

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 30612 of 2014 (B)

PETITIONER :

DR.JOSE ISAAC, LECTURER,
DEPARTMENT OF ORGANON OF MEDICINE,
GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S):

1. GOVERNMENT OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF HEALTH AND FAMILY WELFARE,
DEPARTMENT OF INDIAN SYSTEMS OF MEDICINE AND HOMOEOPATHY,
RED CROSS BUILDING, NEW DELHI. PIN-110 001
2. CENTRAL COUNCIL OF HOMOEOPATHY,
REP. BY ITS SECRETARY, I.R.C.S BUILDINGS,
NEW DELHI -110 001.
3. THE PRESIDENT,
CENTRAL COUNCIL OF HOMOEOPATHY,(AYUSH)
IRCS BUILDINGS, NEW DELHI -110 001.
4. UNIVERSITY OF KERALA,
REP. BY ITS REGISTRAR, THIRUVANANTHAPURAM-695 001

***ADDL.R5 IMPEADED**

***ADDL.R5: THE KERALA UNIVERSITY OF HEALTH SCIENCES,
REP. BY ITS REGISTRAR, MULANKUNNATHUKAVU,
THRISSUR-680 001**

***ADDL.R5 IS IMPEADED AS PER ORDER DATED 26/11/2014 IN IA.NO.16180/14.**

**R1 TO R3 BY ASSISTANT SOLICITOR GENERAL SRI.N.NAGARESH
R4 BY STANDING COUNSEL SRI.BECHU KURIAN THOMAS
ADDL.R5 BY STANDING COUNSEL SRI.P.SREEKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 COPY OF THE LETTER SENT BY THE 4TH RESPONDENT TO
DR. ALOK KUMAR.
- EXHIBIT P2 COPY OF THE LETTER SENT BY THE 2ND RESPONDENT TO THE
PETITIONER DATED 8/11/2005
- EXHIBIT P3 COPY OF THE LETTER SENT BY THE 2ND RESPONDENT TO THE
PETITIONER DATED 18/5/2006
- EXHIBIT P4 COPY OF THE RELEVANT PAGES OF THE NOTIFICATION DATED
9/10/2006
- EXHIBIT P5 COPY OF THE JUDGMENT IN WPC.NO. 21031/07 OF THIS HON'BLE
COURT
- EXHIBIT P6 COPY OF THE NOTICE ISSUED BY THE CENTRAL COUNSEL OF
HOMEOPATHY.
- EXHIBIT P7 COPY OF THE LIST OF MEMBERS.
- EXHIBIT P8 COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE
3RD RESPONDENT DATED 11/11/2014

RESPONDENT(S)' EXHIBITS

- EXHIBIT R4(A) COPY OF THE NOTIFICATION NUMBERED AS AC.A.III/1/2013
ISSUED BY THE 4TH RESPONDENT.

/TRUE COPY/

P.S.TO.JUDGE

sts

K.Vinod Chandran, J.

W.P.(C).No.30612 of 2014-B

Dated this the 13th day of March, 2015

JUDGMENT

The petitioner was elected to the Faculty of Homoeopathy in the Kerala University in January, 2004. The petitioner, on the basis of the election to the Faculty, was nominated to the Central Council of Homoeopathy. The term of office, on election to the Faculty of Homoeopathy, is a period of three years. The term of a person nominated to the Central Council of Homoeopathy is for a period of five years. However, the continuation of the nomination in the Central Council would depend upon the valid continuance in the Faculty.

2. The Homoeopathy Central Council Act, 1973; Clause (4) of Section 7, *inter alia* provides that on the expiry of the term of a person elected under clause (b) of Section 3, to be a member of the Faculty or department of Homoeopathy of the University concerned, his membership in the Central Council would be deemed to be vacated.

3. Admittedly, the petitioner's election to the Faculty was in January, 2004, which stood expired in January, 2007. The petitioner was nominated to the Central Council on 18.05.2006. His nomination to the Central Council, ordinarily, would stand vacated on the expiry of the term in the Faculty of the University.

4. The petitioner was before this Court with W.P.(C). No.21031 of 2007, contending that he is entitled to continue for the five year term in the Central Council. The matter was heard finally and disposed of by judgment at Exhibit P5. It is to be noticed here that, in the meanwhile the Faculties of General Medicine, Homoeopathy, Ayurveda, etc., conducted by Kerala University, as also other Universities, *inter alia*, were transferred to the Kerala University of Health and Allied Sciences, specifically in 2010. Medical education henceforth was under the said University. The said University was not made a party in Exhibit P5. This Court, on a consideration of the writ petition, found that the petitioner would be entitled to continue as a member of the Central Council till a new person is elected to the Faculty. In fact, it was not brought to the notice of the Court that the Kerala University, when the writ petition was disposed of, had no authority to

nominate a member to the Central Council of Homoeopathy. The power was vested with the Kerala University of Health and Allied Sciences.

5. The learned Standing Counsel for the Kerala University of Health and Allied Sciences appears and contends that a person was nominated to the Central Council of Homoeopathy by the said University and he is now holding office validly as per a nomination made by the University.

6. The petitioner continues to be member of the Faculty of Homoeopathy of Kerala University for reason of the courses commenced under the Kerala University having not been completed. The petitioner seeks participation in the election now proposed to Central Council and is aggrieved by the non-inclusion of his name in Exhibit P7 members of the Central Council.

7. There is no reason why the petitioner should be allowed to continue in the Central Council of Homoeopathy, since there is now a valid nomination made by the Kerala University of Health and Allied Sciences. The petitioner also ceases to be an elected member of the Faculty of the Kerala University. His nomination to the Central Council is extinguished on the Medical

education in the Kerala University, being transferred to the Kerala University of Health and Allied Sciences, who has made fresh nomination.

The writ petition is devoid of merit and would stand dismissed. No costs.

Sd/-
K.Vinod Chandran,
Judge

vku.

[true copy]