

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

W.A.No. 1546 of 2015 IN WP.(C).31029/2010

AGAINST THE JUDGMENT IN WP(C) 31029/2010 of HIGH COURT OF KERALA DATED 13-03-2015

APPELLANTS/NOT PARTIES IN THE W.P:

1. DR.LEEBA MARY JOSHUA, TUTOR, DEPARTMENT OF ORGANON OF MEDICINE
SHREE VIDYADHIRAJA HOMOEOPATHIC MEDICAL COLLEGE
NEMOM, THIRUVANANTHAPURAM.
2. DR.VEENA.S.K, TUTOR, DEPARTMENT OF PHARMACY
SHREE VIDYADHIRAJA HOMOEOPATHIC MEDICAL COLLEGE
NEMOM, THIRUVANANTHAPURAM.
3. DR.THARA.P, TUTOR, DEPARTMENT OF PHYSIOLOGY
VIDYADHIRAJA HOMOEOPATHIC MEDICAL COLLEGE, NEMOM
THIRUVANANTHAPURAM.
4. DR.SINDHU.R, TUTOR, DEPARTMENT OF COMMUNITY MEDICINE
VIDYADHIRAJA HOMOEOPATHIC MEDICAL COLLEGE, NEMOM
THIRUVANANTHAPURAM.
5. DR.SMITHA.A.S, TUTOR, DEPARTMENT OF ANATOMY
VIDYADHIRAJA HOMOEOPATHIC MEDICAL COLLEGE, NEMOM
THIRUVANANTHAPURAM.

BY ADVS.SRI.N.MANOJ KUMAR
SMTJAYASREE MANOJ

RESPONDENTS/WRIT PETITIONER & RESPONDENTS:

1. SHREE VIDHYADHIRAJA VIDYASAMAJAM,
REGISTERED CHARITABLE SOCIETY HAVING ITS HEAD OFFICE AT "ASWATHY"
T.C28/1349, HINDU MISSION ROAD, THIRUVANANTHAPURAM-1
REPRESENTED BY ITS SECRETARY, DR.RAJAY KUMAR
RESIDING AT MAIDAN VILLA, HINDU MISSION ROAD
THIRUVANANTHAPURAM-695 001.
2. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT
DEPARTMENT OF HEALTH & FAMILY WELFARE GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.
3. UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT
MINISTRY OF HEALTH & FAMILY WELFARE DEPARTMENT OF AYUSH
IRCS BUILDING, NO.1 CROSS ROAD, NEW DELHI-110 001.

R3 BY ADV.SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R1 BY ADV.SRI.N.NANDAKUMARA MENON (SR.)
R1 BY ADV.SRI.P.K.MANOJKUMAR
R BY SRI.P.K.MANOJ KUMAR
R BY SR. GOVERNMENT PLEADER SRI.C.S.MANILAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 11-08-2015, ALONG WITH
WA. 1684/2015, WA. 1685/2015, WA. 1686/2015, WA. 1687/2015, WA. 1688/2015, WA.
1694/2015, WA. 1743/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

**Writ Appeal Nos.1546, 1684, 1685, 1686,
1687, 1688, 1694 & 1743 of 2015**

Dated this the 11th day of August, 2015

JUDGMENT

Antony Dominic, J.

These writ appeals are filed by third parties after obtaining leave from this Court, challenging judgment of the learned Single Judge in W.P. (C)No.31029/2010 and connected cases, which were disposed of by a common judgment.

2. These writ petitions were filed by the Shree Vidhyadhiraja Vidyasamajam and certain teaching and non teaching staff of the Shree Vidhyadhiraja Homeopathy Medical College. Although various reliefs were sought, when the writ petitions came up for hearing before this Court on 13th March, 2015, taking note of the developments in the meeting convened by the Chief Minister on 31.8.2011 and in another meeting held on 14.2.2013, wherein decisions were taken regarding the staff pattern to be followed in the College in accordance with the pattern of the Central Council of Homeopathy (CCH), the writ petitions were disposed of directing the Manager of the College to send proposal for the

implementation of the decisions in the aforesaid meetings within one month through the Principal and the Controlling Officer. It was also ordered that the staff pattern in terms of Central Council of Homeopathy will be implemented with effect from 1.9.2002, the date on which direct payment system was introduced in the college. The learned Single Judge also ordered that the consequential action shall be taken by the Government and the University. Finally, the orders impugned in the writ petitions were also set aside.

3. The appellants before this Court are Tutors in the Homeopathy Medical College, who have joined service in the year 2003 and whose services have been approved by the University and the Government. It is their case that the judgments were obtained without impleading them and that quashing of the impugned orders will affect their vested right of seniority. With this grievance, these appeals are filed.

4. We heard the counsel for the appellants, learned Senior Counsel appearing for the Shree Vidhyadhiraja Vidyasamajam, the learned

counsel appearing for the respective writ petitioners and the learned Senior Government Pleader.

5. It is true that in the writ petitions, appellants were not impleaded as party respondents. However, their non impleadment is sought to be explained by the learned counsel appearing for the party respondents in W.A.Nos.1684, 1685, 1687, 1688, 1743 and in W.A.1546 of 2015 by stating that the writ petitioners were not pressing for any claim against the appellants or any other individuals and that their main purpose was to get themselves also the coverage of direct payment system. If that be the real purpose that was sought to be achieved, we cannot take any objection on the ground of non-joinder.

6. Learned Senior Counsel appearing for the Vidhyadhiraja Vidyasamajam also states that Exts.P6, P7 and P9 challenged in W.P.(C) 31029/2010, which are also impugned in some other writ petitions, were challenged only to the limited extent that the Government had ordered staff fixation. According to him, these orders were not impugned to affect the seniority of the appellants herein. These submissions made on

behalf of the management of the College would, therefore, set at rest the apprehension of the appellants that by virtue of the reliefs granted by the learned Single Judge, their vested right of seniority would be affected.

7. As we have already stated, although various reliefs were sought in the writ petitions, ultimately the learned Single Judge has only ordered the implementation of the decisions taken in the two meetings held on 31.8.2011 and 14.2.2013. To such a direction, the appellants cannot have any quarrel. On the other hand, they can have grievance in the event that the decision on the proposal that is to be submitted is of any prejudice to them. As of now, that stage has not reached. In fact today the learned Government Pleader has submitted that a proposal was submitted in terms of the judgment of the learned Single Judge and the Government have returned the same on 26.7.2015.

8. In such circumstances, all that we need clarify is that as and when a proposal is submitted by the Manager in terms of the directions of the learned Single Judge, before the proposal is finalised by the Government, the appellants and persons who are similarly situated shall

be afforded an opportunity to make their representations in the matter. It is also clarified that if the ultimate decision is in any manner prejudicial to the appellants or persons who are similarly situated, they will be at liberty to challenge the same in accordance with law.

With these clarifications, writ appeals are disposed of.

SD/-
ANTONY DOMINIC
JUDGE

SD/-
SHAJI P. CHALY
JUDGE

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