

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HON'BLE THE CHIEF JUSTICE DR. MANJULA CHELLUR
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 19TH DAY OF DECEMBER 2013/28TH AGRAHAYANA, 1935

WP(C).No. 423 of 2011 (S)

PETITIONER(S):

T.K.SURESHKUMAR,
THATTADATH HOUSE, MANNANAM.P.O., KOTTAYAM.

BY ADVS.SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HEALTH AND FAMILY WELFARE, SECRETARIAT
THIRUVANANTHAPURAM-695 001.

2. CHAIRMAN,
NATIONAL ACCREDITATION BOARD FOR TESTING AND
CALIBRATION LABORATORIES (NABL)
MINISTRY OF SCIENCE AND TECHNOLOGY
NEW MEHRAULI ROAD, NEW DELHI-110 001.

3. THE SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.

R2 BY ADV. SRI.T.P.M.IBRAHIM KHAN,ASST.S.G OF INDI
R1 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-12-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

WP(C).No. 423 of 2011

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF PRINTED RESULT DATED 9.11.2006.

EXHIBIT P2: COPY OF TEST RESULT ISSUED FROM MEDICAL COLLEGE HOSPITAL
DATED 9.11.2006.

EXHIBIT P3: COPY OF LAB RESULT.

EXHIBIT P4: COPY OF LAB RESULT.

EXHIBIT P6: COPY OF LAB RESULT.

EXHIBIT P7: COPY OF LAB RESULT.

EXHIBIT P8: COPY OF JUDGMENT DATED 16.1.2009 IN WP(C).NO.5383/2007
PASSED BY THIS HON'BLE COURT.

EXHIBIT P9: COPY OF DRAFT BILL THE KERALA CLINICAL ESTABLISHMENTS
(REGISTRATION, ACCREDITATION AND REGULATION) BILL 2009.

/TRUE COPY/

PS TO JUDGE

**MANJULA CHELLUR, C.J
&
A.M.SHAFFIQUE, J.**

W.P(C).No. 423 of 2011

Dated this the 19th December, 2013

JUDGMENT

Manjula Chellur, C.J.

The above public interest litigation is filed complaining inaction on the part of the Government and its machinery to curb and control malpractices done in private laboratories and diagnostic centres alleged to be functioning without proper licence from National Accreditation Board for Testing and Calibration Laboratories (NABL). According to him, the medical practitioners for the reasons best known to them direct the patients, who approach Government medical institutions to get the test done from private laboratories, despite existence of such facilities in the Government laboratories. When such complaint came up before this Court, Exhibit P8 directions were given as early as 16.1.2009, but nothing seems to have moved, though a Bill as early as in 2008 for controlling the establishments and functioning of private laboratories came into existence. The first respondent, in response to the Writ Petition, has filed a counter

affidavit indicating the exercise they have undertaken as on today. According to them, the expert committee, after a detailed study, prepared a draft Bill to enact legislation for registration and regulation of hospitals, nursing homes and other clinical establishments in the State in consultation with all who are concerned with the said subject.

2. Meanwhile, Central Government introduced a Bill in this regard and requested the State Government to adopt the Bill by passing a resolution in the State Assembly. This requires a policy decision. Government is keeping the matter for consideration and once the Central Bill comes into existence, the establishment and functioning could be regulated. Paragraph 8 of the counter affidavit refers to duty of the Government to regulate the functioning of the diagnostic centres and Exhibit P9 draft Bill encompasses the required procedure for such control and functioning. On perusal of the counter affidavit of the first respondent, we note that the respondents herein have made sincere efforts to do what they could do as on today, but for unavoidable reasons, the Bill made by the Centre is yet to be tabled before Houses and unless the Bill passes through both the Houses of Parliament in accordance with the procedure,

legislation cannot be implemented which could be adopted by the State Government.

In the light of the above observation, we decline to make any further direction. Accordingly, the Writ Petition is closed.

**MANJULA CHELLUR,
CHIEF JUSTICE**

**A.M.SHAFFIQUE,
JUDGE**

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