

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WP(C).No. 14306 of 2015 (K)

PETITIONER(S) :

1. B.CHACKO
T.C.3/624, T.K.D.ROAD, MUTTADA P.O.
PATTOMTHIRUVANANTHAPURAM.
2. ABDUL RAFI
R.J.VILLA, T.C.19/769G, MUDAVANMUKAL
POOJAPPURA, THIRUVANANTHAPURAM.
3. MRS. SUMITHA JOHN
MUKALUPARAMBIL VEEDU, KRIPA NAGER, 112A
KOTTARAKKARA.
4. MRS. SHEEBA K.
KAUSTHABHAM, T.C.NO.29/405(1), THENGAPURA LINE
PATTAM, THIRUVANANTHAPURAM.
5. MR. LOUIS MATHEW
KALLIVILAYATHIL HOUSE, MANNADI P.O., ADOOR - 691 530.

BY ADVS.SRI.S.KRISHNAMOORTHY
SRI.JESTIN MATHEW

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY
HEALTH AND FAMILY WELFARE DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001
2. ADMISSION SUPERVISORY COMMITTEE FOR
PROFESSIONAL COLLEGES, REPRESENTED BY ITS SECRETARY
T.C.15/1553-4, PRASANTHI BUILDING, MP APPAN ROAD
VAZHUTHACAUD, THIRUVANANTHAPURAM-695 014.
3. MEDICAL COUNSEL OF INDIA
REPRESENTED BY ITS SECRETARY, POCKET-14, SECTOR-8
PHASE-I, DWARAKA, NEW DELHI-110 077.

4.KERALA UNIVERSITY OF HEALTH SCIENCES
REPRESENTED BY ITS REGISTRAR, MEDICAL COLLEGE P.O
THRISSUR -680 596.

5.MOUNT ZION MEDICAL COLLEGE
REP. BY ITS PRINCIPAL, CHAYALOD, ADOOR
PATHANAMTHITTA DISTRICT, KERALA - 691 556.

R2 BY SMT.MARY BENJAMIN, SC, ADMISSION SUPERVISORY COMMITTEE
R3 BY ADV. SRI.TITUS MANI VETTOM, SC, MEDICAL COUNCIL OF INDIA
R4 BY ADV. SRI.P.SREEKUMAR,SC,KERALA UTY.HEALTH &

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 14306 of 2015 (K)

APPENDIX

PETITIONER(S) ' EXHIBITS

- EXT.P1 - TRUE COPY OF THE CONSENSUAL AGREEMENT ENTERED INTO BY THE PETITIONER AND THE GOVERNMENT DATED 15-7-2014.
- EXT.P2 - TRUE COPY OF THE PROSPECTUS ISSUED FOR THE PETITIONER INSTITUTION.
- EXT.P3 - TRUE COPY OF THE PROOF EMPLOYMENT IN RESPECT OF THE PARENT AJINA ABDUL RAFI.
- EXT.P3 (A) - TRUE COPY OF THE PROOF EMPLOYMENT IN RESPECT OF THE PARENT AISHWARYA AJITH.
- EXT.P3 (B) - TRUE COPY OF THE PROOF EMPLOYMENT IN RESPECT OF THE PARENT ANUGRAHA MARY JOHN.
- EXT.P3 (C) - TRUE COPY OF THE PROOF EMPLOYMENT IN RESPECT OF THE PARENT JACOB V.K.
- EXT.P4 - TRUE COPY OF THE APPROVAL ORDER OF THE 3RD RESPONDENT ADMISSION SUPERVISORY COMMITTEE.
- EXT.P5 - TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT INTIMATING THE DECISION IN EXT.P4.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

vdv

K.SURENDRA MOHAN & MARY JOSEPH, JJ.

W.P.(C) No.14306 of 2015

Dated this the 21st day of May, 2015

JUDGMENT

Surendra Mohan,J

This writ petition is filed by the parents of five students, who have been denied admission to the M.B.B.S course for the year 2014–2015, seeking the following reliefs:

- i) To issue a writ of Certiorari or other appropriate writ, order or direction to call of the records leading to Exhibit P4 and to quash to the extent of rejection of approval of petitioners wards, who are admitted against 5% Staff Quota, as the dependant's of the staff.
- ii) To issue a writ of mandamus or other appropriate writ, order or direction directing the respondents to register the name of the petitioners wards with the 4th respondent University for completing their courses in M.B.B.S 2014–2015.
- iii) To issue a writ of mandamus or other appropriate writ, order or direction declaring that the cut of marks prescribed for the petitioners wards admitted against the staff quota for MBBS course is highly incorrect and illegal; and
- iv) To issue such other reliefs as this Hon'ble Court may deem just and proper in the circumstances of the case.

2. According to the counsel for the petitioners, Ext.P1 agreement stipulates that the Management could allot up to a maximum of 5% of seats to the children of staff, management and trustees based on inter se merit. It was in accordance with the above Clause in Ext.P1 agreement that the children of the petitioners were granted admission. But, by Ext.P4, the Admission Supervisory Committee and Fee Regulatory Committee for Professional Colleges of Kerala has rejected their admission. The contention of the counsel for the petitioner is that the minimum qualifying marks of 50% is not necessary to be insisted upon, in the case of candidates allotted under the 5% quota as per Ext.P1 agreement. The above contention is opposed by the learned Government Pleader, who points out that in a similar writ petition this Court has rejected the very same contention.

3. Heard. As per judgment dated 06.01.2015 in W.P.(C) No.122 of 2015, another Division Bench of this Court has, while considering a similar contention, held as follows:

“10. Therefore, the mere fact that a candidate qualified in the Entrance Examination does not in any manner making him eligible for admission to MBBS or BDS and eligibility for admission is attained only if the standards prescribed in the aforesaid two provisions in the Prospectus are satisfied. This therefore means that only those general candidates who have secured 50% marks and only those SC/ST and OBC candidates who have secured 40% marks in the entrance examination are eligible for admission to MBBS or BDS, even if they qualify in the entrance examination. Therefore, we are unable to accept the contention raised by the learned Senior Counsel.

11. We also should take note of the fact that the prospectus in question was undoubtedly issued by the Government of Kerala in exercise of its power under Entry 25 of the Concurrent List. None of the parties, viz, the Management or the students, challenged the prospectus conditions. Therefore, having accepted the prospectus, this argument now raised is only to be rejected.”

4. In view of the above finding, with which we are in respectful agreement, the contention of the petitioners is rejected. In the result, the writ petition fails and is accordingly dismissed.

Sd/-
K.SURENDRA MOHAN, JUDGE

Sd/-
MARY JOSEPH, JUDGE