

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936**

**WP(C).No. 2041 of 2015 (E)**  
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**PETITIONER(S) :**  
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- 1. DR. SAJEEV P.B.,  
S/O P. BALAN, PRASANTHI, MUTTICHIRA  
P.O. MOONNIYUR, MALAPPURAM-676311.**
- 2. DR. BIPIN B. PALLATH  
S/O. BHARADWAJ PALLATH, 'LAL BAAG', CHEMMAD  
TIRURANGADI, MALAPPURAM-676306.**

**BY ADV. SRI.KALEESWARAM RAJ**

**RESPONDENT(S) :**  
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- 1. STATE OF KERALA  
REPRESENTED BY SECRETARY TO GOVERNMENT  
DEPARTMENT OF HEALTH AND FAMILY WELFARE, SECRETARIAT  
THIRUVANANTHAPURAM-695001.**
- 2. THE COMMISSIONER OF ENTRANCE EXAMINATIONS  
VTH FLOOR, HOUSING BOARD BUILDINGS, SANTHI NAGAR  
THIRUVANANTHAPURAM-695001.**

**R1 & R2 BY GOVT. PLEADER SRI. JOSEPH GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**Mn**

**...2/-**

**WP(C).No. 2041 of 2015 (E)**  
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**APPENDIX**

**PETITIONERS' EXHIBITS :**  
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- EXHIBIT P1:** TRUE COPY OF THE PROSPECTUS TOGETHER WITH G.O.(RT)  
NO.3986/2014/H&FWD DATED 15.12.2014.
- EXHIBIT P2:** TRUE COPY OF THE REPRESENTATION DATED 13.1.2015  
SUBMITTED BY THE PETITIONERS BEFORE THE RESPONDENT  
NO.1.
- EXHIBIT P3:** TRUE COPY OF THE REPRESENTATION DATED 13.1.2015  
SUBMITTED BY THE PETITIONERS BEFORE THE RESPONDENT  
NO.2.

**RESPONDENT(S)' ANNEXURES :**  
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- ANNEXURE R1(a)** COPY OF THE CHART SHOWING DISTRIBUTION OF SEATS FOR  
PG COURSE FOR THE YEAR 2013.
- ANNEXURE R1(b)** COPY OF THE CHART SHOWING DISTRIBUTION OF SEATS FOR  
PG COURSE FOR THE YEAR 2014.
- ANNEXURE R1(c)** COPY OF THE CHART SHOWING DISTRIBUTION OF SEATS FOR  
PG COURSE FOR THE YEAR 2015.

**//TRUE COPY//**

**P.A. TO JUDGE**

**Mn**

**P.R. RAMACHANDRA MENON, J.**

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**W.P.(C) No.2041 of 2015**  
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**Dated this the 26<sup>th</sup> of February, 2015**

**JUDGMENT**

The petitioners, who are members of Schedule Caste Community, seek to quash Annexure III of Ext.P1 prospectus, to the extent it does not allot proportionate number of seats to Scheduled Caste/Scheduled Tribe candidates 'in each discipline', in tune with the total number of seats in the respective disciplines.

2. The prayers are in the following terms:

*"i) to issue a writ of certiorari quashing Annexure III of Ext.P1 to the extent to which it does not allot proportionate number of seats to Scheduled Caste/Scheduled Tribe candidates, in tune with the total number of seat in each specialty;*

*ii) to declare that when there is 10% reservation for Scheduled Caste/Scheduled Tribe candidates they are entitled to get proportionate number of seats in the major specialties like M.D General Medicine, M.S. General Surgery and M.S. Obstetrics & Gynecology and such other faculties;*

*iii) to issue a writ of mandamus directing the respondents to modify Annexure III in Ext.P1 by allotting sufficient number of seats to Scheduled Caste and Scheduled Tribe candidates in proportion with the total number of seats in each specialty/ branch for Medical Post Graduate Degree/Diploma Courses 2015,*

*before publication of the rank list on the basis of Ext.P1;*

*iv) to issue a writ of mandamus directing the respondents to modify Annexure III in Ext.P1 by ensuring that proportionate number of seats are allocated to Scheduled Caste/Scheduled Tribe candidates in tune with total number of seats in each specialty/branch for Medical Post Graduate Degree/Diploma Courses 2015, well before the publication of the rank list;*

*v) to issue a writ of mandamus directing the respondents to take a favourable decision on Exts.P2 and P3 before the publication of the rank list on the basis of Ext.P1;*

*vi) to issue such other orders, directions or writs as may be prayed for and that this Hon'ble Court may deem fit on the facts and circumstances of the case."*

3. As mentioned above, the petitioners, who belong to Scheduled Castes, have acquired basic qualification of MBBS and are aspiring to have admission to the Post Graduate Medical Degree/Diploma Courses 2015-2016. As per Clauses 6-4 of Ext.P1 prospectus, 10% of the seats are reserved for SC/ST (8% to SC and 2% to ST). Grievance of the petitioners is that, even though several seats are available under major disciplines like M.D (General Medicine), M.S. (General Surgery), M.S. (Obstetrics & Gynecology) etc., no sufficient extent of reservation is provided to Scheduled Caste/Scheduled Tribe, but for allotting 'one seat' here and there and the balance is given to others including the general category. At the same time, for specialties like M.S.

(Anatomy), M.D. (Biochemistry), M.D. (Community Medicine), M.D. (Forensic Medicine), M.D. (Microbiology), M.D. (Pathology), M.D. (Pharmacology) etc., which are mostly 'non-clinical' subjects, one seat in each discipline is allotted to Scheduled Castes. By virtue of such an exercise, members belonging to Scheduled Caste/Scheduled Tribe are kept away from the main disciplines (sought after subjects) and are accommodated under insignificant disciplines/subjects. This undermines the very concept of reservation and hence the challenge.

4. A detailed statement has been filed on behalf of the first respondent pointing out that the idea and understanding of the petitioners, as to the distribution of seats in respect of different quota, is wrong and misconceived. It is stated that, no undue benefit is intended to be given to any community or general quota candidates and that all the eligible communities, including SC/ST are being given adequate representation. In some cases, excess allotment has been made. Ext.P1 prospectus, draft of which was forwarded by the Director of Medical Education, was considered meticulously and after appropriate modification wherever found necessary, it was approved by the Government

as per GO(Rt) No.3986/2014/H&FWD dated 15.12.2014. It is stated that, the suggestion made by the petitioners that 10% reservation has to be made in respect of each specialty, is not a workable option and not beneficial for the communities, who are the beneficiaries. This is obviously for the reason that, sufficient number of seats in each specialty may not be available and the total number of seats in each category differs quite a lot. Particulars of various specialties, which have only less than 10 seats, by virtue of which, normally no seat could have been reserved or earmarked - if allotted subject-wise, are given in the form of a table in paragraph 2 of the statement. It is stated that, seats are allotted to communities eligible for mandatory reservation in each specialty, on the basis of the principle or 'rotation' and the filling up exercise is being continued from the stage where it was stopped in respect of admission for the last year, thus giving no room/chance for any heartburn to any community. Referring to such a course pursued in the previous years, the distribution charts for the years 2013 and 2014 are produced as Annexure R1(a) and R1(B). The position with reference to similar exercise in respect of the present year 2015

is produced as Annexure R1(c).

5. Heard Mr. Kaleeswaran Raj, the learned counsel appearing for the petitioners as well as Mr. Roshan Alexander, the learned Senior Government Pleader appearing on behalf of the respondents in detail.

6. On going through Annexure III of Exhibit P1 prospectus [same as Annexure R1(c)], the different disciplines/subjects in respect of the P.G. Degree courses are seen given in the alphabetical order. Similar distribution of State quota seats in the Government Medical Colleges and R.C.C. for 'P.G Diploma Course', 2015 are given under Annexure IV. On going through the figures disclosed from the Distribution Charts, it is seen that in major disciplines like M.D (Medicine) or M.S. (General Surgery), 30 or more seats are available, out of the total 259 seats in the clinical and non-clinical cadre. Substantial number of seats are available in respect of disciplines like M.D. (Anesthesia), M.S. (Obstetrics & Gynecology) and M.D. (Paediatrics) as well. The case of the petitioners is that, as against the total seats of 33 for M.D. (General Medicine), no seat is allotted this year for SC/ST. In the case of M.S. (General Surgery), where 30 seats are

available, just one seat is allotted to SC and no seat is allotted to ST. Similarly, in the case of M.S.(Obstetrics & Gynecology), as against 19 seats, only one seat is allotted to ST and no seat is earmarked to ST. It is however conceded that, one seat has been allotted to SC in each discipline beginning from Serial No.8 (M.S. [Ophthalmology]) to Serial No.14 (M.D. [Radiodiagnosis]) and Serial No.16 (M.D. [Respiratory/ Pulmonary Medicine]). It is also seen that, under 'non-clinical' subjects, even though total number of seats are less than 'ten' in many cases, except M.D. (Pathology); one seat each has been given to S.C. Category. Distribution of seats hence is stated as not correct, proper or logical.

7. The version of the respondents as discernible from the statement and also as asserted by the learned Senior Government Pleader is that, allotment of seat is being done on 'rotation' basis. From the total number of seats, after excluding the requisite extent of seats specifically earmarked for allotment for All India Quota (50%), 3% of the seats in the State Quota has to be allotted to physically handicapped candidates, who come first in the head of reservation. Thereafter, 10% of the remaining

seats have to be earmarked for SC/ST in the ratio of 8:2 between SC/ST. The different specialties then have to be arranged in alphabetical order, after segregating them as 'clinical' and 'non-clinical' and allotment of seats is to be made from the first specialty among the different specialties in the alphabetical order. The seat allocation for SC and ST would commence from the subject, where reservation for percentage of disability (P.D Quota) came to an end and the starting point of allocation of seats in the first subject in the alphabetical order is hence for the physically handicapped. After making the allocation for the 'P.D.' Category, the next specialty following the particular specialty in the alphabetical order, in which allocation for the physically disabled candidate was concluded, will be the beginning point of allocation for SC/ST category. The said principle is being followed by the Government consistently, by virtue of which, the seats are rotated every year for extending the benefit to the real beneficiaries enabling them to gain admission for maximum number of seats and maximum number of specialties. The position as above stand substantiated from the facts and figures as given in Annexure R1(a) for the year 2013, Annexure R1(b)

for the year 2014 and Annexure R1(c) for the year 2015.

8. The particulars of total seats in different specialties, clinical and non-clinical, and the application of rotation as above, is explained further in paragraphs 5 and 6 of the statement, which are extracted below for convenience of reference:

**"5. Distribution of Seats for PG Degree Courses 2013 to 2015:** *For the year 2013, among the 8 seats reserved for person with disability category, 5 seats were earmarked for clinical subjects and 3 seats for non-clinical subjects. In alphabetical order, distribution of 5 seats started from M.D. Anesthesia and ended with M.D. General Medicine. Likewise, distribution of non-clinical subjects for P.D. Category started with M.S. Anatomy and ended with M.D. Community Medicine. The next category for allotment is SC. The allotment of a SC candidate started from the next subject M.S. General Surgery. For SC category, there were 20 seats allotted. From among the 20 seats, 14 seats were earmarked for clinical subjects and 6 seats were earmarked for non-clinical subjects. The allotment rotation for clinical subjects started rightly from M.S. General Surgery and ended with M.D. General Medicine. It is pertinent to point out that the subjects Emergency Medicine and Family Medicine had only one seat each during the year 2013 and since those particular one seat was already earmarked for the process of allotment, against P.D. Quota, the allotment for SC in clinical subjects ended with M.D. General Medicine. The allocation of seats in Annexures R1(b) and R1(c) are only continuation of allocation made in Annexure R1(a) on the basis of the rotation principle.*

*6. For the year 2014, 8 seats were earmarked for P.D. Quota which was bifurcated as 5 seats under clinical and 3 seats under non-clinical. Among the 5 seats in clinical, the allocation has to be started from M.S. General Medicine for the year 2013, it ended up with M.D. General Medicine. Therefore, for the year*

*2014, the allocation for P.D. Quota in clinical subjects started from M.D. General Medicine and ended with M.S. Otorhinolaryngology. For S.C. Candidates among the 20 seats earmarked, 13 seats were allocated for clinical subjects and 7 seats were allocated for non-clinical subjects. Among the 13 seats, the cycle of rotation started from MD Pediatrics and ended with MS Otorhinolaryngology. Since the singular seats in MD Emergency Medicine and Family Medicine were reserved for PD category in the year 2013, in 2014, those 2 seats were opened for General Merit candidates. Since the State requires sufficient number of candidates in MD General Medicine for the year 2014, after setting aside 15 seats for general quota, 14 seats were earmarked for service quota candidates and one seat for SEBC reservation as per the rotation principle of SEBC. After the seat allocation as per the distribution chart, one seat was earmarked for General Medicine in Cochin Medical College for SC candidates after taking over of that College by Government. The allocation of seat for the year 2015 was only a continuation of the rotation principle after Exhibit R1(a). Therefore, Annexure III attached to Exhibit P1 prospectus, which is produced here as Exhibit R1(c) herein is in order and does not suffer from any vices."*

9. After hearing both the sides, this Court finds that the explanation offered from the part of the respondents is quite reasonable and no instance of discrimination, in the matter of allocation of seats, is established. It is also seen that the course and procedure are consistent and continuous with reference to the facts and figures traceable to the previous years and that the SC/ST candidates are being given representation in all specialties in the order of rotation, without distinguishing between major

specialties or less aspired specialties.

10. In the said circumstances, this Court finds that the challenge raised against Annexure III of Ext.P1 prospectus is devoid of any merit or bonafides. No tenable grounds have been raised to sustain the reliefs sought for.

Interference is declined and the writ petition is dismissed.

**P.R. RAMACHANDRA MENON,  
JUDGE**

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