

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 29614 of 2015 (B)

PETITIONER(S):

1. GOVINDA BABU AMBADI,
(MINOR) S/O. OP. BABU, REPRESENTED BY FATHER OP. BABU,
NARAYANEYAM, LAKSHMI NARAYANA ENCLAVE,
KIZAKUMPATUKARA, THRISSUR - 680 005.
2. GOKUL BABU AMBADI, (MINOR)
S/O. OP. BABU, REPRESENTED BY FATHER O.P. BABU,
NARAYANEYAM, LAKSHMI NARAYANA ENCLAVE,
KIZAKUMPATUKARA, THRISSUR - 680 005.

BY ADV. SRI. M. DINESH

RESPONDENT(S):

1. THE COMMISSIONER, OFFICE OF THE COMMISSIONER FOR ENTRANCE
EXAMINATIONS (CEE), 5TH FLOOR, HOUSING BOARD BUILDING,
SANTHI NAGAR, THIRUVANANTHAPURAM 695 001.
2. STATE OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
REPRESENTED BY THE SECRETARY OF HIGHER EDUCATION 695 001.
3. THE CHAIRMAN,
THE ADMISSION SUPERVISORY COMMITTEE, RAM MOHAN PALACE,
HIGH COURT CAMPUS, KOCHI - 682 031.
4. ARCHBISHOP MAR ANDREWS THAZHATH,
PATRON AND CHAIRMAN, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH
INSTITUTE, JUBILEE MISSION HOSPITAL TRUST, (A VENTURE OF THE
ARCHDIOCESE OF TRICHUR) PB NO. 737, BISHOP ALAPPAT ROAD, JUBILEE
MISSION P.O., THRISSUR EAST - 680 005.

P.T.O.

5. FR. FRANCIS PALLIKUNATH,
DIRECTOR, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH INSTITUTE,
JUBILE MISSION HOSPITAL TRUST, (A VENTURE OF THE ARCHDIOCESE OF
TRICHUR) P.B. NO.737, BISHOP ALAPPAT ROAD, JUBILEE MISSION P.O.,
THRISSUR EAST - 680 005.
6. DR. BEENY JOSEPH,
CHIEF EXECUTIVE OFFICER, JUBILEE MISSION MEDICAL COLLEGE &
RESEARCH INSTITUTE, JUBILE MISSION HOSPITAL TRUST, (A VENTURE OF THE
ARCHDIOCESE OF TRICHUR) P.B. NO.737, BISHOP ALAPPAT ROAD, JUBILEE
MISSION P.O., THRISSUR EAST- 680 005.
7. DR. VK.RAMANKUTTY, M.D.,
PRINCIPAL, JUBILEE MISSION MEDICAL COLLEGE & RESEARCH INSTITUTE,
JUBILE MISSION HOSPITAL TRUST, (A VENTURE OF THE ARCHDIOCESE OF
TRICHUR) P.B. NO.737, BISHOP ALAPPAT ROAD, JUBILEE MISSION P.O.
THRISSUR EAST - 680 005.

R1 & R2 BY SENIOR GOVERNMENT PLEADER, SRI. ROSHAN D. ALEXANDER
R3 BY SMT.MARY BENJAMIN, SC, ADMISSION SUPERVISORY COMMITTEE.
R4 TO R7 BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM (SR.)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: A TRUE COPY OF THE PROSPECTUS ISSUED FROM THE 6TH RESPONDENT.
- EXHIBIT P2: A TRUE COPY OF THE MARK LIST OF THE 1ST PETITIONER ISSUED FROM CBSE IN THE YEAR 2015.
- EXHIBIT P3: A TRUE COPY OF THE MARK LIST OF THE 2ND PETITIONER ISSUED FROM CBSE IN THE YEAR 2015.
- EXHIBIT P4: A TRUE COPY OF THE LIST OF SELECTED APPLICANTS & WAITING LIST WILL BE PUBLISHED BY THE 6TH RESPONDENT ON 18.06.2015.
- EXHIBIT P5: A TRUE COPY OF THE NRI CATEGORY ADMISSION 2015 (ALLOTMENT NO.1) OF THE 6TH RESPONDENT.
- EXHIBIT P6 :A TRUE COPY OF THE NRI CATEGORY ADMISSION 2015 (ALLOTMENT NO.2) OF THE 6TH RESPONDENT.
- EXHIBIT P7: A TRUE COPY OF THE NRI CATEGORY ADMISSION 2015 (ALLOTMENT NO.3) OF THE 6TH RESPONDENT.
- EXHIBIT P8: A TRUE COPY OF THE ACTUAL RANK LIST OF CHRISTIAN CANDIDATES BASED ON PERCENTAGE OF PHYSICS CHEMISTRY BIOLOGY NORMALIZED 300 PUBLISHED BY THE 3RD RESPONDENT.
- EXHIBIT P9: A TRUE COPY OF THE ALTERNATION DONE BY THE 4TH TO 6TH RESPONDENT IN THEIR SITE.
- EXHIBIT P10: A TRUE COPY OF THE COMPLAINT FILED BEFORE THE 3RD RESPONDENT BY THE PETITIONERS.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

W.P.(C) No.29614 of 2015

Dated this the 30th day of September, 2015

JUDGMENT

Surendra Mohan, J.

The petitioners have filed this writ petition seeking the following reliefs:

"(i) Issue of a Writ of Certiorarified Mandamus calling for all the records relating to the selection list and allotment order to MBBS Course in 'Jubilee Mission Medical College & Research Institute, Thrissur-680005, Kerala State, under the NRI Quota for the academic year 2015-2016; which has been fraudulently drafted and manipulated with enhanced contribution of marks for some of the selected candidates under the NRI Quota for the academic year 2015-2016 and quash the same and consequently direct the respondents to allot seats to the Petitioners (1) and (2) in MBBS Course for the year 2015-16 in seats created as per the directions of the Supreme Court in Appeal (Civil) 5041 of 2005, "P.A.Inamdar & Ors v. State of Maharashtra & Ors on 12 August, 2005".

(ii) Issue a writ of seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the allotment order of the respondents and quash the same in so far as the Petitioners (1) and (2)'s Physics Marks have been fraudulently entered

even after the detailed scrutiny to assess the relative merits of the candidates before being selected for admission; claimed to be undertaken in the with submitted records of Marks List of the Petitioners (1) and (2) as per the Information Brochure & Instructions to the applicants. Such grant other and further reliefs as this Hon'ble Court deems fit and proper in the circumstances of this case."

2. According to the petitioners, they had applied for admission to the M.B.B.S Degree Course conducted by the 'Jubilee Mission Medical College & Research Institute, Thrissur', for the academic year 2015-2016. The petitioners had sought admission in the quota reserved for Non Resident Indians (NRI quota, for short). According to the petitioners, their applications were considered and the College had adopted a normalization procedure in respect of the marks obtained by them at the qualifying examination and had ranked them according to their merit. Ext.P7 reflects the position of the petitioners, at the time of the third allotment. Ext.P7 is dated 04.07.2015. The names of the petitioners appear as Sl.Nos.1 and 5 in the Waiting List of the category "Open Merit". The petitioners complained that though Sl.Nos.5, 6 and 7 in the Open Category who were admitted, as evident from Ext.P7,

are also persons who have been allotted 95.33 marks, the petitioners who have been allotted the very same marks have been excluded while granting admission. It is further pointed out that, various other persons who were ranked below them have been admitted, as evident from Ext.P9, under the quota for Christian community. The procedure adopted by the College is, according to the petitioners, arbitrary and liable to be set aside.

3. According to Advocate Sri. M. Dinesh, who appears for the petitioners, the Hon'ble Supreme Court has in '**P.A. Inamdar & Others v. State of Maharashtra & Others**' [(2005) 6 SCC 537] held that, such admissions should be solely based on merit. In the present case, according to the learned counsel, merit has been the casualty and admissions have been made in accordance with the whims and fancies of the College. It is contended that, there is absolutely no indication as to the manner in which marks had been added on or reduced in the case of various candidates, as visible in Ext.P9. Therefore, according to the learned counsel, this is a fit case in which interference with the admission process is expedient.

4. Sri. Kurian George Kannamthanam, learned Senior Counsel appears on behalf of Respondents 4 to 7 having been served with a copy of the writ petition. Smt. Mary Benjamin appears for the 3rd Respondent. Learned Senior Government Pleader, Sri. Roshan D. Alexander appears for Respondents 1 and 2. The matter is posted before us for admission. We have heard the respective counsel.

5. In the first place, the petitioners have filed this writ petition only on 29.09.2015. The matter has been posted before us today, the last date stipulated by the Hon'ble Supreme Court for completing admissions to Medical Courses. We notice from Ext.P7 that, the same relates to the third allotment that was conducted by the College wherein the petitioners have been ranked as Nos.1 and 5 in the Waiting List. According to the learned Senior Counsel Sri. Kurian George Kannamthanam, there were no vacancies available, after the said date in the NRI Quota. Therefore, absolutely no occasion for making any further admissions on the basis of Ext.P7 had arisen. Had the complaints of the petitioners been genuine, they should have filed the writ petition sufficiently early, so as to have enabled the Respondents to contest the

case put forward. According to the learned Senior Counsel, six Open Category seats out of 15 seats available under the NRI Quota, are reserved for the students belong to the Christian Community, five seats are reserved for candidates belonging to Christian Community. Two seats are reserved for students belonging to Thrissur Arch Diocese. Two seats are reserved for the children of Staff. The seats have been filled up following the above categorization, strictly on the basis of *inter se* merit of the applicants in the said category. The details of the normalization process of marks adopted, are not available and there is also no time for obtaining instructions in that regard. Had the petitioners been serious, they would have approached this Court sufficiently early.

6. In view of the above, we accept the explanation of the learned Senior Counsel that the persons who have been admitted in the respective Quota reserved for each category were admitted on the basis of the *inter se* merit among the applicants in each category. The petitioners belong to the Open Category. Since no seats had fallen vacant after the date of Ext.P7 and no other candidate having lesser marks than the writ petitioner has been admitted in the Open

Category, we find no substance in the complaint raised.

For the above reasons, this writ petition is dismissed.

Sd/-
K. SURENDRA MOHAN
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-
30.09.2015