

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN**

Wednesday, the 26th day of July 2023 / 4th Sravana, 1945
WP(C) NO. 22973 OF 2022 (V)

PETITIONERS:

1. SREEDEVI, AGED 36 YEARS, W/O SABU.T, SAJU BHAVANAM, VALIYAPADAM, VILAMTHARA P.O, KOLLAM, KERALA- 690521
2. SABU.T, AGED 41 YEARS, S/O THANKAPPAN SAJU BHAVANAM, VALIYAPADAM, VILAMTHARA P.O, KOLLAM, KERALA- 690521

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY SECRETARY, MINISTRY OF HEALTH, SOCIAL JUSTICE AND WOMEN & CHILD DEVELOPMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001
2. DIRECTORATE OF HEALTH SERVICE, REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT (HEALTH AND FAMILY WELFARE), GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001
3. TALUK HEADQUARTERS HOSPITAL, KARUNAGAPPALLY, REPRESENTED BY ITS SUPERINTENDENT, KOLLAM -690518
4. DISTRICT MEDICAL OFFICER, 2ND FLOOR, KOLLAM CIVIL STATION, KOLLAM - 691013
5. TRAVANCORE-COCHIN MEDICAL COUNCIL, REPRESENTED BY ITS REGISTRAR, RED CROSS ROAD, THIRUVANANTHAPURAM, KERALA-695035
6. DR. T.S. SEEMA, AGED 40 YEARS, D/O SOMASEKHARAKURUP RESIDING AT SEEMA NIVAS, VARANADU P.O, CHERTHALA, ALAPPUZHA-688527

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 issue a writ of mandamus directing the 1st and 2nd respondent to issue specific guidelines or notification to ensure that appointment orders are issued to selected candidates only after getting their educational certificates verified and authenticated by the Universities/institution that have issued them also to create a list of the candidates whose education certificates have not been verified and authenticated by the universities/institutions and enquire into the academic credentials of such candidates pending disposal of this W.P.(c) in the interest of justice.

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 16.11.2022 and upon hearing the arguments of M/S.S.R.PRASANTH & BHANU THILAK Advocates for the petitioners, GOVERNMENT PLEADER for R1 to R4 (By Order), SRI.N.RAGHURAJ Advocate for R5 (By Order) and of M/S.P.C.HARIDAS & P.S.GOVIND Advocates for R6, the Court passed the following:

P.V.KUNHIKRISHNAN, J.

W.P.(C)No.22973 of 2022

Dated this the 26th day of July, 2023

ORDER

“Medicine cure diseases, but only doctor can cure patients”. These are the words of Carl Gustav Jung, a Swiss psychiatrist and psychoanalyst who is known as the founder of analytical psychology. This shows the relationship needed between a doctor and patient. If the facts alleged in this writ petition are correct, there will be apprehensions in the minds of public about the doctor’s community. It is the duty of the government to rule out these apprehensions and to create a doctor friendly atmosphere in our society. There may not be any doubt that the public health department of our state is a role model for other states in the country for which the government

WP(C) NO.22973 OF 2022

2

deserve appreciation. But the facts alleged in this case shows that, more scrutiny is necessary.

2. The facts in this case are like this: On 11.11.2019, the 1st petitioner was admitted in the 3rd respondent hospital for delivery. Since the 1st petitioner was experiencing mild labour pain, she was directly taken to the labour room is the submission. Sixth respondent was the Junior consultant (Gynaecology) in the 3rd respondent hospital. The 6th respondent monitored 1st petitioner's condition at 3 PM and thereafter left the hospital is the further submission. Soon after that, the 1st petitioner experienced severe labour pain. But the 6th respondent did not turn up is the further statement in the writ petition. Even though, the nurses of the said hospital tried to contact the 6th respondent over the

WP(C) NO.22973 OF 2022

3

phone, she neither attended the call not cared to come to the 3rd respondent hospital is the further statement. Later at 7.40 PM while the 1st petitioner was experiencing severe labour pain, a duty nurse found out that there is cord prolapse and she intimated the said matter to 6th respondent. Thereafter only the 6th respondent turned up and did the LSCS and took the still born baby out. Even the caesarean operation was protracted due to the unavailability of anesthetist and pediatrician in the 3rd respondent hospital is the further submission. It is also submitted that the petitioner was asked to pay Rs.4,000/- to the anesthetist doctor who came from the private hospital. It is the case of the petitioner that there were severe laches and willful negligence on the part of the 6th respondent in not attending the 1st petitioner on time. It is also the case of the

WP (C) NO.22973 OF 2022

4

petitioner that, had the doctor performed her duty in an ordinary prudent nature, the child could have been saved. Later, on 15.11.2019, the 1st petitioner was discharged from the hospital. Since, a suspicion arose regarding the competency of the doctor to the petitioners, they enquired about the academic credentials and qualifications of the doctor. The 6th respondent claims to have obtained MBBS, MS in obstetrics and gynecology.

3. The 2nd respondent filed an application under the Right to Information Act before the Mahatma Gandhi Institute of Medical Science, Seva Gram, Maharashtra from where 6th respondent claimed to have obtained her Masters Degree. He received a reply dated 21.01.2020 as evident by Ext P9, stating that the 6th respondent was admitted in their Institute for DGO course during the year 2008-

WP(C) NO.22973 OF 2022

5

2010 and she failed in the said course and did not complete the said course. Alleging medical negligence on the part of the 6th respondent and claiming compensation, this writ petition is filed with following prayers.

"(i) to issue a writ of mandamus or any other appropriate writ order or direction, commanding the 1st respondent to pay a compensation of rupees 20 lakhs or such other amount this Hon'ble Court deems, to the petitioners and to recover the same from the 6th respondent."

(ii) To issue a writ of mandamus directing the 1st and 2nd respondent to issue specific guidelines or notification to ensure that appointment orders are issued to selected candidates only after getting their educational certificates verified and authenticated by the Universities/institution that have issued them also to create a list of the candidates whose education certificates have not been verified and authenticated by the universities/institutions and enquire into the academic credentials of such candidates.

(iii) to grant such other order or direction as

WP (C) NO.22973 OF 2022

6

this Hon'ble Court deems fit and proper to grant.”[SIC]

4. A statement is filed by the 2nd respondent in which Ext.R2(a), a communication of the Maharashtra University of Health Science, Nasik to the second respondent is produced. It will be better to extract the same:

"In context to subject cited above, University is in receipt of letters referred above alongwith copies of certificates of Dr. Seema T.S. In this context, I am directed to inform you that, Seema T.S was not the student who passed M.S. (Obst & Gyanacology) from this University in July 2010; whereas Dr. Tated Manjushreed Lalchand was the student (bearing P.R.N. No. 2209112930) who has passed M.S. (Obst & Gynacology) in June 2009 as per University record.

Further, on scrutiny of the Certificates submitted by you, it reveals that said Certificates are not issued by this University. Further, it reveals that the Seema T.S has submitted forged documents and misused the name of Maharashtra University of

WP(C) NO.22973 OF 2022

7

Health Sciences, Nashik, which is very serious issue and accordingly your good office may take serious action against Dr. Seema T.S.”

5. It is prima facie clear from the above communication itself that the 6th respondent committed serious criminal offences including misconduct. It is submitted by the learned Government Pleader that, Crime No.935/2021 is registered at Karunagappally Police Station. I am of the opinion that, this case is to be investigated by the Crime Branch, CBCID. The State Police Chief will constitute a special investigation team to investigate this case within one week from the date of receipt of this order. Action taken report shall be filed by the investigating team before this court, within one month. I make it clear that the investigating team shall investigate the matter untrammelled by any

WP(C) NO.22973 OF 2022

8

observation in this order.

6. I am of the prima facie opinion that, the petitioner made out a prima facie case for compensation. This court in the judgment dated 20.07.2023 in W.P.(C) No. 26110 of 2012 observed that, some Legal Battles are not worth winning, while directing the railway to pay compensation to a gunshot victim. I am sure that the state government will also rise to the occasion and redress the grievance of the petitioner. The 1st respondent will file an affidavit about the quantum of compensation that can be paid to the petitioner, within one month. Moreover the second prayer in the writ petition, which is extracted above is also very important. Certain guidelines is necessary to ensure that appointment orders of medical practitioners in the state are issued to selected candidates only after

WP(C) NO.22973 OF 2022

9

getting their educational certificates verified and authenticated by the Universities/institution that have issued to them. If necessary steps should be taken to verify the education certificates of all government doctors working as on today. This is not to demoralize the hard working doctors in the state, who are our strength and pride. It is only to make sure that, culprits are not there in the profession and also to built confidence to the society. The Government will state their views in this aspect also in the affidavit. Issue a copy of this order to the Government pleader, who will forward this to the first respondent and the State Police Chief.

Post on 04.09.2023.

nvj

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

APPENDIX OF WP(C) 22973/2022

Exhibit P9

**TRUE COPY OF THE REPLY DATED 21-01-2020 GIVEN BY
MAHATMA GANDHI INSTITUTE OF MEDICAL SCIENCE**

Annexure R2(a)

**True copy of the letter no.MUHS/XPG-X-1/905/2021 dated
19.05.2021 by the Controller of Examination, Maharashtra
University of Health Sciences**

