

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

MONDAY, THE 21ST DAY OF FEBRUARY 2022 / 2ND PHALGUNA, 1943

WP(C) NO. 2796 OF 2022

PETITIONER/S:

- 1 DENNY VARGHESE
AGED 54 YEARS
S/O VARGHESE, CHAKKISSERY HOUSE, NJARAKKAL, PIN-682505, P
T A PRESIDENT, GOVERNMENT VOCATIONAL HIGHER SECONDARY
SCHOOL, NJARAKKAL.
- 2 GOPALAKRISHNAN P V.
AGED 51 YEARS
S/O C K VIJAYAN, CHATHANTHARA HOUSE, NJARAKAL-682505.

BY ADVS.
SHERRY J. THOMAS
JOEMON ANTONY
SUJAN.A

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY, GENERAL EDUCATION
DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN-695001.
- 2 THE DIRECTOR GENERAL OF EDUCATION
THIRUVANANTHAPURAM, KERALA-695014.
- 3 THE DIRECTORATE OF STATE COUNCIL OF EDUCATIONAL RESEARCH
AND TRAINING (SCERT)
VIDYABHAVAN, POOJAPPURA P O, THIRUVANANTHAPURAM-695012.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
4.02.2022, ALONG WITH WP(C).2666/2022, 3615/2022, THE COURT ON
21.2.2022 DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE AMIT RAWAL
MONDAY, THE 21ST DAY OF FEBRUARY 2022 / 2ND PHALGUNA, 1943
WP(C) NO. 2666 OF 2022

PETITIONER/S:

- 1 ISHANA NASRIN,
AGED 18 YEARS
D/O.SHIHABUDHEEN, KALLARAKKAL HOUSE, P.O.MATHILAKAM, THRISSUR,
PIN-680 685.
- 2 LINSHA.M.M.,
AGED 17 YEARS
D/O.JASMIN, MANAMKERY HOUSE, P.O.MATHILAKAM, PUTHIYAKAVU,
THRISSUR DISTRICT, PIN-680 685, REPRESENTED BY HER MOTHER
JASMIN.
BY ADVS.
RAJIT
LEKSHMI P. NAIR

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPARTMENT OF GENERAL EDUCATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 2 DIRECTOR, DIRECTORATE OF HIGHER SECONDARY EDUCATION, JAGATHI,
THIRUVANANTHAPURAM-695 014.
- 3 STATE COUNCIL FOR EDUCATIONAL RESEARCH AND TRAINING,
VIDYABHAVAN, POOJAPPURA P.O., THIRUVANANTHAPURAM, KERALA, PIN-
695 012, REPRESENTED BY THE DIRECTOR.

BY ADVS.
ADVOCATE GENERAL OFFICE KERALA
P.DEEPAK
BABU PAUL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 4.02.2022,
ALONG WITH WP(C).2796/2022 AND CONNECTED CASES, THE COURT ON 21.2.2022
DELIVERED THE FOLLOWING:

WP(C) NO. 2796 OF 2022 and conctd. Case

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

MONDAY, THE 21ST DAY OF FEBRUARY 2022 / 2ND PHALGUNA, 1943

WP(C) NO. 3615 OF 2022

PETITIONER/S:

ADV.K K SAJIKUMAR
AGED 44 YEARS
S/O. KUMARAN, KOCHERIVADAKKEKARA, K.S. PURAM,
ARUNNOOTTIMANGALAM P.O, KADUTHURUTHY, KOTTAYAM -
686604.

BY ADVS.
S.VISHNU (ARIKKATTIL)
SIDHARTH P.S.
BHARATH MURALI

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEPARTMENT OF GENERAL
EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM - 695001.
- 2 THE DIRECTOR OF GENERAL EDUCATION,
JAGATHI, THIRUVANANTHAPURAM - 695014.
- 3 THE DIRECTOR,
SCERT, (VIDYABHAVAN), POOJAPPURA P.O,
THIRUVANANTHAPURAM, KERALA, PIN - 695012.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 4.02.2022, ALONG WITH WP(C).2796/2022 AND CONNECTED CASES,
THE COURT ON 21.2.2022 DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C) Nos.2796/2022, 2666/2022, 3615/2022]

This order of mine shall dispose of three writ petitions filed on behalf of students of Higher Secondary +2 and 10th standards. In W.P.(C) Nos.2666 of 2022 and 2796 of 2022, the order of the Government dated 16.12.2021 has been assailed whereby on the receipt of the guidelines submitted by Director of State Council of Educational Research and Training (SCERT) Government on examination of the matter issued guidelines for teaching and preparation of question papers in connection with SSLC, Higher Secondary and Vocational Higher Secondary examination for March, 2022. In W.P(C).3615/22, challenge is to the pattern of question paper prepared based on the above guidelines.

2. The case set out in brief in all the writ petitions is that COVID-19 had a long-lasting impact on students' life as educational institutions, for preventing it's spread, had been closed down for some time and thereafter went online mode which had certain initial hiccups with regard to the adaptation of the system of

education viz-a-viz the attendance of physical classes. The entire world, including India had undergone not only the first wave but three phases of the pandemic and at present undergoing the third one. After the first wave was over, things had settled down and very few cases of COVID were in spate particularly in State of Kerala and keeping in that aim in view, Government had come out with a relaxation in the notification issued under the Disaster Management Act for opening the schools and colleges for the senior classes as well as some junior classes. The third wave had erupted only in the last weeks of December, 2021. In order to bring succor to the students and raise hopes amongst the students, the Directorate of General Education, Thiruvananthapuram vide order dated 31.12.2020 had come out with a workable solution for Plus Two General Examinations (Higher Secondary/Vocational Higher Secondary) of the academic year commencing from March 17, 2021 on the premise that since the topics were introduced through digital classes and the general examinations were on the anvil, students be provided with proper learning support enclosed with a Focus Area Topics of each subject stipulated by SCERT for clearing

doubts related to General Examination and Revision activities in order to take advantage for the General Examination in March, 2021.

3. The gist of the aforementioned circular was that for exams having 80 scores, 160 score questions were provided and for 60 score questions, 120 score questions and for 40 score questions 80 score questions, means double the questions. Choice was given from every section for answering the required number of questions and if more than required number of questions were answered, only the best answer would be selected and counted so that the students can make use of the cool-off time to read through the different questions and plan their answers. It was also made clear that the students can score full marks if they concentrate on the Focus Area Lessons fixed by the SCERT. At the same time, they can also answer the questions from other sections to help them in choice according to their taste and interest. The cool-off time was raised to twenty(20) minutes.

4. There was no difficulty for the students to attempt the question paper set out as per the aforementioned guidelines, but

for March, 2022 the order under challenge truncated certain focus area to be 60% of the total portions to be studied and 70% of questions were taken out from 60% portion, with sufficient choices to the extent of 50% extra marks.

5. Learned counsel representing petitioners submitted that the regular classes had commenced from 01.11.2021 only during the forenoon sessions and that too, only three days a week and classes continued online and offline, but major part of the syllabus remain untouched. With the first focused area there was a sigh of relief for the students and the teachers, but now, the focused area had been reduced and the sudden change will definitely affect their confidence moreover their final performance. It is very difficult for a student to secure full marks. If a student who is not extraordinary, secures an average of 60-70% marks in the exams, would get less than the qualifying marks required for securing admission to professional course. To secure admission in a good college even for graduation, the cut-off mark is above 80% and by virtue of the impugned order even before writing his examination it has put to a disadvantage as hope at the best would be to get only

70% marks.

6. I.A.Nos.1 of 2022 and 2 of 2022 have been filed on behalf of the Kerala Higher Secondary Teachers Union (KHSTU) and Aided Higher Secondary Teachers Association (AHSTA) through their Presidents, respectively, to implead in the writ petition (W.P(C).2666/22) as additional 4th respondent on the ground that they are registered associations functioning to protect the interest of higher secondary teachers, students etc. The concept of focus area topic was designed in 2021 giving a chance to students of plus one and plus two exams to attempt 150% marks questions from a focus area and 50% from non-focus area so that the students will get good score enabling them to get 'A' or 'A+' and for 2022 expected the same pattern. The new exam pattern is unscientifically compelling the students and teachers to cover the entire syllabus i.e., 60% focus area and 40% non-focus area. It is also alleged that the Education Department had taken a thoughtless and painful measure by setting out the question paper pattern just to curb the enormous number of A+.

7. On the other hand, Mr. Jimmy George, learned

Government Pleader opposed the aforementioned prayer and submitted that the situation in 2020-2021 and 2021-2022 are glaringly different. During the year 2020-2021, very less number of classes could be conducted due to the nationwide lockdown and frequent regional restrictions. However in the current year (2021-22) the Government is striving hard to ensure that all the students are prepared for their future competitive examinations and are not overburdened by appearing for the examination, and had come out with relaxations. During this academic year, a three tier academic preparation had been set out for the students studying in plus one and plus two classes i.e., offline classes started in every school since November, 2021. The students were directly getting the classes from their corresponding schools/teachers through this facility. Apart from that, First bell Digital classes for Plus one and Plus two students were conducted through digital platforms i.e., through KITE VICTERS Channel. Telecast of Plus Two classes also commenced on 01.06.2021 and the same will be, as per the prevailing schedule, completed by 28.02.2022. The revisional classes with audio books are telecasted through these platforms to

prepare the students for the upcoming examinations. Classes are also given through online platform i.e., through GSuit to the students at their schools which also help them to interact directly with their teachers to improve their learning and preparation for the examination. Login ids were created for all teachers and students of Plus Two Classes for the purposes. Online classes also started in June, 2021 itself. In addition to the aforementioned facilities, adequate measures had been taken by the Government for giving digital educational support to SC & ST students in Plus Two classes through 'Vidyakiranam Scheme' for attending online classes. Physical functioning in the restricted manner had commenced in November, 2021. Keeping that fact view it was decided to refix the focus area at 60% and to make corresponding changes in the question pattern.

8. The offline/online/Digital classes have been going on effectively and by taking stock of the situation, the syllabus could be completed prior to the scheduled examination whereas in contrast, for the year 2021 offline classes were not conducted due to the spread of Covid-19. But in 2021-22, offline classes were

conducted for three months so far and online/digital classes started from the very beginning of the academic year in order to ameliorate any difficulties faced by the students during the previous year. There will be 50% choice questions for the 70% scores from the focus area and another 50% choice questions for the remaining 30% scores has also been kept.

9. Fixing of a small portion as focus area and providing 100% questions from the said portion would defeat the very purpose of examination which will eventually devalue the evaluation process. It is not advisable to concentrate on focus area only since all entrance examinations would be conducted as per the whole syllabus area and the students from Kerala Board will have to compete with the students of different boards of India and in case the syllabus is delimited, it is likely to affect the future of bright students as students from the poor backgrounds may not be able to arrange tuition for remaining syllabus for appearing the competitive examinations.

10. The Education Department had never issued any direction to teach or study only on focus area. A liberal stand as

contended by the petitioner is taken and urged this Court for dismissal of the writ petition.

11. I have heard learned counsel for the parties and appraised the paper books and of the view that there is no merit in the writ petitions.

12. If the liberal view as sought to be projected by the petitioners is taken in conducting the examinations and evaluation, in my prima facie opinion, would diminish the standards of examination and the certificates issued by the Board of Higher Secondary Examinations. As per the contents of the affidavit, the Plus Two examination will start only on 30th of March, 2022 and will end on 22nd April. Each student has to appear for six papers only and there are sufficient intervals to prepare for the examination. If the Government had come out with some liberalisation in the examination for previous year the same criteria cannot be followed, particularly when there had been a good achievement in imparting the education for completing the courses either through offline or online classes as indicated in the affidavit.

13. The pith and substance of the contentions of the

petitioners that only 75% questions to be taken from the 60% portions is wholly incorrect as the said decision was taken after constitution of a 15 member Committee for revision of the existing Higher Secondary Examination Manual. The pattern as per the impugned decision dated 16.12.2021 reads thus:

**"SSLC/HIGHER SECONDARY ANNUAL EXAMINATION,
MARCH 2022**

Maximum: 60 Scores

PART I

A. Answer any five questions from 1 to 9. Each carries 1 score.

1. (5x1=5)
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.

B. Answer all questions from 10 to 13. Each carries 1 score.

10. (4x1=4)
11.
12.
13.

PART II

- A. Answer any two questions from 14 to 17. Each carries 2 scores. (2x2=4)

14.
15.
16.
17.

- B. Answer any two questions from 18 to 20. Each carries 2 scores. (2x2=4)

18.
19.
20.

PART III

- A. Answer any three questions from 21 to 24. Each carries 3 scores. (3x3=9)

21.
22.
23.
24.

- B. Answer any two questions from 25 to 27. Each carries 3 scores. (2x3=6)

25.
26.
27.

PART IV

A. Answer any three questions from 28 to 31. Each carries 4 scores. (3x4=12)

28.

29.

30.

31.

B. Answer any one question from 32 to 33. Each carries 4 scores. (1x4=4)

32.

33.

PART V

A. Answer any two questions from 34 to 36. Each carries 6 scores. (2x6=12)

34.

35.

36. "

14. It is not correct to say as they have to attend other 30% questions as sufficient choices had been given to the extent of 50% extra marks. The contents of the impugned order reads thus:

"The Director of General Education as per letter read as 1st paper above submitted a proposal for setting up of Focus Area for the preparation of Question Papers for SSLC, Higher Secondary Vocational Higher Secondary Examination for March, 2022.

The Director of State Council of Educational Research and Training (SCERT) also submitted guidelines for fixation of Focus Area for study and question paper preparation.

Government have examined the matter in detail and issue the following guidelines for teaching and preparation of Question papers in connection with SSLC, Higher Secondary and Vocational Higher Secondary Examination for March 2022.

- 1. Focus area to be fixed at 60% of the total portion to be studied.*
- 2. 70% of questions to come from this 60% portion.*
- 3. Sufficient choices to be given to the extent of 50% extra marks."*

15. It is settled law that the Court cannot sit in the armchair of the decision making authority or interfere in the policy of the Government to bring the case under the purview of judicial review. It is the right of the Government to change the policy and the writ of mandamus under Article 226 cannot be issued in a mechanical manner as sought to be achieved through instant writ petition. Aforesaid view of mine is derived from paragraph Nos.19 and 20 of the judgment rendered by Supreme Court in **Secretary, Cannanore District Muslim Educational Association, Karimbam Vs. State of Kerala and others (2010) 6 SCC 373.**

16. The contentions of the State with regard to starting of the offline classes from November, 2021 have also not been disputed. Along with the audio, books have been telecasted for all categories of students but the parents had not noticed the very important fact that the same kind of a liberal view as taken in previous academic year is followed. They would not get a chance to sit in the entrance examinations. The meritorious students of Kerala Board may badly be affected in the forthcoming Engineering Entrance and other entrance examinations owing to the liberal question pattern of Plus Two examination as culled out in the last year. In the proposed examination pattern 70% of the questions will be from the focus area and balance 30% from the non-focus area. In addition, there will be 50% choice questions for focus area and non-focus area. Such a question pattern and evaluation can identify the most eligible from the rest. Awarding of 100% marks to every student would defeat the purpose of the examination. In my view, it aims to achieve the best marks to the brighter students so as to get eligible opportunity and admission to their future studies. As per the contents of the affidavit question papers have already

been set from 05.01.2022 to 22.01.2022 as per the order of the Director General of Education.

Upshot of the findings, there is no merit in the writ petitions and accordingly are dismissed.

VV

Sd/-
AMIT RAWAL
JUDGE

APPENDIX OF WP(C) 2666/2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE MARKS OBTAINED BY THE PETITIONERS IN THE ELEVENTH STANDARD.
- Exhibit P2 A TRUE COPY OF THE NOTIFICATION ISSUED BY THE DIRECTORATE OF GENERAL EDUCATION, THIRUVANANTHAPURAM DATED 31.12.2020 ALONG WITH ITS ENGLISH TRANSLATION.
- Exhibit P3 THE PREFACE TO THE FOCUS AREA BROUGHT OUT BY THE 3RD RESPONDENT.
- Exhibit P4 A TRUE COPY OF THE NOTIFICATION ISSUED BY THE DIRECTOR, NCERT ALONG WITH TIS ENGLISH TRANSLATION DATED 25.08.2021.
- Exhibit P5 A TRUE COPY OF THE ORDER ISSUED BY THE GENERAL EDUCATION DEPARTMENT DATED 16.12.2021.
- Exhibit P6 TRUE COPY OF THE RELEVANT EXTRACTS OF THE NEWSPAPER PUBLICATIONS IN MATHRUBHOOMI AND MALAYALA MANORAMA DAILY DATED 21.01.2022 SHOWING THE CONCERNS OF THE PARENTS AND STUDENTS.
- Exhibit P7 A TRUE COPY OF THE ORDER AND QUESTION PAPER PATTEN WAS PUBLISHED BY THE DEPT. OF GENERAL EDUCATION DATED 18.01.2022.
- Exhibit P8 A TRUE COPY OF THE REPRESENTATION SENT BY THE KERALA HIGHER SECONDARY SCHOOLS PRINCIPALS ASSOCIATION TO THE EDUCATION MINISTER OF THE STATE OF KERALA.

APPENDIX OF WP(C) 3615/2022

PETITIONER EXHIBITS

Exhibit P1 TRUE COPY OF A QUESTION PAPER OF THE
ANNUAL EXAMINATION HELD IN 2020-21 FOR
10TH STANDARD STUDENTS.

Exhibit P2 TRUE COPY OF THE QUESTION PAPER PATTERN
PUBLISHED BY THE 3RD RESPONDENT.

APPENDIX OF WP(C) 2796/2022

PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF THE G O (MS)
NO.281/2021/G.EDN DATED 16.12.2021.
- Exhibit P2 THE TRUE COPY OF THE COVERING LETTER OF
THE PATTERN AND MODEL QUESTION PAPERS FOR
MAXIMUM MARKS 80 SCORES, 60 SCORES, 40
SCORES, 30 SCORES, 80 SCORES, 60 SCORES
WHICH IS GIVEN FOR ENGLISH AND MALAYALAM
MEDIUM.
- Exhibit P2 A THE TRUE COPY OF THE ENGLISH TRANSLATION
OF EXHIBIT P2.
- Exhibit P3 THE TRUE COPY OF THE REPRESENTATION DATED
19.01.2022 SUBMITTED BEFORE THE 1ST
RESPONDENT.
- Exhibit P3 A THE TRUE COPY OF THE ENGLISH TRANSLATION
OF EXHIBIT P3.
- Exhibit P4 THE TRUE COPY OF THE REPRESENTATION DATED
19.01.2022 SUBMITTED BEFORE THE 2ND
RESPONDENT.
- Exhibit P4 A THE TRUE COPY OF THE ENGLISH TRANSLATION
OF EXHIBIT P4.
- Exhibit P5 THE TRUE COPY OF THE POSTAL RECEIPTS DATED
22.01.2022.