYNDICATE OF SRI SANKARACHARYA UNIVERSITY OF
SANSKRIT, KALADY, KALADY P.O., ERNAKULAM DISTRICT,
REPRESENTED BY ITS CHAIRMAN, PIN - 683574

3 THE VICE CHANCELLOR
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY,
KALADY P.O., ERNAKULAM DISTRICT, PIN - 683574

BY ADV SMT.SILPA SREEKUMAR

RESPONDENTS/APPLICANTS/PETITIONERS:

1 ARCHANA P.S., AGED 23 YEARS
PADINJAKKARA HOUSE, PILAPULLY, PARUTHIPULLY,
PALAKKAD, PIN - 678573

2 ABIJITH K.V., AGED 30 YEARS
KANJOOPARAMBIL HOUSE, PARAPPURAM P.O,
KANJOOR, ERNAKULAM DISTRICT, PIN - 683575

3 RITHISHA, AGED 29 YEARS
CHERUMELIPARAMBIL, THRIKKODITHANAM P.O, KOTTAYAM
DISTRICT, PIN - 686105

4 ASWANTH P.M, AGED 23 YEARS
PULIYANGATT MEETHAL HOUSE, NADUVATHUR P.O,
KEEZHARIYUR, KOYILANDY, KOZHIKODE, PIN - 673620

5 ASRITHA M, AGED 26 YEARS
KARIYIL HOUSE, NIDUVOTTUMKUNNU, MATTANNUR P.O.,
KANNUR, PIN - 670702

6 LIBIN MATHEW, AGED 39 YEARS
KOTTARATHIL HOUSE, KARUKADOM P.O, KARUKADOM,
KOTHAMANGALAM, ERNAKULAM, PIN - 686691

7 SYAMJITH K., AGED 23 YEARS
KUNNUMMAL HOUSE, PUTHUPPARAMBA P.O,
NJARATHADAM, PIN - 676501

8 ANAGHA V. NAIR, AGED 23 YEARS
KANDAKKAKUZHIYIL HOUSE, PULAKODE P.O,
CHELADKKARA, PIN - 680586

9 JISHNU SURESH, AGED 27 YEARS
LEKSHMI BHAVAN, RAVINAGAR, KANJIRAMKULAM, PULLUVILA
P.O, THIRUVANANTHAPURAM, PIN - 695526

10 ATHULYA K.L., AGED 27 YEARS
KALLERI POYIL HOUSE, CHELIYA P.O, KOYILANDY VIA,
KOZHIKODE, PIN - 673306

11 DONA MARIYA, AGED 20 YEARS
PONGADAN HOUSE, MURIYATHODE ARIYIL P.O,
PATTUVAM, THALIPARAMBA, KANNUR, PIN - 670143

12 SRADHA C.P., AGED 22 YEARS
SAROVARAM HOUSE, BEHIND MUNICIPAL BUS STAND,
MALAPPURAM P.O, MALAPPURAM, PIN - 676505

13 SIVAKUMAR M.S., AGED 29 YEARS
MOONNARAPPARAYIL, THAYAMKARY P.O., EDATHUVA,
ALAPPUZHA, PIN - 689573

14 ARUNIMA ARUN R., AGED 22 YEARS
VALIYAMADAM, SASTHAMCOTTA, MYNAGAPALLY P.O,
VENGA, KOLLAM, PIN - 690521

15 FASNA M., AGED 21 YEARS
MALAYIL HOUSE, KIZHUR P.O., PAYYOLI,

KOZHIKODE DISTRICT, PIN - 673522

16 VISMAYA K.P.
AGED 20 YEARS
KOLLATHUPADI HOUSE, PONNANI,
MALAPPURAM, PIN - 679577

SRI.T.A. SHAJI (SENIOR ADVOCATE)
P.G. PRAMOD
NADIYA.K.M

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02.11.2026, THE COURT ON 03.11.2026 DELIVERED THE FOLLOWING:

"C.R"

JUDGMENT

Anil K. Narendran, J.

The appellants are the respondents in W.P.(C)No.35256 of 2026 filed by the respondents herein-petitioners, invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking a writ of certiorari to quash Ext.P3 order dated 01.09.2026 issued by the 1st respondent Sree Sankaracharya University of Sanskrit (1st appellant herein), whereby the petitioners are placed under suspension, pending enquiry regarding certain incidents alleged to have happened on 13.08.2026 in the University campus, in relation to which Ext.P1 FIR in Crime No.735/2026 and Ext.P2 FIR in Crime No.744/2026 of Kalady Police Station have been registered, alleging offences under Bharatiya Nyaya Sanhita, 2023. The petitioners have also sought for a writ of mandamus or any other writ, order or direction commanding and compelling the respondents to provisionally accept their applications, as mandated as per Ext.P6 notification dated 03.10.2026 issued by the University, notifying FYUGP/UG/ PG/Diploma/PG Diploma Degree Examinations - 2026; and a

declaration that the prolonged suspension of the petitioners is a high-handed action on the part of the respondents.

2. In Ext.P3 order of suspension, it is stated that in the Syndicate meeting held on 22.08.2026, it has been decided to place the petitioners under suspension, pending disciplinary action, for maintaining academic atmosphere and also for smooth administration of the University; and the Vice Chancellor has been authorised to take further action in that regard. Pursuant to the said decision taken by the Syndicate, the University issued Ext.P4 order dated 01.09.2026, constituting an enquiry committee, which was directed to submit a report after detailed evaluation of the entire issue relating to the incident that happened on 13.08.2026. Ext.P4 order was followed by Ext.P5 memo dated 22.09.2026, whereby the entry of the petitioners, who are placed under suspension, to the University Campus was restricted only on the respective dates mentioned in that memo, for the purpose of attending the hearing before the enquiry committee.

3. The writ petition filed on 12.10.2026 came up for admission before the learned Single Judge on 15.10.2026. The learned Standing Counsel for the University was directed to obtain

instructions on the time required to conclude the enquiry, and the writ petition was listed to 23.10.2026.

4. On 23.10.2026, it was submitted before the learned Single Judge that the meeting of the enquiry committee is scheduled on that day and the Syndicate is going to meet on 29.10.2026. After recording that submission, the learned Single Judge posted the matter on 17.11.2026.

5. On 29.10.2026, the petitioners filed I.A.No.2 of 2026, seeking an interim order directing the respondents to permit them to participate in the ensuing examinations scheduled to commence from 04.11.2026. On 30.10.2026, when I.A.No.2 of 2026 came up for consideration as 'today motion', the learned Single Judge passed an interim order directing the respondents to accept the necessary examination fee and permit the petitioners to appear for the ensuing examinations, which are scheduled to commence from 04.11.2026. The interim order dated 30.10.2026 of the learned Single Judge in I.A.No.2 of 2026 in W.P.(C)No.35256 of 2026 reads thus;

> "After hearing both sides, I am of the considered opinion that the petitioners should be permitted to write the examination, subject to the result of this writ petition.
>
> Therefore, the respondents are directed to accept the necessary examination fee and permit the petitioners to appear for the ensuing examination, which is scheduled to be commencing from 04.11.2026. The petitioners shall pay the necessary examination fee tomorrow itself so that the respondents can pass appropriate orders.
>
> I make it clear that the appearance of the petitioners in the examination will not give any right or any equity to the petitioners while deciding the case. The appearance of the petitioners will be subject to the final decision in this writ petition."

6. Challenging the interim order dated 30.10.2026 of the learned Single Judge in I.A.No.2 of 2026 in W.P.(C)No.35256 of 2026, the appellants-respondents are before this Court in this writ appeal, invoking the provisions under Section 5(i) of the Kerala High Court Act, 1958.

7. On 02.11.2026, when this writ appeal came up for admission as 'today motion', we heard arguments of Adv. Navaneeth Krishnan A.L., on behalf of Adv. Silpa Sreekumar, the learned Standing Counsel for Sree Sankaracharya University of Sanskrit, for the appellants-respondents/respondents, and also Sr.

Adv. T.A. Shaji, the learned Senior Counsel for the respondents-applicants/ petitioners, as instructed by Adv. P.G. Pramod, the learned instructing counsel.

8. On behalf of the appellants-respondents/respondents, it is contended that, as pointed out in the memorandum of writ appeal, none of the petitioners possesses the requisite attendance to appear for the examinations scheduled to commence on 04.11.2026 as per Ext.P6 notification dated 03.10.2026 issued by the University and they have not successfully passed the internal examinations as per the requirements. The petitioners have not even made an application, within the time limit stipulated in Ext.P6 notification dated 03.10.2026, as per the requirements of the said notification, with attendance certificate, progress report, proof of remittance of examination fee, etc., and therefore, the learned Single Judge committed a grave error in granting the impugned interim order dated 30.10.2026 in I.A.No.2 of 2026 in W.P.(C)No.35256 of 2026. In the absence of any pleadings and materials for condonation of shortage of attendance, as per the requirements of the relevant regulations, the learned Single Judge went wrong in granting an interim order directing the University to

accept the necessary examination fee and permit the petitioners to appear for the ensuing examinations, which are scheduled to commence from 04.11.2026 as per Ext.P6 notification dated 03.10.2026. The impugned interim order dated 30.10.2026 of the learned Single Judge, which substantially affects the rights of the University is liable to be set aside in this writ appeal. The learned counsel placed reliance on the decision of the Apex Court in **Vice Chancellor, Guru Ghasidas University v. Craig Mcleod [(2012) 11 SCC 275]**, and Division Bench decisions of this Court in **Dr. Antony Thomas v. V.M. Muhammed Rafique and others [2017 (5) KHC 215]** and **Principal, IES College of Engineering v. Anas P.M. and others [2023:KER:2546]**. The learned counsel has also referred to the relevant provisions of the Regulations issued by the University regarding minimum attendance requirements and condonation of shortage of attendance. The learned counsel pointed out that, as per Ext.P6 notification dated 03.10.2026, the date of receipt of application forms without fine was up to 14.10.2026, with fine was up to 21.10.2026 and with super fine up to 23.10.2026 onwards and the date of commencement of examinations is 04.11.2026. Ext.P6

notification specifically provides that exam registration portal will be opened with effect from 07.10.2026 and registration can be done without fine up to 14.10.2026. The print copy of the online exam registration application forms duly forwarded by the Head of the Departments/CDs together with attendance certificates, progress report, proof of remittance of examination fee by the candidate and also the statement of DCB should reach the Professor-in-charge of the examinations on or before 24.10.2026. Incomplete applications or those received after the prescribed date will not be entertained. ABC ID is mandatory for registering the examinations.

9. On the other hand, the learned Senior Counsel for the respondents-applicants/petitioners contended that, in this intra-court appeal filed under Section 5(i) of the Kerala High Court Act, 1958, no interference is warranted in the interim order dated 30.10.2026 of the learned Single Judge in W.P.(C)No.35256 of 2026. The learned Senior Counsel, as instructed by the learned instructing counsel, would submit that any shortage of attendance of the petitioners on account of their suspension by Ext.P3 order dated 01.09.2026, shall not defeat their entitlement to appear for

the ensuing examinations notified as per Ext.P6 notification dated 03.10.2026, and it is in such circumstances, that the learned Single Judge deemed it appropriate to grant an interim order, as sought for in I.A.No.2 of 2026 in W.P.(C)No.35256 of 2026, after making it clear that the appearance of the petitioners in the examinations will not give them any right or equity, while deciding the case and that their appearance will be subject to the final decision in the writ petition. On the contention raised on behalf of the appellants on the absence of pleadings in the writ petition, regarding possessing the required minimum attendance as per the relevant regulations, and pass in the internal examinations, for being eligible to appear in the examinations scheduled to commence on 04.11.2026, the learned Senior Counsel would submit that the averments in the writ petition did not specifically deal with the above aspects.

10. Though rival contentions have been raised with reference to the incidents alleged to have happened on 13.08.2026 in the University Campus, in relation to which Exts.P1 and P2 Crimes have already been registered, alleging offences under Bharatiya Nyaya Sanhita, 2023, we do not propose to consider those contentions in this writ appeal, since it may not be proper for

this Court to make any observations regarding those incidents, as investigation is going on.

11. The averments in the 1st paragraph of the statement of facts in W.P.(C)No.35256 of 2026 are that the petitioners are the students at the 1st respondent University, who are undergoing various courses in different streams under the University. They are aggrieved by the prolonged suspension by the University, preventing them from attending the classes, thereby causing serious loss. The prolonged suspension, without conducting the proposed enquiry is illegal and violative of Article 14 of the Constitution of India.

12. The order of suspension referred to in the 1st paragraph of the statement of facts in W.P.(C)No.35256 of 2026, which is dated 01.09.2026, is marked as Ext.P3 in the writ petition filed on 12.10.2026, whereby the petitioners are placed under suspension pending enquiry regarding certain incidents alleged to have happened on 13.08.2026 in the University campus, in relation to which Ext.P1 FIR in Crime No.735/2026 and Ext.P2 FIR in Crime No.744/2026 of Kalady Police Station have been registered, alleging offences under Bharatiya Nyaya Sanhita, 2023.

13. The averments in the statement of facts of this writ appeal would show that the 1st petitioner in the writ petition is pursuing Master of Social Work (MSW); petitioners 2 to 6 and 10 are Ph.D. Research Scholars; the 7th petitioner is pursuing Master of Fine Arts (MFA), petitioners 8, 9, 12 and 13 are pursuing Master of Arts (MA); petitioners 11, 14 and 16 are pursuing Four Year Undergraduate Programme (FYUGP). It is submitted at the Bar that the 15th petitioner is pursuing M.A Sanskrit Sahitya.

14. The averments in the statement of facts of this writ appeal would also show that the Regulations for MSW Degree Programme prescribe a minimum attendance of 80%. As per the said Regulations, a copy of which is made available for the perusal of this Court, condonation of shortage up to 20% shall be granted by the Vice Chancellor in cases where the Vice Chancellor is satisfied that the shortage of attendance of a student is for the reason of health or other reasons beyond the control of that student. Clause (IV) of the said Regulation deals with the manner in which an application for condonation of shortage of attendance should be made to the Registrar, in the prescribed format, along with due authentication or recommendation of the Head of the

Department/Director of the Centre concerned, within 15 days prior to the University examinations, and the claim for condonation should be supported with authorised medical certificate or concrete documentary proof, as the case may be.

14.1. In the statement of facts of the writ appeal it is pointed out that petitioners 2 to 6 and 10 are Ph.D. Research Scholars and therefore, Ext.P6 examination notification dated 03.10.2026 issued by the University has no application in their case. The Regulations for MFA Programme-2019, applicable in the case of the 7th petitioner, who is pursuing Master of Fine Arts (MFA); the Regulations for MA Programmes under CBCSS and OBTLE System-2019, applicable in the case of petitioners 8, 9, 12 and 13, who are pursuing Master of Arts (MA); and Regulations for Four-Year Undergraduate Programmes (FYUGP), applicable in the case of petitioners 11, 14 and 16, who are pursuing Four Year Undergraduate Programme, are also made available for the perusal of this Court.

14.2. In the case of Master of Fine Arts, the minimum attendance is 80% of all lectures, theory and practicals in a semester, and a shortfall in percentage of attendance on account

of unavoidable reasons, not exceeding 10% per academic year may be condoned as per University Regulations. Clause (12) of the said Regulations deals with the manner in which such an application should be made to the Registrar, in the prescribed format, along with due recommendations of the Head of the Department and the receipt of fee remittance. The claim for condonation should be supported by authorised medical certificates or concrete documentary proof, as the case may be.

14.3. In the case of Master of Arts, the minimum attendance is 80%, required for each course separately to register for the end semester examination. Condonation of shortage of attendance for a maximum of 20% per academic year shall be granted by the Vice Chancellor to candidates in cases where the Vice Chancellor is satisfied that the student could not attain minimum attendance for reasons of health or for other reasons beyond the control of the student. Clause (VIII) of the said Regulations deals with the manner in which such an application should be made to the Registrar, in the prescribed format, along with certificates proving reasons for the leave, after due authentication/recommendations of the Head of the Department/ Director of the Centre concerned,

not less than 15 days prior to the University examinations, along with receipt of fee remittance. The claim for condonation should be supported by authorised medical certificates or concrete documentary proof, as the case may be.

14.4. In the case of Four-Year Undergraduate Programmes, the minimum attendance is 75% of the prescribed classroom activities in physical, online or blended modes, including any make-up activities as specified by the faculty advisor of a particular course. Clause (19) of the said Regulations deals with course participation/attendance and Clause (20) deals with making of plans/condonations. As per the Regulations, condonation of shortage of attendance for a maximum of 20% in a semester, subject to the maximum of two times during the whole period of programme, may be granted by the University on sufficient grounds. The application in the prescribed format, for condonation of shortage of attendance, with the prescribed fee, and duly forwarded by the Head of the Department/Teacher in Charge or the Director of Regional Campus, shall be submitted to the Registrar, at least 15 days before the end of semester examinations.

15. In paragraph 10 of the statement of facts of this writ appeal, it is stated that petitioners 2 to 6 and 10 are Ph.D. Research Scholars and Ext.P6 examination notification has no application in their case. It is also stated that, none of the petitioners possesses the required attendance to be eligible to appear for examinations. The attendance particulars of petitioners 1, 7 to 9, 11 to 14 and 16 are furnished in paragraph 10. In paragraph 11, it is stated that none of the petitioners has successfully passed the requisite internal examinations and possesses the prescribed attendance to be eligible to appear for the examinations, and the learned Single Judge without considering any of these essential eligibility criteria, granted the interim relief, which, in effect, amounts to granting the final relief sought for in the writ petition.

16. The learned counsel, who addressed arguments on behalf of the learned Standing Counsel for the University, submitted that, as stated in the statement of facts of the memorandum of writ appeal, none of the petitioners possess the requisite attendance to appear for the examinations scheduled to commence on 04.11.2026 as per Ext.P6 notification dated 03.10.2026 issued by the University and they have not successfully

passed the internal examinations. In terms of the provisions contained in the Regulations applicable to the respective courses, the petitioners who are pursuing the courses referred to in Ext.P6 notification are not legally entitled to appear for the examinations scheduled to commence on 04.11.2026. Any condonation of shortage of attendance, within the permissible limits, for a valid reason permissible under the respective Regulations, is possible only when a proper application in the prescribed format is made by the respective candidates, within the prescribed time limit, which is recommended by the Head of the Department/Director of the Centre concerned, and supported by authorised medical certificate or concrete documentary proof, as the case may be. In the absence of any pleadings and materials for condonation of shortage of attendance as per the relevant regulations, the learned Single Judge committed a grave error in granting an interim order directing the University to accept the necessary examination fee and permit the petitioners to appear for the ensuing examinations, which are scheduled to commence from 04.11.2026.

17. On the other hand, the submission of the learned Senior Counsel for the respondents-applicants/petitioners, as instructed

by the learned instructing counsel, was that the petitioners are having the minimum attendance required as per the relevant Regulations for attending the examinations scheduled to commence on 04.11.2026 as per Ext.P6 notification issued by the University and they have also cleared the internal examinations. In case they are having any shortage of attendance, it is on account of Ext.P3 order of suspension, which is under challenge in W.P.(C)No.35256 of 2026. On the contention on behalf of the appellants on the absence of pleadings in the writ petition, regarding possessing the required minimum attendance as per the relevant regulations, and pass in the internal examinations, for being eligible to appear in the examinations scheduled to commence on 04.11.2026 as per Ext.P6 notification issued by the University, the learned Senior Counsel would submit that the averments in the writ petition did not specifically deal with the above aspects.

18. In **Bharat Singh v. State of Haryana [(1988) 4 SCC 534]**, the Apex Court held that, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove

such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter affidavit, as the case may be, the Court will not entertain the point. The Supreme Court held further that there is a distinction between a pleading under the Civil Procedure Code, 1908, and a writ petition or a counter affidavit. While in a pleading, i.e., a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter affidavit, not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it.

19. In **State of U.P. v. Harish Chandra [(1996) 9 SCC 309]**, the Apex Court held that under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus

can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which is contrary to law.

20. In **Bhaskara Rao A.B. v. CBI [(2011) 10 SCC 259]**, the Apex Court reiterated that, generally, no court has competence to issue a direction contrary to law nor can the Court direct an authority to act in contravention of the statutory provisions. The Courts are meant to enforce the rule of law and not to pass the orders or directions which are contrary to what has been injected by law.

21. In the instant case, in the writ petition filed on 12.10.2026, there is total lack of pleadings on the entitlement of the petitioners to appear for the examinations scheduled to commence on 04.11.2026 as per Ext.P6 notification dated 03.10.2026 issued by the University, regarding the minimum attendance requirement as per the relevant Regulations, and also pass in the internal examinations. Admittedly, none of the petitioners has submitted an application as per the requirements of the relevant Regulations for condonation of shortage of attendance, with the requisite fee, the required medical certificate, etc., with due recommendation of the Head of the Department/

Director of the Centre concerned. The relevant Regulations prescribe a time limit for making application for condonation of shortage of attendance.

22. In **Principal, IES College of Engineering v. Anas P.M. and others [2023:KER:2546]**, a Division Bench of this Court observed that, where there is a suspension ordered by reason of which there occurs an attendance shortage; essentially it is a just consequence of the order of suspension, which the students will have to necessarily suffer. Paragraph 5 of the said decision reads thus;

> "5. On the facts disclosed and also reckoning the fact that the suspension orders were passed after due enquiry, we are of the definite opinion that there cannot be a direction to readmit the students suspended and permit them to write all ensuing exams. We also pertinently notice that the learned Single Judge did not cause interference to the impugned orders, in which event there could not have been any direction issued in contravention of the orders issued. That having been said, we cannot but observe that, when there is a suspension ordered by reason of which there occurs an attendance shortage; essentially it is just a consequence of the order of suspension, which the students will have to necessarily suffer. Otherwise the penalty imposed will have no effect and despite the students not

attending classes, if permitted to appear for the exams, that would turn out to be a premium on the offence committed by the students. We are constrained, on the above reasoning, to interfere with the directions of the learned Single Judge, permitting the petitioners in the writ petition to rejoin the College and appear in all ensuing examinations."

23. In **Dr. Antony Thomas v. V.M. Muhammed Rafique and others [2017 (5) KHC 215]**, a Division Bench of this Court observed that political activities like dharna, hunger strikes and other practices like Sathyagrah have no place in a constitutional democracy, much less in academic institutions. Anyone indulging in the said activities in an educational institution would make himself liable to be expelled and/or rusticated. Educational Institutions are meant for imparting education and not politics. By their political ambition the political parties cannot hold to ransom the educational institution or the right of the civilized students to receive education. Paragraph 2 of the said decision reads thus;

'2. The next, we would like to observe is that political activities like Dharna, hunger strikes and other practices like Sathyagrah have no place in a constitutional democracy, much less in academic institutions. Anyone indulging in the said activities in an educational institution would make

himself liable to be expelled and/or rusticated. Educational Institutions are meant for imparting education and not politics. By their political ambition the political parties cannot hold to ransom the educational institution or the right of the civilized students to receive education. We would only remind ourselves of what Dr. B. R. Ambedkar had said while introducing the Constitution for its adoption to the Constituent Assembly on 25.11.1949:

> "If we wish to maintain democracy not merely in form, but also in fact, what must we do? The first thing in my judgment we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non - cooperation and satyagraha. When there was no way left for constitutional methods of achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us."
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> (underline supplied)

24. Viewed in the light of the law laid down by the Apex Court in **Bharat Singh [(1988) 4 SCC 534]**, in the absence of pleadings to support the entitlement of the petitioners (i.e.,

petitioners other than Ph.D Research Scholars) to appear for the examinations scheduled to commence on 04.11.2026 as per Ext.P6 notification issued by the University, in terms of the minimum attendance requirements in the relevant Regulations, and also regarding pass in the internal examinations, the learned Single Judge went wrong in granting an interim order, directing the University to accept the necessary examination fee from the petitioners and permit them to appear for the ensuing examinations. By way of that interim order, the learned Single Judge permitted the petitioners to appear in the examination, even without an application for condonation of shortage of attendance and even without an application in terms of Ext.P6 notification, which should be forwarded by the Heads of the Department/Director of the Centre concerned together with attendance certificate, progress report, proof of remittance of examination fee, etc. By issuing such an interim order, the learned Single Judge directed the University and its officials to act contrary to the requirements of the relevant Regulations, which is legally impermissible in view of the law laid down by the Apex Court in **Harish Chandra [(1996) 9 SCC 309]** and **Bhaskara Rao A.B.**

[(2011) 10 SCC 259], since no court has competence to issue direction to the University to act in contravention of the relevant Regulations governing the course in question.

25. In **State of Kerala v. Pradeepkumar A.V. [2025 (1) KHC 672]**, this Court was dealing with a writ petition seeking a declaration that the senior-most Registrar of the High Court appointed by promotion from the High Court Service is entitled to a higher grade in the scale of pay Rs.129300-166800 (Special Secretary's scale), with effect from 01.04.2021, as recommended by the Hon'ble the Chief Justice in the letter dated 16.02.2021 and by the 11th Pay Revision Commission in its report [Part II, February, 2021]; and a writ of mandamus commanding the 2nd respondent to accept the proposal made by the Hon'ble the Chief Justice as per the letter dated 16.02.2021 and to issue orders sanctioning a higher grade in the scale of pay Rs.129300-166800 with effect from 01.04.2021 to the senior-most Registrar appointed by promotion from the High Court service, on a par with the scale of pay of Special Secretary to the Government. The interim relief sought for in the writ petition was an order directing the 2nd respondent High Court to issue orders sanctioning a higher grade with effect from

01.04.2021, in the scale of pay Rs.129300-166800, as recommended by the Hon'ble the Chief Justice in the letter dated 16.02.2021 and by the 11th Pay Revision Commission in its report, to the senior-most Registrar appointed by promotion from the High Court Service, pending disposal of the writ petition. On 12.12.2024, when the writ petition came up for consideration, the learned Single Judge passed the following order;

> ''Post this matter on 10.01.2025. If the recommendation of the Hon'ble Chief Justice dated 16.02.2021 is not implemented before the next date of posting of this writ petition, the Chief Secretary of the State shall remain present before this Court on that day itself.''

26. In **Pradeepkumar A.V. [2025 (1) KHC 672]**, while setting aside the said interim order of the learned Single Judge, this Court held that the interim relief sought for in the writ petition is nothing but the final relief. Therefore, instead of passing the impugned interim order dated 12.12.2024, the learned Single Judge ought to have considered the rival contentions and decided the question as to whether the writ petitioner is entitled to a writ of mandamus, as sought for in that writ petition. At any rate, by way of an interim order, respondents 1 to 3 in the writ petition

cannot be directed to implement before the next posting of the writ petition the recommendation made by the Hon'ble the Chief Justice in the letter dated 16.02.2021, failing which the Chief Secretary shall remain present before the Court on 10.01.2025 itself.

27. In **Deoraj v. State of Maharashtra and others [(2004) 4 SCC 697]**, the Apex Court observed that situations emerge where the granting of an interim relief would tantamount to granting the final relief itself. And then there may be converse cases where withholding of an interim relief would tantamount to dismissal of the main petition itself; for, by the time the main matter comes up for hearing, there would be nothing left to be allowed as relief to the petitioner though all the findings may be in his favour. In such cases, the availability of a very strong prima facie case - of a standard much higher than just prima facie case - the considerations of balance of convenience and irreparable injury forcefully tilting the balance of the case totally in favour of the applicant may persuade the court to grant an interim relief though it amounts to granting the final relief itself. Of course, such cases would be rare and exceptional. The court would grant such interim relief only if satisfied that withholding it would prick the court's

conscience, do violence to the sense of justice, perpetuate injustice throughout the hearing, and leave the court unable to vindicate the cause of justice at the end.

28. In paragraph 11 of the decision in **Deoraj [(2004) 4 SCC 697]**, the Apex Court observed that the Courts and Tribunals seized of the proceedings within their jurisdiction take a reasonable time in disposing of the same. This is on account of the fair procedure requirement, which involves delay intervening between the previous and the next procedural steps, leading towards preparation of the case for hearing. Then, the Courts are also overburdened, and their hands are full. As the conclusion of hearing on merits is likely to take some time, the parties press for interim relief being granted in the interregnum. An order of interim relief may or may not be a reasoned one, but the factors of prima facie case, irreparable injury and balance of convenience do work at the back of the mind of the one who passes an order of interim nature. Ordinarily, the Court is inclined to maintain status quo as obtained on the date of the commencement of the proceedings. However, there are a few cases which call for the Court's leaning not in favour of maintaining the status quo and still lesser in

percentage are the cases when an order tantamounting to a mandamus is required to be issued even at an interim stage. There are matters of significance and of moment posing themselves as a moment of truth. Such cases do cause dilemma and put the wits of any Judge to the test.

29. In the instant case, as already noticed hereinbefore, there is total lack of pleadings in W.P.(C)No.35256 of 2026 regarding the entitlement of the petitioners (i.e., petitioners other than Ph.D Research Scholars) to appear for the ensuing examinations which are scheduled to commence from 04.11.2026 as per the requirements of the relevant regulations regarding minimum attendance requirements and pass in the internal examinations. Therefore, the pleadings in the writ petition do not make out a very strong prima facie case as per the requirements of the law laid down by the Apex Court in **Deoraj [(2004) 4 SCC 697]**. When the interim relief granted by the learned Single Judge by the impugned order dated 30.10.2026 is virtually the main relief sought for in the writ petition with reference to Ext.P6 notification dated 03.10.2026, the said interim order cannot be sustained in

law, in view of the law laid down by a Division Bench of this Court in **Pradeepkumar A.V [2025 (1) KHC 672]**.

30. Section 5 of the Kerala High Court Act, 1958, deals with an appeal from a judgment or order of a Single Judge. As per clause (i) of Section 5 of the said Act, an appeal shall lie to a Bench of two Judges from a judgment or order of a Single Judge in the exercise of original jurisdiction. Clause (ii) of Section 5 provides for such an appeal from a judgment of a Single Judge in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of original jurisdiction by a subordinate court.

31. In **K.S. Das v. State of Kerala [1992 (2) KLT 358]**, a Larger Bench of this Court held that the word 'order' in Section 5(i) of the Kerala High Court Act includes, apart from other orders, orders passed by the High Court in miscellaneous petitions filed in the writ petitions, provided the orders are to be in force pending the writ petition. An appeal would lie against such orders only if the orders substantially affect or touch upon the substantial rights or liabilities of the parties or are matters of moment and cause substantial prejudice to the parties. The nature of the 'order' appealable belongs to the category of 'intermediate orders'

referred to by the Apex Court in **Madhu Limaye v. State of Maharashtra [(1977) 4 SCC 551]**. The word 'order' is not confined to 'final order', which disposes of the writ petition. The 'orders' should not, however, be ad-interim orders in force pending the miscellaneous petition or orders merely of a procedural nature.

32. In **Thomas P. T. and another v. Bijo Thomas and others [2021 (6) KLT 196]**, a Division Bench of this Court noticed that the view upheld by the Larger Bench in **K.S. Das [1992 (2) KLT 358]** was that even though an appeal could be filed against an interlocutory order passed in a writ petition, to be qualified for challenge in an appeal, the order shall be either substantially affecting or touching upon the substantial rights or liabilities of the parties or which are matters of moment and cause substantial prejudice to the parties. According to the Larger Bench, the nature of the order appealable belongs to the category of intermediate orders referred to by the Apex Court in **Madhu Limaye [(1977) 4 SCC 551]**. However, the Larger Bench clarified that such orders should not be ad-interim orders or orders merely of a procedural nature.

33. In **M/s.Grids Engineers and Contractors v. Union Bank of India [2026 (2) KHC SN 25]**, the questions that came up for consideration before the Division Bench were: whether an intra-court appeal lies under clause (i) of Section 5 of the Kerala High Court Act against an interim order of a Single Judge and what is the scope of such appellate jurisdiction; whether a Single Judge is competent to refer to a Larger Bench questioning the propriety of a Division Bench order; and whether a writ petition is entertainable under Article 226 of the Constitution of India challenging an order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) when an efficacious alternative remedy is available. The Division Bench dealt with a case where a partnership firm engaged in contracting availed credit facilities from Union Bank of India. Disputes arose over the outstanding dues, and the Bank initiated proceedings under the SARFAESI Act. The Chief Judicial Magistrate allowed the Bank's application under Section 14 of the SARFAESI Act for taking possession of the secured assets. Aggrieved, the petitioner approached the High Court challenging the order of the Chief Judicial Magistrate as being

without jurisdiction. The learned Single Judge granted an interim stay, which a Division Bench set aside for want of reasons. On remand, the learned Single Judge passed a fresh interim order, which the Division Bench again set aside for not meaningfully engaging with Apex Court precedents on the maintainability of writ petitions in SARFAESI matters. Instead of complying with the remand direction, the learned Single Judge made an order of reference questioning the propriety of the Division Bench judgment and raising the issue of the scope of intra-court appeals under clause (i) of Section 5 of the Kerala High Court Act, 1958. The Bank then challenged the order of reference by filing a writ appeal under clause (i) of Section 5 of the Act.

34. In **M/s.Grids Engineers and Contractors [2026 (2) KHC SN 25]**, a Division Bench of this Court held that the appellate powers of the Bench of two Judges as envisaged under clause (i) of Section 5 of the Kerala High Court Act, as against the 'intermediate' or discretionary orders of the Single Judge, can be exercised only on the satisfaction of the instances specified by the Larger Bench in **K.S. Das [1992 (2) KLT 358]**. The word 'order' in clause (i) of Section 5 of the said Act includes, apart from other

orders, orders passed by the High Court in miscellaneous petitions filed in the writ petitions, provided the orders are to be in force pending the writ petition.

35. In **M/s.Grids Engineers and Contractors [2026 (2) KHC SN 25]**, the Division Bench noticed that an appeal under clause (i) of Section 5 of the Kerala High Court Act would lie against such orders only if the orders substantially affect or touch upon the substantial rights or liabilities of the parties or are matters of moment and cause substantial prejudice to the parties. But this does not mean that the Division Bench hearing the appeal against such 'orders' will have to admit the appeal or modify the impugned order or set it aside in every case. There is a difference between the question of whether an appeal lies to a Division Bench and as to the scope of interference. Normally, courts do not interfere with discretionary orders unless the impugned orders are without jurisdiction, contrary to law, or perverse, and cause serious prejudice to the parties in such a manner that it might be difficult to restore the status quo ante or grant adequate compensation. The idea is to provide an internal remedy in such cases, without compelling the parties to go all the way to the Apex Court under

Article 136 of the Constitution of India or unnecessarily increasing the burden of that Court.

36. In **M/s.Grids Engineers and Contractors [2026 (2) KHC SN 25]**, the Division Bench held that an appeal is maintainable under clause (i) of Section 5 of the Kerala High Court Act against an interlocutory order, provided it is a final order on the miscellaneous petitions in the sense that it is not an ad-interim order if the order substantially affects or touches upon substantial rights and liabilities of the parties or are matters of moment or matters which would cause real legal prejudice to the parties, even though the parent original proceedings is alive. It is not necessary that, to attract clause (i) of Section 5 of the said Act and to maintain an appeal, the order should have the label of a final order in the sense that it disposes of the original proceedings under Article 226 of the Constitution of India. An intra-court appeal is maintainable under clause (i) of Section 5, inter alia, against an ex parte ad-interim order or any order which has clearly affected the right of a party to pursue its statutory remedy. On the facts of the case at hand, the Division Bench found that the order giving rise

to the reference conforms to the standard laid down by the Full Bench in **K.S. Das [1992 (2) KLT 358]**.

37. By the impugned interim order dated 30.10.2026 in I.A.No.2 of 2026 in W.P.(C)No.35256 of 2026, the learned Single Judge directed the University to accept the necessary examination fee and permit the petitioners (i.e., petitioners other than Ph.D Research Scholars) to appear for the ensuing examinations, which are scheduled to commence from 04.11.2026, as per Ext.P6 notification issued by the University. By issuing such an interim order, the learned Single Judge permitted the petitioners, who have not submitted the required application in the manner prescribed in Ext.P6 notification, who do not have the entitlement to appear for such examinations as per the relevant Regulations, going by the pleadings in the writ petition. Such an order passed by the learned Single Judge in an interlocutory application moved on 30.10.2026, as 'today motion', even without affording the learned Standing Counsel for the University an opportunity to get necessary instructions, which substantially affects and touches upon the substantial rights of the respondents therein, is an order against which an intra-court appeal under clause (i) of Section 5 of

the Kerala High Court Act is maintainable, in view of the law laid down in the decisions referred to supra.

38. In the above circumstances, based on the conclusions arrived at by this Court in paragraphs 24, 29 and 37 hereinbefore, we find no reason to sustain the impugned order dated 30.10.2026 of the learned Single Judge in I.A.No.2 of 2026 in W.P.(C)No.35256 of 2026. In the result, this writ appeal is allowed by setting aside the impugned order dated 30.10.2026 of the learned Single Judge.

We make it clear that the observations contained in this judgment touching the merits of the issue pending consideration before the learned Single Judge in W.P.(C)No.35256 of 2026 are made for the limited purpose of disposal of this writ appeal.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

bkn/AV

APPENDIX OF WA NO. 2276 OF 2026

PETITIONER ANNEXURES

Annexure A1	**A TRUE COPY OF THE INTERIM ORDER DATED 15.10.2026 IN W.P.(C) NO. 35256 OF 2026 PASSED BY THIS HONOURABLE COURT**
Annexure A2	**A TRUE COPY OF THE INTERIM ORDER DATED 23.10.2026 IN W.P.(C) NO. 35256 OF 2026 PASSED BY THIS HONOURABLE COURT**
Annexure A3	**A TRUE COPY OF THAT COMPLAINT DATED 15.08.2026 SUBMITTED BY THE VICE CHANCELLOR TO THE DIRECTOR GENERAL OF POLICE AND STATE POLICE CHIEF.**