

Sayanth.O., vs the State of Kerala,

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Court : Kerala

Decided On : Feb-22-2022

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : WP(C)/1177/2022

Appellant : Sayanth.O.,

Respondent : The State of Kerala,

Judgement :

WP(C)Nos.30327/2021&1177/2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V TUESDAY, THE 22ND DAY OF FEBRUARY 2022 / 3RD PHALGUNA, 1943 WP(C) NO. 30327 OF 2021 PETITIONER: ABHIJITH NARAYAN. R , AGED 21 YEARS S/O. DR. RENJITH KUMAR N, 32, 1824 B SAI KRIPA, M N R A22 MILLENIUM NAGAR, PADIVATTOM, EDAPPALY P.O, ERNAKULAM-682 024. BY ADVS. P.T.SHEEJISH MARY MANJU VINCENT PARVATHY S.KRISHNAN RAMAKRISHNAN M.N. RESPONDENTS:

1 THE STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM. 2 THE VICE CHANCELLOR, KERALA UNIVERSITY OF HEALTH SCIENCES, MEDICAL COLLEGE P.O, 680 596, THRISSUR, KERALA. 3 THE DIRECTOR, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH INSTITUTE, MOOSPET RD, FATHIMA NAGAR, NELLIKUNNU, THRISSUR, KERALA-680 005. 4 THE PRINCIPAL, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH INSTITUTE, MOOSPET RD, FATHIMA NAGAR, NELLIKUNNU, THRISSUR, KERALA-680 005. 5 THE CHAIRMAN, ENQUIRY COMMITTEE, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH INSTITUTE, MOOSPET RD, FATHIMA NAGAR, NELLIKUNNU, THRISSUR, KERALA - 680005 WP(C)Nos.30327/2021&1177/2022 2 BY ADVS. SHRI.P.SREEKUMAR, SC, KERALA UNIVERSITY OF HEALTH SCIENCES KURIAN GEORGE KANNANTHANAM (SR.) TONY GEORGE KANNANTHANAM

SMT SURYA BINOY, SR GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.02.2022, ALONG WITH WP(C).1177/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C)Nos.30327/2021&1177/2022 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V TUESDAY, THE 22ND DAY OF FEBRUARY 2022 / 3RD PHALGUNA, 1943 WP(C) NO. 1177 OF 2022 PETITIONER: SAYANTH.O., AGED 21 YEARS S/O.DR.O.MURALEEDHARAN, ORUVINGAL VEEDU, MADHURAVANAM ROAD, CIVIL STATION P.O., KOZHIKKODE-673 020. BY ADV VISHNUPRASAD NAIR RESPONDENTS: 1 THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. 2 THE VICE CHANCELLOR, KERALA UNIVERSITY OF HEALTH SCIENCES, MEDICAL COLLEGE P.O., THRISSUR-680 596. 3 THE DIRECTOR, JUBILEE MISSION MEDICAL COLLEGE &

RESEARCH INSTITUTE, MOOSPET ROAD, FATHIMA NAGAR, NELLIKUNNU, THRISSUR-680 005. 4 THE PRINCIPAL, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH INSTITUTE, MOOSPET ROAD, FATHIMA NAGAR, NELLIKUNNU, THRISSUR-680 005.

5 THE CHAIRMAN, ENQUIRY COMMITTEE, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH INSTITUTE, MOOSPET ROAD, FATHIMA NAGAR, NELLIKUNNU, THRISSUR-680 005.

BY ADVS. SHRI.P.SREEKUMAR, SC, KERALA UNIVERSITY OF HEALTH SCIENCES WP(C)Nos.30327/2021&1177/2022 4 KURIAN GEORGE KANNANTHANAM (SR.) TONY GEORGE KANNANTHANAM SMT SURYA BINOY, SR GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.02.2022, ALONG WITH WP(C).30327/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C)Nos.30327/2021&1177/2022 5

JUDGMENT

These writ petitions have been filed by students who are pursuing their MBBS course in the Jubilee Mission Medical College, Thrissur. The aforesaid college is affiliated to the Kerala University of Health Sciences.

2. The petitioners along with four other students have been rusticated

from the college for allegedly ragging the junior students. They contend that by the arbitrary order passed by the college authorities, the petitioners have been barred from attending any classes or exams. It is in the afore circumstances that they have approached this Court seeking directions to the 4th respondent to permit the petitioners to appear for the 2nd year MBBS internal exams and University exams which are scheduled to be held from 1.1.2022.

3. On 10.2.2022, it was submitted before this Court by the learned

standing counsel appearing for the KUHS that separate appeals have been filed by the petitioners before the Vice Chancellor and that final orders would be passed

without delay. The case was accordingly posted on 17.2.2022.

4. On 17.2.2022, a copy of the order dated 16.2.2022 issued by the

Registrar of KUHS to the Principal of the College was uploaded online. Insofar as the petitioners in W.P.(C) No.1177/2022 dated 17.1.2022 (Sayanth O), the following directions were issued to the Principal. WP(C)Nos.30327/2021&1177/2022 6 With reference to the item referred 5th above you may direct the enquiry committee constituted for enquiring the ragging complaint in your institution vide item No.4 referred above to re- evaluate the points noted below and report within a week.

1. Even though an enquiry was conducted and the report was submitted for taking disciplinary action, Sri. Sayanth.O claims that he was not given a show cause notice before taking action against him.

2. Whether collection of money was done only by Sri.Sayanth for booking turf with the cooperation of juniors or any excess money is collected or any junior student was compelled to pay the money was not specified.

3. It needs to be verified whether any of Sri.Sayanths record books contains the handwriting of any other person.

4. Disciplinary action was not taken against some other senior students who also reportedly collected money from juniors for booking the football turf.

5. Insofar as the petitioner in W.P.(C) No.30327/2021 (Abhijith Narayan R) is concerned, the following order was issued:

As per the direction of Honble High Court of Kerala in WP(C) No. 30327 of 2021 dated 23/12/2021 hearing meeting with Honble Vice Chancellor with Sri. Abhijith Narayanan and Dr Padmakumar A , Vice Principal , J M MC was conducted on following observations. The Honble Vice Chancellor has directed the enquiry committee to give a relook of Sri Abhijith Narayanans suspension period after considering the following points.

1. No show cause notice was given to Sri. Abhijith Narayanan before taking disciplinary action against him. WP(C)Nos.30327/2021&1177/2022 7

2. Whether the interaction which lead to the suspension of Sri Abhijith Narayanan with juniors was casual, friendly or harsh. The Honble Vice Chancellor has directed to place the following points before the enquiry committee and to have a relook in the matter.

1. Whether Sri. Abhijith Narayanan used such a verbal abuse to the juniors having the gravity to give him six-month suspension.

2. To relook the role of Sri. Abhijith Narayanan in the incident and see whether the suspension period can be reduced as he has already covered half of the period.

6. It is submitted by the learned standing counsel appearing for the KUHS that the response of the college authorities are awaited and as soon as the same is received, appropriate orders shall be passed by the University.

7. Sri. Kurian George Kannamthanam, the learned senior counsel

appearing for the respondents 3 and 4 would point out that both the petitioners do not have the requisite amount of attendance or internal marks to appear for the exams. According to the learned counsel, in that view of the matter, the first prayer sought for by the petitioners cannot be allowed. This fact is not disputed.

8. The learned Senior counsel would further submit that the 4th

respondent has responded to the communication issued by the Registrar of the University and they shall comply with the directions which are issued by the University. The said submission is recorded. WP(C)Nos.30327/2021&1177/2022 8

9. The learned counsel appearing for the petitioners submitted that the directions be issued to conclude the exercise within a time frame.

10. Having considered the facts and circumstances and the submissions

made across the bar, there will be a direction to the 2nd respondent to consider the response submitted by the College to the orders issued by the University and take a decision expeditiously, in any event, within a period of four weeks from the date of receipt of a copy of this judgment. The 3rd respondent shall ensure that the directions issued by the 2nd respondent are complied with in its true spirit. These writ petitions are disposed of. Sd/- RAJA VIJAYARAGHAVAN V JUDGE IAP WP(C)Nos.30327/2021&1177/2022 9 APPENDIX OF WP(C) 1177/2022 PETITIONER'S EXHIBITS: Exhibit P1 TRUE COPY OF THE ORDER BEARING NO.B/713/21/JMMC & R1 DATED 02.12.2021 PASSED BY THE 4TH RESPONDENT. Exhibit P2 TRUE COPY OF THE ENQUIRY REPORT DATED 29.11.2021. Exhibit P3 TRUE COPY OF THE REPRESENTATION DATED 10.12.2021 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. Exhibit P4 TRUE COPY OF THE NOTIFICATION BEARING NO.66/2021/B2/EX.MED./KUHS DATED 11.01.2022. Exhibit P5 TRUE COPY OF THE REPRESENTATION DATED 30.12.2021 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT. Exhibit P6 TRUE COPY OF THE ORDER DATED 23.12.2021 THUS PASSED BY THIS HON'BLE COURT IN WP(C) NO.30327/2021. RESPONDENTS' EXHIBITS: NIL WP(C)Nos.30327/2021&1177/2022 10 APPENDIX OF WP(C) 30327/2021 PETITIONER'S EXHIBITS: Exhibit P1 THE TRUE COPY OF THE IDENTITY CARD OF THE PETITIONER. Exhibit P2 THE TRUE COPY OF THE ORDER ISSUED BY THE 4TH RESPONDENT DATED 30.11.2021. Exhibit P3 THE TRUE COPY OF THE COMMITTEE REPORT SUBMITTED BY THE 5TH RESPONDENT DATED 29.11.2021. Exhibit P4 TRUE COPY OF THE REQUEST LETTER SUBMITTED TO THE 4TH RESPONDENT DATED 08.12.2021. Exhibit P5 THE TRUE COPY OF THE REQUEST LETTER SUBMITTED TO THE 2ND RESPONDENT DATED 10.12.2021. Exhibit P6 THE TRUE COPY OF THE EXAMINATION CALENDAR. RESPONDENTS' EXHIBITS: NIL