

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No.16051 of 2015 (F)

PETITIONER:

**DR.RADHAKRISHNAN K.G,LECTURER,
DEPARTMENT OF ANESTHESIOLOGY,
GOVERNMENT MEDICAL COLLEGE,THRISSUR.**

**BY SRI.K.JAJU BABU (SENIOR ADVOCATE.)
ADV.SMT.M.U.VIJAYALAKSHMI**

RESPONDENT'S:

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695001.**
- 2. THE DIRECTOR OF MEDICAL EDUCATION,
DIRECTORATE OF MEDICAL EDUCATION,
MEDICAL COLLEGE P.O,THIRUVANANTHAPURAM.**
- 3. THE COMMISSIONER FOR ENTRANCE EXAMINATIONS,
HOUSING BOARD BUILDINGS,SANTHI NAGAR,
THIRUVANANTHAPURAM-695001.**

BY GOVT. PLEADER SMT.C.K.SHERIN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No.16051 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1: COPY OF GO (RT) NO.3986/2014/H& FWD DATED 15.12.2014 AND
RELEVANT EXTRACT OF THE NOTIFICATION ISSUED BY THE 2ND
RESPONDENT.**

**EXHIBIT P2: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
ONLINE TO THE 2ND RESPONDENT ON 3.1.2015.**

EXHIBIT P3: COPY OF GO(RT) NO.517/2015/H & FWD DATED 3.2.02015.

**EXHIBIT P4: COPY OF THE RELEVANT EXTRACT OF THE POST GRADUATE
MEDICAL EDUCATION REGULATIONS, 2000 ISSUED BY MEDICAL
COUNCIL OF INDIA.**

**EXHIBIT P5: COPY OF THE LETTER NO.E4-6905/2015 /MCTCR DATED 12.5.2015
ISSUED BY THE PRINCIPAL, GOVERNMENT MEDICAL COLLEGE,
THRISSUR ALONG WITH REPRESENTATION DATED 12.5.2015
SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**

**EXHIBIT P6: COPY OF THE NON CREAMY LAYER CERTIFICATE DATED 17.4.2015
ISSUED TO THE PETITIONER BY THE COMPETENT AUTHORITY.**

**EXHIBIT P7: COPY OF THE RESULTS OF ENTRANCE EXAMINATION FOR
ADMISSION TO PG MEDICAL COURSES-2015 OF SERVICE QUOTA
CANDIDATES.**

**EXHIBIT P8: COPY OF THE RANK LIST OF HEALTH SERVICE QUOTA
CANDIDATES OF ENTRANCE EXAMINATION FOR ADMISSION TO PG
MEDICAL COURSES 2015.**

**EXHIBIT P9: COPY OF THE ORDER DATED 19.3.2015 OF THIS HONOURABLE
COURT IN WPC NO.8628/2015**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

K. VINOD CHANDRAN, J.

W.P.(C) No. 16051 of 2015 (F)

Dated this the 2nd day of June, 2015

J U D G M E N T

The petitioner has filed the above writ petition aggrieved with the non consideration of the petitioner's admission to the Post Graduate Medical Course, giving him the benefit available to him as a Socially and Educationally Backward Community member (hereinafter referred to as 'SEBC'). Admittedly, the petitioner did not claim such advantage when he applied for the entrance examination, due to the very same benefit being granted to in-service candidates, as per the prospectus.

2. The background facts are that the petitioner is an in-service candidate, who had applied as per Ext.P1 prospectus, claiming the benefit granted to the in-service candidates, being a minimum qualifying mark of 40% as against a minimum requirement of 50% for the general candidates. The very same relaxation was available to the

SEBC/SC/ST candidates. The entrance examination was scheduled on 8.2.2015, but on 12.1.2015, the prescription of relaxation by reduction of minimum percentage of marks, for in-service candidates, as upheld by this Court, was interfered with by the Hon'ble Supreme Court by judgment dated 12.01.2015 in C.A. Nos. 297 & 298 of 2015. The said relaxation was set aside on the ground that granting such benefit to a category of candidates, as distinguished from the other categories, on the ground of they being persons included in a service, was not proper.

3. The Government was apprehensive of sufficient number of in-service candidates being qualified for admission, due to the relaxation being taken away. Hence, to ensure the same, a uniform criteria was fixed as per Government Order dated 3.2.2015, produced at Ext.P3. The Government Order specifically noticed the Supreme Court judgment, and the relaxation given to in-service candidates was taken away. To enable sufficient number of in-service

candidates for admission, the Government took away the negative marking system for all category of candidates.

4. The examination was held, after Ext.P3 Government Order, on 8.2.2015. Hence, the petitioner cannot claim ignorance of Ext.P3 order. The petitioner admittedly had not applied for relaxation as is available to SEBC candidates, since the petitioner, as per the prospectus was entitled to such relaxation on the ground of the petitioner being an in-service candidate, which was set at naught by Ext.P3 Government Order.

5. In fact, a writ petition was filed in the month of March, 2015 by another in-service candidate in which Ext.P9 was passed directing consideration of the said petitioner as a Scheduled Caste candidate entitled to relaxation of minimum required marks of 40%. The petitioner claims a similar consideration. The petitioner contends that he did not later, apply for such relaxation since there was no provision for making a further

application as per Ext.P1 notification. That, however, cannot deter him from having approached this Court with a writ petition.

6. The learned Government Pleader, on instruction, submits that the entire allotment is over and the petitioner, who was borne in the service of Medical Education, cannot, at this point, claim such admission since the seats set apart for the Medical Education Service, as per the prospectus, was conceded to the Health Service Quota and then to the Insurance Medical Service Quota and now has been allotted to the General Quota, for there being no candidates available in all these categories. The contention is that if the petitioner had approached this Court earlier, the allotment could have been made and in all probability the petitioner would have obtained such admission also, since admittedly there were not sufficient persons from the service in which the petitioner is borne.

7. The petitioner definitely was aware of Ext.P3 circular at the time of the examination itself, but however, chose to make a representation to the Principal Secretary by Ext.P5 only on 12.05.2015. Even when such a representation was made, the petitioner had not produced the necessary certificate, as provided in the prospectus, to make him eligible for the relaxation under the SEBC Quota. It is also to be noticed that the petitioner in Ext.P9, had approached this Court sufficiently early and this Court was pleased to direct the petitioner therein to produce the caste certificate within three days and on such production, to consider the candidate under the Scheduled Caste category. True, if a similar order was passed at the right time, the petitioner too could have obtained the admission, provided he satisfies all the other conditions. By reason only of passage of time, the petitioner has to be declined the remedy, especially since one another candidate would have acquired such right for allotment.

8. However, it is made clear that if no allotment has been made as on today, then any seat remaining vacant in the Post Graduate Medical Education stream, as reserved for any of the in-service quota candidates, shall be offered to the petitioner in writing and the petitioner shall, on such offer being made, produce the caste certificate within three days therefrom. The petitioner's entitlement shall be considered as one available to an SEBC candidate, necessarily on his eligibility for such consideration, being found.

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

W.P.(C) No. 16051/2015

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