

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 30550 of 2015 (P)

PETITIONER:

ASWATHY A.R AGED 21 YEARS
D/O. AJITHA R., A.R.BHAVAN, KONNIYOOR
PUNALAL P.O., POOVACHAL, THIRUVANANTHAPURAM-695 575.

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENTS:

1. SECRETARY
DEPARTMENT OF HIGHER EDUCATION, THE STATE OF KERALA
THIRUVANANTHAPURAM.
2. THE COMMISSIONER OF ENTRANCE EXAMINATIONS
SANTHI NAGAR, THIRUVANANTHAPURAM-695 001.
3. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM-695 001.

BY SPL.GOVERNMENT PLEADER SRI ROSHAN D. ALEXANDER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 30550 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF THE LAST OPTION DTD.16.9.2015 SUBMITTED BY THE PETITIONER.
P2 : COPY OF THE ALLOTMENT MEMO ISSUED BY THE 2ND RESPONDENT
PROPOSING THE BDS COURSE IN AZEEZIA COLLEGE OF DENTAL SCIENCE AND
RESEARCH, DIAMOND HILLS, KOLLAM.
P3 : COPY OF THE GO(RT)NO.2708/2015H&FW THIRUVANANTHAPURAM,
DTD.20.8.2015.

RESPONDENT(S)' EXHIBITS

NIL

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True copy

P.S. (Hr.Gr.)To Judge

**P.N. RAVINDRAN
&
BABU MATHEW P. JOSEPH, JJ.**

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W.P.(C) No. 30550 of 2015

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Dated this the 9th day of October, 2015

JUDGMENT

P.N. Ravindran,J.

The petitioner, who is presently undergoing the BDS course in Azeezia College of Dental Science and Research, Diamond Hills, Kollam (against a Government seat) pursuant to the allotment made by the Commissioner for Entrance Examinations, Kerala, has filed this writ petition challenging the stipulation in paragraph 4 of Ext.P3 Government order dated 20.8.2015 that the Commissioner for Entrance Examinations will not re-allot students already allotted to a College and admitted in the College either by the Commissioner for Entrance Examinations or member colleges after the final allotment. It is contended that as a result of the aforesaid stipulation, the petitioner is disabled from pursuing the higher and lower options given by her in Ext.P1 option list. It is also contended that the aforesaid stipulation is arbitrary and discriminatory and offends the

petitioner's fundamental rights guaranteed under Article 14 of the Constitution of India. It is also stated that the aforesaid stipulation applies only to Dental Colleges in the self-financing sector and not to Government Dental Colleges and therefore it is arbitrary and discriminatory.

2. The issue raised by the petitioner is covered by the decision of a Division Bench of this court in **Hanna Thasnim.K.V. v. State of Kerala ILR 2014(2)Ker.388**. The challenge to the validity of a similar stipulation contained in GO(Rt) No.3271/2013/H&FWD dated 24.9.2013 produced in the said case, namely W.P.(C)No.23893 of 2013 as Ext.R2(c) was repelled by the Division Bench. That apart, there is also yet another reason why the challenge to the aforesaid stipulation is without any merit. It is common knowledge that in view of the orders issued by the Apex Court, admissions to the Medical Colleges have to be completed by 30th September of every calendar year. The stipulation in paragraph 4 of Ext.P3 is that the final allotment by the Commissioner for Entrance Examinations against Government seats in Self Financing Colleges has to be made on or before the 20th day of September. The seat sharing agreements entered into between the State Government on the one hand and the managements of Self Financing Dental Colleges/Self

Financing Medical Colleges on the other hand contains a stipulation that it is open to the managements to make admissions to the unfilled Government seats also, if there are no candidates for Government seats in the Self Financing Colleges. The managements will not be in a position to fill up the vacant Government seats if any by admitting candidates after 30th September. It is to prevent that contingency from happening that the Government have stipulated in paragraph 4 of Ext.P3 Government order that the final allotment will be made to the member colleges on or before 20th September and that the Commissioner will not re-allot students already admitted to the college either by the Commissioner for Entrance Examinations or the member colleges after the final allotment. In other words, it is to give the managements elbow room to make admissions against the unfilled Government seats if any that the Government have stipulated that no re-allotment will be made after the final allotment is made by the Commissioner on or before 20th September. The petitioner, who opted for admission to a Government seat in a Self Financing Dental College, knowing full well the terms of Ext.P3 Government order and joined the said college on 19.9.2015 pursuant to the allotment made by the Commissioner for Entrance Examinations on 17.9.2015, cannot in our opinion, be heard to

contend that the stipulation in Ext.P3 violates her fundamental rights.

3. It is evident from the stipulations in paragraph 7 of Ext.P3 Government order that it was with a view to enable the management to fill up unfilled Government seats, that the date for final allotment by the Commissioner has been fixed as 20th September. In the light of the binding decision of this court referred to above and the purpose underlying the impugned stipulation, we are not persuaded to hold that the aforesaid stipulation is in any way arbitrary or discriminatory. As held by the Division Bench, candidates who have opted for admission to Government Colleges alone and candidates who have opted for self financing colleges along with Government colleges constitute different classes and therefore, the petitioner cannot contend that the stipulation in paragraph 4 of Ext.P3 Government order is arbitrary and discriminatory.

For the reasons stated above, we hold that there is no merit in the writ petition. It fails and is accordingly dismissed.

Sd/-
P.N. RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

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