

Principal, vs the Kerala University of Health Science,

Principal, vs the Kerala University of Health Science,

SooperKanoon Citation : sooperkanoon.com/1741671

Court : Kerala

Decided On : Aug-03-2020

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : WP(C)/3876/2020

Appellant : Principal,

Respondent : The Kerala University of Health Science,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 03RD DAY OF AUGUST 2020 / 12TH SRAVANA, 1942 WP(C).No.34233 OF 2019(D) PETITIONER/S: PRINCIPAL, SREE VIDHYADHIRAJA HOMOEOPATHIC MEDICAL COLLEGE, NEMOM, THIRUVANANTHAPURAM - 695020 BY ADV. SRI.P.M.SANEER RESPONDENT/S:

1 THE KERALA UNIVERSITY OF HEALTH SCIENCES REPRESENTED BY THE REGISTRAR OF THE UNIVERSITY, HEALTH UNIVERSITY COMPLEX, THRISSUR - 680595. 2 THE CONTROLLER OF EXAMINATIONS, THE KERALA UNIVERSITY OF HEALTH SCIENCES,

HEALTH UNIVERSITY COMPLEX, THRISSUR- 680595. 3 UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, AYUSH DEPARTMENT, G.P.O. COMPLEX, NEW DELHI - 110023. 4 THE CENTRAL COUNCIL OF HOMOEOPATHY, REPRESENTED BY THE SECRETARY, NO.61-65, OPP D BLOCK, JANAKAPURI, NEW DELHI - 110058. R3 BY ADV. MR.B.PRAMOD, CGC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

03.08.2020, ALONG WITH WP(C).3876/2020(H), WP(C).14757/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 03RD DAY OF AUGUST 2020 / 12TH SRAVANA, 1942 WP(C).No.3876 OF 2020(H) PETITIONER/S: PRINCIPAL, SREE VIDHYADHIRAJA HOMOEOPATHIC MEDICAL COLLEGE, NEMOM, THIRUVANANTHAPURAM - 695 020 BY ADV. SRI.P.M.SANEER RESPONDENT/S: 1 THE KERALA UNIVERSITY OF HEALTH SCIENCE, REPRESENTED BY THE REGISTRAR OF THE UNIVERSITY, HEALTH UNIVERSITY COMPLEX, THRISSUR - 680 595 2 THE CONTROLLER OF EXAMINATIONS THE KERALA UNIVERSITY OF HEALTH SCIENCES, HEALTH UNIVERSITY COMPLEX, THRISSUR - 680 595 R1-2 BY SHRI.P.SREEKUMAR, SC, KERALA UNIVERSITY OF HEALTH SCIENCES THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.08.2020, ALONG WITH WP(C).34233/2019(D), WP(C).14757/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 03RD DAY OF AUGUST 2020 / 12TH SRAVANA, 1942 WP(C).No.14757 OF 2020 PETITIONER/S:

1 ALEEDA P.S. AGED 22 YEARS D/O. C. SIVANANDAN, CHATHOTH HOUSE, MUCHUKUNNU P.O, KOZHIKODE (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 2 FATHIMA K V, D/O. ABDUL RASAAK, KALATHILVALAPPIL HOUSE, MUTHUR P.O, MALAPPURAM (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 3 JAYAPRAKASH, D/O. JAYAPRAKASH, KADAVIL VEEDU, POOTHOTTA, ERNAKULAM DISTRICT (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 4 GLORIA RACHEL GEOGI, NAITTAPARAMBIL, KUNTHIRIKKAL P.O, THALAVADY, (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 5 MUBEENA M.A, D/O. ALIYAR M.A, MOOSARIMOLATH HOUSE, ERAMALLOOR P.O, KOTHAMANGALAM, (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 6 KAVYA SUKUMARAN, D/O. D. SUKUMARAN, USHUS, ONAMKODE, THIRUVANANTHAPURAM, (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 7 AISWARYA SYAM, D/O. KD SYAMLAL, KALATHIPARAMBIL , NARAKKAL P.O, ERNAKULAM (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE,

THIRUVANANTHAPURAM, PIN 695 020) 8 RESHMA GS D/O. G GIREESAN, KRISHNAGIRI VADAKKEVILAKOM THIRUVANANTHAPURAM (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 9 FATHIMA AY D/O. YAHIA A.A., AMMANAM VEETIL, EDAVANAKKADU P.O, ERNAKULAM (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 10 SHAZUJA NASLIN T.K, D/O. KABEER T E, THOPPIL PARAMBIL, MANNANAM P.O, N PARAVUR, (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 11 NITHINA SHAREEF, D/O. SHAREEF J, TC 2447/17 ABLOCK PATTOM PALACE ROAD, THIRUVANANTHAPURAM (FIRST YEAR BHMS STUDENT IN SVHM

COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 12 IRFANA V P, D/O. ABDUL MAJEED V.P, BAITHUL NAFEESA KUNDUNGAL ROAD KOZHIKKODE (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 13 ANUPAMA SABU, D/O. SABU C.V, CHAKKALACKALPARAMBIL, KUMBALANGI, ERNAKULAM (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 14 RAINA NISHRIN K.C, D/O. ABDUL RASHEED K.C, KORALIKKODE HOUSE, MALAPPURAM, (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 15 BINSHA ANU SAMUEL, D/O. SAMUEL V.K, VALIYAPARAMBIL, THIRUVALLA, PATHANAMTHITTA DISTRICT (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 16 STELLA R SASI, D/O. SASI P.M, PAYYILMEETHAL HOUSE, AVALA, KOZHIKKODE, (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020)

17 ROSE MARIA, D/O. THANKACHAN K.S, KANJIRAKKATTUKARIYIL HOUSE, PARAMBIL P.O, KOZHIKKODE, (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) 18 VILSHA P S, D/O. SHALY P.M, PARAMBAN HOUSE, KOTTAPURAM P.O, TRISSUR (FIRST YEAR BHMS STUDENT IN SVHM COLLEGE, THIRUVANANTHAPURAM, PIN 695 020) BY ADV. SRI.P.M.SANEER RESPONDENT/S:

1 THE KERALA UNIVERSITY OF HEALTH SCIENCES REPRESENTED BY THE REGISTRAR OF THE UNIVERISTY HEALTH UNVIERSITY COMPLEX, THRISSUR 680 595 2 THE CONTROLLER OF EXAMINATIONS, THE KERALA UNIVERSITY OF HEALTH SCIENCES, HEALTH UNIVERSITY COMPLEX, THRISSUR 680 595 3 DR. R AJAYKUMAR, MANAGER, SREE VIDHYADHIRAJA HOMOEOPATHIC, MEDICAL COLLEGE, NEMON, THIRUVANANTHAPURAM 695 020 R1 BY SHRI.P.SREEKUMAR, SC, KERALA UNIVERSITY OF HEALTH

SCIENCES THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON

03.08.2020, ALONG WITH WP(C).34233/2019(D), WP(C).3876/2020(H),
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.S.DIAS, J.

===== W.P.(C) Nos 34233/2019, 14757 & 3876 of
2020 ===== Dated this the 3rd day of August
2020.

COMMON JUDGMENT

WP(C) No.34233/2019 is filed to direct the respondents 1 and 2 to publish the withheld results of the 1st BHMS Degree R/S Examination (2015 Scheme) conducted by the University as per Ext P3 notification. The petitioner has also sought for a direction to the respondents 3 and 4 to issue necessary formal Letter of Permission (LOP for short) to the petitioner College for the academic year 2018-2019.

2. WP(C) No.3876/2020 is filed for a direction to the respondents 1 and 2 to permit the students in the petitioner's College admitted in the year 2018-2019, to register and appear for the 1st BHMS Degree Examination (2015 Scheme) to be conducted by the University from 5.3.2020 onwards.

3. WP(C) No.14757/2020 is filed seeking a

direction to the respondents 1 and 2 to publish the results of the 1st BHMS Degree R/S supplementary Examination (2015 Scheme) conducted by the University from March, 2020 as per Ext P10.

4. As the facts and points to be decided in these

writ petitions are substantially similar in nature and the reliefs to be granted are almost identical and that the respondents are almost the same, these writ petitions

were jointly heard and are being disposed of by this common judgment. WP(C) 34233 of 2019 is treated as the leading case.

5. The Principal of Sree Vidhyadhiraja Homeopathic Medical College, Nemom is the petitioner in WP(C) Nos 34233/2019 and 3876/2020.

6. It is the case of the petitioner in WP(C) year 1965. It became an aided College in the year 2003. The Homeopathic Central Council has issued regulation

in the year 2013, which was implemented pan India. But, in the academic year 2018-2019, the assessors of the third respondent found certain deficiencies in the College. Against the action of the third respondent, the petitioner filed WP(C) 29190/2018. This Court by Ext P1 interim order dated 11.9.2018 permitted the petitioner to effect admissions for the academic year 2018-2019. On the basis of Ext P1 order, the College admitted students in the academic year 2018-2019, and the

students are pursuing their studies. The said writ petition was disposed of by this Court by Ext P2

judgment dated 27.6.2019. By Ext P2, this Court has

regularized/approved the students admitted by the College and they are continuing their studies. The University has also granted renewal of affiliation.

7. In the meantime, the first respondent University has issued Ext P3 notification for the 1 st BHMS Degree R/S Examinations. The University had collected fees and registration charges from the petitioner. On the basis of Ext P4, the students were permitted to appear and write the examinations. However, the University by Ext P5 communication directed the petitioner to produce clarification regarding the status of LOP from the third respondent. Immediately, the petitioner submitted Ext P6 representation dated 12.11.2019 to the third respondent, seeking permission for permanent registration of the students and issuance of LOP. It is understood that the third respondent is processing the representation given by the petitioner, for issuance of formal LOP/clarification. But, the University has withheld the publication of the results of the students pursuing studies in the petitioner's

College. The reason stated by the University for withholding the results of the students is that the petitioner has not produced a formal LOP

from the third respondent. In the said circumstances, the petitioner seeks for a direction to the respondents 1 and 2 to publish the withheld results of the first BHMS Degree R/S Examination and to direct the respondents 3 and 4 to issue necessary formal LOP.

8. This Court by its interim order dated

17.12.2019, directed the University to publish the results of the students on condition that the petitioner executes an undertaking before the University that the students are covered by Ext P2 judgment.

9. In WP(C) 3876/2020, the Principal of the College has approached this Court to permit certain

students of the first BHMS Course to write the supplementary examinations as per Ext P10 notification. Again, it is the case of the petitioner that the University is insisting for formal LOP from the third respondent. It is learnt that the third respondent is processing the application and it will take some time. Hence the petitioner sought for a direction to permit those students to register and appear for the first BHMS Degree Examination (2015 Scheme) to be conducted by the University from 5.3.2020 as per Ext P10.

10. Again, this Court by interim order dated

12.2.2020, directed the University to permit the students of the petitioner to register and write the first BHMS Degree Examination (2015 Scheme) pursuant to Ext P10 notification.

11. WP(C) 14757/2020 is filed by 18 students of the

College, seeking a direction to the University to publish the results of the first BHMS Degree R/S Examination conducted by the University from March, 2020, as per Ext P10.

12. When the said writ petition came up for

admission, this Court by interim order dated 24.7.2020, directed the University to provisionally publish the results pertaining to the petitioners of the first BHMS Degree R/S Examination, (2015 Scheme) conducted in March 2020 as per Ext P10.

13. On a consideration of the aforesaid pleadings, it is seen that this Court by interim orders passed in the three writ petitions has permitted the students of the petitioner College to write the examinations, and thereafter directed the University to publish the results, provisionally.

14. Heard the learned counsel for the petitioner,

the learned Standing Counsel for the University and the Central Government Standing Counsel for the Union of India - the third respondent in WP(C) No.34233/2019.

15. The learned counsel for the petitioner as well as the learned Standing Counsel appearing for the University submitted that all the interim orders passed by this Court have been complied with.

16. The learned Standing Counsel appearing for

the University submitted that the University has not permitted the students of the College to write the examinations and has withheld the results only because the College has not produced LOP from the third respondent. On production of the said LOP, the University shall, without any further orders from this Court, permit the students of the petitioner College to write the examinations and publish the results in the normal course.

17. The only matter that survives now in these writ petitions is non-consideration of Ext P6 representation submitted by the petitioner to the third respondent in WP(C) 34233/2019.

18. Going by the records, Ext P6 is pending consideration before the third respondent since 12.11.2019, which is now nearly nine months. In the

said circumstances, without expressing anything on the merits of the case, it is only just and proper to direct the third respondent to consider Ext P6 representation especially in light of Ext P2 judgment, in accordance with law, after affording the petitioner an opportunity of being heard in-person or through video conferencing, and pass orders on the same, as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this judgment.

With the above observation, these writ petitions are disposed of. Sd/- C.S.DIAS
SKS/3.8.2020 JUDGE

APPENDIX OF WP(C) 34233/2019 PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE INTERIM ORDER DATED 11.09.2018 IN WPC NO. 29190/2018 PASSED BY THIS HONOURABLE COURT. EXHIBIT P2 TRUE COPY OF THE JUDGMENT DATED 27.06.2019 IN WPC NO. 29190/2018 PASSED BY THIS HONOURABLE COURT. EXHIBIT P3 TRUE COPY OF THE NOTIFICATION NO. 1944/EXAM AYUSH 3/BHMS/2019/KUHS DATED 17.08.2019 ISSUED BY THE UNIVERSITY. EXHIBIT P4 TRUE COPY OF EXAMINATION REGISTRATION REPORT GENERATED BY THE UNIVERSITY DATED 17.09.2019. EXHIBIT P5 TRUE COPY OF THE COMMUNICATION NO.14261/2019/AC1/AYUSH/A3/KUHS DATED 11.11.2019 ISSUED BY THE UNIVERSITY TO THE PETITIONER. EXHIBIT P6 TRUE COPY OF THE REPRESENTATION DATED 12.11.2019 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT. EXHIBIT P7 TRUE COPY OF THE NOTIFICATION NO.20134/2019/RESULTS/EXAM AYUSH/KUHS DATED 05.12.2019 ISSUED BY THE UNIVERSITY. EXHIBIT P8 TRUE COPY OF THE REPRESENTATION DATED 07.12.2019 SUBMITTED BY THE PETITIONER TO THE UNIVERSITY.

APPENDIX OF WP(C) 3876/2020 PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE INTERIM ORDER DATED 11.9.2018 IN W.P.(C) NO.29190/2018 PASSED BY THIS HONOURABLE COURT EXHIBIT P2 TRUE COPY OF THE JUDGMENT DATED 27.6.2019 IN W.P.(C) NO.29190/2018

PASSED BY THIS HONOURABLE COURT EXHIBIT P3 TRUE COPY OF THE NOTIFICATION NO.1944/EXAM AYUSH3/BHMS/2019/KUHS DATED 17.8.2019 ISSUED BY THE UNIVERSITY EXHIBIT P4 TRUE COPY OF EXAMINATION REGISTRATION REPORT GENERATED BY THE UNIVERSITY DATED 17.9.2019 EXHIBIT P5 TRUE COPY OF THE COMMUNICATION NO.14261/2019/AC1/AYUSH/A3/KUHS DATED 11.11.2019 ISSUED BY THE UNIVERSITY TO THE PETITIONER EXHIBIT P6 TRUE COPY OF THE REPRESENTATION DATED 12.11.2019 SUBMITTED BY THE PETITIONER TO THE AYUSH DEPARTMENT EXHIBIT P7 TRUE COPY OF THE NOTIFICATION NO.20134/2019/RESULTS/EXAM AYUSH/KUHS DATED 5.12.2019 ISSUED BY THE UNIVERSITY EXHIBIT P8 TRUE COPY OF THE REPRESENTATION DATED 7.12.2019 SUBMITTED BY THE PETITIONER TO THE UNIVERSITY EXHIBIT P9 TRUE COPY OF THE INTERIM ORDER DATED 17.12.2019 IN W.P.(C) NO.34233/2019 PASSED BY THIS HONOURABLE COURT EXHIBIT P10 TRUE COPY OF THE NOTIFICATION DATED 25.1.2020 ISSUED BY THE UNIVERSITY APPENDIX OF WP(C) 14757/2020 PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE INTERIM ORDER DATED 11-09-2018 IN W.P(C) NO. 29190/2018 PASSED BY THIS honourable court EXHIBIT P2 TRUE COPY OF OF THE JUDGMENT DATED 27-06-2019 IN W.P(C) NO. 29190/2018 PASSED BY THIS HONOURABLE COURT EXHIBIT P3 TRUE COPY OF THE NOTIFICATION NO. 1944/EXAM AYUSH 3/ BHMS/2019/KUHS DATED 17-08-2019 ISSUED BY THE UNIVERSITY EXHIBIT P4 TRUE COPY OF EXAMINATION REGISTRATION REPORT GENERATED BY THE UNIVERSITY DATED 17-09-2019 EXHIBIT P5 TRUE COPY OF THE COMMUNICATION NO. ISSUED BY THE UNIVERSITY TO THE PETITIONER. EXHIBIT P6 TRUE COPY OF THE REPRESENTATION DATED 12-11- 2019 SUBMITTED BY THE PETITIONER TO THE AYUSH DEPARTMENT EXHIBIT P7 TRUE COPY OF THE NOTIFICATION NO. 2019 ISSUED BY THE UNIVERSITY EXHIBIT P8 TRUE COPY OF THE REPRESENTATION DATED 7-12-2019 SUBMITTED BY THE PETITIONER TO THE UNIVERSITY EXHIBIT P9 TRUE COPY OF THE INTERIM ORDER DATED 17-12-2019 IN W.P(C) NO. 34233/2019 PASSED BY THIS HONOURABLE COURT EXHIBIT P10 TRUE COPY OF THE NOTIFICATION DATED 25-1-2020 ISSUED BY THE UNIVERSITY EXHIBIT P11 TRUE COPY OF

INTERIM ORDER IN WPC NO. 3876/2020 DATED 12-2-2020 OF THIS HONOURABLE COURT. EXHIBIT P12 TRUE COPY OF NOTIFICATION DATED 14-07-2020 ISSUED BY THE UNIVERSITY

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