

Ashique E.P vs Union of India

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SooperKanoon Citation : sooperkanoon.com/1367334

Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : WP(C)/15889/2021

Appellant : Ashique E.P

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
WP(C) NO. 15872 OF 2021 PETITIONERS:

1 THANSIHA, AGED 25 YEARS D/O. MOHAMMED ALI, PATHIL HOUSE, SOUTH TRITHALA, TRITHALA PO, PALAKKAD, PINCODE-679534. 2 HYFA P.P., AGED 27 YEARS D/O. ABDUL GAFOOR P.O., PANAYAMPADAN HOUSE, NERALA, VALAVANNUR P.O., MALAPPURAM, PIN CODE-676551. 3 NAMITHA MANIYAN, AGED 25 YEARS D/O. MANIYAN K., AYILLIYAM HOUSE, VISHNUMANGALAM, MANJAMALA PO, THIRUVANANTHAPURAM, PINCODE-695313. 4

AJMAL MOHAMMED, AGED 25 YEARS S/O. MOHAMMED ALI, KUNNATH (H), KOMBAM, KODAKKAD (PO), PALAKKAD, PINCODE-678583. 5 ARYA SUBANTHU, AGED 23 YEARS D/O. G.SUBANTHU, KRISHNA MANDIRAM (HOUSE), ESI JUNCTION, PARIPPALLY PO, KOLLAM, PINCODE-691574. 6 FATHIMA S., AGED 25 YEARS D/O. M.SHANAVAS, KUNNIL VEEDU (H), KORANI PO, KORANI, THIRUVANANTHAPURAM, PINCODE-695104. 7 THAMANNA V.K., AGED 23 YEARS D/O.FATHIMA E., VALIYAKATH KONDOTTIYIL HOUSE, ANDATHODE PO, THRISSUR, PINCODE-679564. 8 JASEENA C.V., AGED 26 YEARS D/O. JAFAR M., CHORANGADAN VEETIL HOUSE, KUNNAMANGALAM PO, MLA ROAD, KOZHIKODE, PIN CODE-673571. BY ADVS. SIMLA PRABHAKARAN MAHIN PRABHAKARAN BABILA K.K.

:2: RESPONDENTS:

1 UNION OF INDIA REPRESENTED BY SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE, NEAR UDYOG BHAWAN METRO STATION, MAULANA AZAD RD., NEW DELHI, DELHI-110011. 2 THE PHARMACY COUNCIL OF INDIA, REPRESENTED BY ITS REGISTRAR, PHARMACY COUNCIL OF INDIA, COMBINED COUNCIL'S BUILDING, KOTLA ROAD, AIWAN-E-GHALIB MARG, NEW DELHI-110002. 3 THE PRESIDENT, THE PHARMACY COUNCIL OF INDIA, COMBINED COUNCIL'S BUILDING, KOTLA ROAD, AIWAN-E-GHALIB MARG, NEW DELHI-110002. 4 THE KERALA STATE PHARMACY COUNCIL, REPRESENTED BY ITS SECRETARY, M N V G ADIYODI MEMORIAL, PHARMACY BHAVAN, RED CROSS ROAD, NEAR GOVERNMENT HOSPITAL JUNCTION, PATTOOR, THIRUVANANTHAPURAM, PIN-695035. 5 THE SECRETARY, MINISTRY OF CHEMICALS & FERTILIZERS, GOVT. OF INDIA, 236 A, A-WING, 2ND FLOOR, SHASTRI BHAVAN, NEW DELHI- 110001. BY ADVS. P.VIJAYAKUMAR DSG, SRI. S.MANU SOORAJ T.ELENJICKAL ASWIN KUMAR M J

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.08.2023, ALONG WITH WP(C)No. 15889/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :3:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
WP(C) NO. 15889 OF 2021 PETITIONERS: 1 ASHIQUE E.P AGED 25
YEARS S/O. UMMER.E.M., ERADIPARAMBATH HOUSE,
VELLALASSERY, KOZHIKODE DISTRICT,PIN-673 601 2 JIJIK. AGED
29 YEARS D/O. K.JAYAPRAKASHAN, KALPAKASSERY HOUSE,
CHULLOOR POST, CALICUT,PIN-65873 601 3 SULFATH T.S. AGED 26
YEARS, D/O.T.S.SIDHICK, ERADIPARAMBATH HOUSE,
VELLALASSERY, KOZHIKODE DISTRICT,PIN-673 61 BY ADVS.
SIMLA PRABHAKARAN MAHIN PRABHAKARAN BABILA K.K.
PRAVEEN K.V RESPONDENTS:

1 UNION OF INDIA REPRESENTED BY SECRETARY, MINISTRY OF
HEALTH AND FAMILY WELFARE, NEAR UDYOG BHAWAN METRO
STATION, MAULANA AZAD RD, NEW DELHI-110 011 2 THE
PHARMACY COUNCIL OF INDIA, REPRESENTED BY ITS
REGISTRAR, PHARMACY COUNCIL OF INDIA, COMBINED
COUNCILS BUILDING, KOTLA ROAD, AIWAN-E-GHALIB MARG, NEW
DELHI-110 002 3 THE PRESIDENT, THE PHARMACY COUNCIL OF
INDIA, COMBINED COUNCILS BUILDING, KOTLA ROAD, AIWAN-E-
GHALIB MAR, NEW DELHI- 4 THE KERALA STATE PHARMACY
COUNCIL, REPRESENTED BY ITS SECRETARY MNVG ADIYODI
MEMORIAL, PHARMACY BHAVAN, RED CROSS ROAD, NEAR
GOVERNMENT HOSPITAL JUNCTION,PATTOOR,
THIRUVANANTHAPURAM,PIN- 5 THE SECRETARY,

:4: MINISTRY OF CHEMICALS & FERTILIZERS, GOVERNMENT OF
INDIA, 236 A, A-WING, 2ND FLOOR, SHASTRI BHAVAN, NEW DELHI-

110 001 BY ADVS. SHRI.P.VIJAYAKUMAR, ASG OF INDIA SOORAJ T.ELENJICKAL ASWIN KUMAR M J DSG, SRI. S.MANU THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.08.2023, ALONG WITH WP(C) No.15872/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :5:

VIJU ABRAHAM , J.

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Dated this the 1st day of August, 2023

JUDGMENT

In these writ petitions petitioners challenges an amendment brought out to the Pharmacy Regulations Act, 2019 (Ext P4 in WP(C) No.15872/2021), not to consider M.Pharm (Pharmacy Practice) as a sufficient qualification for appointment as clinical pharamacist in hospitals.

2. Petitioners are candidates possessing M.Pharm (Pharmacy

Practice). When the matter was taken up for consideration the learned DSG pointed out on the strength of the counter affidavit filed on behalf of respondent Nos. 1 and 2, that in view of the several representation received from all over the country requesting to include M.Pharm (Pharmacy Practice) as also an eligible qualification for the post of Clinical Pharmacist, the matter was reviewed by the

council and placed the matter in the 357 th executive committee held

in January 2022 of the Council and it was decided to include M.Pharm (Pharmacy Practice) also as eligible qualification for the post of clinical pharamacist. Accordingly, the Pharmacy Council of India has issued a letter dated 01.02.2022 to State Governments/Union Territories and sought their comments and the time periods for going :6: through such comments was fixed as 02.05.2022 and that now the matter is under active consideration of the Government for issuing

necessary gazette notification in this regard.

3. In view of the said stand taken by respondent Nos. 1 and 2

in their counter affidavit, the grievance raised by the petitioners is substantially redressed. What remains is only implementation of the decision of the Pharmacy Council which is reflected in paragraph 7 and 8 of the counter affidavit. Therefore the above writ petitions are disposed of with a direction to respondent Nos. 1 and 2 to implement their decision at the earliest, at any rate within an outer time limit of three months from the date of receipt of a copy of this judgment. With the above said direction, the writ petitions are disposed of. Sd/- VIJU ABRAHAM JUDGE
sbk/- :7: APPENDIX OF WP(C) 15889/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE HOSPITAL CARD NO.005919 ISSUED BY THE IQRAA INTERNATIONAL HOSPITAL & RESEARCH CENTRE TO THE 1ST PETITIONER Exhibit P1A TRUE COPY OF THE HOSPITAL CARD NO.006597 ISSUED BY THE IQRAA INTERNATIONAL HOSPITAL & RESEARCH CENTRE TO THE 2ND PETITIONER Exhibit P1B TRUE COPY OF THE HOSPITAL CARD NO.006008 ISSUED BY THE IQRAA INTERNATIONAL HOSPITAL & RESEARCH CENTRE TO THE 3RD PETITIONER Exhibit P2 TRUE COPY OF THE PHARMACY PRACTICE

REGULATIONS 20156 ISSUED AS NOTIFICATION NO.14-148/2021/PCI DATED 15.01.2015 ISSUED BY THE 2ND RESPONDENT Exhibit P3 TRUE COPY OF THE AMENDMENT ISSUED AS NOTIFICATION NO.14-148/2012 PCI DATED 30.06.2021 PUBLISHED IN THE OFFICIAL GAZETTE ON 5.7.201 ISSUED BY THE 1ST RESPONDENT

Exhibit P4 TRUE COPY OF THE SCHEME AND SYLLABUS OF MASTER OF PHARMACY, 2014 ISSUED BY THE 2ND RESPONDENT Exhibit P5 TRUE COPY OF THE RELEVANT PORTION OF THE PHARM D REGULATION 2008 ISSUED BY THE 1ST RESPONDENT Exhibit P6 TRUE COPY OF THE EMAIL LETTER DATED 8.7.2021 SEND BY THE 1ST PETITIONER TO THE 2ND RESPONDENT Exhibit P6A TRUE COPY OF THE EMAIL LETTER DATED

9.7.2021 SEND BY THE ALL KERALA PHARMACISTS UNION TO THE 2ND RESPONDENT DATED THIS THE 26TH DAY OF JULY 2021

Exhibit P6B TRUE COPY OF THE EMAIL LETTER DATED 7.7.2021 SEND BY THE KERALA PRIVATE PHARMACIST ASSOCIATION TO THE 2ND RESPONDENT Exhibit P6C TRUE COPY OF THE EMAIL LETTER DATED 23.7.2021 SEND BY THE KERALA GOVT., PHARMACISTS ASSOCIATION TO THE 2ND RESPONDENT Exhibit P7 TRUE COPY OF THE NEWS ITEM APPEARED IN MALAYALA MANORAMA DAILY DATED 24.07.2021 RESPONDENT EXHIBITS Exhibit R1(a) . The relevant portion of Pharmacy :8: Practice Regulations, 2015 (PPR-15) Exhibit R1(b) copy of the Pharmacy Practice (Amendment) Regulations, 2021 Exhibit R1(c) copy of the letter dated 1.02.2022 issued to the State Governments and UT :9: APPENDIX OF WP(C) 15872/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE M.PHARM CERTIFICATE DATED

28.1.2021 ISSUED BY THE VICE CHANCELLOR, KERALA UNIVERSITY OF HEALTH SCIENCES, THRISSUR TO THE 1ST PETITIONER. Exhibit P1(A) TRUE COPY OF THE M.PHARM CERTIFICATE DATED 28.1.2021 ISSUED BY THE VICE CHANCELLOR, KERALA UNIVERSITY OF HEALTH SCIENCES, THRISSUR TO THE 2ND PETITIONER. Exhibit P1(B) TRUE COPY OF THE M.PHARM CERTIFICATE DATED 28.1.2021 ISSUED BY THE VICE CHANCELLOR, KERALA UNIVERSITY OF HEALTH SCIENCES, THRISSUR TO THE 3RD PETITIONER. Exhibit P2 TRUE COPY OF THE STUDENT ID CARD NO.20190379 ISSUED BY THE PRINCIPAL, AL SHIFA COLLEGE OF PHARMACY, MALAPPURAM TO THE 4TH PETITIONER.

Exhibit P2(a) TRUE COPY OF THE STUDENT ID CARD ISSUED BY THE PRINCIPAL, GOVT. MEDICAL COLLEGE, KOZHIKODE TO THE 5TH PETITIONER. Exhibit P2(B) TRUE COPY OF THE STUDENT ID CARD NO.42219 ISSUED BY THE PRINCIPAL, GOVT. MEDICAL COLLEGE, KOZHIKODE TO THE 6TH PETITIONER. Exhibit P2(C) TRUE COPY OF THE STUDENT ID CARD ISSUED BY THE PRINCIPAL, GOVT. MEDICAL COLLEGE, KOZHIKODE TO THE 7TH PETITIONER. Exhibit P2(D) TRUE COPY OF THE

STUDENT ID CARD NO.43228 ISSUED BY THE PRINCIPAL, GOVT. MEDICAL COLLEGE, KOZHIKODE TO THE 8TH PETITIONER. Exhibit P3 TRUE COPY OF THE PHARMACY PRACTICE

REGULATIONS 2015 ISSUED AS NOTIFICATION NO.14-148/2012-PCI DATED 15.1.2015 ISSUED BY THE 2ND RESPONDENT. Exhibit P4 TRUE COPY OF THE AMENDMENT ISSUED AS NOTIFICATION NO.14-148/2020-PCI DATED 30.6.2021 PUBLISHED IN THE OFFICIAL GAZETTE ON 5.7.2021 ISSUED BY THE 1ST RESPONDENT.

Exhibit P5 TRUE COPY OF THE TABLE OF CONTENTS SCHEME AND SYLLABUS OF MASTER OF PHARMACY, 2014 ISSUED BY THE 2ND RESPONDENT. Exhibit P6 TRUE COPY OF THE RELEVANT PORTION OF THE PHARM D REGULATION 2008 ISSUED BY THE 1ST RESPONDENT. Exhibit P7 TRUE COPY OF THE EMAIL LETTER DATED : 10 : 8.7.2021 SEND BY THE 1ST PETITIONER TO THE 2ND RESPONDENT. Exhibit P7(A) TRUE COPY OF THE EMAIL LETTER DATED 3.8.2021 SEND BY THE J & K GRADUATES' ASSOCIATION TO THE 3RD RESPONDENT. Exhibit P8 TRUE COPY OF THE NEWS ITEM APPEARED IN MALAYALA MANORAMA DAILY DATED 24.7.2021.

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