

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 30186 of 2015 (W)

PETITIONER(S) :

FAYIS.V.P., AGED 20 YEARS
S/O. FOUSIYA PARAMBAN, PARAMBAN HOUSE, PALLIKKUNNU
AMARAMBALAM P.O., MALAPPURAM DISTRICT - 679 336.

BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI
SMT.ANJANA KANNATH

RESPONDENT(S) :

1. THE COMMISSIONER FOR ENTRANCE EXAMINATIONS,
OFFICE OF THE COMMISSIONER FOR ENTRANCE EXAMINATIONS,
HOUSING BOARD BUILDINGS, SANTHI NAGAR
THIRUVANANTHAPURAM - 695 001.

2. ADMISSION SUPERVISORY COMMITTEE FOR PROFESSIONAL
COLLEGES IN KERALA,
ERNAKULAM OFFICE, RAM MOHAN PALACE,
OLD HIGH COURT BUILDING, ERNAKULAM - 682 031
REPRESENTED BY ITS CHAIRMAN.

3. MALABAR MEDICAL COLLEGE HOSPITAL & RESEARCH CENTRE,
MODAKKALLUR P.O., ATHOLI (VIA), KOZHIKODE 21
REPRESENTED BY ITS CHAIRMAN.

4. THE PRINCIPAL
MALABAR MEDICAL COLLEGE HOSPITAL & RESEARCH CENTRE
MODAKKALLUR P.O., ATHOLI VIA, KOZHIKODE - 21.

5. THE PRINCIPAL,
GOVERNMENT DENTAL COLLEGE, VANDANAM
ALAPPUZHA DISTRICT, PIN - 688 005.

6. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO HEALTH DEPARTMENT
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

7. KUMARI ARPITHA ANOOP, 1ST YEAR STUDENT IN MBBS COURSE,
MALABAR MEDICAL COLLEGE HOSPITAL & RESEARCH CENTRE,
MODAKKALLUR P.O., ATHOLI (VIA),
KOZHIKODE - 21, RESIDING AT ASHIYANA,
CHORCHAPALAM, PANTHALAYANI,
KOYILANDI, KOZHIKODE.

R3&4 BY ADVS.SRI.P.SANJAY

SMT.A.PARVATHI MENON

R BY GOVERNMENT PLEADER SRI.P.M.SANEER

R2 BY SMT.MARY BENJAMIN, SC, ADMISSION SUPERVISORY COMMI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1- TRUE COPY OF THE REPRESENTATION DT. 30.9.2015 SUBMITTED BY THE PETITIONER TO THE HON'BLE MINISTER FOR HEALTH AND THE ENDORSEMENT MADE BY THE HON'BLE MINISTER.

P2 - TRUE COPY OF THE COMMUNICATION SENT BY THE PETITIONER THROUGH HIS BROTHER'S E-MAIL TO THE OFFICE OF THE 3RD RESPONDENT COLLEGE.

P3 - TRUE COPY OF THE COMPLAINT DT. 01.10.2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

P4 - TRUE COPY OF THE COMPLAINT DT. 01.10.2015 SUBMITTED BY THE PETITIONER BEFORE THE SUB INSPECTOR OF POLICE, ATHOLY.

P5 - TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE SUB INSPECTOR OF POLICE, ATHOLY.

RESPONDENT(S) ' EXHIBITS : NIL

/TRUE COPY/

P. A. TO JUDGE

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

W.P.(C).No.30186 of 2015

Dated this the 29th day of October, 2015.

J U D G M E N T

Surendra Mohan, J.

The petitioner is before us complaining that, despite having been allotted to the MBBS Course for the academic year 2015, he has not been given admission by the 3rd respondent Medical College. He has therefore sought for the following reliefs :

- i) Issue a writ of mandamus or any other appropriate writ order or direction, directing the respondents to give admission to the petitioner for 1st year MBBS course as per the allotment issued by the 1st respondent in the 3rd and 4th respondent medical college;*
- ii) to set aside the allotment of seat to Kumari Arpitha Anoop, the additional 7th respondent herein in the place of the petitioner in the respondents 3 and 4 college and admit the petitioner in the 1st year MBBS course in the 3rd and 4th respondents College;*

2. According to the petitioner, he had appeared for the Entrance Examinations for the year 2014. On the strength of his rank at the Entrance Examination, he had obtained admission to the Medical College, Alappuzha for the BDS

Degree Course. He again appeared for the Entrance Examination (KEAM 2015). As per Ext.P2 allotment memo, he was granted admission to the 3rd respondent College by the 1st respondent. It is the case of the petitioner that, he was allotted the said admission only at 10 p.m on 28.09.2015. Immediately he approached the Medical College, Alappuzha seeking return of his original documents, the production of which were necessary to complete the formalities of the admission to the 3rd respondent College. However, the Principal of the Medical College, Alappuzha refused to return the said documents. Thereupon, the petitioner had to approach the concerned Minister and obtain necessary orders. According to the petitioner, all the documents made mention of by Ext.P2 allotment memo were forwarded by the Principal of the Medical College, Alappuzha to the 3rd respondent on 30.09.2015. However, the petitioner could not personally reach the College of the 3rd respondent before 5 p.m. on the said date. Though he approached the College Authorities on the next day, they informed him that, he could not be given admission and that, the seat had been filled up by admitting the 7th respondent. The petitioner is aggrieved by the said action.

3. According to Sri.K.M.Sathyanatha Menon who appears for the petitioner, the 3rd respondent College had entered into an agreement with the Government only on 27.09.2015. It was for the above reason that, the issue of Ext.P2 allotment memo was delayed up to 28.09.2015. The delay caused in the issue of the allotment memo has placed the petitioner in the present situation, where he has been denied the admission that was legitimately due to him. It is further contended that, he had produced all the necessary documents, online. He had also remitted the entire amount of fees payable by him before 5 p.m on 30.09.2015. The only omission on his part was that he was not physically present at the College before 5 p.m on 30.09.2015. The above being the position, according to the learned counsel, this is a fit case in which interference of this Court is called for to secure the admission that was granted to him by the 1st respondent.

4. A counter affidavit has been filed on behalf of respondents 3 and 4. According to the counter affidavit, Ext.P2 allotment memo has listed a number of documents that the petitioner had to produce and he also had to satisfy the authorities about his physical fitness. The petitioner did not

produce all the documents listed in Ext.P2. Nor did he present himself personally for completing the admission process as required by the relevant Government Order. It is pointed out by the counsel for respondents 3 and 4, Smt.Parvathi Sanjay that, Clause 4 of Ext.R3(a) Government Order stipulates 5 p.m on 30.09.2015 as the time within which a candidate allotted by the 1st respondent shall take admission to the allotted College. The seats remaining unfilled at 5 p.m. on the said date, shall revert to the Educational Agency. Thereupon, the Educational Agency is entitled to fill up such seats by admitting eligible candidates from the list of KEAM 2015. Since the petitioner had not completed his admission process before the cut off date, the seat had lapsed and has been filled up by admitting the 7th respondent. The procedure adopted, according to the learned counsel for the 3rd respondent, is fully justified. The petitioner, not having complied with the formalities required for completing his admission, is not entitled to seek any orders from this Court for admitting him to the seat in question, it is contended. It is also pointed out by the learned counsel that, going by the statements in Ext.P4, a complaint made by the petitioner to the Sub Inspector of Police, Atholi, he had

approached the College Authorities only on the next day that is on 01.10.2015. For the above reasons, according to the learned counsel, the writ petition is only to be dismissed.

5. Heard. It is no doubt true that, as per Ext.P2, the petitioner had been allotted to the 3rd respondent College to the MBBS Degree Course for the year 2015. However, a perusal of Clause 4 of Ext.R3(a), the Government Order issued incorporating the terms of the consensual agreement entered into between the College and the Government shows that, the Government seats remaining unfilled after 5 p.m on 30.09.2015 would revert back to the Educational Agency, to be filled up by eligible candidates from the rank list of KEAM 2015. In the present case, the petitioner had not been present before the 3rd respondent, personally before 5.p.m on 30.09.2015 as admitted in the writ petition as well as in Ext.P4. The case of the petitioner is that, he had obtained all the necessary documents listed in Ext.P2 and had submitted them, online on 30.09.2015 itself. A perusal of Exts.P3 and P4 shows that the petitioner had made the online submissions only at 4.45 p.m on 30.09.2015. According to the learned counsel for the 3rd respondent, even the online submissions did not contain all the

documents listed in Ext.P2 allotment memo. Further, the petitioner also was not personally present to complete the formalities of the admission. As evident from Exts.P3 and P4, he had started his journey from Thiruvananthapuram only at 7.30 p.m on 30.09.2015 and had reached Kozhikode only in the morning of 01.10.2015. The above being the factual situation, it cannot be said that the petitioner had complied with the requirements of completing the process of admission in accordance with Ext.P2 allotment memo before the cut off date 30.09.2015. Therefore, his seat had remained vacant and had reverted back to the 3rd respondent. According to the 3rd respondent, the 7th respondent has been admitted to the said seat. We do not find any infirmity in the said course of the 3rd respondent, warranting interference.

For the foregoing reasons, we do not find any grounds to grant any of the reliefs sought for in this writ petition. Accordingly, this writ petition is dismissed.

The learned counsel for the petitioner expresses an apprehension that, the petitioner may lose the amount of fees that he has remitted pursuant to Ext.P2 allotment memo. Needless to observe that, the 1st respondent shall return the

said amount to the petitioner, expeditiously on the petitioner submitting necessary application for the purpose. The amount shall be returned within a period of one month of the petitioner completing the necessary formalities for return of the fees.

Sd/-
K. SURENDRA MOHAN, JUDGE

Sd/-
SHAJI P.CHALY, JUDGE

AV