

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

WP(C).No. 4853 of 2015 (F)

PETITIONER:

**THE PRINCIPAL
CENTURY INTERNATIONAL INSITUTE OF DENTAL
SCIENCE & RESEARCH CENTRE
POINACHI PO, THEKKIL, KASARGOD DISTRICT**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENT(S):

**1. THE ADMISSION SUPERVISORY COMMITTEE & FEE REGULATORY
COMMITTEE FOR PROFESSIONAL COLLEGES OF KERALA
TC 15/1553, PRASANTHI BUILDINGS,
M.P. APPAN ROAD, VAZHUTHACAUD
THIRUVANANTHAPURAM 695 015
REPRESENTED BY THE MANAGER**

**2. KERALA UNIVERSITY OF HEALTH SCIENCES
MULAMKUNNATHUKAVU,
MEDICAL COLLEGE-PO
TRICHUR DISTRICT,
REPRESENTED BY THE REGISTRAR 680596**

**R2 BY ADV. SRI.P.SREEKUMAR,SC
R1 BY SMT.MARY BENJAMIN, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-02-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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WP(C) No. 4853 of 2015
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Dated this the 16th day of February, 2015

J U D G M E N T

Antony Dominic, J.

Heard the learned counsel for the petitioner, learned standing counsel appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

2. Petitioner is a Self Financing Dental College. By Ext.P6 order passed by the 1st respondent, admission of seven students was not approved. Consequent on Ext.P6, the 2nd respondent University issued Ext.P7 rejecting registration of the students. It is in this background, this writ petition is filed by the College challenging Exts.P6 and P7.

3. Ext.P6 in so far as it is relevant reads thus;

“Medona Antony, Suhana.M, Soumya K V, Shalima K.K, Fathima Shifa P.P, Ashreena M Ali and Aswathy R Pillai, are admitted by the Dental College from the KEAM rank list of CEE. On scrutiny we found that none of these candidates have appeared for the Entrance Examination held by ASC on the direction of the Hon'ble Supreme Court of India. The Dental College has agreed, as stated above, that it is

entitled to fill up the 35% management quota seats from the list of meritorious candidate prepared by the ASC and the Entrance Test have been conducted on the direction of the Hon'ble Supreme Court of India. Thus the admissions of the students, from other rank list, for the 35% management quota seats, without the permission of the Hon'ble Supreme Court of India, is not legal.

Moreover, under clause (c) of the agreement, it is stated that only in the absence of Entrance Test, as contained clause 8(b), the dental College is entitled to admit meritorious candidate from the KEAM rank list. As the Entrance Examination having been held on the direction of the Hon'ble Supreme Court of India, the admission of the 35% management quota seats shall only be from the ASC merit list and not from any other list. Hence the admissions of all the above 7 candidates are rejected."

4. According to the learned counsel for the petitioner, Ext.P3 is a consensual agreement entered into between the College and the Government on 1st of August, 2014 and under

Clause (5), those merit seats remaining vacant after 5.00 p.m on 20th of September, 2014 will revert back to the College as Lapsed Seats and the College can fill up those seats as Management Seats from eligible candidates either from the rank list of Kerala Engineering Agriculture Medical Entrance Examination (KEAM), 2014 or from the rank list prepared by the College based on the entrance test conducted by the Management/Dental Consortium, subject to the approval of the Supreme Court of India. It is stated that the seats against which the aforesaid seven students were admitted remained vacant after 5.00 p.m on 20th of September, 2014 and that in view of the provisions contained in clause (5) of the agreement, seven students were admitted on 26/9/14. In this context, learned counsel made reference to Ex.P4, where the admission date is also indicated. Therefore, according to the counsel, the reasoning of the Committee as contained in Ext.P6 to invalidate the admission of the students is incorrect.

5. Clauses 4 and 5 of Ext.P3 consensual agreement reads thus;

*“4. The Commissioner for Entrance Examinations shall make a maximum of three allotments only.
The Commissioner for Entrance Examinations*

will allot only such students for admission to a College who have opted to that college. The CEE shall furnish the final allotment list of the students to be admitted to the Century Dental College on or before the 20th day of September 2014. The CEE will not re-allot students already allotted to a College and admitted in the College either by the CEE or Century Dental College, after this final allotment.

5. The Century Dental College shall be entitled to fill up those seats still remaining unfilled after the closure of allotment by the CEE. These unfilled seats from Government side shall be filled up by the CEE up to 5 PM on 20th day of September 2014. Those Merit seats still remaining vacant after 5 PM on 20th day of September 2014 are reverted back to the Century Dental College as Lapsed Seats and the college can fill up those seats as Management Seats from eligible candidates either from the rank list of KEAM 2014 or from the rank list prepared by the College based on the entrance test conducted by the Management/ Dental Consortium, subject to the approval of the Hon'ble Supreme Court of India. The Government shall not have any claim over such seats after 20th September, 2014 and the forfeited seats

shall not be brought forward to succeeding year for compensation."

6. It is true that on a reading of the agreement, it can be seen that the Commissioner for Entrance Examination shall make a maximum of three allotments and that those seats still remaining vacant after 5.00 p.m on 20th of September, 2014 will revert back to the College as Lapsed Seats and the College can fill up those seats as Management Seats from eligible candidates from the KEAM 2014-15 or from the rank list prepared by the Consortium. It is on this basis, the learned counsel seeks to impugn the order passed by the Commissioner.

7. However, records produced by the standing counsel for the Committee shows that by its letter dated 6th of November, 2014 signed by the Principal, the College has submitted the list of students admitted to BDS 2014-15 and also forwarded the documents in proof of their eligibility. In this list, at Sl.No.2, the College has specifically stated that, "*no lapsed seat was filled up*". Enclosures to the letter show that the College has admitted 39 students in the Government merit quota, 12 students in the management quota and 15 students in the NRI quota. The seven

students mentioned in Ext.P6 are those at Sl.Nos.3, 4, 5, 7, 8, 10 and 12 in the list of students under the management quota. The above material furnished by the College to the 1st respondent Committee itself shows that the College did not have a case before the Committee that any student was admitted towards the Lapsed Seat and that the students in question were admitted in the management quota. Although it is true that under the terms of the agreement, a Lapsed Seat will revert to the Management quota, since letter dated 6/11/14 issued by the Principal of the College to the Committee itself show that no Lapsed Seat was filled up by the College, the argument now raised by the College before us that the aforesaid students were admitted against Lapsed Seats reverted to the management quota is factually an erroneous submission made for the first time before this Court.

8. It is true that a contention has been raised in ground (F) that the Committee should not have passed an order invalidating the admission of students without hearing the students affected. However, we feel that such an argument can be raised not by the College, which has made the illegal

admission, but, need be considered, if and when students affected raises such a contention.

We, therefore, cannot accept the contention raised before us. Writ petition is only to be dismissed and we do so.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge