

State of Kerala vs Qualified Private Medical Practitioners' Association

State of Kerala vs Qualified Private Medical Practitioners' Association

SooperKanoon Citation : sooperkanoon.com/1344265

Court : Kerala

Decided On : Apr-11-2023

Judge : Honourable Mr. Justice Amit Rawal

Appeal No. : RP/308/2023

Appellant : State of Kerala

Respondent : Qualified Private Medical Practitioners' Association

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
RP NO. 259 OF 2023 AGAINST THE ORDER/JUDGMENT DATED
23.1.2023 IN WP(C) REVIEW PETITIONERS/R1&R2 IN WPC: 1 STATE
OF KERALA REPRESENTED BY THE SECRETARY TO
GOVERNMENT, LABOUR AND SKILLS (E)
DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 DISTRICT
LABOUR OFFICER MALAPURAM, PIN - 676505 BY ADVS.
GOVERNMENT PLEADER SRI. ASHOK M. CHERIAN, ADDL. AG
SABEENA P. ISMAIL, GOVERNMENT PLEADER()

RESPONDENTS/PETITIONERS 1 TO 20 IN WPC: 1 KALLIYATH HOSPITAL,POOKKAYIL P.O.,TIRUR MALAPURAM,REPRESENTED BY ITS MANAGING DIRECTOR DR.TAHA SUBARI KALLIYATH, PIN - 676107 2 TIRUR MISSION HOSPITAL, POONGOTTUKULAM,TIRUR,REPRESENTED BY ITS MANAGING DIRECTOR DR.TAHA SUBARI KALLIYATH, PIN - 676101 3 NEELI MEMORIAL HOSPITAL CMAS, B.P. ANGADI, TIRUR - 676 102, MALAPPURAM, REPRESENTED BY ITS MANAGING DIRECTOR, DR. VALAYUDHAN., PIN - 676102 4 SURYA MATERNITY SURGICAL HOSPITAL, MANGATTIRI P.O., TIRUR - 676 101, MALAPPURAM, REPRESENTED BY ITS PROPRIETOR, DR. D.B. VALSAN., PIN - 676101 5 TIRUR NURSING HOME, TIRUR - 676 101, MALAPPURAM, REPRESENTED BY ITS MANAGING PARTNER, DR. NOUSHAD., PIN - 676101 6 PKH HOSPITAL, B.P. ANGADI, 676 102, MALAPPURAM, REPRESENTED BY ITS MANAGING DIRECTOR, DR. MOHAMED KUTTY., PIN - 676102 7 NEHA HOSPITAL, CHANGUVETTI P.O., KOTTAKKAL - 676 503, REPRESENTED BY ITS MANAGING DIRECTOR, DR. ABDURAHIMAN THOTTIYIL., PIN - 676503 8 MANU MEMORIAL HOSPITAL, MELAKAM, MARUVAMBURAM P.O., MANJERI - 676 121, REPRESENTED BY ITS MANAGING DIRECTOR, DR. MOHAMED RENNIS., PIN - 9 HARISON MEDICAL CENTRE, EDARIKKODE P.O., MALAPPURAM - 676 501, REPRESENTED BY ITS MANAGING DIRECTOR, DR. DAMANALAL K.S., PIN - 676501

10 MERCY HOSPITAL, MAIN ROAD, KONDOTTY, MALAPPURAM - 673 638, REPRESENTED BY ITS MANAGING PARTNER, FATHIMA K.T., PIN - 673638 11 AMINA HOSPITAL, PERINTHALMANNA, MALAPPURAM - 679 322, REPRESENTED BY ITS MANAGING DIRECTOR, DR. MOHIADEEN., PIN - 679322 12 RELIEF HOSPITAL AND TRAUMA CENTRE, KONDOTTY, MALAPPURAM - 673 638, REPRESENTED BY ITS MANAGING DIRECTOR, DR. MODIDEEN KUTTY., PIN - 673638 13 SUKAPURAM HOSPITAL, ASHA NIVAS P.O.,KALADI, MALAPPURAM - 679 582, REPRESENTED BY ITS

MANAGING DIRECTOR, DR. AMRITHKUMAR., PIN - 679582 14
SAVERA HOSPITAL PVT. LTD., EXHUR ROAD, TIRUR - 676 101,
REPRESENTED BY ITS MANAGING DIRECTOR, DR. K. MOIDEEN
KUTTY., PIN - 676101 15 ANUPAMA MEDICAL CENTRE, K.G. PADI,
TIRUR - 676 101, REPRESENTED BY ITS MANAGING DIRECTOR,
DR. PRAMOD., PIN - 676101 16 HOLY CROSS HOSPITAL PVT. LTD.,
MANJERI, MALAPPURAM (DIST) - 676 121, REPRESENTED BY ITS
MANAGING DIRECTOR, DR. M. C. JOY., PIN - 676121 17 NAHAS
HOSPITAL, PARAPPANANGADI, MALAPPURAM (DIST.) - 676 303,
REPRESENTED BY ITS MANAGING DIRECTOR, DR. K. ABDUL
MUNEER., PIN - 676303 18 RAMDAS CLINIC AND NURSING HOME,
PERINTHALMANNA, MALAPPURAM (DIST.) - 679 322,
REPRESENTED BY ITS MANAGING DIRECTOR, DR. RAMDAS., PIN -
679322 19 NIZAR HOSPITAL, VALANCHERY, MALAPPURAM (DIST.) -
676 552, REPRESENTED BY ITS MANAGING DIRECTOR, DR.
MUJEEB RAHMAN., PIN - 676552 20 NADAKKAVIL HOSPITAL,
VALANCHERI, MALAPPURAM (DIST.) - 676 552, REPRESENTED BY
ITS MANAGING DIRECTOR, DR. MOHAMEDALI. N., PIN - 676552 BY
ADV K.K.PREMALAL THIS REVIEW PETITION HAVING COME UP
FOR ADMISSION ON

11.04.2023, ALONG WITH RP Nos.264/2023, 265/2023, 267/2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
RP NO. 264 OF 2023 AGAINST THE ORDER/JUDGMENT DATED
23.1.2023 IN WP(C) REVIEW PETITIONER/R1 IN WPC: STATE OF
KERALA, REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY
TO GOVERNMENT, LABOUR AND REHABILITATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM., PIN -
695001 BY ADV GOVERNMENT PLEADER SRI.ASHOK M.CHERIAN,

ADDL.AG SABEENA P. ISMAIL, GOVERNMENT PLEADER()
RESPONDENTS/PETITIONER & ADDL.R2 IN THE WPC: 1
ASSOCIATION OF HEALTH PROVIDERS(INDIA) 2ND FLOOR, INDIAN
MEDICAL ASSOCIATION HOUSE INDRAPRASTHA MARG NEW
DELHI REPRESENTED BY ITS STATE PRESIDENT DR. HARISH
PILLAI, PIN - 110002 2 KERALA HOSPITAL EMPLOYEES SANGH
(BMS), REGISTRATION NO.91/83,SHORNUR
ROAD,PATTURACKAL,THIRUVAMBADI,THRISSUR,REPRESINED
BY ITS GENERAL SECRETARY SHRI.A.C.KRISHNAN., PIN - BY ADV
P.RAMAKRISHNAN THIS REVIEW PETITION HAVING COME UP FOR
ADMISSION ON 11.04.2023, ALONG WITH RP.259/2023 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
RP NO. 265 OF 2023 AGAINST THE ORDER/JUDGMENT DATED
23.1.2023 IN WP(C) REVIEW PETITIONERS/R1-R3 IN WPC: 1 STATE
OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY TO
GOVERNMENT,TGOVERNMENT SECRETARIATE
THIRUVANANTHAPURAM, PIN - 695001 2 THE ADDITIONAL CHIEF
SECRETARY LABOUR AND REHABILITATION DEPARTMENT
GOVERNMENT SECRETARIATE THIRUVANANTHAPURAM, PIN -
695001

3 THE LABOUR COMMISSIONER THOZHIL BHAVAN,PMG
JUNCTION, THIRUVANANTHAPURAM, PIN - 695001 BY ADV
GOVERNMENT PLEADER SRI.ASHOK M.CHERIAN, ADDL.AG
SABEENA P. ISMAIL, GOVERNMENT PLEADER()
RESPONDENTS/PETITIONERS & R4&R5 IN THE WPC: 1 KERALA
PRIVATE HOSPITAL ASSOCIATION HAVING ITS REGISTERED
OFFICE AT KPHA HEAD QUARTERS, ASHIR BHAVAN ROAD,

KACHERIPPADY, ERNAKULAM, KOCHI, REPRESENTED BY ITS SECRETARY, HUSSAIN KOYA THANGAL, PIN - 682018 2 HUSSAIN KOYA THANGAL, CHAIRMAN, NIMS HOSPITAL, WANDOOR, P.B.NO:17, P.O.VANIYAMBALAM, MALAPPURAM., PIN - 670339 3 KERALA STATE UNITED NURSES ASSOCIATION, DOOR NO: CHEMBUKAVU P.O., TRICHUR-680 020, REPRESENTED BY ITS SECRETARY SUJANAPAL.A.K, AGED 30 YEARS, S/O.ACHUTHAN, RESIDING AT ATTACKARA HOUSE, PAYYANADAM P.O., MANNARKAD, PALAKKAD-, PIN - 4 INDIAN NURSES ASSOCIATION INDIAN NURSES ASSOCIATION, REPRESENTED BY ITS GENERAL SECRETARY, LIBIN THOMAS, S/O.THOMAS, AGED 28 YEARS, ROOM NO:IV/218(12), PEE SQUARE BUILDING, CHANDAPPURA.P.O., KODUNGALLOOR, TRICHUR DISTRICT., PIN - 680664 BY ADVS. N.N.SUGUNAPALAN (SR.) K.ANAND K BENNY ANTONY PAREL(K/000053/1996) THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 11.04.2023, ALONG WITH RP.259/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945 RP NO. 267 OF 2023 AGAINST THE ORDER/JUDGMENT DATED 23.1.2023 IN WP(C) REVIEW PETITIONERS/R1 & R2 IN THE WPC: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR AND SKILLS (E) DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 DISTRICT LABOUR OFFICER, PALAKKAD, PIN - 678001 BY ADV GOVERNMENT PLEADER SRI.ASHOK M.CHERIAN, ADDL.AG SABEENA P. ISMAIL, GOVERNMENT PLEADER() RESPONDENTS/PETITIONERS 1 & 2 IN THE WPC: 1 VALLUVANAD HOSPITAL COMPLEX LIMITED ETC.,

KANNIYAMPURAM POST, OTTAPPALAM, PALAKKAD - 679 104, REPRESENTED BY ITS CHAIRMAN, DR. RAMAKRISHNAN., PIN - 679104 2 MODERN HOSPITAL, KOOTTANAD, PALAKKAD - 679 533, REPRESENTED BY ITS MANAGING PARTNER, DR. RAMAKRISHNAN., PIN - 679533 BY ADV K.K.PREMALAL THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 11.04.2023, ALONG WITH RP.259/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945 RP NO. 269 OF 2023 AGAINST THE ORDER/JUDGMENT DATED 23.1.2023 IN WP(C) REVIEW PETITIONER/R1: STATE OF KERALAREPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, LABOUR AND REHABILITATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - BY ADV GOVERNMENT PLEADER SRI.ASHOK M.CHERIAN, ADDL.AG SABEENA P. ISMAIL, GOVERNMENT PLEADER() RESPONDENTS/PETITIONER & ADDL.R2 IN THE WPC: 1 ASSOCIATION OF ADVANCED SPECIALITY HEALTH CARE INSTITUTIONS, P.B. NO. 1, THIRUVANANTHAPURAM - 695 029, REPRESENTED BY ITS PRESIDENT M.I. SAHADULLA., PIN - 695029 2 DR. JAYAKRISHNAN, S/O. VIKRAMA MENON, AGED 49 YEARS, RESIDING AT NARAYANI NIVAS, PATTAMBI, PERINTHALMANNA, CHAIRMAN OF THE 'INDIAN MEDICAL ASSOCIATION (IMA) HOSPITAL BOARD OF INDIA., PIN - BY ADV P.RAMAKRISHNAN THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 11.04.2023, ALONG WITH RP.259/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
RP NO. 273 OF 2023 AGAINST THE ORDER/JUDGMENT DATED
23.1.2023 IN WP(C) REVIEW PETITIONERS/R1 TO R3: 1 STATE OF
KERALA REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001 2 THE ADDITIONAL CHIEF SECRETARY, LABOUR & SKILLS

(E) DEPARTMENT, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM, PIN - 695001 3 THE LABOUR
COMMISSIONER, THOZHIL BHAVAN, PMG JUNCTION,
THIRUVANANTHAPURAM, PIN - 695001 BY ADV GOVERNMENT
PLEADER SRI.ASHOK M.CHERIAN, ADDL.AG SABEENA P. ISMAIL,
GOVERNMENT PLEADER() RESPONDENTS/PETITIONERS 1-4 IN
THE WPC:

1 M/S. M.B. HOSPITAL, DOWN HILL, MALAPPURAM - 676 519,
REPRESENTED BY ITS MANAGING PARTNER, E. UMMER BAVA.
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 2 ORCHID
INSTITUTE OF HEALTH CARE RESEARCH PVT. LTD., DOWN HILL,
MALAPPURAM - 676 519, REPRESENTED BY ITS MANAGING
PARTNER, P. SUBAIR., PIN - 676519 3 CHRISTIAN WELFARE
CENTRE, UP HILL, MALAPPURAM - 676 505, REPRESENTED BY ITS
MANAGING TRUSTEE, REV. CHRISPIN PARAS., PIN - 676505 4 MS.
RELIEF HOSPITAL AND TRAUMA CENTRE PVT. LTD., KONDOTTY,
MALAPPURAM, REPRESENTED BY ITS MANAGING DIRECTOR, DR.
A. MOIDEENKUTTY., PIN - 673638 BY ADV S.SREEKUMAR SR. THIS
REVIEW PETITION HAVING COME UP FOR ADMISSION ON
11.04.2023, ALONG WITH RP.259/2023 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
RP NO. 279 OF 2023 AGAINST THE ORDER/JUDGMENT DATED
23.1.2023 IN WP(C) REVIEW PETITIONERS/R1-R4 IN THE WPC: 1
STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF
SECRETARY , LABOUR AND SKILLS (E) DEPARTMENT,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001 2 THE ADDITIONAL CHIEF
SECRETARY, HEALTH DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001

3 THE LAW SECRETARY, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 4
THE LABOUR COMMISSIONER, THOZHIL BHAVAN, PMG JUNCTION,
THIRUVANANTHAPURAM., PIN - 695033 BY ADV GOVERNMENT
PLEADER SRI.ASHOK M.CHERIAN, ADDL.AG SABEENA P. ISMAIL,
GOVERNMENT PLEADER() RESPONDENTS/PETITIONER & R5 IN
THE WPC:

1 KERALA STATE UNITED NURSES ASSOCIATION, DOOR NO:
CHEMBUKAVU P.O, TRICHUR-680 020, REPRESENTED BY ITS
SECRETARY SUJANAPAL A.K, AGED 30 YEARS, S/O.ACHUTHAN,
RESIDING AT ATTAKKARA HOUSE, PAYYANADAM P.O.,
MANNARKAD, PALAKKAD, PIN - 678583 2 DR.JAYAKRISHNAN
S/O.VIKRAMA MENON, AGED 49 YEARS, RESIDING AT NARAYANI
NIVAS, PATTAMBI, PERINTHALMANNA, CHAIRMAN OF THE 'INDIAN
MEDICAL ASSOCIATION (IMA) HOSPITAL BOARD OF INDIA'. , PIN -
679322 BY ADV P.S.BIJU THIS REVIEW PETITION HAVING COME UP
FOR ADMISSION ON 11.04.2023, ALONG WITH RP.259/2023 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
RP NO. 292 OF 2023 AGAINST THE ORDER/JUDGMENT DATED
23.1.2023 IN WP(C) REVIEW PETITIONERS/R1-R3 IN THE WPC: 1
STATE OF KERALA REPRESENTED BY THE SECRETARY TO
GOVERNMENT, HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 2
THE SECRETARY TO GOVERNMENT, LABOUR AND
REHABILITATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001., PIN - 695001 3 DIRECTOR OF
HEALTH SERVICE, KERALA, PALAYAM - AIRPORT ROAD, NEAR
GENERAL HOSPITAL ROAD, JUNCTION, THIRUVANANTHAPURAM,
KERALA - 695 035., PIN - 695035 BY ADV GOVERNMENT PLEADER
SRI.ASHOK M.CHERIAN, ADDL.AG SABEENA P. ISMAIL,
GOVERNMENT PLEADER() RESPONDENTS/PETITIONER & R4 IN
THE WPC: 1 INDIAN NURSES ASSOCIATION REPRESENTED BY ITS
STATE SECRETARY LIBIN TOMAS, AMBIKA COMPLEX, OPPO,
WOMENS COLLEGE, PALLIMUKKU, KANNUR - 4, PIN - 2 THE
MINIMUM WAGES ADVISORY BOARD, REPRESENTED BY ITS
SECRETARY, KIWI TOWERS , TUTORS LANE, STATUE,
THIRUVANANTHAPURAM - 1., PIN - 695001 BY ADV T.B.MINI THIS
REVIEW PETITION HAVING COME UP FOR ADMISSION ON
11.04.2023, ALONG WITH RP.259/2023 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
RP NO. 300 OF 2023 AGAINST THE ORDER/JUDGMENT DATED
23.1.2023 IN WP(C) REVIEW PETITIONERS/R1-R3 IN THE WPC: 1
THE STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY
TO GOVERNMENT, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM ., PIN - 695001 2 THE ADDITIONAL CHIEF SECRETARY, LABOUR & REHABILITATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

3 THE LABOUR COMMISSIONER, THOZHIL BHAVAN, PMG JUNCTION, THIRUVANANTHAPURAM, PIN - 695001 BY ADV GOVERNMENT PLEADER SRI.ASHOK M.CHERIAN, ADDL.AG SABEENA P. ISMAIL, GOVERNMENT PLEADER() RESPONDENT/PETITIONER: THE ASSOCIATION OF HEALTH CARE PROVIDERS (INDIA), SECOND FLOOR, INDIA MEDICAL ASSOCIATION HOUSE, INDRAPRASTHA MARG, NEW DELHI - 110 002, REPRESENTED BY ITS KERALA STATE CHAPTER PRESIDENT SR. HARISH PILLAI, PIN - 110002 BY ADV M.GOPIKRISHNAN NAMBIAR THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 11.04.2023, ALONG WITH RP.259/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945 RP NO. 308 OF 2023 AGAINST THE ORDER/JUDGMENT DATED 23.1.2023 IN WP(C) REVIEW PETITIONERS/R1-R3 IN THE WPC: 1 STATE OF KERALA, REP.BY ITS CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 THE ADDITIONAL CHIEF SECRETARY, LABOUR AND REHABILITATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

3 THE LABOUR COMMISSIONER THOZHIL BHAVAN, PMG JUNCTION, THIRUVANANTHAPURAM, PIN - 695001 BY ADV

GOVERNMENT PLEADER SRI.ASHOK M.CHERIAN, ADDL.AG
SABEENA P. ISMAIL, GOVERNMENT PLEADER()
RESPONDENTS/PETITIONER & R4 & R5 IN THE WPC: 1 QUALIFIED
PRIVATE MEDICAL PRACTITIONERS' ASSOCIATION, FLOOR V, E/F,
VALLAMATTAM ESTATE, RAVIPURAM, M.G.ROAD, ERNAKULAM-682
015, REPRESENTED BY ITS STATE PRESIDENT, PROF (DR)
C.M.ABOOBACKER., PIN - 682015

2 DR.JAYAKRISHNAN AGED 49 YEARS, S/O.VIKRAMA MENON,
RESIDING AT NARAYANI NIVAS, PATTAMBI, PERINTHALMANNA,
CHAIRMAN OF THE INDIAN MEDICAL ASSOCIATION, (IMA)
HOSPITAL BOARD OF INDIA., PIN - 679322 3 KERALA STATE
PRIVATE HOSPITAL EMPLOYEES FEDERATION (CITU), STATE
COMMITTEE, E.BALANANDAN SMARAKA MANDIRAM,
MELETHAMPANOR, THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS GENERAL SECRETARY., PIN - BY ADV
M.GOPIKRISHNAN NAMBIAR THIS REVIEW PETITION HAVING
COME UP FOR ADMISSION ON 11.04.2023, ALONG WITH
RP.259/2023 AND CONNECTED CASES, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

ORDER

[RP Nos.259/2023, 264/2023, 265/2023, 267/2023, 269/2023, The present review petitions are being filed on the ground that the respondent-State was never heard, nor any arguments were addressed.

2. On the other hand, the learned Senior

Counsel for the petitioners in the writ petitions, respondents herein, submitted the matters were heard in part, as per order dated 6.12.2022 in WP(C) No.14778/2018, which reads as under:

This case has been listed on the request of the learned Additional Advocate General as the notifications of 2017 and 2018 fixing the

minimum wages in respect of the employees working in the various private hospitals and private nursing homes have been revised. Writ Petition No.14778/2018 is filed on behalf of the Kerala State United Nurses Association seeking implementation of the notification Ext.P2 whereas other connected writ petitions are filed by the hospitals challenging the notification being on a higher side. It has been brought to the notice that certain hospitals have already abided by the notifications. It has also been contended that the provisions of the Act provides revision of the minimum wages after expiry of five years. There is likelihood of the

Government coming out with a new notification in the ensuing year. Matter is heard in part. Counsel for the petitioner though requested for an adjournment in January, but opposed by the Government pleader, who says that the matter should be heard immediately. In this view of the matter, hearing of the writ petition is fixed on 21.12.2022 along with connected cases.

3. On 21.12.2022, when the matter was taken up for consideration, this Court passed the following order:

At the request of the learned Senior Counsel for the respondents, anticipating an amicable settlement, hearing of the Writ Petition is deferred to 22.12.2022. In case the petitioners do not intend to come to some amicable settlement, they are directed to bring the record to show this Court the balance sheets for the period 2015-16, 2016-17, 2018-19, 2019-2020 and 2020-2021 duly authenticated by the Chartered Accountant and filed before the Income tax authorities. Counsel for the parties submits that the minimum wages are being paid to the nurses who are discharging the duties day-in-day-out at the cost of their health and family commitments and assured that they would come out with some holistic approach and matter may be kept as part heard. Ordered accordingly.

Thereafter, this Court passed the following order

on 22.12.2023:

Mr. S. Sreekumar, learned Senior counsel submits that the management/employers have been sensitized about the order dated 21.12.2022 and they have agreed to take steps for amicable settlement with the representatives of the Trade Unions and request this Court for listing of the matter for three weeks. In the interest of justice hearing of the writ petitions are deferred to 11.1.2023 for further consideration.

On 11.01.2023, these writ petitions were heard and reserved for judgment.

4. The contentions of the learned Government

Pleader that no argument was addressed and reflection in the extracted orders is not their contentions are wholly preposterous and against the records because their contentions were noted in paragraph Nos.10 to 13 of the judgment, and also pleaded in paragraph Nos.12 to 32 of the counter affidavit dated 11.06.2018. Moreover, this Court in the penultimate paragraph considering all the factors had only passed an innocuous order, without commenting on the merits of the matter, which may not affect the rights of the parties, by setting aside the notification. Liberty was granted to the Government to reconsider the issue of revision of minimum wages after affording an opportunity of hearing to all the affected parties and pass a detailed order/notification, to be an enclosure in the notification to rule out any ambiguity or challenge, within a period of three months from the date of receipt of a certified copy of the

judgment.

5. The State instead of taking a decision,

had filed these review petitions. Moreover, hearing would be construed further hearing. I do not find any error apparent on the face of the record for recalling the judgment. The present review petitions are an attempt to re-agitate the matter. The

review petitions are accordingly dismissed. Sd/- AMIT RAWAL JUDGE jg

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