

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2020 / 8TH ASWINA, 1942

WP(C).No.3702 OF 2018(k)

PETITIONER:

THE PRINCIPAL, KARUNA MEDICAL COLLEGE,
VILAYODI, CHITUR, PALAKKAD DISTRICT.

BY ADVS.

SRI.GEORGE POONTHOTTAM (SR.)
SMT.NISHA GEORGE

RESPONDENTS:

- 1 THE KERALA UNIVERSITY OF HEALTH SCIENCES,
MULANGUNNATHUKAVU, MEDICAL COLLEGE P.O., THRISSUR-680
596, REPRESENTED BY ITS REGISTRAR.
- 2 THE CONTROLLER OF EXAMINATIONS,
KERALA UNIVERSITY OF HEALTH SCIENCES,
MULANGUNNATHUKAVU, MEDICAL COLLEGE P.O.,
THRISSUR-680596.

R1 BY SRI.P.SREEKUMAR, SC, KERALA UNIVERSITY HEALTH
AND ALLIED SCIENCE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.09.2020, ALONG WITH WP(C).1513/2017(L), WP(C).20190/2020(W),
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2020 / 8TH ASWINA, 1942

WP(C).No.1513 OF 2017

PETITIONER:

THE PRINCIPAL,
KARUNA MEDICAL COLLEGE, VILAYODI,
CHITTUR, PALAKKAD DISTRICT.

BY ADV. SRI.GEORGE POONTHOTTAM (SR.)

RESPONDENTS:

- 1 KERALA UNIVERSITY OF HEALTH SCIENCE
MULANGUNNATHUKAVU, MEDICAL COLLEGE P.O, THRISSUR -
680596, REPRESENTED BY ITS REGISTRAR.
- 2 THE CONTORLLER OF EXAMINATIONS,
KERALA UNIVERSITY OF HEALTH SCIENCES,
MULANGUNNATHUKAVU, MEDICAL COLLEGE P.O,THRISSUR -
680596

R1 BY SRI.P.SREEKUMAR,SC,KERALA UNIVERSITY HEALTH
AND ALLIED SCIENCE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.09.2020, ALONG WITH WP(C).3702/2018(k), WP(C).20190/2020(W),
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2020 / 8TH ASWINA, 1942

WP(C).No.20190 OF 2020(W)

PETITIONER:

THE PRINCIPAL,
KANNUR MEDICAL COLLEGE,
ANJARAKANDY INTEGRATED CAMPUS,
ANJARAKANDY, KANNUR-670612.

BY ADVS.
SRI.GEORGE POONTHOTTAM (SR.)
SMT.NISHA GEORGE
SRI.VISHNU B.KURUP

RESPONDENTS:

- 1 THE KERALA UNIVERSITY OF HEALTH SCIENCES,
MULANGUNNATHUKAVU, MEDICAL COLLEGE P.O.,
THRISSUR-680596, REPRESENTED BY ITS REGISTRAR.
- 2 THE CONTROLLER OF EXAMINATIONS,
KERALA UNIVERSITY OF HEALTH SCIENCES,
MULANGUNNATHUKAVU, MEDICAL COLLEGE P.O.,
THRISSUR-680596.

R1-2 BY SRI.P.SREEKUMAR, SC, KERALA UNIVERSITY OF
HEALTH SCIENCES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.09.2020, ALONG WITH WP(C).1513/2017(L), WP(C).3702/2018(k),
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

These writ petitions on behalf of Medical Colleges have been filed for issuance of writ in the nature of mandamus to respondent Nos.1 and 2 i.e., the Kerala University of Health Sciences and Controller of Examinations and direction to the respondent University to open the online registration for supplementary examination for submitting attendance and internal assessment of student admitted by the petitioner with a further direction to allow the students to attend all the examinations.

2. The sum and substance of the writ petition (W.P.(C) No.3702 of 2018) in short is that the students of the aforementioned college was selected from the rank list prepared by the State Entrance Commissioner for admission to the Medical course, for the year 2015. They were given admission pursuant to the application invited by the college and selected them on the basis of their merit. Admissions to the college for the year 2015-16

were made strictly on the basis of inter se merit i.e., on the basis of academic credentials and verified by the University. The University though insisted for approval from the Admission Supervisory Committee.

3. Mr. George Poonthottam, learned Senior Counsel for the petitioner submits that the Admission Supervisory Committee, under Section 4 of Kerala Professional Colleges or Institutions (Prohibition of Capitation fee, Regulation of Admission, Fixation of Non-exploitative Fee and other Measures to Ensure Equity and Excellence in Professional Education) Act, 2006 insisted for the approval for students to register with the Universities for the purposes of Examinations. It was not a legal requirement. It was challenged before this Court and the Division Bench of this Court upheld the said stand of Committee. Against the aforementioned judgment, Special Leave Petition(SLP) converted into Civil Appeal Nos.14025 & 14026 of 2015 has been preferred, which is pending consideration. However, vide interim applications No.9 & 10 of 2016,

prayer was made for participating the examination starting from 04.08.2016. The Honourable Supreme Court vide order dated 19.01.2017 permitted the students to participate in the examination, but the result was ordered to be declared provisionally as well as the admission to the next semester subject to final decision of the Hon'ble Supreme Court. Vide interim applications No.5 & 6 of 2020 dated 28.09.2020 notification dated 27.08.2020, Ext.P31 (in W.P.(C)No.3702 of 2018) has been placed on record, which is subject to all exceptions, whereby the online registration has started only with effect from 28.09.2020 and last date of receipt of printout of attendance report, internal assessment report was fixed as 10.10.2020. But the students admitted were not allowed to register themselves online as there is no such provision in the web portal. This anomaly was pointed out from time to time and in this background the series of interim applications had been filed. Even the college had to approach this Court by separate writ petition

No.20190/2020, whereby this Court noticing the aforementioned contentions, directed the University to open the online registration of students of petitioner's college as are contained in Ext.P15 list, for submitting their attendance for internal assessment, so as to enable them to register themselves in the examination notified as per Ext.P14 on a provisional basis, pending disposal of the writ petition and granted liberty to approach this Court after the examinations are conducted, for appropriate orders. It is submitted that this impasse is perpetual and is required to be put *in res*. The threat of COVID-19 pandemic has increased ex-prudentially and is very difficult for the parents to shell out during this calamity and seeks the indulgence of this Court for the issuance of appropriate directions to the University.

4. On the other hand, learned counsel appearing on behalf of the university, on instructions from Vice Chancellor/Registrar has been undertaking to this Court that the additionally admitted students from time to time

would be allowed to be registered on online web-portal and there would be an amendment in the web-portal making a closest process for such kind of students to register online for the purpose of attendance and internal assessment and attending the examination. The course would be subject to the outcome of the pending SLP, whereby the goal of the Admission Supervisory Committee is pending consideration. Even the result would also be declared from time to time subject to the condition aforementioned.

5. Keeping in view the stand taken by the University the Registry is directed to place on record the copy of the writ petition No.20190 of 2020 for causing effective order and instructions. W.P.(C) No.20190 of 2020 filed by the another college is also ordered to be disposed of along with these writ petitions.

In view of the undertaking offered by the learned counsel for the respondents on the basis of the instructions received from the Registrar of the University, I

dispose of these writ petitions by issuing directions to the respondents to allow the online registration of the students ie., additionally admitted students in the year 2015-16, through online for the purpose of the attendance, internal assessment and also permit them to sit for the examinations as and when the notification for such process is completed. The result of the above mentioned students also to be declared. Entire exercise on the provisional result, as per the undertaking of the University, would be subject to the outcome of the pending civil appeal, as referred above. Liberty is also granted to the petitioners to file interim application in case any clarification is required.

Sd/-

AMIT RAWAL
JUDGE

APPENDIX OF WP(C) 3702/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE ORDER DATED 05.05.2015 IN SLA(C)NO.12364/2015 PASSED BY THE HON'BLE SUPREME COURT
EXHIBIT P2	TRUE COPY OF THE ORDER DATED 01.12.2015 IN SLA(C) NO. 12364/2015 PASSED BY THE HON'BLE SUPREME COURT.
EXHIBIT P3	TRUE COPY OF THE COMMUNICATION NO. REG/8133/2015/1 DATED 04.12.2015 FORWARDED BY THE UNIVERSITY TO THE COLLEGE.
EXHIBIT P4	TRUE COPY OF THE ORDER DATED 19.07.2016 IN IA NO. 9-10/16 IN CIVIL APPEAL NO. 14025-14026/2015 PASSED BY THE HON'BLE SUPREME COURT.
EXHIBIT P5	TRUE COPY OF THE INTERIM ORDER DATED 16012017 IN WPC NO. 1513/2017 PASSED BY THIS HON'BLE COURT.
EXHIBIT P6	TRUE COPY OF THE INTERIM ORDER DATED 17.07.2017 IN WPC NO.23427/2017 PASSED BY THIS HON'BLE COURT.
EXHIBIT P7	TRUE COPY OF THE INTERIM ORDER DATED 08.01.2018 IN WPC. 622/2018 PASSED BY THIS HON'BLE COURT.
EXHIBIT P8	TRUE COPY OF THE NOTIFICATION NO. 301/EXAM-1/KUHS/2ND MBBS (R&S)/2018 DATED 06.01.2018.
EXHIBIT P9	TRUE COPY OF THE LIST OF 58 STUDENTS WHO ARE ATTEMPTING TO REGISTER FOR THE EXAMINATION NOTIFIED AS PER EXT-P8.
EXHIBIT P10	TRUE COPY OF THE NOTIFICATION NO.301/KUHS/EXAM-1/2ND MBBS (R&S)/2018 DATED 04.05.2018.

EXHIBT P11	TRUE COPY OF THE NOTIFICATION NO.10855/EXAM-1/KUHS/2ND MBBS(S)/2018 DATED 08.06.2018
EXHIBT P12	TRUE COPY OF THE LIST OF STUDENTS WHO ARE ATTEMPTING TO REGISTER FOR THE SUPPLEMENTARY EXAMINATIONS.
EXHIBT P13	TRUE COPY OF THE NOTIFICATION NO.11164/KUHS/EXAM-1/1ST MBBS/2018 DATED 14.06.2018
EXHIBT P14	TRUE COPY OF THE LIST OF STUDENTS WHO ARE ATTEMPTING TO REGISTER FOR THE SUPPLEMENTARY EXAMINATIONS.
EXHIBT P15	TRUE COPY OF THE NOTIFICATION NO.23573/2018/B3/EX.MED/KUHS DATED 26.11.2018.
EXHIBT P16	TRUE COPY OF THE LIST OF STUDENTS WHO ARE ATTEMPTING TO REGISTER FOR THE EXAMINATIONS.
EXHIBT P17	TRUE COPY OF THE NOTIFICATION NO.24811/2018/B1/EX.MED/KUHS DATED 15.12.2018.
EXHIBT P18	TRUE COPY OF THE LIST OF STUDENTS WHO ARE ATTEMPTING TO REGISTER FOR THE EXAMINATIONS.
EXHIBT P19	TRUE COPY OF THE NOTIFICATION NO.103/EX.MED B2/KUHS/2ND MBBS(R&S)/2019 DATED 05.01.2019.
EXHIBT P20	TRUE COPY OF THE LIST OF STUDENT WHO IS ATTEMPTING TO REGISTER FOR THE EXAMINATIONS.
EXHIBT P21	TRUE COPY OF THE EMAIL COMMUNICATION SENT TO THE RESPONDENT UNIVERSITY BY THE PETITIONER DATED 21.01.2019.
EXHIBT P22	TRUE COPY OF THE NOTIFICATION NO.23573/2018/B3/EX.MED/KUHS DATED

18.03.2019.

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| EXHIBIT P-23 | TRUE COPY OF THE NOTIFICATION
NO.17041/2019/B3/EX MED/KUHS DATED
10/6/2019 |
| EXHIBIT P24 | TRUE COPY OF THE LIST OF STUDENTS WHO
ARE ATTEMPTING TO REGISTER FOR THE
EXAMINATIONS. |
| EXHIBIT P25 | TRUE COPY OF THE NOTIFICATION
NO.18196/2019/B2/EX MED/KUHS DATED
10/6/2019. |
| EXHIBIT P26 | TRUE COPY OF THE NOTIFICATION
NO.2019/23546/1/EXMED-B3 DATED
26.11.2019 ISSUED BY THE 1ST RESPONDENT
UNIVERSITY. |
| EXHIBIT P27 | TRUE COPY OF THE LIST OF STUDENTS WHO
ARE ATTEMPTING TO REGISTER FOR THE
EXAMINATIONS. |
| EXHIBIT P-28 | TRUE COPY OF THE NOTIFICATION
NO.2018/26060/B4/EX MED/KUHS DATED
17.12.2019 ISSUED BY THE 1ST RESPONDENT
UNIVERSITY. |
| EXHIBIT P-29 | TRUE COPY OF THE LIST OF STUDENTS WHO
ARE ATTEMPTING TO REGISTER FOR THE
EXAMINATIONS. |
| EXHIBIT P-30 | TRUE COPY OF THE NOTIFICATION
NO.395/2019/B2/EX MED/KUHS DATED
07.01.2020 ISSUED BY THE 1ST RESPONDENT
UNIVERSITY. |
| EXHIBIT P-31 | TRUE COPY OF THE NOTIFICATION
NO.2020/17769/1/B4/EX MED/KUHS DATED
27.08.2020 ISSUED BY THE RESPONDENT
UNIVERSITY. |
| EXHIBIT P-32 | TRUE COPY OF THE LIST OF STUDENTS WHO
ARE ATTEMPTING TO REGISTER FOR THE
EXAMINATIONS. |

APPENDIX OF WP(C) 1513/2017

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | TRUE COPY OF THE ORDER DATED 05.05.2016
PASSED BY THE HON'BLE SUPREME COURT IN
SLP(C) NO. 12364/2015 |
| EXHIBIT P2 | TRUE COPY OF THE ORDER DATED 01.12.2016
PASSED BY THE HON'BLE SUPREME COURT IN
SLP(C) NO. 12364/2015. |
| EXHIBIT P3 | TRUE COPY OF THE COMMUNICATION
NO.REG/8133/2015/1 DATED 04.12.2015
FORWARDED BY THE UNIVERSITY TO THE COLLEGE. |
| EXHIBIT P4 | TRUE COPY OF THE JUDGMENT DATED 11.07.2016
PASSED BY THIS HON'BLE COURT IN W.P(C)
NO.22822/2016. |
| EXHIBIT P5 | TRUE COPY OF THE ORDER DATED 19.07.2016
PASSED BY THE HON'BLE SUPREME COURT IN I.A.
9-10/2016 IN CIVIL APPEAL NO.14025-
14026/2015. |
| EXHIBIT P6 | TRUE COPY OF THE NOTIFICATION
NO.25196/KUHS/EXAM - 1/I-MBBS/2016 DATED
16.12.2016 ISSUED BY THE UNIVERSITY. |
| EXHIBIT P7 | TRUE COPY OF THE COMMUNICATION DATED
06.01.2017 ISSUED BY THE PETITIONER TO THE
UNIVERSITY. |
| EXHIBIT P8 | TRUE COPY OF THE COMMUNICATION DATED
09.01.2017 ISSUED BY THE RESPONDENT
UNIVERSITY. |

APPENDIX OF WP(C) 20190/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE COMMUNICATION NO.REG/8133/2015/1 DATED 20.01.2016 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P2	TRUE COPY OF THE ORDER DATED 05.05.2015 IN SLA(C)NO.12364/2015 PASSED BY THE HON'BLE SUPREME COURT.
EXHIBIT P3	TRUE COPY OF THE ORDER DATED 01.12.2015 IN SLA(C)NO.12364/2015 PASSED BY THE HON'BLE SUPREME COURT.
EXHIBIT P4	TRUE COPY OF THE ORDER DATED 25.07.2016 IN I.A.NO.2/16 IN CIVIL APPEAL NO.14039/2015 PASSED BY THE HON'BLE SUPREME COURT.
EXHIBIT P5	TRUE COPY OF THE COMMUNICATION NO.5233/AC A/KUHS/2015 DATED 10.01.2017 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P5 (A)	TYPED COPY OF EXHIBIT P5.
EXHIBIT P6	TRUE COPY OF THE INTERIM ORDER DATED 16.01.2017 IN W.P.(C)NO.1519/2017 PASSED BY THIS HON'BLE COURT.
EXHIBIT P7	TRUE COPY OF THE INTERIM ORDER DATED 11.07.2017 IN W.P(C)NO.22937/2017 PASSED BY THIS HON'BLE COURT.
EXHIBIT P8	TRUE COPY OF THE INTERIM ORDER DATED 08.01.2018 IN W.P.(C)NO.637/2018 PASSED BY THIS HON'BLE COURT.
EXHIBIT P9	TRUE COPY OF THE E-MAIL COMMUNICATION DATED 24.01.2018 SENT BY THE PETITIONER TO THE UNIVERSITY.
EXHIBIT P10	TRUE COPY OF THE INTERIM ORDER DATED 31.01.2018 IN W.P.(C)NO.2958/2018 PASSED BY THIS HON'BLE COURT.

- EXHIBIT P11** TRUE COPY OF THE INTERIM ORDER DATED
25.06.2018 IN W.P.(C)NO.20673/2018 PASSED
BY THIS HON'BLE COURT.
- EXHIBIT P12** TRUE COPY OF THE INTERIM ORDER DATED
21.06.2019 IN W.P.(C)NO.16944/2019 PASSED
BY THIS HON'BLE COURT.
- EXHIBIT P13** TRUE COPY OF THE INTERIM ORDER DATED
19.12.2019 IN I.A.NO.1/2019 IN W.P.
(C)NO.16944/2019 PASSED BY THIS HON'BLE
COURT.
- EXHIBIT P14** TRUE COPY OF THE NOTIFICATION
NO.2020/17769/1/B4/EX MED/KUHS DATED
27.08.2020 ISSUED BY THE RESPONDENT
UNIVERSITY.
- EXHIBIT P15** TRUE COPY OF THE LIST OF THE STUDENTS, WHO
ARE QUALIFIED TO APPEAR FOR THE THIRD
PROFESSIONAL MBBS DEGREE PART-1
SUPPLEMENTARY EXAMINATIONS.

//TRUE COPY//
PA TO JUDGE