

Chairman vs Hemant Haridas

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Court : Kerala

Decided On : Nov-30-2022

Judge : Honourable the Chief Justice Mr.S.Manikumar,Honourable Mr. Justice Shaji P.Chaly

Appeal No. : WA/742/2016

Appellant : Chairman

Respondent : Hemant Haridas

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR & THE HONOURABLE MR. JUSTICE SHAJI P.CHALY WEDNESDAY, THE 30TH DAY OF NOVEMBER 2022 / 9TH AGRAHAYANA, 1944 WA NO. 741 OF 2016 AGAINST THE JUDGMENT IN WPC 2102/2013 OF HIGH COURT OF KERALA DATED 18.1.2016 APPELLANTS/RESPONDENT NO.3 & 4: 1 CHAIRMAN, ACADEMY OF MEDICAL SCIENCES & RESEARCH, PARIYARAM, KANNUR DISTRICT 673 685 2 PRINCIPAL, ACADEMY OF MEDICAL SCIENCES, PARIYARAM, KANNUR DISTRICT 673 685 BY ADVS.SMT.BINDUMOL JOSEPH SRI.B.S.SYAMANTHAK

RESPONDENTS/PETITIONER & RESPONDENTS 1, 2, 5 TO 8: 1 GAUTHAM R B, S/O RAYAN ACHARI, SAI SOUPARNIKA, NEETTIRACHIRA, NEDUMANGAD P.O, THIRUVANANTHAPURAM. 2 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, HEALTH & FAMILY WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 3 THE COMMISSIONER FOR ENTRANCE EXAMINATION HOUSING BOARD BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM - 695 001. 4 VICE CHANCELLOR, KANNUR UNIVERSITY, KANNUR UNIVERSITY CAMPUS POST, KANNUR - 673 573. 5 AZEEZIA INSTITUTE OF MEDICAL SCIENCE & RESEARCH, MEYYANNUR, KOLLAM, REPRESENTED BY ITS CHAIRMAN. 6 THE PRINCIPAL, AZEEZIA INSTITUTE OF MEDICAL SCIENCE & RESEARCH, MEYYANNUR, KOLLAM. 7 THE ADMINISTRATOR, AZEEZIA INSTITUTE OF MEDICAL SCIENCE & RESEARCH, MEYYANNUR, KOLLAM. SRI.TEK CHAND.V, SR.G.P. ADV.MOHAMMED SUHAIL THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30.11.2022 ALONG WITH W.A.NO.742/2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :: 2 :: HIGH COURT OF KERALA AT ERNAKULAM PRESENT THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR & THE HONOURABLE MR. JUSTICE SHAJI P.CHALY WEDNESDAY, THE 30TH DAY OF NOVEMBER 2022 / 9TH AGRAHAYANA, 1944 WA NO. 742 OF 2016 AGAINST THE JUDGMENT IN WPC 1615/2013 OF HIGH COURT OF KERALA DATED 18.1.2016 APPELLANTS/RESPONDENT NO.3 & 4: 1 CHAIRMAN, THE ACADEMY OF MEDICAL SCIENCES & RESEARCH, PARIYARAM, KANNUR DISTRICT -673 685. 2 PRINCIPAL, THE ACADEMY OF MEDICAL SCIENCES & RESEARCH, PARIYARAM, KANNUR DISTRICT -673 685. BY ADVS.SMT.BINDUMOL JOSEPH SRI.B.S.SYAMANTHAK RESPONDENTS/PETITIONERS & RESPONDENT 2, 3 & 4: 1 HEMANT HARIDAS, S/O.K.R.HARIDAS, MADHAVAM, TC NO.36/712(2), NSS KARAYOGAM ROAD, VALLAKKADAVU P.O., THIRUVANANTHAPURAM - 695 008.

2 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, HEALTH & FAMILY WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
3 THE COMMISSIONER FOR ENTRANCE EXAMINATION HOUSING BOARD BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM - 695001.

4 VICE CHANCELLOR, KANNUR UNIVERSITY, KANNUR UNIVERSITY CAMPUS POST, KANNUR - 673 685. 5 THE PRINCIPAL, AZEEZIA INSTITUTE OF MEDICAL SCIENCE & RESEARCH, MEYYANNUR, KOLLAM. 6 THE ADMINISTRATOR, AZEEZIA INSTITUTE OF MEDICAL SCIENCE & RESEARCH, MEYYANNUR, KOLLAM. SRI.TEK CHAND.V, SR.G.P. SRI.D.SAJEEV THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30.11.2022, ALONG WITH W.A.NO.741/2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :: 3 ::

JUDGMENT

Dated this the 30th day of November, 2022 S.MANIKUMAR, C.J. Instant writ appeals are filed challenging the common

judgment dated 18.1.2016 in W.P.(C)Nos.1615/2013 and

2. Appellants are the Chairman and the Principal of

Academy of Medical Science, Pariyaram. Academy of Medical Science, Pariyaram is a private self financing institution imparting education in the medical and para medical fields.

3. It is evident from records that the writ petitioners

preferred representations before the Chairman, Academy of Medical Science and Research, Pariyaram College, with a request to consider their admission in merit quota and to permit them to complete the course by paying the fee under merit quota. When the said request was rejected by the authority concerned, students

preferred W.P.(C) Nos.1615/2013 and 2102/2013.

4. Reliefs sought for by the petitioner in W.P.(C) No.1615/2013 are as under: :: 4 ::

i) To call for the records which lead to the issuance of Ext.P11 since the same is illegal, arbitrary and unjustifiable after issuing a writ of certiorari or other appropriate writ, direction or order.

ii) To issue a writ of mandamus or other appropriate writ, direction or order, commanding the 3rd respondent to consider and pass orders in Ext.P10 and the earlier representation dated 21.07.2010 after taking into consideration of the observation in Ext.P8 order to the effect that the non issuance of Transfer Certificate negates the chance of the petitioner to complete his course at the Azeezia Institute of Medical Sciences & Research, Kollam with Rs.45,000/- per year instead of Rs.4,35,000/- which would have been a major financial gain for the students and their family.

(iii) To declare that the petitioner is entitled to continue his

study in the Academy of Medical Sciences, Pariyaram for the fee structure mentioned in Ext.P1 since the petitioner has lost the said opportunity due to the latches and negligence on the part of the respondents 3 & 4 in issuing the Transfer Certificate in time in compliance with Ext.P3 letter from the 2 nd respondent.

(iv) To issue a writ of mandamus or other appropriate writ,

direction or order, commanding the 2nd respondent to issue appropriate direction to the 3rd respondent to include the petitioner in the fee structure applicable to the students who have secured admission in the Government Quota since the petitioner was re-allotted in the special allotment as per the orders of the Honourable Supreme court of India and the 3rd respondent has failed to comply with Ext.P3 letter so as to enable the petitioners to join as per the special allotment.

v) To stay all further proceedings pursuant to Ext.P11 till a final decision is taken in Ext.P10 by the 3rd respondent as per the mandates contained in Ext.P8 order.

5. Reliefs sought for by the petitioner in W.P.(C) No.2102/2013 are as under:

i) To issue a writ of certiorari or other appropriate writ, direction or order to call for the records which lead to the issuance of Exhibit-P10 notice and quash the same as the same is illegal, arbitrary, unjustifiable and against the :: 5 ::

Natural Justice; ii) To issue a writ of mandamus or other appropriate writ, direction or order, commanding the 2nd respondent to issue appropriate direction to the 3rd respondent to include the petitioner in the fee structure applicable to the students, who have secured admission in the government Quota since the petitioner was re-allotted in the special allotment as per the orders of the Hon'ble Supreme Court of India and the 3rd respondent has failed to comply with Exhibit-P3 letter so as to enable the petitioner to join as per the special allotment; iii) To declare that the petitioner is entitled to continue his study in the Academy of Medical Sciences, Pariyaram for the fee structure mentioned in Exhibit-P1 since the petitioner has lost the said opportunity due to the laches and negligence on the part of the respondents 3 and 4 in issuing the Transfer Certificate in time in compliance with Exhibit- P3 letter from the 2nd respondent.

6. Writ court, after considering the rival contentions raised

by the parties, allowed the writ petition vide common judgment

dated 18.1.2016 in W.P.(C)Nos.1615/2013 and 2102/2013.

7. Operative portion of the said judgment reads thus:

17. In the said circumstances, taking into consideration the aforesaid factual issues, I am of the view that appropriate directions are required to be passed and accordingly, these writ petitions are allowed as follows; (i) That the petitioners shall

not be liable to pay any other amount to the Pariyaram College as fee other than what they have actually paid.

(ii) That the College shall provide the petitioners

with all certificates which they are eligible to get after completion of the course and house surgency including certificate showing that they have completed the compulsory internship programme.

(iii) That the fee of Rs.4,50,000/- for the subsequent years shall be treated as valid compensation for the negligent attitude of the Pariyaram College. :: 6 ::

(iv) That the simple bond executed by the petitioners shall be treated as discharged.

8. Being aggrieved by the above, Chairman, Academy of Medical Science and Research, Pariyaram College filed W.A.Nos.741 and 742/2016.

9. On this day, when the matter came up for admission, we noticed the fact that writ appeals have been filed in the year 2016 and since then, writ appeals have not been moved by the appellant for admission.

10. Be that as it may, Mr.D.Sajeev, learned counsel for

the party respondent in W.A. No.742/2016, submitted that now all the students have completed their MBBS course. It is also submitted that pursuant to the direction of this court, certificates have also been issued to the students.

11. Submission of the learned counsel for the party respondent is placed on record.

12. Students have completed their course and

certificates were issued. In as much as the students in W.A. No.741/2016 are also of the same academic year, we are of the view that the directions would have been implemented in respect of the students in W.A. No.741/2016 also. :: 7 ::

13. In the above circumstances, we are of the view that nothing further survives in the appeals for adjudication. Writ appeals are disposed of. sd/- S.MANIKUMAR
CHIEF JUSTICE sd/- SHAJI P. CHALY JUDGE jesxxxx

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