

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 21617 of 2014 (B)

PETITIONER(S):

- 1. INDIAN DENTAL ASSOCIATION AGED 42 YEARS
KERALA STATE BRANCH, REPRESENTED BY THE SECRETARY
DR.O.V.SANAL, S/O. BALAKRISHNAN NAIR,
PAYYAVOOR DENTAL CLINIC, PAYYAVOOR, KANNUR-670 633
RESIDING AT USHAS, POOKATHNADA, TALIPARAMBA-670 141.**
- 2. DR. SUJAI MATHAI
DIRECTOR, KARUNYA MULTI SPECIALITY DENTAL CLINIC
NEAR ALLAHABAD BANK, VENICE SQUARE, THIRUVAMPADY
ALAPPUZHA-688 009.**

**BY ADVS.SRI.SAJEEV KUMAR K.GOPAL
SRI.R.HARISHANKAR**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE SECRETARY TO THE GOVERNMENT
HEALTH & FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 3. KERALA DENTAL COUNCIL
RED CROSS ROAD, THIRUVANANTHAPURAM-695 035
REPRESENTED BY ITS REGISTRAR.**
- 4. THE REGISTRAR
KERALA DENTAL COUNCIL, RED CROSS ROAD,
THIRUVANANTHAPURAM-695 035.**

5. DR. SAJAYA KUMAR

STAR DENTAL CARE, ARATTUVAZHI, ALAPPUZHA-688 007.

R3-R4 BY ADV. SRI.N.RAGHURAJ, SC, TCMC & KNMC

R5 BY ADV. SRI.BRIJESH MOHAN

R5 BY ADV. SMT.RESMI G. NAIR

BY GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF THE BANNER AND POSTER.

P1(A): COPY OF THE BANNER AND POSTER

P1(B): COPY OF THE BANNER AND POSTER

P1(C): COPY OF THE BANNER AND POSTER.

P1(D): COPY OF THE BANNER AND POSTER.

**P2 : COPY OF THE ADVERTISEMENT IN MALAYALA MANORAMA NEWSPAPER
DTD.3.10.2011.**

**P2(A): COPY OF THE ADVERTISEMENT IN MALAYALA MANORAMA NEWSPAPER
DTD.25.12.2011.**

**P2(B): COPY OF THE ADVERTISEMENT IN MALAYALA MANORAMA NEWSPAPER
DTD.25.12.2011.**

**P2(C): COPY OF THE ADVERTISEMENT IN MALAYALA MANORAMA NEWSPAPER
DTD.27.12.2011.**

**P2(D): COPY OF THE ADVERTISEMENT IN MALAYALA MANORAMA NEWSPAPER
DTD.31.12.2011.**

P3 : COPY OF THE TREATMENT CARD DTD.13.12.2012.

**P4 : COPY OF THE REPRESENTATION DTD.1.7.2012 BEFORE THE 1ST
PETITIONER.**

P5 : COPY OF THE COMMUNICATION TO THE 4TH RESPONDENT DTD.6.7.2012.

**P6 : COPY OF THE REPLY FROM THE 5TH RESPONDENT TO THE 4TH
RESPONDENT DTD.15.8.2012.**

P7 : COPY OF THE MINUTES OF THE MEETING DTD.24.8.2012.

**P8 : COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE 5TH
RESPONDENT DTD.17.9.2012.**

**P9 : COPY OF THE EXPLANATION GIVEN BY THE 5TH RESPONDENT TO TOHE 4TH
RESPONDENT DTD.6.10.2012.**

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- P10: COPY OF THE MINUTES OF THE MEETING DTD.16.10.2012
- P11: COPY OF THE NOTICE ISSUED TO THE 5TH RESPONDENT DTD.12.11.2012.
- P12 : COPY OF THE NOTICE ISSUED TO THE 2ND PETITIONER DTD.12.11.2012.
- P13: COPY OF THE REPLY TO THE 4TH RESPONDENT DTD.6.12.2012.
- P14: COPY OF THE MINUTES OF THE MEETING OF THE 3RD RESPONDENT
DTD.14.12.2012.
- P15: COPY OF THE ORDER OF THE 3RD RESPONDENT DTD.31.1.2013.
- P16: COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT TO THE
3RD RESPONDENT DTD.19.8.2013
- P17: COPY OF THE ORDER OF THE RESPONDENTS 1 AND 2 DTD.27.12.2013.
- P18: COPY OF THE MINUTES OF THE MEETING DTD.14.2.2014.
- P19: COPY OF THE ORDER OF THE 3RD RESPONDENT DTD.9.4.2014.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S. TO JUDGE

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.21617 of 2014

Dated this the 20th day of March, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers:

"i. Issue a writ of certiorari calling for the records leading Exhibits P16,P17,P18 and P19 and quash the same;

ii. Declare that the 5th respondent is not entitled to practice dentistry as defined under Section 2(d) of the Dentists Act, 1948 owing to being guilty of infamous professional conduct and violation of Code of Ethics Regulations as found against him by the 5th respondent Exhibit P15;

iii. Render such other orders as are deemed fit and proper in the circumstances of the case."

2. Heard the learned counsel for the petitioners, learned counsel appearing for the 5th respondent and also the learned Government Pleader appearing for the State/Department.

3. The learned counsel for the petitioners points out that, it was pursuant to the steps taken by the petitioners that the atrocious action being pursued by the 5th respondent were brought to light, leading to appropriate orders passed against the

5th respondent. But on filing an appeal by the 5th respondent, the matter came to be finalised by the 1st respondent by passing Ext.P17, without giving any opportunity of hearing to the petitioners. This made the petitioners to approach this Court by filing the writ petition, challenging the impugned proceedings.

4. After hearing both the sides and also after going through the materials on records, particularly Ext.P12, it is seen that no notice whatsoever was issued to the petitioners with regard to the appeal stated as filed by the 5th respondent and no reference is there, as to any opportunity given to the petitioners to establish the facts and figures.

5. In the said circumstances, this Court does not require any second thought to hold that the matter requires to be reconsidered. Accordingly, Ext.P17 is set aside and the 1st respondent is directed to reconsider the matter in accordance with law, after affording an opportunity of hearing to the petitioners as well as the 5th respondent and other interested parties, if any. The proceedings as above shall be finalised at the earliest, at any rate, within 'three months' from the date of

receipt of a copy of this judgment.

Petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the 1st respondent, for further steps.

The writ petition is disposed of.

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

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