

W.P.(C).No.15749/2021

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 9TH DAY OF AUGUST 2021 / 18TH SRAVANA, 1943

WP(C) NO. 15749 OF 2021

PETITIONERS:

- 1 HARIHARAN,
AGED 21 YEARS
S/O. ANILKUMAR,
(6TH SEMESTER STUDENT JYOTHI ENGINEERING COLLEGE
THRISSUR)
RESIDING AT MANGANKUNNATH HOUSE, KULAPULLY,
SHORANUR -2, PALAKKAD 679 122.
- 2 ASWIN JAYAKUMAR,
AGED 20 YEARS
S/O.P.L. JAYAKUAMR,
(6TH SEMESTER STUDENT SREE NARAYANA GURUKULAM
COLLEGE OF ENGINEERING KOLLAM,),
RESIDING AT PULLANPLAVIL HOUSE, PALACE SQUARE,
CHOTTANIKKARA P.O. ERNAKULAM 682 312.
- 3 ARJUN T. BALACHANDRAN,
AGED 20 YEARS
S/O. BALACHANDRAN , (6TH SEMESTER STUDENT TOC.H
INSTITUTE SCIENCE AND TECHNOLOGY, ERNAKULAM),
RESIDING AT THATTAMPARAMBIL HOUSE, CHOTTANIKKARA
P.O. ERUVELLY, ERNAKULAM.
- 4 GREGORY SHAJAN,
AGED 21 YEARS
S/O. SHAJAN M.K.,
(6TH SEMESTER STUDENT TOC.H. INSTITUTE SCIENCE AND
TECHNOLOGY, ERNAKULAM)
RESIDING AT MUNDACKKAL HOUSE, PANGARAPPILLY P.O.
MULANTHURUTHY, ERNAKULAM.

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- 5 ABHIJITH K.S.,
AGED 21 YEARS
S/O. SREEKUMAR K.G.,
(6TH SEMESTER STUDENT SREE NARAYANA GURUKULAM
COLLEGE OF ENGINEERING KOLLAM),
RESIDING AT KALARIKKAL HOUSE, CHOTTANIKKARA P.O.
KANAYANNUR, ERNAKULAM.
- 6 DEV.S. CHANDRAN,
AGED 20 YEARS
S/O. SANOJ V CHANDRAN ,
(6TH SEMESTER STUDENT SREEBUDDHA COLLEGE OF
ENGINEERING PATOOR),
RESIDING AT KALPANA -1, KARIPUZHA P.O. MAVELIKARA,
ALAPPUZHA 690 103.
- 7 VISHNU V.,
AGED 21 YEARS
S/O.C. VIJAYAKUMAR
(6TH SEMESTER STUDENT SREEBUDDHA COLLEGE OF
ENGINEERING PATOOR)
RESIDING AT VIJAYAMANDIRAM, EREZHA SOUTH P.O.
CHETTIKULANGRA, MAVELIKARA, ALAPPUZHA 690 106.
- 8 MITHRA SUSHEEL,
AGED 21 YEARS
D/O.V.V. SUSHEELAN NAIR,
(6TH SEMESTER STUDENT SREEBUDDHA COLLEGE OF
ENGINEERING PATOOR).RESIDING AT
PARIPARAVADAKKATHIL HOUSE, PATHIYOOR P.O.
BHAGAVATHIPADI, CHETTIKULANGARA, ALAPPUZHA 690
508.
- 9 VINAYAK SUSHEEL,
AGED 21 YEARS
S/O. V.V. SUSHEELAN NAIR,
(6TH SEMESTER STUDENT SREEBUDDHA COLLEGE OF
ENGINEERING PATTOOR),
RESIDING AT PARIPARA VADAKKATHIL HOUSE, PATHIYOOR
P.O. BHAGAVATHIPADI, CHETTIKULANGARA, ALAPPUZHA
690 508.

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- 10 KARTHIK.V.,
AGED 21 YEARS
S/O. VIJAYAKUMAR,
(6TH SEMESTER STUDENT SREEBUDDHA COLLEGE OF
ENGINEERING PATTOR), RESIDING AT VIJAYABHAVANAM,
PUTHIYAVILA P.O. ALAPPUZHA 690 531.
- 11 ALEX JOSE,
AGED 21 YEARS
S/O. JOSE K.D.,
(6TH SEMESTER STUDENT CHRIST ENGINEERING COLLEGE ,
IRINJALAKKUDA), RESIDING AT KALLIVALAPPIL HOUSE,
KALLETUMKARA P.O. THRISSUR , KERALA 680 683.
- 12 LINCY BOSCO,
AGED 21 YEARS
D/O. BOSCO JOSEPH
(6TH SEMESTER STUDENT BISHOP JEROM INSTITUTE
KOLLAM) RESIDING AT BINCY DALE,
RAJADHANI COMPOUND,
VADAKKEVILA P.O. KOLLAM.
- 13 DARSHADILIP,
AGED 20 YEARS
D/O. DILIP KUMAR.K.,
(6TH SEMESTER STUDENT BISHOP JEROM INSTITUTE
KOLLAM)
RESIDING AT KOCHUKUZHIKANATH HOUSE, KUREEPUZHA,
KARANAD P.O. KOLLAM 691 003.
- 14 JESSONJOSHY,
AGED 21 YEARS
S/O. JOBY JOSE,
(6TH SEMESTER STUDENT CHRIST ENGINEERING COLLEGE,
IRINJALAKKUDA) RESIDING AT MELEPPURAM HOUSE, POTTA
P.O. CHALAKUDY, THRISSUR , KERALA 680 722.

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- 15 ARUN.V.,
AGED 20 YEARS
S/O.P.N. MADANSUNDAR ,
(6TH SEMESTER STUDENT JYOTHI ENGINEERING COLLEGE
THRISSUR) ,
RESIDING AT PONULLY NEDUNGHAT HOUSE, NEDUMPURA
P.O. CHERUTHURUTHY THRISSUR , KERALA 679 531.
- 16 LEO FRANCIS,
AGED 20 YEARS
S/O. FRANCIS P.I.,
(6TH SEMESTER STUDENT CHRIST ENGINEERING COLLEGE,
IRINJALAKKUDA) RESIDING AT PADIJAKKARA HOUSE,
PARIYARAM P.O CHALAKUDY, THRISSUR , KERALA 680
721.
- 17 IRSHAD T.A,
AGED 21 YEARS
S/O. ABOOBACKER T.,
(6TH SEMESTER STUDENT JYOTHI ENGINEERING COLLEGE
THRISSUR), RESIDING AT THOTTATHODI HOUSE,
PALAPPURAM P.O.
OTTAPALAM, 679 103.
- 18 SARANG NATH.S,
AGED 21 YEARS
S/O. SANTHOSH KUMAR.S.,
(6TH SEMESTER STUDENT SREEBUDDHA COLLEGE OF
ENGINEERING PATTOR),
RESIDING A T SISIRAM, NEDIYAVILA, KUNNATHOOR EAST
P.O. KOLLAM 690 540.
- 19 JITHIN S.,
AGED 21 YEARS
S/O. SANKARANARAYANAN V.P.),
(6TH SEMESTER STUDENT JYOTHI ENGINEERING COLLEGE
THRISSUR,) RESIDING AT SREESAILAM, KULAPPULLY
P.O. SHORNUR 679 122.

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- 20 GOKUL S. NAIR,
AGED 21 YEARS
S/O. SURESH NAIR,
(6TH SEMESTER STUDENT CHRIST COLLEGE OF
ENGINEERING CHENGANNUR), RESIDING AT SOUPARNIKA,
BUDHANOOR P.O. KADAMPOOR.
- 21 APARNA B. CHANDRAN,
AGED 22 YEARS
D/O. BALACHANDRAN,
(6TH SEMESTER STUDENT BISHOP JEROM INSTITUTE
KOLLAM), RESIDING AT AMBALASSERIL,
PANDARATHURUTHU,
CHERIAZHEKKAL P.O. KANNAGAPPALLY.
- 22 ABHIJITH DASAN,
AGED 20 YEARS
S/O. CHEREYAPURATH SIVA DASAN,
(6TH SEMESTER STUDENT GOVERNMENT ENGINEERING
COLLEGE KANNUR), RESIDING AT MOOTHATIL HOUSE,
MULLURKARA RAILWAY STATION, MULLURKARA P.O.
THRISSUR 680 583.
- 23 S. SREERAG MENON,
AGED 20 YEARS
S/O. T. SUDHEER ,
(6TH SEMESTER STUDENT JYOTHI ENGINEERING
THRISSUR), RESIDING AT NO. 6A4, SURYA APARTMENT ,
CIVIL STATION P.O. KANNUR 670 002.
- 24 ABDULLA M.R. ,
S/O. MOHAMMEDHUSSAIN,
(6TH SEMESTER STUDENT TKM ENGINEERING COLLEGE
KOLLAM), RESIDING AT PLAVILAVEEDU, III ROAD,
CHANDANATHOPE P.O. KOLLAM 691 014.
- 25 NIVIN ANILKUMAR,
S/O. ANILKUMAR,
PLAVILAZHIKATHU VEEDU,
(6TH SEMESTER STUDENT TKM ENGINEERING COLLEGE
KOLLAM), RESIDING AT VENAD NAGAR , 35,
KILIKOLLOOR P.O. KOLLAM 691 004.

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- 26 AYMAN,
AGED 22 YEARS
S/O. SAJITH.K.K.,
(6TH SEMESTER STUDENT JYOTHI ENGINEERING COLLEGE
THRISSUR), RESIDING AT KINARAMAKKAL HOUSE,
KUMRANELLOOR P.,O. PARUTHIPARA, THRISSUR 680 590.
- 27 ANNOTSHAJI GEORGE,
AGED 21 YEARS
S/O. SHAJI GEORGE,
(6TH SEMESTER STUDENT BISHOP JEROM INSTITUTE
KOLLAM),
RESIDING AT MALABAR HOUSE, MUNDAKKAL WEST, KOLLAM
691 001.
- 28 ALISHA ALOSHIOUS,
AGED 21 YEARS
D/O. ALOSIOUS N,
(6TH SEMESTER STUDENT BISHOP JEROM INSTITUTE
KOLLAM), RESIDING AT OLD SCHOLL COMPOUND , JYOTHIS
NAGAR 27, VADDY, KOLLAM 691 013.
- 29 JAYARAM T.P.,
S/O.T.P. VASUDEVAN,
(6TH SEMESTER STUDENT)
RESIDING AT THUMARAKKAVILPUSHPOTH HOUSE, POOKKAYIL
BAZAR P.O. TIRUR ,MALAPPURAM DISTRICT 676 107.

BY ADVS.
VARGHESE P.CHACKO
DENNIS VARGHESE

RESPONDENTS :

- 1 THE VICE CHANCELLOR,
APJ ABDUL KALAM TECHNOLOGICAL UNIVERSITY AND
KERALA TECHNOLOGICAL UNIVERSITY, CET CAMPUS,
ALATHARA ROAD, AMBADY NAGAR, THIRUVANANTHAPURAM ,
KERALA 695 016.

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- 2 CONTROLLER OF EXAMINATIONS,
 OFFICE OF THE CONTROLLER OF TECHNICAL
 EXAMINATIONS, APJ ABDUL KALAM TECHNOLOGICAL
 UNIVERSITY @ KERALA TECHNOLOGICAL UNIVERSITY , CET
 CAMPUS, ALATHARA ROAD, AMBADI NAGAR,
 THIRUVANANTHAPURAM , KERALA 695 016.

- 3 UNIVERSITY GRANTS COMMISSION,
 REPRESENTED BY ITS SECRETARY, BAHADUR SHAZH ZAFAR
 MARG, NEW DELHI 110 002.

- 4 STATE OF KERALA,
 REP. BY SECRETARY TO GOVERNMENT HIGHER EDUCATION
 DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM ,
 KERALA 695 001.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 05.08.2021, THE COURT ON 09.08.2021 DELIVERED
THE FOLLOWING:-

ANU SIVARAMAN, J.

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Dated this the 9th day of August, 2021

JUDGMENT

1. This writ petition is filed by 29 persons who state that they are 6th Semester students in various Engineering Colleges under the 1st respondent University. It is contended that the UGC in view of the Covid 19 pandemic had issued Exhibit P2 guidelines in July 2021 providing that intermediate semester/ year students, assessment shall be based on internal evaluation and previous semester as suggested in 2020 guidelines. It is submitted that the insistence on offline examinations by the 1st respondent when the respondent UGC has clearly mandated that assessment shall be made only by internal Evaluation and previous semester is totally illegal. It is submitted that the Honourable Supreme Court in **Praneeth K. vs UGC and Ors** (2020 SCC online 688) has held that the guidelines of the UGC have statutory force. It is contended that in view of the

raging Covid 19 pandemic, the petitioners lives will be put to peril, if they are forced to attend the offline examination.

2. The learned counsel for the petitioner submits that they had filed an impleading petition in Writ Appeal No.948 of 2021 and made a submission before the Bench. But the Hon'ble Division Bench clarified orally that the entire subject matter of the writ appeal is only with regard to the 1st and 3rd semester examinations and that it has nothing to do with the 6th semester examination or notification thereof.

3. Sri.Elvin Peter, the learned standing counsel appearing for the 1st respondent submits that Exhibit P2 is a truncated version of the guidelines issued by the U.G.C. The guidelines are specifically subject to the directives to be issued by the specific Apex statutory bodies like the AICTE, NCTE, BCI etc. It is submitted that the UGC guidelines have no binding force on the 1st respondent, which is a technological university and that the AICTE has not issued any guidelines whatsoever in the matter. Even otherwise, it is contended

that with regard to the conduct of the intermediary semester examinations also, the guidelines specifically state that the assessments should be as suggested in the the 2020 guidelines. It is submitted that the 2020 guidelines provided that for intermediate Semester/ Year students, the Universities may conduct examinations after making a comprehensive assessment of their level of preparedness, residential status of students, status of Covid 19 pandemic spread in different region/ state and other factors. It is the submitted that the University has been conducting offline examinations with all preparations and following the Covid protocol and no incidents of spread of Covid due to conduct of examinations has been reported from any quarters. It is further contended that the State Government has specifically considered the issue of conduct of examinations and by a Government Order issued on 4.8.2021 taking note of all relevant aspects of the matter, had specifically provided that all competitive, recruitment and university examinations/sports trials shall be permitted. It is contended that the prayer of the writ petitioners stands

squarely covered by the interim order of a Division Bench of this Court in Writ Appeal No.948/2021 in the case of 1st and 3rd semester students, where the University was permitted to go on with the conduct of the offline examinations and that the present writ petition is totally misconceived and is liable to be dismissed. It is further submitted that the UGC guidelines with regard to the conduct of intermediate semester examinations in technical courses were purely directory and it was left to the University to decide on the mode of the examinations. It is further submitted that the University does not have the functional capability to conduct the entire exams online and any direction in that regard would result in the indefinite postponement of the intermediate semester exams.

4. The learned Government Pleader also submitted on instructions that the UGC guidelines may not have any binding force as far as the 1st respondent University is concerned. It is further contended that the Government had conducted specific consultations with the Vice Chancellors

of all the Universities in Kerala on 16.6.2021 and it was decided that the offline examinations could go on, following the Covid protocol and even permitting Covid positive students to appear for the examinations with necessary precautions. It is submitted that a meeting was conducted on 16.6.2021 and the Government had taken note of all the relevant aspects of the matter and had permitted the intermediate examinations to be conducted in the offline mode. It is submitted that several examinations including the SSLC, Plus two and several competitive examinations are being conducted in the offline mode and no untoward incident have been reported. It is further submitted that all necessary precautions have been directed to be taken in the conduct of the examinations and the State Government is extending all necessary assistance to the Universities for the proper conduct of the examinations.

5. I have considered the contentions advanced. From a reading of Exhibit P2, I notice that the guidelines with regard to the conduct of intermediate semester/year

assessments are specifically made subject to the advisories/directives issued by the Apex statutory bodies/councils concerned eg.AICTE, NCTE etc. Exhibit P2 itself specifically says that the assessment of intermediate semester students should be as suggested in the 2020 guidelines. The 2020 guidelines provides for conducting terminal semester examinations keeping in mind the protocols of social distancing. A reading of the 2020 guidelines would also make it clear that the mode of assessment of intermediate semester/year students has been left to the discretion of the University. In the above view of the matter, I am unable to accept the contention of the learned counsel for the petitioners that Exhibit P2 guidelines have been violated by the University in conducting offline examinations. Moreover, the petitioners are only 28 in number and in view of the fact that large number of students who are taking the examinations are not party to the writ petition, I am of the opinion that it is for the University to take an appropriate decision with regard to the conduct of examinations in the colleges affiliated to it,

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after considering all relevant aspects and after taking all due precautions. It is made clear that the examinations shall be conducted strictly following the Covid protocol and the case of students who are unable to attend the examinations due to Covid related reasons shall be considered appropriately by the University.

sd/-

Anu Sivaraman, Judge

sj

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APPENDIX OF WP(C) 15749/2021

PETITIONER EXHIBITS

Exhibit P1 TRUE COPY OF THE NOTIFICATION NO.
KTU/EX-V#3/6401/2019 DATED 18.07.2021
ISSUED BY THE 1ST RESPONDENT UNIVERSITY.

Exhibit P2 TRUE COPY OF THE UGC GUIDELINES ON
EXAMINATIONS IN VIEW OF THE COVID-19
PANDEMIC ISSUED BY THE 3RD RESPONDENT
UGC.

True copy

PS to Judge