IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947

WP(C) NO.4994 OF 2023

PETITIONER:

JIJO THANKACHAN
AGED 31 YEARS, S/O. THANKACHAN,
OLIANICKAL HOUSE, KUTHUKUZHY P.O.,
KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN - 686691.
(LAB ASSISTANT, NEWMAN COLLEGE, THODUPUZHA – 685584,
IDUKKI DISTRICT.)

BY ADVS.
K.T.THOMAS
MATHEW BOB KURIAN

RESPONDENTS:

1 **STATE OF KERALA**
REP. BY ITS SECRETARY,
DEPARTMENT OF HIGHER EDUCATION, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM - 695001, KERALA.

2 **DIRECTOR OF COLLEGIATE EDUCATION**
DIRECTORATE OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, THIRUVANANTHAPURAM - 695033, KERALA.

3 **DIRECTOR OF HEALTH SERVICE**
DIRECTORATE OF HEALTH SERVICES,
GENERAL HOSPITAL JUNCTION,
THIRUVANANTHAPURAM – 695 035, KERALA.

4 **DEPUTY DIRECTOR OF COLLEGIATE EDUCATION**
DEPUTY DIRECTORATE OF COLLEGIATE EDUCATION,
HOSPITAL ROAD, ERNAKULAM - 682011, KERALA.

5 **DISTRICT MEDICAL OFFICER (HEALTH)**
OFFICE OF DISTRICT MEDICAL OFFICER,
ERNAKULAM - 682011, KERALA.

**6 SECRETARY TO GOVERNMENT
DEPARTMENT OF HEALTH & FAMILY WELFARE,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695001, KERALA.**

BY SRI.T.JAYAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Petitioner, who was working as Lab Assistant in an aided college met with an accident on 05.11.2021 and was treated at the hospital, which issued the certificate attached to Ext.P1. A perusal of Ext.P1 would show that the petitioner was presented to the Emergency department subsequent to the accident and was diagnosed to be in a critical state, not suitable for shifting to any other hospital, and hence admitted in the Intensive Care Unit (ICU) and taken for surgery on 05.11.2021. Later, the petitioner sought for reimbursement of the medical expenses and the Government by Ext.P2, placing reliance on Ext.P5 circular, sought to deny the claim, essentially stating that the petitioner availed the treatment facility from a hospital, which was not in the approved list of the Government. It is in such circumstances that the captioned writ petition is filed by the petitioner.

2. Heard Sri.K.T.Thomas, learned counsel for the petitioner and Sri.T.Jayan, learned Government Pleader.

3. The facts are not in dispute. The petitioner admits that the hospital where he undertook the treatment as well as the surgery was not included in the list of hospitals approved by the Government. However, this Court cannot lose sight of the fact that the petitioner was in a very critical state and hence he could not be shifted to any other hospital, as certified by the hospital concerned.

4. In such circumstances, the issue has to be considered with reference to the law laid down by this Court in **Prasad K.G.** v. **State of Kerala [2023 KHC 664]**. That was also a case where the claim made by the Principal of a school, almost in identical circumstances, was rejected placing reliance on the very same circular - Ext.P5. This Court took note of the emergent situation, which led the petitioner therein to avail the treatment in a non-approved hospital, and in paragraph 15 found that the Government had a constitutional obligation to provide health facilities in circumstances of the like nature where emergent intervention is required, making claimant eligible for the reimbursement

of the treatment expenses.

5. Hence, I am of the opinion that the principle laid down in the afore judgment is squarely applicable to the facts and circumstances of the case at hand. I also notice that the afore judgment of this Court has been confirmed by a Division Bench in W.A. No.2105 of 2023, as per judgment dated 23.01.2024.

Resultantly, the petitioner is entitled to succeed, and this writ petition would stand allowed by setting aside Exts.P2 and P3 and by directing the respondents herein to consider the application filed by the petitioner to reimburse the expenses in tune with the principles laid down in the judgment of this Court referred to above.

Needless to say, the reimbursement, as above, is to be effected as expeditiously as possible, at any rate within a period of eight weeks from today.

Sd/-

HARISANKAR V. MENON, JUDGE

Skk

APPENDIX OF WP(C) NO.4994 OF 2023

PETITIONER'S EXHIBITS:

EXHIBIT-P1	**TRUE COPY OF THE APPLICATION DATED 07.02.2022 SUBMITTED BY PETITIONER WITHOUT BILLS TO 1ST RESPONDENT**
EXHIBIT-P2	**TRUE COPY OF THE COMMUNICATION DATED 23.09.2022 ISSUED BY 1ST RESPONDENT TO 2ND RESPONDENT**
EXHIBIT-P3	**TRUE COPY OF THE COMMUNICATION DATED 03.10.2022 ISSUED BY 2ND RESPONDENT TO PRINCIPAL OF THE COLLEGE**
EXHIBIT-P4	**TRUE COPY OF THE CIRCULAR DATED 11.07.2012 ISSUED BY GOVERNMENT OF KERALA**
EXHIBIT-P5	**TRUE COPY OF THE CIRCULAR DATED 12.06.2020 ISSUED BY GOVERNMENT OF KERALA**