

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

Wednesday, the 13th day of March 2024 / 23rd Phalguna, 1945
WP(C) NO. 5220 OF 2024(B)

PETITIONER:

DR.RUWISE E.A, AGED 28 YEARS, S/O.ABDUL RASHEED E,, IDAYILA VEEDU,
NEAR MEEN MUKKU MADRASA, KOZHICKODE SVM P.O, KARUNAGAPPALLY,
AYANIMEL KULANGARA VILLAGE, KOLLAM DISTRICT., PIN - 690573

RESPONDENTS:

1. THE PRINCIPAL GOVT. MEDICAL COLLEGE, ULLLOOR P.O,
THIRUVANANTHAPURAM., PIN - 695011.
2. THE VICE CHANCELLOR THE KERALA UNIVERSITY OF HEALTH SCIENCES,
(KUHS), MULAMKUNNATHUKAVU, THRISSUR., PIN - 680581
3. THE DIRECTORATE OF MEDICAL EDUCATION (KERALA) MEDICAL COLLEGE,
KUMARAPURAM ROAD, CHALAKKUZHY, THIRUVANANTHAPURAM., PIN - 695011
4. STATE OF KERALA REP. BY SECRETARY (HEALTH DEPARTMENT), GOVT.
SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695001

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation and implementation of Ext.P1 and to pass an order directing the respondents to permit the petitioner to continue his Post Graduate Studies, M.S (ORTHOPAEDICS) at Medical College, Thiruvananthapuram without taking into account the registration of crime No.1662/2023 by the Medical College Police Station, Thiruvananthapuram pending disposal of the above Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 07-03-2024 and upon hearing the arguments of M/S.C.C.THOMAS (SENIOR ADVOCATE) along with M/S.M.G.KARTHIKEYAN & NIREESH MATHEW, Advocates for the petitioner, SRI.P.G.PRAMOD, GOVERNMENT PLEADER for R1, R3 AND R4 and of SRI.P.SREEKUMAR, STANDING COUNSEL for R2, the court passed the following:

MOHAMMED NIAS C.P., J.

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Dated this the 13th day of March, 2024

ORDER

The petitioner is a Post Graduate Medical student at the Thiruvananthapuram Medical College, who was arrayed as the first accused in Crime No.1662/2023 of the Medical College Police Station, Thiruvananthapuram district, alleging commission of offences under Section 306 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act 1961. It is alleged that the petitioner had a relationship with one Dr.Shahana. A G., who was also a Post Graduate student in the same Medical College. Dr.Shahana committed suicide on 4.12.2023, and on the complaint of the members of the family of the deceased that the petitioner had demanded a huge amount of dowry for the finalisation of the marriage between the petitioner and Dr.Shahana, the above crime was registered. The petitioner was arrested on 7.12.2023 and was released on bail by orders of this Court dated 22.12.2023 in BA No.11024/2023. In view of the arrest as stated above, the petitioner was suspended from the college by Ext.P1 order.

2. This writ petition is filed to direct the respondents to revoke the

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suspension order and permit him to continue his postgraduate studies, MS (Orthopaedics). This Court had passed an interim order on 9.2.2024 directing the respondents to decide on Ext.P4, the request of the petitioner to revoke the suspension within two weeks from the said date. Orders were passed on 2.3.2024 pursuant to the directions of this Court, rejecting the request of the petitioner. While considering the request, the minutes of a committee meeting held on 21.2.2024 were also adverted to in which the Director of Medical Education had opined that the petitioner can be retained in college for a period of three months and a review can be done after that period, and if local issues are not solved within the said time frame, suspension period can be issued again. However, the Committee decided not to revoke the suspension order.

3. Taking into account the fact that the petitioner is only an accused in a crime, of course, the charges are serious, and that he had obtained admission on merit for the Post Graduate course, keeping him away from studies pending the enquiry or trial would place him in such a situation where the damage would become irreversible in case, the charges are not proved.

4. Learned standing counsel for the Health University also submits that the petitioner will not be allowed to appear for the examination if he does not have sufficient attendance required under the regulations. It is trite that even convicts have certain fundamental rights

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despite being found guilty. Further, there is a presumption of innocence as far as an accused is concerned.

Taking into account the merit of the petitioner and the fact that irreversible loss will be caused if he is not allowed to continue his studies, by way of an interim order, I direct the respondents to permit the petitioner to re-join for the course forthwith by staying the operation of Ext.P1 and all the further proceedings including order dated 2.3.2024. Orders in this regard shall be passed within a week from today. The respondents will take such measures to avert any untoward incident in the college on account of the petitioner rejoining the course.



Sd/-

MOHAMMED NIAS C.P.**JUDGE**

dlk/11.3.2024

APPENDIX OF WP(C) 5220/2024

- Exhibit P1 TRUE PHOTOCOPY OF THE ORDER OF SUSPENSION NO.GMCTVM/8967/2023-B2 DATED 07.12.2023 PASSED BY THE 1ST RESPONDENT.
- Exhibit P4 TRUE PHOTOCOPY OF THE REPLY TO EXT.P1 AND REQUEST TO REVOKE EXT.P1 BY PERMITTING THE PETITIONER TO CONTINUE HIS STUDIES SUBMITTED BEFORE THE 1ST RESPONDENT WITH COPY TO OTHERS DATED 27.12.2023.

