

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 14TH DAY OF AUGUST 2020 / 23RD SRAVANA, 1942

WA.No.1080 OF 2020

AGAINST THE JUDGMENT IN WP(C) 16518/2020 OF HIGH COURT OF
KERALA DATED 12.8.2020

APPELLANT/PETITIONER:

THASNEEM S.P
AGED 25 YEARS,
D/O. SATHAR M.K.,
MALIKULANGARA HOUSE,
EDAKKARA P.O., THRISSUR-680518.

BY ADVS.
SRI.LINDONS C.DAVIS
SMT.E.U.DHANYA
SHRI.ANOOP V.R.

RESPONDENTS/RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION,
THIRUVANANTHAPURAM-695 001.
- 2 COMMISSIONER FOR ENTRANCE EXAMINATIONS,
HOUSING BOARD BUILDINGNS, SANTHI NAGAR,
THIRUVANANTHAPURAM, PIN-695 001.

SR. GOVT. PLEADER SRI. V.MANU FOR RESPONDENTS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
14.08.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

'CR'

JUDGMENTDated this the 14th day of August, 2020Manikumar, CJ

Instant writ appeal is filed challenging the judgment in W.P.(C). No.16518 of 2020 dated 12.08.2020, by which, the writ court directed the 2nd respondent - Commissioner for Entrance Examinations, to consider, take up and pass orders on the request dated 10.08.2020 (Exhibit-P8), submitted by the writ petitioner/appellant, in accordance with law, at the earliest. The reliefs sought for in the writ petition are as follows:

- I) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the 2nd respondent viz., Commissioner for Entrance Examinations, to accept Exhibit-P7 certificate dated 10.08.2020 submitted by the petitioner through Exhibit P8 email, or direct the 2nd respondent to permit her to upload Exhibit P7 certificate in the official website, and thereby enable her to avail the benefit of reservation seats towards Muslim quota, for allotment and admission to three year LL.B Course.
- II) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to consider the petitioner for reservation seats towards Muslim quota, for allotment and admission to three year LL.B. Course.

2. Facts leading to the appeal are that, appellant/writ petitioner has applied for a three year LL.B Course, 2020. She scored 254 marks and obtained Rank No.325. She applied as a candidate belonging to SEBC, and eligible for reservation to Muslim quota. Commissioner for Entrance

Examinations, Thiruvananthapuram, respondent No.2, is having two websites with very similar names, i.e, www.cee-kerala.org and www.cee-kerala.gov.in. On 17.07.2020, Exhibit-P3 notice was published in the website www.cee-kerala.org, requiring the candidates to cure the defects in the online application, on or before 16.07.2020, i.e, the date before publication of the results. The appellant was unable to cure the defect noted in her application, i.e., Non Creamy Layer Certificate was not uploaded, as the last date was over on the date of publication in the said website.

3. Appellant has further stated that she has obtained Exhibit-P7 certificate dated 10.08.2020 from the Village Officer, Punnayur, showing that she belongs to Muslim community and does not belong to the category of "Creamy Layer". The delay in getting the certificate was due to COVID-19 pandemic and her neighbouring areas were closed as containment zones.

4. Appellant has contended that since the website does not permit to upload the certificate, she has submitted the certificate along with Exhibit-P8 application through email, and requested permission to upload the same. But, the said request was not heeded to by the 2nd respondent.

5. Appellant has further stated that she is having better rank to get admission to Government Law colleges towards Muslim Reservation Quota for SEBC and that, her family cannot afford the fees of private Self Financing Law Colleges.

6. Appellant has further stated that publication of the first phase of allotment is scheduled on 14.08.2020. Therefore, there is no hindrance or impediment in accepting Exhibit-P7 Community-cum-Non Creamy Layer Certificate from her, or permit her to upload the certificate in the website.

7. Appellant has further contended that the original certificate has to be produced before the college authorities, at the time of admission, and therefore, it is equitable to accept the certificate issued by the 2nd respondent during the period of COVID-19 pandemic. It is also stated that the 2nd respondent has permitted candidates to upload the nativity certificate for availing reservation till 12.08.2020. Hence, W.P.(C) No.16518/2020 was filed for the reliefs stated above. However, without considering the reliefs sought for, writ petition was disposed of directing the 2nd respondent to take up and consider the request of the appellant at the earliest. Aggrieved by the said judgment, instant writ appeal is filed on the following grounds:

A) Appellant has applied for three year LL.B Course by showing that she is eligible for reservation provided towards Muslim quota. The delay in curing the defect by her is not intentional and beyond her control. It is pertinent to note that, for curing the defect regarding non uploading of nativity certificate, as per Clause 6 of the Prospectus, for availing reservation is permitted to 12.08.2020. Therefore, considering as a special circumstance, this Court shall direct the 2nd respondent to accept Exhibit-P7 certificate submitted as per Exhibit-P8 email and provide to the appellant, the reservation quota for Muslims. However, the learned Single

Judge has considered the issue and found that the last date was already over and, therefore, directed to consider the request of the appellant without allowing the prayer. It is formally disclosed that the office of the 2nd respondent has informed the appellant that her request is rejected.

B) Appellant has further contended that no prejudice would be caused to anyone, since the allotment is not yet started. Therefore, it is just and equitable to accept Exhibit-P7 certificate by the 2nd respondent or permit the appellant to upload the certificate to the official website of the 2nd respondent. In **Chairman NRI Service and Educational trust v. Kerala University** [2014 (3) KLT 212], this court has held that certificate can be accepted even at a later stage.

C) The appellant belongs to SEBC - Muslim and applied as eligible for reservation. There is no dispute in this fact. In **Ram Kumar Gijroya v. Delhi Subordinate Service Selection Board and another** [2016 KHC 6164], the Hon'ble Supreme Court held that, if there is failure to submit OBC certificate before the last date, the candidature of such candidates could not be rejected simply on account of late submission of caste certificate. This position was adopted by this Court in **Union of India and others v. Abdul Rasheed** [2016 (5) KHC 129]. A Hon'ble Full Bench of Jammu and Kashmir High Court in **Competent Authority, Entrance Examinations J & K and Another v. Mahesh Kumar Jia Lal Raina and Another** [AIR 2016 J&K 90] and a Hon'ble Division Bench of Chhattisgarh High Court in **Princy Meshram v. State of Chhattisgarh and Another** [AIR 2018 NOC 640], have considered the issue with respect to admission to MBBS Course and held that caste certificate can be considered after due date for production of the same. Even though there is a delay in submitting

the Community-cum-Non Creamy Layer Certificate by the appellant, the same can be accepted by the 2nd respondent, especially when the physical certificate has to be produced before the college authorities at the time of admission, after completion of allotment process.

D) Appellant has further contended that she got rank No.325 in the entrance examination. Therefore, she will get admission to Government Law Colleges, if she is permitted to avail reservation towards Muslim quota. The denial of admission to her by not granting eligible reservation, amounts to violation of Articles 14, 19, 21 and 41A of the Constitution of India.

8. On this day, when the matter came up for admission, based on the instructions received from the respondents, prospectus and supporting documents, Mr. V. Manu, learned Senior Government Pleader, submitted that on 28.01.2020, a press notification was issued by the Commissioner for Entrance Examinations, notifying the schedule for 3 year LLB/Integrated 5 year LLB Entrance Examinations, 2020. In the said press release, it was specifically put to notice that those, who claim reservation benefits, must avail in advance, relevant certificates, including non Creamy Layer Certificate, and upload the same, as and when applications are invited.

9. On 4.3.2020, a notification was issued requesting those claiming reservation benefits for 3 year LLB/5 year LLB Courses -2020 to avail in advance, certificates required for claiming such benefits (Non Creamy

Layer Certificate also mentioned). On 7.3.2020, notification was issued, inviting applications for the entrance examination to 3 year LLB Course 2020-2023.

10. Learned Senior Government Pleader further submitted that appellant has submitted her application for admission to three year LLB Course on 17.03.2020. A further notification was issued on 18.03.2020, extending the last date for submission of online application upto 22.03.2020, 2 p.m. Subsequently, another notification was issued on 6.5.2020, informing the candidates that they could view their profile details in their webpage. The candidates were also intimated that they can click the memos available in their home page and view whether there are any defects in their applications. Time was provided till 31.05.2020, 5 p.m., for rectification of any defects in the applications, including uploading of relevant certificates.

11. Learned Senior Government Pleader further submitted that on 6.5.2020, an online memo was also issued in the webpage of the appellant, for uploading Non Creamy Layer Certificate. However, she did not avail of the aforementioned opportunities to submit her Non Creamy Layer Certificate. He further submitted that on 18.05.2020, another notification was issued, providing a chance to apply afresh for those, who could not apply for the 3 year LLB entrance examination in time from 18.05.2020 to

20.05.2020, 5 p.m. Thereafter, on 7.7.2020, a press release was issued, whereby the candidates were given one more opportunity to rectify the defects, by providing time till 16.07.2020.

12. Learned Senior Government Pleader further submitted that on 3.8.2020, exam results were published and the same was brought to the notice of the public, by a notification dated 3.8.2020. On 8.8.2020, online options were invited. Even Non Creamy Layer Certificates issued online were accepted. He submitted that as per the procedure followed, the appellant need not even go to the Village Office to get the certificate. She could have applied online and could have uploaded the certificate through online. But, she obtained a certificate dated 10.08.2020, after the publication of the results.

13. Learned Senior Government Pleader further submitted that on 16.08.2020, category lists have been published, whereby students in various categories have been arranged rank wise, in the general rank list. The scheduled time for options was extended upto 13.08.2020, 3 p.m. He submitted that the proposed date of first allotment is 14.08.2020, i.e. today. He further submitted that as early as on 28.01.2020, when notification was issued fixing entrance examination for the 3 year and 5 year Integrated LLB Courses, it was indicated that those students, included in the reservation categories and those who want reservation benefits, must collect the

certificates, such as caste certificate (SC/ST category only) non-Creamy Layer Certificate (for the children of SEBC/OEC/interfaith marriage parents), income certificate (those category other than SC/ST/OEC and general category), nativity certificate (only those candidates whose school and birth certificates do not show place of birth), from the revenue authorities, well in advance, and must provide the same along with the online application, as directed.

14. Orders of lockdown were issued at the end of March, 2020. Time for submission of applications was extended and so also, time for rectification of defects in the applications was extended. Though, right from 28.01.2020, the students were categorically informed to get the certificates in support of their claims against reservation, and even though time was extended on four occasions, appellant has failed to upload the certificate. It is also his contention that even in the Prospectus issued for admission of students for the 3 year LLB Course, there is a clear mention about the enclosures to be made. As on today, about 377 Muslim candidates have already been arranged as per order of merits.

15. On the sequence of events, learned Senior Government Pleader submitted that if the appellant has to be accommodated now in Muslim category, there will be interpolation in the rank list of Muslim category and any interpolation, at this juncture, would have an adverse impact on the

candidates, who have uploaded their certificates in time.

16. For the above said reasons, he prayed for dismissal of the appeal.

17. Heard learned counsel for the parties and perused the material available on record.

18. Press release issued by the 2nd respondent dated 28.01.2020 is extracted hereunder:

“No. CEE/71/2020/3LLB-2020/TA2

Government of Kerala
Office of the Commissioner of Entrance Examinations
House Board Building, Santhi Nagar, Thiruvananthapuram - 695 001.

PRESS RELEASE

Details of Entrance Examinations for admission to integrated 5 year LLB Courses/3 years LLB Course - 2020 have been published

The online Entrance Examinations for admission to integrated 5 year LLB Courses/3 year or the year 2020-21 shall be conducted as per the schedule below:

Date of Examinations	
Course	Date
Three year LLB	25.04.2020 (Saturday)
Integrated Five year LLB	26.04.2020 (Sunday)

Those who intend to join the Government Law Colleges and Private Self Financing Colleges in Kerala for 3 year LLB Courses/integrated 5 year LLB Courses must attend the Entrance Examinations conducted by the Commissioner for Entrance Examinations and qualify for the same. Those students included in the reservation categories and those who want reservation benefits must collect in advance caste certificate (SC/ST category only) non-Creamy Layer Certificate (for the children of SCBC/OEC/inter faith marriage parents), income certificate (those category other than

SC/ST/OEC and general category), nativity certificate (only those candidates whose school and birth certificates do not show place of birth) from revenue authorities, keep those with them and must provide the same along with online application as directed.

Helpline No.0471 2525300

Thiruvananthapuram
28.01.2020

Sd/-
Commissioner for Entrance Examinations”

19. Prospectus for admission to three year LLB Course, Kerala 2020-2021 has been approved on 3.3.2020. Reservation is provided to many categories. As per the Prospectus, an important note is given that,-

- (a) Documents or Certificates furnished after the submission of the application will not be entertained under any circumstances;
- (b) No opportunity will be given to incorporate any details after the submission of the application.

20. There is also a warning to the effect that,- “applications with defective or incomplete certificates will be rejected. Belated applications will not be accepted. Documents or certificates furnished after the last date fixed for submission of online applications will not be considered on any account. No candidate will be permitted to incorporate any additional details in the application form or to submit any additional documents after the submission of the online application”.

21. Notification dated 04.03.2020 issued by the 2nd respondent regarding obtaining in advance, certificates for reservation benefits is extracted hereunder:

No. CEE/71/3LLB - 2020/TA2

Government of Kerala
Office of the Commissioner for Entrance Examinations
Housing Board Building, Santhi Nagar, Thiruvananthapuram – 695 001.

NOTIFICATION

REGARDING OBTAINING IN ADVANCE CERTIFICATES FOR RESERVATION BENEFITS FOR ADMISSION TO 3 YEAR LLB/ 5 YEAR LLB COURSES, 2020.

The submission of applications for admission to the 3 year LLB/ 5 year LLB for the academic year 2020-21 will start during second week of March. Those students included in the reservation categories and those who want reservation benefits must collect in advance caste certificate (SC/ST category only) non-creamy layer certificate (for the children of SCBC/OEC/inter faith marriage parents), income certificate (those category other than (SC/ST/OEC and general category), nativity certificate (only those candidates whose school certificates and birth certificates do not show place of birth) from revenue authorities, keep those with them and must provide the same along with online application as directed.. Only those certificates submitted within the time specified will be accepted. Therefore candidates are requested to avail in advance certificates, which are valid at this point of time as per the stipulations of the revenue authorities, and keep the same with them. The same must be uploaded along with the applications as and when invited. The originals/print outs of the online applications as well as the certificates need not be send to directly to the Commisisoner for Entrance Examinations.

Helpline No. 0471 2525300

Thiruvananthapuram

04.03.2020

Sd/-

Commissioner for Entrance Examinations

22. Notification dated 7.3.2020 inviting applications for entrance examinations to 3 year LLB Course 2020-2021 reads thus:

No.CEE/71/3LLB-2020/TA2



GOVERNMENT OF KERALA
OFFICE OF THE COMMISSIONER FOR ENTRANCE EXAMINATIONS
HOUSING BOARD BUILDINGS, SANTHINAGAR, THIRUVANANTHAPURAM - 695 001.

NOTIFICATION

ENTRANCE EXAMINATION FOR ADMISSION TO THREE YEAR LL.B COURSE 2020-21 APPLICATIONS INVITED

- Applications are invited for the Computer based Entrance Examination for Admission to **Three Year LL.B Course 2020-21** in the four Government Law Colleges in Kerala and in the Private Self-financing Law Colleges in Kerala which enter into seat sharing agreement with the State Government.
- 1. Eligibility for Admission:**
- (i) **Nativity:** Applicant should be an Indian Citizen. However only those candidates who are of Kerala origin are eligible for any type of reservation or any type of fee concession. [See clause 6(i) of the Prospectus]
 - (ii) **Academic Qualifications:**
 - (a) Candidate seeking admission to the course should be a graduate in any faculty of any University in Kerala or of any other Universities, recognised by any of the Universities in Kerala as equivalent thereto.
 - (b) A candidate who has passed the Bachelor's Degree examination with a minimum of 45% marks in aggregate (i.e., 45% marks for all the parts of the Degree Examination taken together) shall alone be eligible for admission to the 3 year LL.B course. However, candidates belonging to the Socially and Educationally Backward Classes need only 42% marks and those belonging to the Scheduled castes/Scheduled Tribes need only 40% marks in the qualifying examination. No rounding off of percentage of marks to the nearest higher integer is permitted. Applicants who have obtained first degree certificate after prosecuting studies in distance or correspondence method shall also be considered as eligible for admission. The applicants who have obtained graduation/post graduation through open universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission.
 - (c) Candidates who are appearing/ appeared for the qualifying examination are also eligible to apply for the Entrance Examination. Such candidates become eligible for admission only if they produce the Pass Certificate and Mark List of the qualifying examination at the time of admission.
 - (iii) **Age:** There is no lower age limit for admission to the 3 year LL.B course. The upper age limit for admission to the Three year LLB Course will be subject to the decision of the Hon'ble Supreme Court of India. In case if age restriction under clause 28 of Legal Education Rules, 2008 of Bar Council of India is reinstated, only those candidates within the stipulated age limit will be allowed to appear for the Entrance Examination.

(iv) **Qualifying Standards in the Entrance Examination:** To qualify in the Entrance Examination, and thereby figure in the rank list, a General/SEBC category applicant should secure a minimum of 10% of the total marks in the Entrance Examination whereas a candidate belonging to SC/ST category should get a minimum of 5% of the total marks.

3. **Entrance Examination:** The Computer Based Entrance Examination will be conducted at Thiruvananthapuram, Ernakulam, Thrissur and Kannur on **25.04.2020 (Saturday)**. The Entrance Examination will be of two hours duration (10.00 am to 12.00 Noon) and will consist of 200 Objective Type Questions of three marks each [Total: 200 x 3 =600]. For every wrong answer one mark each will be deducted. The questions will be based on General English, General Knowledge Arithmetic & Mental ability and Aptitude for Legal Studies.
4. **Submission of Online Application and Application Fee:** The application fee is **Rs. 685/-**(Rupees six hundred and Eighty five only) for General and SEBC candidates and **Rs. 345/-**(Rupees three hundred and forty five only) for SC/ST candidates. Candidates seeking admission to the course can apply online through the website www.cee.kerala.gov.in of the Commissioner for Entrance Examinations from **08.03.2020 to 18.03.2020, 5pm** and then remit the required application fee by way of online payment or by way of e-challan available during the submission of online application [see clause 13.2.3]. Net Banking/Debit Card/Credit Card can be used for Online Payment. Payment through e-challan can be made in cash at any of the Head Post Offices in Kerala. Application fee once remitted will not be refunded. After remitting the fee the candidate has to upload a recent passport size colour photograph, signature and required documents/certificates as mentioned in clause 13.2.4 of the prospectus along with the online application. **No need to send the printout of the application to the office of the Commissioner for Entrance Examinations.**

Certificates/Documents to be uploaded in the Online Application

- Nativity Proof: Any one of the documents mentioned under clause 6(i).
- Certificate to prove age: Relevant page of SSLC/Birth Certificate/Passport
- Certificates obtained from Tahsildar in the case of SC/ST candidates.
- Non-Creamy Layer Certificate in the prescribed format from the Village Officer concerned in the case of SEBC/OEC candidates.
- Community Certificate from the Village Officer concerned in the case of OEC candidates who do not come under Non-Creamy layer category.
- Non-Creamy Layer/Community and Income Certificates from the Village officer concerned in the prescribed format in the case of candidates belonging to the communities listed in Annexure IV (a).
- Inter-Caste marriage certificate: Candidates who are children of Inter-Caste married couple of whom one is SC/ST, need to upload **Inter-Caste marriage Certificate** issued by Tahsildar.
- Attested copy of Certificate from the District Medical Board for Persons with Disabilities (if applicable).
- Certificate in support of special reservation, if any, in the prescribed format
- Certificate from the Fisheries Officer concerned of Kerala Fishermen Welfare Fund Board for fee concession in the case of candidates who are the children of registered Fishermen.

- Certificate from the Director, Department of Women & Child Development for fee concession in case of candidates who are inmates of Sri Chithra Home, Nirbhaya Home, Juvenile Home or any other such institution run by the Government
 - The candidates eligible for the supernumerary seats to be sanctioned for EWS Quota seats should submit the EWS Certificate from the Village Officer in the prescribed format as per the G.O.(Ms)No.02/2020/P&ARD from the Personnel and Administrative Reforms (Rules) Department) dated. 12.02.2020.(If applicable)
5. Candidates will not be allowed to include any additional information in the application form or to submit any certificate / document claiming reservation or any benefits, after the submission of the online application.
 6. Certificates uploaded should be in the prescribed format available along with the online application alone will be accepted for claiming special reservation.
 7. **Admit Card:** The candidates registered for the Entrance Examination can download their Admit Cards from the website www.cee.kerala.gov.in from **18.04.2020** onwards. The admit card thus obtained should be brought to the examination hall along with registered ID proof.
 8. **Allotment of Seats:** Allotment will be made by the Commissioner for Entrance Examinations in accordance with the ranks obtained by the candidates in the Entrance Examination and the order of preference of institutions (options) registered by the candidates during online Centralised Allotment Process (CAP). The details of CAP will be notified in the website and in leading newspapers. Individual intimation in this regard will not be sent to the candidates.
 9. The Entrance Examination and subsequent allotments will be based on the provisions laid down in the Prospectus for Admission to 3 Year LL.B Course 2020-21 available in the website www.cee.kerala.gov.in. Candidates are advised to read carefully the Prospectus before submitting their online applications.

Helpline number: 0471- 2525300



Thiruvananthapuram
07.03.2020

for COMMISSIONER FOR ENTRANCE EXAMINATIONS

23. Press release dated 18.03.2020 issued by the 2nd respondent, extending the date for submission of online application reads thus:

No. CEE/71/3LLB-2020/TA2



Government of Kerala
Office of the Commissioner for Entrance Examinations
Housing Board Buildings, Santhi Nagar, Thiruvananthapuram - 695 001

NOTIFICATION

ENTRANCE EXAMINATION FOR ADMISSION TO THREE YEAR LLB COURSE- 2020

Provisional Details of candidates Published

The provisional details of candidates who have applied for admission to 3 Year LLB courses as per this office notification dated 07.03.2020 are published herewith in the website, www.cee.kerala.gov.in of the Commissioner for Entrance Examinations. Candidates can view their profile details by entering their **Application Number** and **Password** on the web page available after clicking on the link 'Three Year LL.B-Candidate Portal' provided in the above website. Candidates may verify the details such as Name, Date of Birth, Communal/Special/Persons with Disability/EWS Reservations allowed, Annual Family Income submitted, Nativity etc.

Those who have any defects in their submitted documents can click the link 'Memo' available in the Home page and view the defects in the application. Such candidates can upload the required documents/certificates to correct the defects through the link provided on or before 31.05.2020, 5 pm. Candidates those who have any defects in the Uploaded Photograph, Signature and payment of fee can clear the defects through the link provided on or before 15/05/2020, 5 pm.

Helpline numbers: 0471 - 2525300

Thiruvananthapuram
06.05.2020

Commissioner for Entrance Examinations

24. Notification dated 6.5.2020 issued by the 2nd respondent regarding publishing of provisional details of candidates reads thus:

No. CEE/71/3LLB-2020/TA2



Government of Kerala
Office of the Commissioner for Entrance Examinations
Housing Board Buildings, Santhi Nagar, Thiruvananthapuram - 695 001

NOTIFICATION

ENTRANCE EXAMINATION FOR ADMISSION TO THREE YEAR LLB COURSE- 2020

Provisional Details of candidates Published

The provisional details of candidates who have applied for admission to 3 Year LLB courses as per this office notification dated 07.03.2020 are published herewith in the website, www.cee.kerala.gov.in of the Commissioner for Entrance Examinations. Candidates can view their profile details by entering their **Application Number** and **Password** on the web page available after clicking on the link 'Three Year LL.B-Candidate Portal' provided in the above website. Candidates may verify the details such as Name, Date of Birth, Communal/Special/Persons with Disability/EWS Reservations allowed, Annual Family Income submitted, Nativity etc.

Those who have any defects in their submitted documents can click the link 'Memo' available in the Home page and view the defects in the application. Such candidates can upload the required documents/certificates to correct the defects through the link provided on or before 31.05.2020, 5 pm. Candidates those who have any defects in the Uploaded Photograph, Signature and payment of fee can clear the defects through the link provided on or before 15/05/2020, 5 pm.

Helpline numbers: 0471 - 2525300

Thiruvananthapuram
06.05.2020

Commissioner for Entrance Examinations

25. Notification dated 18.05.2020 issued by the 2nd respondent inviting fresh applications for admission to 3 year LLB/5 year LLB Courses is extracted hereunder:

No.CEE/71/3LLB-2020/TA2

GOVERNMENT OF KERALA

OFFICE OF THE COMMISSIONER FOR ENTRANCE EXAMINATIONS

Housing Board Buildings, Santhi Nagar, Thiruvananthapuram – 695 001

NOTIFICATION

**Fresh applications invited for admission to 3 year LLB/5 year LLB courses-
2020**

Applications were invited online for admission to 3 year LLB/5 year LLB Courses for the academic year 2020 till 22.03.2020. However a further chance is being given to those who do not apply in time due to Covid-19. Applications can be submitted online from 18.05.2020 to 20.05.2020, 5 p.m. in the website www.cee.kerala.gov.in to those who were already registered and could not complete their application process using their application number and password. Those who have finally submitted their applications can verify their application in the portal using their application number and password. The notification regarding online application and prospectus is available in website www.cee.kerala.gov.in. Candidates must go through the conditions of prospectus before applying.

18.05.2020

26. Press release dated 7.7.2020 issued by the 2nd respondent, for curing the defects in the applications submitted to 3 year LLB/5 year LLB Courses-2020 is extracted hereunder:

No.CEE/200/5.LLB-2020/TA2

GOVERNMENT OF KERALA

OFFICE OF THE COMMISSIONER FOR ENTRANCE EXAMINATIONS

Housing Board Buildings, Santhi Nagar, Thiruvananthapuram – 695 001

PRESS RELEASE

Regarding curing the defects in applications submitted to 3 year LLB/5 year LLB course - 2020

If there is any defects in the application submitted for admission to 3 year LLB/5 year LLB courses in the academic year 2020-21, the same can be inspected and cured till July 16th, 5 p.m.. The students can login through their candidate portal in the website of the Commissioner for Entrance Examinations by using their application number and pass word. While login the profile page if there are any defects in the application, the same will be seen as “Memo detail” in the profile page and the details regarding the defects will be revealed by clicking item memo detail. Candidates need not seen any documents of certificates for curing the defects to the office of the Commissioner for Entrance Examinations.

07.07.2020

27. Press release dated 7.7.2020 (Ext.P3), issued by the 2nd respondent, submitted by the appellant along with the writ petition is extracted hereunder:

No.CEE/200/5.LLB-2020/TA2

Government of Kerala
Office of Entrance Commissioner
Housing Board Buildings, Santhi Nagar, Thiruvananthapuram-695 001

Press Release
3 year LL.B/5 Year LL.B Course Entrance -2020
For clearing the defects in the application- Regarding

The candidates applied through online for 3 year / 5 year LL.B course for the academic year 2020-21 were permitted to cure defects in their applications till 5 PM of 16th July. The profile page is viewable, when the candidate login in to the "Candidate Portal" in the website of the Entrance Commissioner by entering application number and password. If there is any defect, the defect can be viewed in the "Memo Detail" shown in the profile page while clicking the said item in the menu.

Note: There is no requirement of sending any certificates or connected documents to the Office of Entrance Commissioner for curing defects.

Help line No. 0471-2525300

Sd/-
Office of Entrance Commissioner

Thiruvananthapuram
07.07.2020

28. Request submitted by the appellant for rectifying defect in the application for 3 year LLB Course, to the Commissioner for Entrance Examinations through e-mail dated 9.8.2020 (Ext.P4), reads thus:

“The Commissioner for Entrance Examinations
Fifth Floor, Housing Board Buildings
Santhi Nagar, Thiruvananthapuram-695001.

.....

09th August, 2020

Dear Sir,

Sub:- RECTIFICATION OF DEFECT OF APPLICATION FOR THE 3 YEAR LLB. COURSE.

My name is Thasneem S.P., an applicant for the 3 year LLB entrance examination, bearing the application no.3102100 and roll no.57984, for the academic year 2020-2021. Due to the shortage of internet facility I had depended upon the Akshaya centre in my locality.

The press release from The Commissioner for Entrance Examinations regarding the rectification of defects in application had appeared on www.cee-kerala.org only on 17th July,2020, and the last date for any such rectification, was on 16th July 2020. I tried to login as soon as I found the notification, but due to the expiry of the cut off period, I was unable to login and rectify the defects of non creamy layer certificate in my application.

I have attached a screen shot of the www.cee-kerala.org, dated 09/08/2020, to bring into your kind notice that the result of entrance examination of 5 year LLB, 2020 which was published on 7th Aug., is not updated in www.cee-kerala.org as on 09/08/2020. The screen shot is only to draw your notice to the delay in updating the website www.cee-kerala.org.

I have been awarded a rank of 325 in the 3 year entrance examination of 2020, and I am afraid that, due to the defect in my application I might lose my chance for a reservation that I am entitled to.

The fact being brought to your notice is very genuine, and there was no negligence from my part, and I therefore humbly request your kind perusal and consideration for an approval for updating a creamy layer certificate in my application.

Yours faithfully,

Thasneem S.P.”

29. Notification dated 8.8.2020 (Ext-P6) issued by the 2nd respondent, inviting online options for allotment of 3 year LLB Course 2020-21, is extracted hereunder:

No.CEE/71/3 LLB-2020/TA2



NOTIFICATION

ALLOTMENT TO THREE YEAR LL.B COURSE 2020-21
ONLINE OPTIONS INVITED

The Centralised Allotment Process (CAP) for admission to the Government seats in Three Year LL.B Course in 4 Government Law Colleges, and 50% seats in 7 Private Self-financing Law Colleges of the State for the year 2020-21 commences on 08.08.2020

Candidates included in the rank list can register their options online through the website www.cee.kerala.gov.in from 08.08.2020 to 14.08.2020. Candidate may enter their Application Number & Password in the link '**Three Year LL.B 2020 - Candidate Portal**' provided in the above website to log on to their home page. Then by clicking the menu item '**Option Registration**' candidates can register their options online. The first allotment based on the online options received upto **3 pm on 13.08.2020** will be published on **14.08.2020**.

Candidates whose results are withheld due to various reasons can also register online options. If relevant documents are not uploaded by such candidates till 12.08.2020, 4.00 pm their options will not be considered for the allotment process.

Candidates who fail to register their options online will not be considered for allotment under any circumstances. Options submitted to the Commissioner for Entrance Examinations by Email/Fax/Post/Hand delivery will not be processed or considered on any account for the allotment of seats.

The schedule for the allotment is given below:

08.08.2020	Website opens for Option Registration
13.08.2020, 3.00 pm	Time for Option Registration ends
14.08.2020	1st Phase Allotment Publication
Directions regarding remittance of fees and joining time of the allotted college/courses will be notified later.	

DETAILS OF LAW COLLEGES INCLUDED IN CENTRALISED ALLOTMENT PROCESS (CAP)					
Sl. No	College Code	Name of College	Course Code	Name of Course	Total Seats
GOVERNMENT LAW COLLEGES					
1	TVL	GOVT. LAW COLLEGE, THIRUVANANTHAPURAM	L3	3 Year LL.B	60
2	EKL	GOVT. LAW COLLEGE, ERNAKULAM	L3	3 Year LL.B	60
3	TCL	GOVT. LAW COLLEGE, THRISSUR	L3	3 Year LL.B	60
4	KKL	GOVT. LAW COLLEGE, KOZHIKODE	L3	3 Year LL.B	60

PRIVATE SELF FINANCING LAW COLLEGES

Sl. No	College Code	Name of College	Course Code	Name of Course	Total Seats
1	*AAL	AL AMEEN LAW COLLEGE, SHORNUR, PALAKAD	L3	3 Year LL.B	60
2	ATL	AL AZHAR LAW COLLEGE, THODUPUZHA, IDUKKI	L3	3 Year LL.B	60
3	CPL	CSI INSTITUTE OF LEGAL STUDIES, PARASSALA, TRIVANDRUM	L3	3 Year LL.B	60
4	KML	KMCT LAW COLLEGE, MALAPPURAM	L3	3 Year LL.B	50
5	MCL	MCT COLLEGE OF LEGAL STUDIES, MELMURI, MALAPPURAM	L3	3 Year LL.B	50
6	NCL	NEHRU ACADEMY OF LAW, LAKKIDI, PALAKKAD	L3	3 Year LL.B	60
7	*SEL	SREE NARAYANA LAW COLLEGE, POOTHOTTA, ERNAKULAM	L3	3 Year LL.B	60

* Allotment to these college shall be provisional and subject to final orders of the Govt./University concerned.

Fees:

Fees structure should be as per the government Order.

Colleges	Fees
Government Law Colleges	Annual Tuition Fee - Rs.1575/-
Private Self Financing Law College (Govt. Seats)	Annual Tuition Fee - Rs.30,000/- Special Fee - Rs.5,000/- Caution Deposit- Rs.5000/- Refundable Deposit - Rs. 50,000/-

Candidates who receive allotment should have attained the eligibility, as per **Clause 6** of the Prospectus at the time of admission.

In the light of the restrictions imposed consequent on the wide spread Covid-19 virus, candidates are instructed to ensure in advance that the following documents are ready with them to be produced at the time of admission.

Documents to be produced at the time of admission

- i) Candidate's Data Sheet.
- ii) Allotment memo issued by the Commissioner for Entrance Examinations.
- iii) SSLC or any relevant school records/birth certificate/passport/other valid document to prove date of birth in original.
- iv) Original Mark list and Pass Certificate of the qualifying examination.
- v) Transfer Certificate and Conduct Certificate from the institution where the candidate studied last.
- vi) Four copies of recent passport size photograph.

- vii) The applicant who is employed or trainee in Government/Quasi Government/Banks etc. shall, at the time of interview, produce a relieving order and a certificate of good conduct from the Head of the Institution where the candidate was employed.
- viii) Candidate who passed their qualifying examination from Universities/Boards outside the state shall produce an "Eligibility Certificate" from the concerned University in Kerala, to the effect that the qualifying examination has been recognised by the University.
- ix) The student who qualifies from other Universities should produce migration certificate at the time of admission.
- x) Originals of all the uploaded documents/certificates (to prove nativity /reservation/fee concession).
- xi) Any other certificates/documents required to be furnished as per the prospectus/notifications/allotment memo.

- Note:**
1. The allotment to college/courses will be subject to recognition of the Bar Council of India, No Objection Certificate from the Government and affiliation from the Universities concerned.
 2. Candidates are advised not to give unnecessary options to courses/colleges where they do not wish to join, if allotted. All details related to the allotment process are available in the website www.cee.kerala.gov.in.

Helpline number : 0471- 2525300

Thiruvananthapuram
08.08.2020


Commissioner for Entrance Examinations

30. Certificate dated 10.08.2020, issued to the petitioner by the Village Officer, Punnayur (Ext.P7), showing that she belongs to Muslim community is extracted hereunder:

"Ref. File No.425/20/PNR

Office: PUNNAYUR

Date: 10.08.2020

NON-CREAMYLAYER CERTIFICATE

This is to certify that THASNEEM S.P., D/O. SATHAR M.K., MALIKKULANGARA HOUSE, EDAKKARA P.O., PUNNAYUR Village, CHAVAKAD Taluk, Thrissur District, Kerala State belongs to the ISLAM religion MUSLIM Community, which is designated as Backward Class in the State of Kerala.

This is also certify that above Sri. THASNEEM S.P., does not belong to the category of 'Creamy Layer' in the light of the guidelines issued in G.O.(P). 81/2009/SC/ST/DD dated 26/09/2009 and the schedule prescribed there under to identify the 'Creamy Layer' among the designated 'Other Backward Classes' in the State of Kerala.

Official seal

Sd/-
VILLAGE OFFICE,
PUNNAYUR-.....”

31. The E-mail application sent by the appellant dated 10.08.2020 to the 2nd respondent through email is extracted hereunder:

“From
THASNEEM S P
Roll No.57984
Application No.3102100

To
The Commissioner for Entrance Examinations
Fifth Floor, Housing Board Buildings
Santhi Nager, Thiruvananthapuram.

SUB: Request for uploading non-creamy layer certificates

Dear Sir,

This is with reference to my previous communication dated 09 August 2020, explaining the technical problem which I had encountered while rectifying the defect in my application on time. I would like to attach the non-creamy layer certificate for your kind perusal and request for your kind permission to upload the same.

Yours faithfully,
Thasneem S.P

10-08-2020

Thrissur.

.....Forward message.....

From: **Thasneem** <thasneemsp748@gmail.com>

Date: Sun, 9 Aug 2020, 3.03 pm.”

32. As rightly contended by Mr. V. Manu, learned Senior Government Pleader, the appellant had all the time from 28.01.2020 to apply for the Non Creamy Layer Certificate. Despite sufficient time granted for obtaining and uploading the required certificate, the appellant has not done so. Only in August, 2020, she has made an application for the certificate. Contention that the appellant could have applied for the said certificate and that there is no need to go to the Village Office concerned is not disputed.

33. Having regard to the sequence of events, COVID-19 pandemic cannot be cited as a reason for the delay in even applying and securing the certificate. Appellant has obtained the certificate only on 10.08.2020, after the publication of the results. As on today, the merit list of various categories of students has been drawn and published on 11.08.2020. About 377 Muslim candidates, who have submitted the candidatures, have been arranged in the order of merit. Appellant has not submitted the required document in time.

34. As rightly contended by learned Senior Government Pleader, any interpolation, at this juncture, will have an adverse impact on the candidates, who have uploaded their certificates in time. For the above said reasons, writ appeal deserves to be dismissed.

35. Yet another fact noticed from the statement of facts is that the appellant has laid the foundation for her case, that on 7.7.2020, Exhibit-P3

notice was issued in the website requiring the candidates to cure the defects in the online applications, on or before 16.07.2020 and that on 8.8.2020, online options were invited. For reasons best known to the appellant, all the notifications issued from 28.01.2020 till 18.05.2020 have been conveniently omitted to be disclosed in the statement of facts, thus giving an impression to the court that only from 7.7.2020, time was given to rectify the defect.

36. There is no full disclosure of facts, rather we may say so that there is suppression. Appellant has not approached this Court with clean hands. In the said circumstances, equity cannot be extended. Few decisions on the above aspect are considered as under:

(i) In **Arunima Baruah v. Union of India** [(2007) 6 SCC 120], the Hon'ble Supreme Court, at Paragraphs 11 to 14, held as follows:

"11. The court's jurisdiction to determine the lis between the parties, therefore, may be viewed from the human rights concept of access to justice. The same, however, would not mean that the court will have no jurisdiction to deny equitable relief when the complainant does not approach the court with a pair of clean hands; but to what extent such relief should be denied is the question.

12. It is trite law that so as to enable the court to refuse to exercise its discretionary jurisdiction suppression must be of material fact. What would be a material fact, suppression whereof would dis-entitle the appellant to obtain a discretionary relief,

would depend upon the facts and circumstances of each case. Material fact would mean material for the purpose of determination of the lis, the logical corollary whereof would be that whether the same was material for grant or denial of the relief. If the fact suppressed is not material for determination of the lis between the parties, the court may not refuse to exercise its discretionary jurisdiction. It is also trite that a person invoking the discretionary jurisdiction of the court cannot be allowed to approach it with a pair of dirty hands. But even if the said dirt is removed and the hands become clean, whether the relief would still be denied is the question.

14. In Halsbury's Laws of England, 4th Edn., Vol. 16, pp. 874-76, the law is stated in the following terms:

"1303. He who seeks equity must do equity. "In granting relief peculiar to its own jurisdiction a court of equity acts upon the rule that he who seeks equity must do equity. By this it is not meant that the court can impose arbitrary conditions upon a plaintiff simply because he stands in that position on the record. The rule means that a man who comes to seek the aid of a court of equity to enforce a claim must be prepared to submit in such proceedings to any directions which the known principles of a court of equity may make it proper to give; he must do justice as to the matters in respect of which the assistance of equity is asked. In a court of law it is otherwise: when the plaintiff is found to be entitled to judgment, the law must take its course; no terms can be imposed.

* * * 1305. He who comes into equity must come with clean hands. "A court of equity refuses relief to a plaintiff whose conduct in regard to the subject- matter of the litigation has been improper. This was formerly expressed by the maxim "he who has committed iniquity shall not have equity", and relief was refused where a transaction was based on the plaintiff's fraud or misrepresentation, or where the plaintiff sought to enforce a security improperly obtained, or where he claimed a remedy for a breach of trust which he had himself procured and whereby he had obtained money. Later it was said that the plaintiff in equity must come with perfect propriety of conduct, or with clean hands. In application of the principle a person will not be allowed to assert his title to property which he has dealt with so as to defeat his creditors or evade tax, for he may not maintain an action by setting up his own fraudulent design.

The maxim does not, however, mean that equity strikes at depravity in a general way; the cleanliness required is to be judged in relation to the relief sought, and the conduct complained of must have an immediate and necessary relation to the equity sued for; it must be depravity in a legal as well as in a moral sense. Thus, fraud on the part of a minor deprives him of his right to equitable relief notwithstanding his disability. Where the transaction is itself unlawful it is not necessary to have recourse to this principle. In equity, just as at law, no

suit lies in general in respect of an illegal transaction, but this is on the ground of its illegality, not by reason of the plaintiff's demerits."

(ii) In **Prestige Lights Ltd., v. State Bank of India** [(2007) 8 SCC 449], at Paragraphs 33, 34 and 35, it has been held as follows:

"33. It is thus clear that though the appellant- Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into the merits of the matter.

34. The object underlying the above principle has been succinctly stated by Scrutton, L.J., in R v. Kensington Income Tax Commissioners, [(1917) 1 KB 486 : 86 LJ KB 257 : 116 LT 136], in the following words: "(I)t has been for many years the rule of the Court, and one which it is of the greatest importance to maintain, that when an applicant comes to the Court to obtain relief on an ex parte statement he should made a full and fair disclosure of all the material facts, not law. He must not misstate the law if he can help the Court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts, and the penalty by which the Court enforces that obligation

is that if it finds out that the facts have not been fully and fairly stated to it, the Court will set aside, any action which it has taken on the faith of the imperfect statement". (emphasis supplied)

35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a Writ Court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

(iii) In **Udyami Evam Khadi Gramodyog Welfare Sanstha and another v. State of Uttar Pradesh** [(2008) 1 SCC 560], at paragraphs 16 and 17, the Hon'ble Apex Court, has held as follows:

"16. A writ remedy is an equitable one. A person approaching a superior court must come with a pair of clean hands. It not only should not suppress any material fact, but also should not take recourse to the legal proceedings over and over again which amounts to abuse of the process of law. In *Advocate General, State of Bihar v. M.P. Khair Industries* [(1980) 3 SCC 311], this Court was of the opinion that such a repeated filing of writ petitions amounts to criminal contempt.

17. For the reasons aforementioned, there is no merit in this appeal which is dismissed accordingly with costs. Counsel's fee quantified at Rs.50,000."

(iv) In **Amar Singh v. Union of India & Others** reported in (2011) 7 SCC 69, on the aspect of a litigant approaching the court, with unclean hands, at, paragraphs 53 to 57, and at, paragraph 59, considered several judgments. Finally, at paragraph No.60, extracted a paragraph from Dalip Singh v. State of U.P. and others, [(2010) 2 SCC 114]:

"53. Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts. Courts held that such litigants have come with "unclean hands" and are not entitled to be heard on the merits of their case.

54. In Dalglish v. Jarvie [2 Mac. & G. 231,238], the Court, speaking through Lord Langdale and Rolfe B., laid down:

"It is the duty of a party asking for an injunction to bring under the notice of the Court all facts material to the determination of his right to that injunction; and it is no excuse for him to say that he was not aware of the importance of any fact which he has omitted to bring forward."

55. In Castelli v. Cook [1849 (7) Hare, 89, 94], Vice Chancellor Wigram, formulated the same principles as follows:

"A plaintiff applying ex parte comes under a contract with the Court that he will state the whole case fully and fairly to the Court. If he fails to do that, and the Court finds, when the other party applies to dissolve the injunction, that any material fact has been suppressed or not properly brought forward, the plaintiff is told that the Court will not decide on the merits, and that, as has broken faith with the Court, the injunction must go."

56. In the case of Republic of Peru v. Dreyfus Brothers & Company [55 L.T. 802,803], Justice Kay reminded us of the same position by holding thus:

"...If there is an important misstatement, speaking for myself, I have never hesitated, and never shall hesitate until the rule is altered, to discharge the order at once, so as to impress upon all persons who are suitors in this Court the importance of dealing in good faith with the Court when ex parte applications are made."

57. In one of the most celebrated cases upholding this principle, in the Court of Appeal in *R. v. Kensington Income Tax Commissioner* [1917 (1) K.B. 486] Lord Justice Scrutton formulated as under:

".....and it has been for many years the rule of the Court, and one which it is of the greatest importance to maintain, that when an applicant comes to the Court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts- facts, now law. He must not misstate the law if he can help it - the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts, and the penalty by which the Court enforces that obligation is that if it finds out that the facts have been fully and fairly stated to it, the Court will set aside any action which it has taken on the faith of the imperfect statement."

59. The aforesaid requirement of coming to Court with clean hands has been repeatedly reiterated by this Court in a large number of cases. Some of which may be noted, they are: *Hari Narain v. Badri Das - AIR 1963 SC 1558*, *Welcome Hotel and others v. State of A.P. and others - (1983) 4 SCC 575*, *G. Narayanaswamy Reddy (Dead) by LRs. and another v. Government of Karnatka and another - (1991) 3 SCC 261*, *S.P. Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs.*

and others (1994) 1 SCC 1, A.V. Papayya Sastry and others v. Government of A.P. and others - (2007) 4 SCC 221, Prestige Lights Limited v. SBI - (2007) 8 SCC 449, Sunil Poddar and others v. Union Bank of India - (2008) 2 SCC 326, K.D.Sharma v. SAIL and others - (2008) 12 SCC 481, G. Jayashree and others v. Bhagwandas S. Patel and others - (2009) 3 SCC 141, Dalip Singh v. State of U.P. and others - (2010) 2 SCC 114.

60. In the last noted case of *Dalip Singh* (supra), this Court has given this concept a new dimension which has a far reaching effect. We, therefore, repeat those principles here again:

"For many centuries Indian society cherished two basic values of life i.e. "satya"(truth) and "ahimsa (non-violence), Mahavir, Gautam Budha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre- independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

(v) In **Kishore Samrite v. State of U.P. & Others** [(2013) 2 SCC 398], at paragraphs 32 to 36, the Hon'ble Apex Court held as follows:

"32. With the passage of time, it has been realised that people used to feel proud to tell the truth in the Courts, irrespective of the consequences but that practice no longer proves true, in all cases. The Court does not sit simply as an umpire in a contest between two parties and declare at the end of the combat as to who has won and who has lost but it has a legal duty of its own, independent of parties, to take active role in the proceedings and reach at the truth, which is the foundation of administration of justice. Therefore, the truth should become the ideal to inspire the courts to pursue. This can be achieved by statutorily mandating the Courts to become active seekers of truth. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehood, must be appropriately dealt with. The parties must state forthwith sufficient factual details to the extent that it reduces the ability to put forward false and exaggerated claims and a litigant must approach the Court with clean hands. It is the bounden duty of the Court to ensure that dishonesty and any attempt to surpass the legal process must be effectively curbed and the Court must ensure that there is no wrongful, unauthorised or unjust gain to anyone as a result of abuse of the process of the Court. One way to curb this tendency is to impose realistic or punitive costs.

33. The party not approaching the Court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief, especially

under Article 136 of the Constitution. While approaching the court, a litigant must state correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to abuse of the process of the court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to abuse of the process of the court. A litigant is bound to make "full and true disclosure of facts". (Refer: Tilokchand H.B. Motichand & Ors. v. Munshi & Anr. [(1969) 1 SCC 110]; A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam & Anr. [(2012) 6 SCC 430]; Chandra Shashi v. Anil Kumar Verma [(1995) SCC 1 421]; Abhyudya Sanstha v. Union of India & Ors. [(2011) 6 SCC 145]; State of Madhya Pradesh v. Narmada Bachao Andolan & Anr. [(2011) 7 SCC 639]; Kalyaneshwari v. Union of India & Anr. [(2011) 3 SCC 287]).

34. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation. The legal maxim *jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiore*, which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction of the court should not become a source of abuse of the process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by

extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the court with clean hands.

35. No litigant can play "hide and seek" with the courts or adopt "pick and choose". True facts ought to be disclosed as the Court knows law, but not facts. One, who does not come with candid facts and clean breast cannot hold a writ of the court with soiled hands. Suppression or concealment of material facts is impermissible to a litigant or even as a technique of advocacy. In such cases, the Court is duty bound to discharge rule nisi and such applicant is required to be dealt with for contempt of court for abusing the process of the court. {K.D. Sharma v. Steel Authority of India Ltd. & Ors. [(2008) 12 SCC 481]}.

36. Another settled canon of administration of justice is that no litigant should be permitted to misuse the judicial process by filing frivolous petitions. No litigant has a right to unlimited drought upon the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be used as a licence to file misconceived and frivolous petitions. [Buddhi Kota Subbarao (Dr.)V. K. Parasaran, (1996) 5 SCC 530]."

37. It is worthwhile to consider, in similar circumstances, i.e., delay in submission of a required certificate, one of us (Hon'ble Mr. Justice Shaji P. Chaly), while sitting in writ jurisdiction, has considered a similar issue in W.P.(C) No.20991 of 2019. After considering the rival submissions, writ

court by judgment dated 02.08.2020, dismissed the writ petition, wherein at paras 3 and 4, ordered thus:

“3. In my considered opinion, the admission to the M.B.B.S course is conducted in a time bound manner following the stipulations contained in the KEAM-prospectus 2019. There are certain directions of the Apex Court also in respect of the completion of the admission process. It is an admitted fact that, petitioner could not upload the certificate and the petitioner is putting the responsibility on the Tahsildar, who was failed to issue an EWS certificate. However, in my considered opinion if there was lethargy on the part of the Tahsildar, petitioner was duty bound to seek appropriate relief against the Tahsildar, in order to consider and dispose of the application submitted. Therefore on account of the delay on the part of the Tahsildar, no manner of negligence or laches on the part of the Commissioner of Entrance Examinations can be attributed by the petitioner.

4. Taking into account the submissions made by the respective counsel across the Bar and perusing the pleadings and document on record, I am of the considered opinion that, there was no violation on the part of the respondents in considering the application submitted by the petitioner. It was only on account of the delay on the part of the petitioner to upload the EWS certificate, the application could not be considered. Therefore it cannot be said that, petitioner has made out any case against the respondents justifying interference of this Court under Article 226 of the Constitution of India.”

38. The above said judgment is quoted only for the purpose of similarity and not sitting on appeal. Though the appellant has relied on few decisions, seeking reversal of the impugned judgment, on the facts and circumstances of this case, no interference is called for.

In the light of the above discussion and decisions, there is no error in the judgment impugned, warranting interference in appeal. Writ appeal is dismissed. No costs.

Sd/-
S. Manikumar,
Chief Justice

Sd/-
Shaji P. Chaly,
Judge