

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 9109 of 2014 (K)

PETITIONER :

**VINITH VISWANATH,
VENGACHERIYIL HOUSE, NATTASSERY KARA, PARAMPUZHA P.O.,
VIJAYAPURAM VILLAGE, KOTTAYAM TALUK, KOTTAYAM DIST.**

**BY ADVS.SRI.C.RAJENDRAN
SMT.R.S.SREEVIDYA**

RESPONDENT(S):

- 1. SUJATHAN, PRINCIPAL,
AZEEZIA MEDICAL COLLEGE, KOLLAM - 686 001.**
- 2. THE CHAIRMAN AND MANAGING DIRECTOR,
AZEEZIA MEDICAL COLLEGE, KOLLAM - 686 001.**
- 3. DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM - 695 001.**
- 4. CONTROLLER OF EXAMINATIONS,
KERALA UNIVERRSITY, PALAYAM,
THIRUVANANTHAPURAM- 695 001.**
- 5. STATE OF KERALA,
REP. BY SECRETARY TO SC/ST WELFARE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

**R1 & R2 BY SRI.KURIAN GEORGE KANNANTHANAM,SENIOR ADVOCATE
ADV. SRI.TONY GEORGE KANNANTHANAM
R3 & R5 BY SR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR
R4 BY STANDING COUNSEL SRI.BECHU KURIAN THOMAS
SRI.GEORGE POONTHOTTAM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE PHOTOCOPY OF THE JUDGMENT IN WPC NO.32154/08 OF THE HON'BLE HIGH COURT DATED 1/12/2008.

EXT.P2: TRUE PHOTOCOPY OF THE ALLOTMENT LETTER ISSUED BY THE COMMISSIONER OF ENTRANCE EXAMINATION DTD. 3/12/2008.

EXT.P3: TRUE PHOTOCOPY OF THE INTERIM ORDER PASSED BY KERALA STATE COMMISSION FOR SCHEDULED CASTE AND SCHEDULED TRIBE, TRIVANDRUM DATED 10/2/2014.

EXT.P4: TRUE COPY OF THE LETTER DATED 26/11/2008

(I.A.NO.8755/2014) P4: COPY OF THE MARK LIST ISSUED BY THE UNIVERSITY DATED 21/11/2013

EXT.P5: TRUE COPY OF THE LETTER ISSUED ON 10/06/2010

EXT.P6: TRUE COPY OF THE LETTER OF SIMILAR NATURE ISSUED BY THE 1ST RESPONDENT DATED 15/07/2011

EXT.P7: TRUE COPY OF THE LETTER OF SIMILAR NATURE DATED 21/05/2012

EXT.P8: TRUE COPY OF THE LETTER OF SIMILAR NATURE DATED 13/05/2013

EXT.P9: TRUE COPY OF THE INTERIM ORDER DATED 12/1/2015 PASSED BY THIS HONOURABLE COURT IN WPC.NO.9109/2014

EXT.P10: TRUE COPY OF THE FORWARDING LETTER DATED 14/1/2015

EXT.P11 TRUE COPY OF THE INTERIM ORDER OF THE COMMISSION DATED 10/2/2014.

RESPONDENT(S)' EXHIBITS

EXT.R4(A): TRUE COPY OF THE LETTER DATED 17/01/2014 BY THE PRINCIPAL AZEEZIA INSTITUTE OF MEDICAL SCIENCES AND RESEARCH AS WELL AS THE LIST OF STUDENTS.

/TRUE COPY/

P.A.TO.JUDGE

K. VINOD CHANDRAN, J

W.P(C) No.9109 of 2014

Dated this the 21st day of January, 2015

J U D G M E N T

The petitioner's prayer in the writ petition was to participate the petitioner in the examination for the papers ENT Community Medicine, General Medicine, Surgery, Gynecology and Pediatrics in Part II examination of the final year. The petitioner also has a prayer for an enquiry into the allegations that the petitioner was illegally compelled to pay fee on the ground that he is a person belonging to the SC/ST community, entitled to exemption from payment of fees. The petitioner also sought direction for payment of an amount of Rs.5,00,000/- as compensation for the harassment and denial of opportunity for writing the examination.

2. With respect to the issue of illegal

demand of fees, the learned counsel for the College submits that the petitioner admittedly was an SC/ST student, but was not entitled to the concession since, he would be disentitled from exemption of fee, if he fails for more than two times in a subject. Admittedly the petitioner has failed for five papers , more than two times and this disentitles the petitioner from any fee concession. In such circumstance, this Court would not consider the prayer for enquiry or for payment of damages, nor can a declaration be issued that all students belonging to SC/ST candidates would not be liable to pay fee to the colleges.

3. The only surviving prayer is with respect to participation in the final year examination. This Court had by an interim order dated 12.01.2015 directed that an application form would be issued to the petitioner by the College, and on signing of the application form, the same shall be countersigned

and forwarded to the University. The learned counsel for the respondent College submits that the same has been done; however, noticing that the petitioner has attendance shortage with respect to three subjects, being General Medicine, Gynecology and Pediatrics. There is no subject titled as ENT community medicine and in Part II syllabus, as it exists now, four papers in which the students examined are, General Medicine, Surgery, Gynecology and Pediatrics. With respect to Surgery alone the petitioner has the required attendance, is the contention. The details with respect to required attendance and internal marks are also said to have been forwarded by the Principal, to the University by speed post.

In such circumstance, the University shall consider the issue before 28th January, 2015. The participation of the petitioner shall be only if he is entitled in accordance with the regulations and also

in accordance with the details supplied by the management.

Writ petition would stands disposed of.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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//true copy//

P.A to Judge