2025:KER:67092

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
WEDNESDAY, THE 10TH DAY OF SEPTEMBER 2025 / 19TH BHADRA, 1947
WP(CRL.) NO. 1282 OF 2023
CRIME NO.2/2015 OF VACB, ERNAKULAM,

PETITIONER:

ANIRUDH P
AGED 28 YEARS
S/O. SASIDHARAN .P, PATHIRIKKADE (H), CHEMMANIYODE (P.O.), MALAPPURAM, PIN - 679326

BY ADV SHRI.S.ABHILASH VISHNU

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

2 THE DIRECTOR OF VIGILANCE & ANTI-CORRUPTION BUREAU
VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN - 695003

3 THE DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE AND ANTI-CORRUPTION BUREAU, ERNAKULAM UNIT, KATHRIKADAVU, ERNAKULAM DISTRICT, PIN - 682017

4 SREE SANKARACHARYA SANSKRIT UNIVERSITY
KALADY, , REPRESENTED BY ITS REGISTRAR, PIN - 683574

5 THE VICE CHANCELLOR
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT SREE SANKARACHARYA UNIVERSITY, KALADY, PIN - 683574

6 THE REGISTRAR
SREE SANKARACHARYA SANSKRIT UNIVERSITY, KALADY, PIN - 683574

7 THE SYNDICATE
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT , KALADY, REPRESENTED BY ITS CHAIRMAN, PIN - 684574

8 VENUGOPALAN NAIR, AGED 60,
S/O. CHANDRASEKHARAN NAIR, "CHIDHAMBARAM", GANDHI SUARE,
NEAR POORNATHRAYEESA TEMPLE,
POONITHURA, ERNAKULAM-682038

BY ADVS.
PUBLIC PROSECUTOR
SRI.RAJESH A., SPL. G.P. (VIGILANCE AND ANTI CORRUPTION BUREAU)
SHRI.DINESH MATHEW J.MURICKEN, SC, SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY
SRI.V.M.KRISHNAKUMAR
SRI.DINESH MATHEW J.MURICKEN
SMT.KAVYA SREEJITH

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 10.09.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

"C R"

A. BADHARUDEEN, J

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W.P.(Crl) No. 1282 of 2023

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Dated 10th day of September 2025

JUDGMENT

This Writ Petition (Criminal) has been filed under Article 226 of the Constitution of India by the petitioner, who is a student of Sree Sankaracharya University of Sanskrit, Kalady (hereinafter referred to as 'the University'). The prayers sought in this petition are as follows

1. *issue a writ of certiorari or any other appropriate writ, calling for the records leading upto to the issuance of Ext.P2 and set-aside the same alongwith Ext.P2 denial of sanction;*

2. issue a writ of certiorari or any other appropriate writ, and set-aside Ext.P3 notice issued by the court of the Enquiry Commissioner and Special Judge (Vigilance), Muvattupuzha;

3. issue a writ of mandamus or any other appropriate writ, order or direction to the sanctioning authority of the 4th respondent university to consider Ext.P1 afresh and pass orders upon it after due enquiry as per law within a time frame fixed by this Hon'ble court;

4. issue such other writ, order or directions as this Hon'ble Court deems fit to be granted in the circumstances of the case including costs.

2. Heard the learned counsel for the writ petitioner, the learned

Special Public Prosecutor representing the VACB, as well as the learned Standing Counsel appearing for the 4th respondent University.

3. The learned counsel for the petitioner read out the contents of Ext.P2 order dated 10.01.2018, whereby sanction was refused, and contended that the sanctioning authority failed to apply its mind to the case of the prosecution after adverting the prosecution records. Consequently there is no reference in the sanction refusal order as to the case of the prosecution or the records thereof. Instead, the refusal of sanction was in consideration of the services rendered by Dr.Venugopalan Nair C (the 8th accused) as the Head of the Department of Dance at the University. That apart on assessing his contributions to the University sanction was declined. Accordingly,

the learned counsel for the writ petitioner prayed for interference in the impugned order and sought a direction to the University to decide the question of grant of sanction in accordance with the law.

4. The learned counsel appearing for the 4th respondent placed decision of the Apex Court reported in ***(1997) 7 SCC 622 Mansukhlal Vithaldas Chauhan v. State of Gujarat*** with reference to paragraphs 18 and 19 to substantiate the point that the observations in Paragraphs 18 and 19 the Apex Court would govern the grant or refusal of sanction. Paragraphs 18 and 19 are extracted as under:-

> *"18. The validity of the sanction would, therefore, depend upon the material placed before the sanctioning authority and the fact that all the relevant facts, material and evidence have been considered by the sanctioning authority. Consideration implies application of mind. The order of*

sanction must ex facie disclose that the sanctioning authority had considered the evidence and other material placed before it. This fact can also be established by extrinsic evidence by placing the relevant files before the Court to show that all relevant facts were considered by the sanctioning authority.

19. Since the validity of "sanction" depends on the applicability of mind by the sanctioning authority to the facts of the case as also the material and evidence collected during investigation, it necessarily follows that the sanctioning authority has to apply its own independent mind for the generation of genuine satisfaction whether prosecution has to be sanctioned or not. The mind of the sanctioning authority should not be under pressure from any quarter nor should any external force be acting upon it to take a decision one way or the other. Since the discretion to grant or not to grant sanction vests absolutely in the sanctioning authority, its discretion should be shown to have not been affected by any extraneous consideration. If it is shown that the sanctioning authority was unable to apply its independent mind for any reason whatsoever or was under an obligation or compulsion or constraint to grant the sanction, the order will be bad for the reason that the

discretion of the authority "not to sanction" was taken away and it was compelled to act mechanically to sanction the prosecution."

5. The learned Special Public Prosecutor also placed decision of the Apex Court reported in ***2013 KHC 4983, CBI v. Ashok Kumar Aggarwal*** with reference to Paragraph 18 where the Apex Court held that *the CBI had not sent the complete record to the sanctioning authority. The order dated 11.07.2007 passed by the Special Judge made it evident that the learned counsel appearing on behalf of the CBI had conceded before the Court that only SP's report alongwith list of evidence (oral) and list of evidence (documentary) were sent to the sanctioning authority for the purpose of according sanction. The statement of witnesses and other relevant documents were not sent to the sanctioning authority as per the own case of CBI. The observation in the sanction order dated 26.11.2002 that "the case*

diaries and documents collected by the investigating officers during the course of investigation, statements of witnesses under Section 161 CrPC and under Section 164 of CrPC were considered by the sanctioning authority" is factually incorrect. The aforesaid facts make it clear that the sanctioning authority had not considered the entire material available with the investigating agency. Another decision of the Apex Court reported in ***2019 KHC 7175, Vinod Kumar Garg v. State (Government of National Capital Territory of Delhi)*** with reference to paragraph 18 where the Apex Court held that *the appellant has relied upon the judgments of this Court in* ***Mohd. Iqbal Ahmed v. State of A.P., (1979) 4 SCC 172*** *and* ***State of Karnataka v. Ameerjan, (2007) 11 SCC 273,*** *to challenge the sanction order. In* ***Mohd. Iqbal Ahmed*** *(supra) it was observed that*

a valid sanction is the one that is granted by the Sanctioning Authority after being satisfied that a case for sanction is made out constituting the offence. It is important to be mindful of the observations made by the Court as reproduced below:

> *"3. [...] what the Court has to see is whether or not the Sanctioning Authority at the time of giving sanction was aware of the facts constituting the offence and applied its mind for the same...*
> *"Similarly, in* ***Ameerjan*** *(supra), it was observed:*
> *"10. [...] Ordinarily, before passing an order of sanction, the entire records containing the materials collected against the accused should be placed before the sanctioning authority. In the event, the order of sanction does not indicate application of mind as (sic to) the materials placed before the said authority before the order of sanction was passed, the same may be produced before the court to show materials had in fact been produced."*
> *Therefore, what the law requires is the application of mind by the Sanctioning Authority on the material*

placed before it to satisfy itself of prima facie case that would constitute the offence. On the said aspect, the later decision of this Court in ***State of Maharashtra v. Mahesh G. Jain, (2013) 8 SCC 119****, has referred to several decisions to expound on the following principles of law governing the validity of sanction:*

> *"14.1. It is incumbent on the prosecution to prove that the valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction has been made out.*
>
> *14:2. The sanction order may expressly show that the sanctioning authority has perused the material placed before it and, after consideration of the circumstances, has granted sanction for prosecution.*
>
> *14.3. The prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived at upon perusal of the material placed before it.*
>
> *14.4. Grant of sanction is only an*

administrative function and the sanctioning authority is required to prima facie reach the satisfaction that relevant facts would constitute the offence.

14.5. The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it does not sit in appeal over the sanction order.

14.6. If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction.

14.7. The order of sanction is a prerequisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants, but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be a hypertechnical approach to test its validity." The contention of the appellant, therefore, fails and is rejected.

6. Another decision of this Court reported in 2***024 KHC 673***

Kadakampally Manoj v. State of Kerala also has been placed to buttress the point that order refusing or rejecting sanction should be a speaking order on applying mind of the authority concerned by scrutinizing the entire prosecution records in detail.

7. The learned counsel appearing for the 8th accused submitted that he has placed documents in the form of degree certificates [Ext. R8(a) to (h)], contending that all of them are genuine certificates obtained by the 8th accused to negate the prosecution allegations. At the same time the learned counsel for the 8th accused conceded that he would not stand in the way of ordering reconsideration of the sanction order.

8. Having considered the submissions made by the learned counsel as indicated, I have perused Ext. P2, the sanction order dated

10.01.2018, whereby the Syndicate of the University denied the sanction sought by the prosecution in a case where the 8th respondent is alleged to have committed offences punishable under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, as well as under Sections 420, 468, 471, and 474 of the Indian Penal Code.

9. On perusal of the decisions referred hereinabove it is emphatically clear that the validity of the sanction would, therefore, depend upon the material placed before the sanctioning authority and the fact that all the relevant facts, material and evidence have been considered by the sanctioning authority. Consideration implies application of mind. The order of sanction must ex facie disclose that the sanctioning authority had considered the evidence and other

material placed before it. This fact can also be established by extrinsic evidence by placing the relevant files before the Court to show that all relevant facts were considered by the sanctioning authority. Since the validity of "sanction" depends on the applicability of mind by the sanctioning authority to the facts of the case as also the material and evidence collected during investigation, it necessarily follows that the sanctioning authority has to apply its own independent mind for the generation of genuine satisfaction whether prosecution has to be sanctioned or not. The mind of the sanctioning authority should not be under pressure from any quarter nor should any external force be acting upon it to take a decision one way or the other. Since the discretion to grant or not to grant sanction vests absolutely in the sanctioning authority, its discretion should be shown to have not

been affected by any extraneous consideration. If it is shown that the sanctioning authority was unable to apply its independent mind for any reason whatsoever or was under an obligation or compulsion or constraint to grant the sanction, the order will be bad for the reason that the discretion of the authority "not to sanction" was taken away and it was compelled to act mechanically to sanction the prosecution. At the same time the prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived at upon perusal of the material placed before it. Grant of sanction is only an administrative function and the sanctioning authority is required to prima facie reach the satisfaction that relevant facts would constitute the offence. The adequacy of material placed before the sanctioning

authority cannot be gone into by the court as it does not sit in appeal over the sanction order. If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction. The order of sanction is a prerequisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants, but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be a hypertechnical approach to test its validity.

10. In Ext. P2, the sanction order, there is no prima facie application of mind, and there is no reference to the prosecution materials. Ext. P2 merely depicts an appraisal of the contributions made by the 8th accused to the University, so that the accused of

such a stature could not be prosecuted are the reasons for denying sanction, without adhering to the procedure established by law. In view of the above, Ext. P2 is liable to be set aside, to enable the Syndicate of the University to reconsider the question of sanction afresh, in accordance with law.

11. In the result, this writ petition stands allowed. Ext.P2 order stands set aside with direction to the syndicate of the University to consider the question of sanction afresh strictly in accordance with the settled law discussed in detail hereinabove, by applying mind and after reading the prosecution records in detail. The above exercise shall be done within a period of two months from the date of receipt of copy of this judgment.

In this regard the Registry is directed to forward a copy of this

judgment to the Vice Chancellor and Registrar of the Sree Sankaracharya University of Sanskrit, Kalady within a period of seven days.

Sd/-

A. BADHARUDEEN

JUDGE

RMV

APPENDIX OF WP(CRL.) 1282/2023

PETITIONER EXHIBITS

Exhibit-P1	TRUE COPY OF THE SANCTION APPROVAL FORM WITH A COVERING LETTER BY THE 2ND RESPONDENT DATED 19.11.2016 WITH S.NO.E21(VC2/15/EKM/SSUNI)1947/2015
Exhibit-P2	TRUE COPY OF THE REPLY ISSUED BY THE UNIVERSITY DATED 10.01.2018 WITH S.NO. LGLS/8837/SSUS/2015
Exhibit-P3	TRUE COPY OF THE NOTICE DATED 24.09.2022 WITH S.NO. VC2/2015/EKM ISSUED BY THE COURT OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE (VIGILANCE), MUVATTUPUZHA

RESPONDENT EXHIBITS

Exhibit R8(a)	True copy of the SSLC book of the 8th Respondent
Exhibit R8(b)	True copy of the pre-degree mark-list dated 06.08.1977
Exhibit R8(c)	True copy of the certificate of registration with no. 13212/A80 dated 04.01.1982
Exhibit R8(d)	True copy of the certificate of diploma issued to the 8th Respondent by the Department of Education, Government of Kerala
Exhibit Rd(e)	True copy of the post diploma certificate dated 22.09.1990 issued to the 8th Respondent by the Department of Education, Government of Kerala
Exhibit R8(f)	True copy of the rank certificate in the MA Degree Examination, issued to the 8th Respondent by the Mahatma Gandhi University dated 07.06.2003
Exhibit R8(g)	True copy of the mark-list in MA examination issued to the 8th Respondent by the Mahatma Gandhi University dated 27.01.2003
Exhibit R8(h)	True copy of the certificate of MA degree issued to the 8th Respondent by the Mahatma Gandhi University dated 18.03.2004

Exhibit R8(i)	**True copy of the response dated 02.01.2016 furnished by the 8th Respondent to the memo issued by the Respondent University**