

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 326 of 2015 (M)

PETITIONER:

**HASEENA REHMAN, AGED 18 YEARS,
D/O. MUJEEB REHMAN, P.V.HOUSE, N.V.ROAD,
MAKKADA P.O., KAKKODI, KOZHIKODE.**

**BY ADVS.SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR**

RESPONDENTS:

- 1. THE DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM. PIN-695 001**
- 2. THE KERALA UNIVERSITY OF HEALTH SCIENCES,
REPRESENTED BY ITS REGISTRAR, MEDICAL COLLEGE P.O.,
TRICHUR-680 596.**
- 3. THE PRINCIPAL,
GOVERNMENT MEDICAL COLLEGE, KOZHIKODE-673 617**
- 4. MEDICAL TRUST COLLEGE OF NURSING,
MEDICAL TRUST TOWER, ERNAKULAM,
REPRESENTED BY ITS DIRECTOR/PRINCIPAL.
PIN-682 030**

**R1 & R3 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT
R2 BY ADV. SRI.P.SREEKUMAR,SC,KERALA UT.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

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| EXHIBIT P1- | A TRUE COPY OF THE PROFORMA IN WHICH THE PETITIONER HAS EXERCISED HER OPTION IN PURSUANCE TO THE PROSPECTS. |
| EXHIBIT P2- | A TRUE COPY OF THE REPRESENTATION DATED 11-12-2014 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT. |
| EXHIBIT P3- | A TRUE COPY OF THE LETTER DATED 11-12-2014 ISSUED BY LBS CENTER FOR SCIENCE AND TECHNOLOGY, THIRUVANANTHAPURAM. |
| EXHIBIT P4- | A TRUE COPY OF THE LETTER DATED 15-12-2014 OBTAINED BY THE PETITIONER FROM THE 2ND RESPONDENT. |

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C)No.326 OF 2015
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Dated this the 13th January, 2015

J U D G M E N T

The petitioner was an aspirant to join one of the paramedical courses and pursuant to the selection process, she was allotted a seat for **Bachelor of Cardio Vascular Technology** (BCVT in short) in the 4th respondent's institution/Medical Trust College of Nursing. The petitioner joined the course in the 4th respondent's institution and is continuing studies. The petitioner, though had shown her first option as Government Medical College, Kozhikode, admission was not given to her because of availability of better candidates. But, subsequently, it was revealed that persons with lesser marks have been allotted and accommodated in the Government Medical College, Thiruvananthapuram. It is also pointed out that Government Medical College, Alappuzha was originally not included in the selection process. It was only just before the completion of the proceedings, that the said college came to be included . According to the petitioner, five students who were placed at lower ranks than the petitioner have been accommodated for the said course in the Govt. Medical College,

Alappuzha. The request made by the petitioner at different points of time to accommodate her in any one of the seats in the Government Medical College, did not turn to be fruitful. It is however conceded that the petitioner though had come across the spot admission in one of the Govt.Medical Colleges, she could not participate in the process, because all the original certificates had been tendered before the 4th respondent institution/(Medical Trust College of Nursing). The present case set up by the petitioner is that one vacancy has arisen in the Government Medical College, Kozhikode and the claim of the petitioner has been duly recommended and certified as eligible vide Exts.P3 and P4 proceedings of the LBS Centre who conducted the selection exercise and the concerned University. Since the request of the petitioner has not been acted upon, the petitioner has approached this Court .

2. Heard the learned Counsel for the petitioner, the learned Standing Counsel for the second respondent/ Kerala University for Health Sciences, the learned Counsel appearing for the 4th respondent and the learned Government Pleader for the

respondents 1 and 3(Director of Medical Education and Principal, Government Medical College, Kozhikode).

3. The learned Government Pleader points out that the admission was already closed on 31.10.2014 and even though one vacancy is available for the course now in question, since the course has advanced much by three months, it may be difficult to obtain necessary attendance to the prescribed extent of 80%. The learned Counsel for the 4th respondent/Medical Trust College of Nursing submits that the petitioner has satisfied the fees only for the first year , i.e. to an extent of Rs.60000/- and if at all the petitioner is permitted to leave the institution at this stage, one seat will be wasted and the 4th respondent will be losing the fees payable for the remaining three years at the rate of Rs.60000/-.

4. The learned Counsel for the petitioner submits that the petitioner is ready to compensate the 4th respondent, by remitting the entire tuition fee for the remaining three years, ie. to an extent of Rs.1.8 lakhs and the prayer is that the petitioner might be given refund, if the seat which is to be vacated by the petitioner is filled up in the due course.

5. Considering the fact that the eligibility and credentials of the petitioner stand certified by the LBS Centre and the second respondent /Kerala University of Health Sciences as per Exts.P3 and P4 and further since, a seat for BCVT is available in the third respondent's college (Medical College, Kozhikode); and also considering the fact that the petitioner, who is a native of Kozhikode district, can pursue studies in the third respondent's institution in a more convenient manner, this Court finds it fit and proper to grant a chance to the petitioner, subject to satisfaction of the balance fee payable to the 4th respondent. Though the third respondent and the 4th respondent are situated in different districts, the BCVT Course is under the same University, ie. under the second respondent/Kerala University of Health Sciences. As such, the attendance already secured by the petitioner under the 4th respondent's institution could be duly verified and certified by the 4th respondent and it is to be intimated to the third respondent, upon which appropriate steps can be taken to make up for the deficit , if at all any; more so when the second respondent University is aware of the nature

and course of events, who has certified the eligibility of the petitioner to have admission vide Ext.P4.

6. In the said circumstance, the petitioner is set at liberty to satisfy the tuition fees for the remaining three years in the 4th respondent Institution, upon which all the relevant documents/records including the originals of the certificates tendered by the petitioner at the time of granting admission shall be returned to her, also granting T.C., so as to facilitate her to join the third respondent's institution for the BCVT Course, against the available vacancy. This shall be done forthwith, at any rate, within 10 days from the date of receipt of a copy of the judgment. The 4th respondent shall also issue a certificate showing the attendance position of the petitioner. It will be for the petitioner to join the third respondent's institution, satisfying the fees payable for the course in the said institution, upon which entry shall be given by the third respondent and the petitioner shall be permitted to continue her studies in the said institution. If for any reason, the seat now vacated by the petitioner in the 4th respondent's institution comes to be filled up in the due

course, it will be for the petitioner to claim proportionate refund from the 4th respondent.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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