

ADMISSION SUPERVISORY COMMITTEE FOR PROFESSIONAL COLLEGES IN KERALA

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ASC (P) 133/2017/HO/TVPM/ENGG/NCERC/KTU

Ms.Asma Mehnas Muthalib

Complainant

Vs

1. The Principal

Nehru College of Engineering and Research Centre

Respondent

2. KTU

PRESENT:

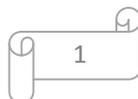
1. Hon'ble Justice R Rajendra Babu
2. Dr. Joy Job Kulavelil

- Chairman ASC
- Member

ORDER

Ms. Asma Mehnas Muthalib, a student of B.Tech in Computer Science Engineering branch of the 1st respondent college, The Nehru College of Engineering and Research Centre, in short the Nehru College, after completing the 1st year, decided to pursue her rest of the course, from the 3rd semester onwards, in St. Joseph's College of Engineering and Technology, Palai, in short the transferee college. Thus she decided to have an inter-collegiate transfer. She made an application before the Nehru college for the inter collegiate transfer, but the Nehru college made an endorsement on the request "not recommended". The present

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reliefs prayed for in the complaint is to direct the 2nd respondent the University (KTU) to reconsider the norms of the inter college transfer and to regulate the power to the Principal of the college to recommend or refuse to recommend and to declare that the 1st respondent is not entitled to liquidated damages as a precondition for granting recommendation for inter college transfer.

The complainant got admission in the Nehru college on merit and paid the fee of Rs. 75,000/- for the 1st year. It was alleged that the complainant was the classmate and friend of Jishnu Pranoy, who was found hanging in the college hostel room on mysterious circumstances. Allegations were there that Jishnu had committed suicide due to the persistent harassment and torture from the part of the college authorities. It was alleged that the death of Jishnu due to the torture and harassment from the part of the college authorities, caused a lot of emotional distress and trauma on the complainant and it has become impossible for her to continue her education in the same college (in the same class) and found difficult to cope with the same atmosphere and hence she was compelled to seek inter college transfer.

The 1st respondent college, The Nehru College of Engineering and Research Centre, filed an objection denying all the allegations raised against the college and the management authorities as incorrect. The complainant and her parents had met the Principal and sought for recommendation for inter collegiate transfer and they were informed that it won't be possible unless they pay the fee for the remaining course period or a substitute student joins in the resulting vacancy. In the request for transfer the respondent college had made an endorsement "not recommended". The 1st respondent is entitled to liquidated damages when a student

discontinues or relinquishes the course in the middle of the course for any reasons in view of the provisions in the prospectus as well as the GO issued by the Government in pursuance to the agreement between the Government and the Management association. It was further contented that the complainant is not entitled to the reliefs prayed for in the complaint.

The 2nd respondent, the KTU filed a statement, that the University has no objection in effecting the transfer of Asma Mehnas Muthalib, the complainant, following the prevailing University norms, enclosing the copy of the transfer norms for the year 2017.

Heard the learned counsel for the complainant, Adv. Sri. Manu Sebastian and the Legal Officer of the 1st respondent, Smt. Suchithra.

The 1st respondent contented that the Nehru college had not recommended for the transfer of the complainant to the other college and as such she is not entitled to inter college transfer. It is an admitted fact that the student was qualified to be promoted to the 3rd semester as she had earned the requisite credit for the 1st and 2nd semester exams. She applied for the transfer within the prescribed time and the college where in the student intends for the transfer is willing to admit her in the above college. Clause 10 of the norms of the KTU for inter college transfer says that the request for transfer shall be submitted to the college in which the transfer is sought with the recommendation of the Principal and the college in which the student is currently studying. In Step 2 of the procedure for transfer, it is stated, "The Principal of the college may or may not recommend transfer". The above provision would reveal that the recommendation/non

recommendation of the Principal is only procedural. The Hon'ble High Court, while considering Clause 10 of the transfer norms, in Kottayam Institute of Technology and Science V. Admission Supervisory Committee (2016(4) KHC 620(DB)) held " If Clause 10 is read in its context and harmoniously together with other clauses in the revised norms, especially Clause 7, a conclusion is inevitable that the 'recommendation' contemplated by Clause 10 is a matter of mere procedure, in order to ensure that the candidate fulfils the academic eligibility requirement for the promotion to the third semester, as prescribed by Clause 7 of the revised norms."

The main contention raised by the 1st respondent was that the respondent is entitled to liquidated damages of the tuition fee of the remaining course period of 3 years in view of clause 18 of GO(MS) No: 155/2016/H&Edn dated 30.06.2016 and the provisions in the prospectus. It was alleged in the complaint that due to the persistent harassment and torture from the part of the college officials, a classmate of the complainant committed suicide and there was student agitations and the college had been closed for a pretty long time; and that the complainant could get through the exams only on getting special tuitions.

Suicide of Jishnu Pranoy raised a storm with all students joining the protest, creating tense situation in the college and outside. It was alleged that the chamber of the PRO was known as " ". Police had registered crime against the officials of the college and arrested them for different offences including abetment to commit suicide of Jishnu Pranoy. In fact the college officials had created a situation, not conducive for continuing the education of the students in the college and accordingly the complainant had requested for the inter college transfer. As the

college officials themselves had created the situation, compelling the students to quit the college and seek admission to other colleges, the respondent college is not entitled to liquidated damages from the complainant.

The Legal Officer of the 1st respondent submitted that the college is entitled to liquidated damages in view of Clause 18 of GO(MS)No. 155/2016/H&Edn dated 30.06.2016, where in it was stated that, if the student relinquishes or discontinues the course for any reasons the college was entitled to liquidated damages. The word any reason does not and cannot include a self created reason and thereafter to make a benefit out of it. As the adverse situation was created by the 1st respondent college, they are not entitled to take an advantage of the above situation and claim liquidated damages.

The learned counsel for the complainant has brought to the notice of the Committee the Refund Policy of the AICTE as evidenced in the Approval Process Hand Book of the AICTE 2017 – 1. It reads,

“It would not be permissible for institutions to retain the school/institution leaving certificates in original. Should a student leave after joining the course and if the vacated seat is consequently filled by another student by the last date of admission, the institution must refund the fee collected after a deduction of the processing fee of not more than Rs.1000/- (Rupees One Thousand Only) and proportionate deductions of monthly fee and proportionate hostel rent, where applicable. In case, the vacated seat is not filled,

the institution should refund the security deposit and return the original documents. Institution should not demand fee for the subsequent years from the students cancelling their admissions at any point of time. Fee refund along with the return of certificates should be completed within 7 days.”

The legal officer of the 1st respondent submitted that the student was admitted in the academic year 2016 – 17 and as such the provisions in the Approval Process Hand Book 2016 – 17 alone would be applicable. As the cause of action for the college transfer arose in 2017 – 18, the provisions in the 2017 – 18 handbook would be applicable. The AICTE had imposed prohibition in demanding fee for the future years ie in the form of liquidated damages from the student who discontinues the course. Considering all the aspects the Committee find that the 1st respondent college is not entitled to liquidated damages and the payment of liquidated damages as a condition for the recommendation of the inter college transfer should not be insisted.

Considering the nature and circumstances of the case Committee finds it fair and proper to issue the following directions:

1. The 2nd respondent, KTU is directed to grant inter college transfer to the complainant irrespective of the non recommendation of the 1st respondent college.
2. The 1st respondent is directed to return all the certificates and to issue the TC and conduct

certificate to the complainant for facilitating the inter college transfer without insisting for liquidated damages, on request of the complainant.

Email this order to all the parties

Dated on this the 23rd day of June 2017



Sd/-
CHAIRMAN