

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 26TH DAY OF MAY 2020 / 5TH JYAISHTA, 1942

WP (C) . No. 379 OF 2018 (V)

PETITIONERS:

- 1 RAHUL.O.R.
AGED 27, S/O.V.R. RAMAKRISHNAN, OUSEPH PARAMPIL
HOUSE, NANTHIKULANGARA, MANNAM PO, NORTH
PARAVOOR, ERNAKULAM DIST. 683520
- 2 RANDEEP.N.C
AGED 32, S/O.GOVINDAN, THEKKEYKOORIPURATH,
IYYAD,UNNIKULAM, KOZHIKODE 673574
- 3 RESHMA .C
AGED 29, D/O.RAJAN.C, CHULLIYOTE (H), P.O.G.A
COLLEGE, KOODATHUMPARA, KOZHIKODE, PIN 673014
- 4 BIBIN JOHNSON
AGED 29, S/O.JOHNSON KORAH, NARALEDATHU
(H),KUNNACKAL PO, MUVATTUPUZHA, ERNAKULAM,
682316
- 5 DEVI RENUKA.K
AGED 27, D/O.P.DAMODARAN, ROOM NO. 308, PHALGUNI
HOSTEL, IIST VALIAMALA
- 6 MEEGLE S MATHEW
AGED 27, D/O.S.J. MATHEW, SWARNNAPPALLIL (H),
KOTTIYOOR (PO), KANNUR (DIS), 670651
- 7 RESHMI.S
AGED 27, D/O.SREEDHARAN .T, 'USHUS', 2/538, EAST
NADAKKAV, ERANHIPALAM PO, KOZHIKODE 673006

8 KARTHIKA . S
AGED 27, D/O.SIVADASAN, PALLIATH HOUSE, PANAYUR
(PO), PALAKKAD 678552

9 SARATH BABU
AGED 29, S/O.GOPALAKRISHNAN P.S, PRATHEEKSHA
(HOUSE), POORNA AUDITORIUM ROAD, KALADY PO,
ERNAKULAM 683574

10 RICHU SEBASTIAN C
AGED 28, S/O.SEBASTIAN, 3/141/1,NEAR SNA
OUSHADASHALA, MOOSPET ROAD,THRISSUR, KERALA
680005

11 ANEESHA U
AGED 27, D/O.UNNIKRISHNAN,
SREEVIHAR,KATTADIPOIKA, AYILAM PO,
ATTINGAL,TRIVANDRUM 695103

12 YOGESH CHOURHARY
AGED 28, S/O.SANJAY CHOURHARY,465/A,
PROFESSOR'S COLONY, HANUMAN NAGAR,NAGPUR
440009, MAHARASHTRA

13 RAJKUMAR . R
AGED 28, S/O.RAJAN PILLAI.K,REVATHY,
VADAKKUMTHALA PO, KARUNAGAPPALLY, KOLLAM 690536

14 NEEMA P.M
AGED 29, D/O.MANI.P.T., PALLIKKARATHODI,
CHEMA, PALAKKAD 679304

15 HARITHA H
AGED 26, D/O.HAREENDRAKRISHNA KUMAR K,KIZHAKKE
KOYIPURATHU HOUSE, ARUVAPPULAM POST, KONNI
689691

16 ANU KURIAKOSE
AGED 29, D/O.MARY,THEKKEKANDATHIL H,
CHITTARIKKAL PO,KASARAGODE, 671326

17 SHASHANK VADLAMANI
AGED 30, S/O.RAO V.S.S.,FLAT NO. 402, SATYAM
ENCLAVE,SIVAJI PARK ROAD, LAXMINAGAR,
VISAKHAPATNAM 530017

18 PREETAM HAZRA
AGED 27, S/O.C.R. HAZRA, R-4/7 REGENT
ESTATE,KOLKATA 700092

19 SONU TABITHA PAULSON
AGED 26, D/O.PAULSON C.C,CHERUVATHOOR HOUSE,
ELINJIPRA PO, CHALAKUDY 680721

20 AMEEN YASIR P.A
AGED 27, S/O.P.M. ABDUL JABBAR,29, ATHIYADI
EAST STREET, MELAPALAYAM, TIRUNELVELI, PIN CODE
627005, TAMIL NADU

21 PRAVEEN WILSON
AGED 30, S/O.N.WILSON,BANGALAPURAM, ANAKUZHY,
DYMOCK PO,VANDI PERIYAR, IDUKKI, KERALA 685533

22 NIKHILRAJ.A
AGED 28, S/O.SURENDRAN T.K, PULARI, ONAKKUNNU,
KARIVELLUR (PO),KANNUR, KERALA, 670521

23 SWETA DEY
AGED 24 YRS, D/O.KALIPADA DEY,HOSTEL PHALGUNI,
IIST, VALIAMALA 695547

24 ARAVIND G.P
AGED 27, S/O.PADMAKUMARAN THAMPI B,VAISHNAV,
TC. 41/249 (1), MRA 161,KURIYATHY, MANACAUD PO,
THIRUVANANTHAPURAM, 695009

25 PRAMOD PANCHAL
AGED 29, S/O.ARUN KUMAR PANCHAL,BHAGAT SINGH
WARD, KHURAI, DISTRICT, SAGAR,MP. 470117

26 FAYZA K.A
AGED 26, W/O.SANOOP V.L,KIZHAKKAKATH HOUSE,
KOLAPPURAM NORTH,A.R. NAGAR POST, MALAPPURAM
676305

27 ANUPAMA S
AGED 27, D/O. SASIDHARAN V.S, VATTAPARAMBIL
HOUSE, POTTA PO, CHALAKUDY, THRISSUR 680722

28 NAMITHA ISSAC
AGED 26, D/O.I.A. ISSAC, 'ARANJANIYIL',
KARINGARAPULLY PO, PALAKKAD 678551

29 MAHESH . T.V
AGED 26, S/O. RAMAKRISHNAN C.V, MOTTAKU
HOUSE, KUNNOOTH, PATTANUR PO, KANNUR 670595

30 SOUMYA S
AGED 28, D/O.K.P SASIDHARAN, THERAYIL
THEKKETHIL, EDAKKUNNAM, CHARUMMOODU PO,
ALAPPUZHA 690505

31 ARUN B NAIR
AGED 26, S/O.V. BHUVANACHANDRAN NAIR, TAPOVANAM,
EDAVAL, OTTASEKHARAMANGALAM PO, TRIVANDRUM
695125

32 NARENDRA SINGH
AGED 25, S/O. SHREE SHIV PAL YADAV, ROOM NO. 205,
CHITHRA HOSTEL, IIST, TRIVANDRUM 695547

33 TINA B.A
AGED 28, W/O. ANOOP VIJAYACHANDRAN, HOUSE NO.
116, KAWDIAR, TRIVANDRUM 695003

34 MONISHA MOHAN
AGED 26 YRS, D/O. MOHANDAS B, MOHANAM,
THANNIMOOD, IRINCHAYAM PO, NEDUMANGAD 695561

35 ARYADUTT OAMJEE
AGED 26, S/O. GEORGE V. JOHN, ARYANKAVIL, GURUDEV
ROAD, MALAPRAMBA PO, CALICUT 673009

36 PRABITH K
AGED 28, S/O. PRABHAKARAN.K, PRABHA NIVAS,
CHAMPAD (PO), THALASSERY, KANNUR 670694

37 NITESH VERMA
AGED 24, D/O.BHAL SINGH, HOUSE NO. 96,
SHAMDHABAD PATTI,SIRSA, HARYANA, PIN 125055

38 MUHAMMED SIHAS K.M
AGED 25, S/O.MUSTHAFA K,KALLAN KUNNAN, (H) ,
KERALA ESTATE PO,KARUVARAKUNDU, MALAPPURAM,
676525

39 ARYA NAIR.J.S
AGED 26, D/O.V.S. JAYADHARAN,SALINI, TC.
41/1801, MANACAUD PO, 695009,TRIVANDRUM

40 SAISREE S
AGED 26, D/O.SADAVISVAKURUP.N,NEDIYATHU HOUSE,
ELAMPALLIL,PAYYANALLOOR PO, PATHANAMTHITTA
690504

41 PRAVEENKUMAR K
AGED 24, S/O.GANGADHARAN K,KODAKKAL HOUSE,
KOLLAMPARA PO, NILESHWAR, KASARAGODE 671314

42 SURYA KUMAR GAUTAM
AGED 28, S/O.M.R. PRATHVI SINGH,H.NO. 22,
RAVIDASS PURI, MUZAFFARNAGAR, U.P 251001

43 DILEEP.K
AGED 25, S/O.DINESHKUMAR P,POTHALOOR (H) ,
PURANATTUKARA, THRISSUR 680551

44 M.ARRUTSELVI
AGED 23, D/O.R. MOURALIDHARAN, 8-B, BUNGLOW
STREET, PERIYAKALAPET, PUDUCHERRY 605014

45 ANNA THOMAS
AGED 25, D/O.THOMAS C, ENNIRIKANICHATTUKUZHY
(H) ,MULANTHURAUTHY PO, ERNAKULAM 682314

46 GEETHU PRABHAKAR
AGED 26, D/O.PRABHAKARAN T.K,THUMBRATHUKUDIYIL
HOUSE, THRIKKARIYOOR PO,KOTHAMANGALAM 686692

47 PAVITHRA CELESTE R
AGED 25, D/O.S.RAJEEVAN, CELESTIUM, NJEKKAD,
VADASSERIKONAM PO, VARKALA 695143

48 SREELAKSHMI P.CHAKYAR
AGED 24, D/O.K.M.PARAMESWARA CHAKYAR, CHAKYAR
MADHOM, PALACE ROAD, URAKAM, THRISSUR 680562

49 GAURAB KHANRA
AGED 27, S/O.G.P.KHANRA, ROOM NO. 314, HOSTEL
CHITHRA, IIST, VALIYAMALA 695547

50 JOB MATHAI
AGED 23, S/O.C. MATHAI, THUNDUVILA VEEDU,
NADUVILAKKARA, ALUMMODU PO, KOLLAM 691577

51 DAYAL.G
AGED 24, S/O.GOPALAKRISHNAN, ROOM NO.
201, HOSTEL CHITHRA, IIST, VALIYAMALA 695547

BY ADVS.
SRI.MANU SEBASTIAN
SRI.LEGITH T.KOTTAKKAL
SMT.SURYA BINOV

RESPONDENTS:

1 INDIAN INSTITUTE OF SPACE SCIENCE AND
TECHNOLOGY
REPRESENTED BY ITS REGISTRAR, VALIYAMALA PO,
THIRUVANANTHAPURAM, PIN 695547

2 UNIVERSITY GRANTS COMMISSION UGC
REPRESENTED BY ITS SECRETARY, BAHADUR SHAH ZAFAR
MARG, NEW DELHI, PIN 110002

3 DEAN OF RESEARCH AND DEVELOPMENT
HEAD OF RESEARCH COUNCIL, INDIAN INSTITUTE OF
SPACE SCIENCE AND TECHNOLOGY, VALIYAMALA PO,
THIRUVANANTHAPURAM, PIN 695547

R1 BY SRI.S.KRISHNAMOORTHY, CGC
R1 BY ADV. SRI.S.KRISHNAMOORTHY CGC
R1 BY ADV. SMT.SNEHA ROSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-02-2020, THE COURT ON 26-05-2020 DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 26th day of May 2020

1. This writ petition is filed by Ph.D scholars of the 1st respondent Institution. They joined the program on different dates during the years 2013-2015. They are aggrieved by Exhibit P1 circular, by which all Ph.D students were required to pay semester fees of Rs.12500/- w.e.f. July 2017. It is submitted that going by the University Grants Commission (Institutions Deemed to be Universities) Regulations, 2016, as well as the memorandum of association of the 1st respondent, the petitioners were required to pay only admission fees and hostel fees. Exhibit P10 Regulation specifically provides at clause 6 as follows:-

6.0 ADMISSIONS AND FEES STRUCTURE

6.1 No institution deemed to be university shall, for admission in respect of any course or programme of study conducted in such institution, accept payment towards admission fee and other fees and charges:

(a) which is a capitation fee or donation in whatever nomenclature

or form;

(b) other than such fee or charges for such admission, which has been declared by it in the prospectus for admission against any such seat, and on the website Of the institution,

“Provided if there are any fees prescribed in accordance with the Fee Regulation framed by the Government or by the Commission from time to time, then the fees or other charges for admission shall not exceed the same;

(c) without a proper receipt in writing issued for such payment to the concerned student admitted in such institution.

With regard to the prospectus, Clause 6.5 of Exhibit P10 provides as follows:-

6.5 Every institution deemed to be university shall publish. before expiry of sixty days prior to the date. of the commencement of admission to any of its courses or programmes of study, a prospectus containing the following for the purposes of informing those persons intending to seek admission to such institution and the namely:-

(i) each component of the fee, deposits and other charges payable by the students admitted to such institution for pursuing a course or a programme of study, and the other terms and conditions of such payment;

(ii) the percentage of tuition fee and other charges refundable to a student admitted in such institution in case such student withdraws from such institution before or after completion of course or programme of study and the time within, and the

manner in, which such refund shall be made to the student;

(iii) the number of seats approved in respect of each course or programme of study for the academic year for which admission is proposed to be made;

(iv) the conditions of eligibility including the minimum and maximum age limit of persons for admission as a student in a particular course or programme of study, where so specified by the institution;

(v) the educational qualifications specified by the relevant statutory authority/body, or by the institution, where no such qualifying standards have been specified by any statutory authority;

(vi) the process of admission and selection of eligible candidates applying for such admission, including all relevant information in regard to the details of test or examination for selecting such candidates for admission to each course or programme of study and the amount of fee to be paid for the admission test;

(vii) details of the teaching faculty, including therein the educational qualification and teaching experience of every member of its teaching faculty and also indicating therein whether such member is on regular basis or visiting basis;

(viii) the minimum pay and other emoluments payable for each category of teachers and other employees;

- (ix) the ranking of the Institution under National Institutional Ranking Framework for the last three years (if available).
- (x) information in regard to physical and academic infrastructure and other facilities including hostel accommodation, library, hospital or industry wherein the practical training to be imparted to the students and in particular the facilities accessible by students on being admitted to the institution;
- (xi) broad outline of the syllabus specified by the appropriate statutory body or by institution, as the case may be, for every course or programme of study, including the teaching hours, practical sessions and other assignments;
- (xii) all relevant instructions in regard to maintaining the discipline by students within or outside the campus of the institution, and, in particular, such discipline relating to mohibition of tagging of any student or students and the consequences thereof and for violating the provisions of any regulation in this behalf made under the University Grants Commission Act, 1956 or any other law for the time being in force.

Provided that the institution deemed to be university shall publish information referred to in items ii) to (xi) of this clause on its website, and the attention of the prospective students and the general public shall be drawn to such publication on the website through advertisements displayed prominently in the different newspapers and through other media;

Provided further that the institution deemed to be university may publish prospectus in accordance with this clause at any time before the expiry of sixty days specified under this clause."

2. It is submitted that the petitioners were admitted as Ph.D scholars, pursuant to Exhibit P13 admission notification which did not provide for the payment of any fees. It is, therefore, contented that the fixation of fees by Exhibit P1 can have no effect on the petitioners who had secured admissions prior to the implementation of the same and on the basis of a notification which did not provide for such fees. It is stated that though the petitioners had approached the respondents, raising their grievances their requests have been rejected and the tuition fee is being collected from them as well. The learned counsel for the petitioners would rely on the UGC Regulations and the prospectus to contend that they had been admitted on the specific assurance that they would not have to pay any tuition fee. It is stated that the petitioners are meritorious students, who have acquired admission only on the basis of their merit and their excellent performance and

that they are not liable to pay any amounts, except the boarding, lodging and medical facilities as per the IIST Rules as provided in Exhibit P13 admission notification.

3. Counter affidavits have been placed on record by the IIST and the UGC seeking to justify the imposition of the fees. Respondents 1 and 3 in their counter affidavit contends that the research scholars are eligible for fellowship and that offer letters sent to the research scholars on seeing admission specified that they have to remit the tuition/registration fee fixed from time to time. It is stated that semester fees were charged from UG and PG students but Ph.D scholars were exempt from such fee. It is stated at paragraphs 11 and 12 of the counter affidavit as follows:-

"11. It is submitted that the present Ph.D fee structure was not introduced unilaterally. Director, IIST vide Office Order No.467 dated 02.12.2016 constituted a four member Committee consisting of two faculty members, Deputy Registrar (Academics) and Deputy Registrar (Finance) to finalise and recommend:

- (i) Propose a semester fee structure for IIST Ph.D students (for both full time and those sponsored from ISRO/DOS).
- (ii) Suggest guidelines for duration of Ph.D fellowship for full time students;

(iii) Review the existing PG (MTech./MS) semester fee structure for IIST students (both full time and those sponsored from ISRO/DOS) and recommend any changes in the existing fee structure.

The Committee gave its recommendation (last meeting held on February 02, 2017) which was higher (Rs.17800/- for full time Ph.D students and Rs.5000/- for part-time sponsored students) than that is introduced Rs.12150/- and Rs.3500/- for full time and part-time Ph.D students respectively). The same was discussed in various forums such as Heads of Departments and Deans, Finance Committee (held on August 18, 20 17) and in Board of Management (held on September 06, 2017). The Director of the Institute also met the Ph.D student community and had detailed discussions with them on the Ph.D fee matter. The Ph.D students were fully aware of the introduction of Ph.D fee. The above Ph.D fee notification was put up in the website of the Institute on 26th October 2017, as well as informed to all Ph.D students through email that the PhD fee is introduced at IIST, for January session of the Academic Year 2017-18.

12. It is submitted that the Ph. D fees now being charged by the Institute is only a meagre amount compared to the fellowship offered to them, by the institute. It is prerogative of the institute to introduce a reasonable fee structure for the Ph. D students like any other educational institutions, from a particular academic session onwards considering the fact that the Institute cannot afford to exempt them, alone in the present circumstances."

4. The UGC in paragraphs 5 and 6 of its counter affidavit contended as follows:-

“5. It is respectfully submitted that the 1“ respondent is a Deemed To Be University under Section 3 of the UGC Act. Clause 6.1 of the UGC Regulations (institutions Deemed to be University) Regulations 2016 says that Deemed to be University shall not charge any fee which has not been declared in the prospectus. However it is seen from Exts R1(a) to (f) produced along with the Counter Affidavit of the University, which are the offer letters to the candidates, wherein there is a general clause enabling the university to fix the tuition fee/registration fee and the fee for boarding etc from time to time. In the reply given by the University in response to Ext P17 letter, issued by this respondent seeking comments on representations received by this respondent in this regard had stated that “ The institute has been sending offer letters to all selected PhD candidates all these years indicating that they will have to remit tuition/registration fee along with fee for boarding/lodging and medical facilities etc, of the institute as may be prescribed from time to time”. However UGC Regulations 2016 is silent whether a Deemed To Be University can increase/enhance the fee at mid term. The UGC Is having no control in fixing any such fee in a Deemed To Be University. Hence for the appropriate cases depending upon the curriculum and other factors a Deemed To Be University can charge their own fees. As such UGC cannot say that the charging of fees contemplated in Ext. P1 is excessive or otherwise.

6. It is submitted that though the petitioners made a request to this respondent and University Grants Commission had sought for a clarification from the institution as per Ext.P17 and in reply to the

said clarification the institute had given a detailed comments. All these comments are within the prerogative of the institution. UGC cannot direct the University not to impose any additional fee especially, when there is no such criterion prescribed by the UGC. The fees seemed to have been imposed on various heads and the same is within their reasonable margins especially when the students are imparting education in Ph.D level. There is no specific criteria by the UGC for charging fees for Ph.D students. At any rate University Grants Commission has not fixed any fees for Deemed to be University."

5. I have considered the contentions advanced. It is not in dispute before me that the petitioners were admitted in terms of Exhibit P13 admission notification. Exhibit P13 does not provide for the payment of any fees. It is also not in dispute that it is by Exhibit P1 dated 12.9.2017 that the tuition fee had been made applicable to research scholars in the 1st respondent. Exhibits P9 and P10 specify that the entire information with regard to the amount, components, frequency and mode of any kind of payment including fees or charges of any kind and refund rules are liable to be informed to the applicants. It is submitted by the learned counsel for the petitioners that though no specific prospectus

had been issued by the 1st respondent, Exhibit P13 is admission notification for the year 2013. It is submitted that Exhibit P13 did not contain any provision for collection of tuition fees. It was provided in Exhibit P13 that research scholars will have to pay for the services provided by the institute for boarding, lodging, medical facilities etc. as per the IIST Rules. It is contended that it was pursuant to identical admission notifications that all the petitioners had been admitted as research scholars. In view of the specific provisions contained in UGC Regulations that fees can be collected only after informing the applicants by way of a prospectus and in view of the specific contentions that there was no such intimation in the admission notifications pursuant to which the petitioners were admitted, I am of the opinion that Exhibit P1 circular can have no application to the petitioners, who were admitted prior to the issuance of the same.

6. The writ petition is, therefore, allowed. There will be a direction to the 2nd respondent to collect only such fees as

are provided in the admission notifications/prospectus on the basis of which the petitioners were admitted. Any amounts paid in excess shall be refunded to the petitioner forthwith.

Sd/-

Anu Sivaraman, Judge

sj

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 A TRUE COPY OF CIRCULAR DATED 12.09.2017 ISSUED BY TE 1ST RESPONDENT

EXHIBIT P2 A TRUE COPY OF REPRESENTATION DATED 25.09.2017 SUBMITTED BY STUDENTS BEFORE THE 1ST RESPONDENT

EXHIBIT P3 A TRUE COPY OF EMAIL DATED 13.10.2017 SENT TO THE DIRECTOR, IIST

EXHIBIT P4 A TRUE COPY OF REPLY DATED 12.12.2017 GIVEN BY THE CENTRAL PUBLIC INFORMATION OFFICER OF INDIAN SPACE RESEARCH ORGANIZATION

EXHIBIT P5 A TRUE COPY OF OFFICE ORDER NO. 467 DATED 02.12.2016 OF THE 1ST RESPONDENT

EXHIBIT P6 A TRUE COPY OF EXTRACTS OF THE SEVENTEENTH MEETING OF BOARD OF MANAGEMENT OF THE 1ST RESPONDENT HELD ON 06.09.2017

EXHIBIT P7 A TRUE COPY OF CIRCULAR DATED 31.10.2017 OF 1ST RESPONDENT

EXHIBIT P7 A A TRUE COPY OF RELEVANT EXTRACT OF PH.D. RULES AND REGULATIONS APPROVED ON 26.10.2017

EXHIBIT P8 A TRUE COPY OF EMAIL DATED 15.12.2017 FROM THE 1ST RESPONDENT

EXHIBIT P9 A TRUE COPY OF UGC STUDENT ENTITLEMENT GUIDELINES 2007

EXHIBIT P10 A TRUE COPY OF RELEVANT EXTRACTS OF UGC (INSTITUTIONS DEEMED TO BE UNIVERSITIES) REGULATIONS 2016

EXHIBIT P11 A TRUE COPY OF RELEVANT EXTRACTS OF IIST MEMORANDUM OF ASSOCIATION/MEMORANDUM OF ASSOCIATION & RULES AND REGULATIONS

EXHIBIT P12 A TRUE COPY OF COMMUNICATION DATED 14.5.2013 ISSUED BY 2ND RESPONDENT TO 1ST RESPONDENT

EXHIBIT P13 A TRUE COPY OF ADMISSION NOTIFICATIONS FOR PH.D PROGRAM FOR JANUARY 2013

EXHIBIT P14

**A TRUE COPY OF REPRESENTATION DATED
22.12.2017**

EXHIBIT P15

**A TRUE COPY OF CIRCULAR ISSUED BY THE
MINISTRY OF HUMAN RESOURCES DEVELOPMENT
DATED 24.06.2016**

EXHIBIT P16

**A TRUE COPY OF CIRUCULAR ISSUED BY THE
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
DATED 13.04.2016**