

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 21ST DAY OF OCTOBER 2021 / 29TH ASWINA, 1943

WP(C) NO. 20834 OF 2021

PETITIONER:

ADV. M.S.VINEETH

AGED 51 YEARS, S/O.LATE M.R.SREENIVASAN,
"SHREE NIVAS", JOSEPH ROAD, CALICUT 673 032

BY ADV V.T.MADHAVANUNNI

RESPONDENTS:

- 1 STATE OF KERALA
REP.BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT,
TRIVANDRUM 695 001
- 2 THE PRINCIPAL SECRETARY
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT,
TRIVANDRUM 695 001
- 3 UNION OF INDIA
REP.BY THE SECRETARY, UNION MINISTRY OF AYUSH,
AYUSH BHAWAN, B BLOCK, GPO COMPLEX, INA,
NEW DELHI 110 023

BY ADVS.

SR.GOVERNMENT PLEADER SRI. V. MANU
SHRI.P.VIJAYAKUMAR, ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 21.10.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

J U D G M E N T

Dated this the 21st day of October, 2021

S. Manikumar, CJ.

Petitioner has sought for the following reliefs:

"i) To issue a Writ of Mandamus or any other Writ or Order directing the respondents to urgently provide sufficient doses of Homoeopathic prophylactic medicines against Covid to all those students who are willing for the same, through their respective schools, particularly before schools are reopened in November 2021.

(ii) To issue a Writ of Mandamus or any other Writ or Order directing the respondents to administer sufficient doses of Homoeopathic prophylactic medicines through the concerned schools itself and to maintain appropriate data with respect to administering of medicine and its effectiveness."

2. On 12.10.2021, when the matter came up for hearing, inviting attention of this Court to G.O.(Rt.) No.372/2021/AYUSH dated 11.10.2021, Mr. V.Manu, learned Senior Government Pleader submitted that on the recommendation of Homoeopathic Department, Government have taken a decision to provide Homoeopathic prophylactic medicines and accordingly issued the above Government Order dated 11.10.2021. He further submitted that though a decision has been taken in principle, logistics have to be worked out.

3. For brevity, G.O.(Rt.) No.372/2021/AYUSH dated 11.10.2021,
is reproduced:

GOVERNMENT OF KERALA

Abstract

AYUSH Department-Covid-19-preventive measures-Guidelines
for distribution of Homoeo Immune Booster for school children -
orders being issued permitting the same

AYUSH (B) DEPARTMENT

GO(Rt) No. 372/2021/AYUSH dated, Thiruvananthapuram,
11.10.2021

Read Letter No. DHTVM/1434/2021-P3 dated 30.09.2021 of the
Director of Homoeopathy Department

ORDER

As per the letter referred to above, the Director,
Homoeopathy had forwarded an Action Plan in the name
"Karuthalode Munnotte" (to proceed with care) pertaining to
comprehensive implementation of Covid-19 preventive
measures under the auspices of Homoeopathy Department for
school children on the occasion of the reopening of the schools,
which were closed due to Covid restrictions, on 1st November
2021.

2) Government have examined the matter in detail. It is
hereby ordered that the Government have accepted the Action
Plan under the name "Karuthalode Munnotte" (to proceed with

care) in principle on condition that Homoeo Medical Officers must take steps for collection and distribution of Homoeopathic Immune Booster medicines and that the same shall be distributed only with the permission of the parents/guardians of the Wards.

(By order of the Governor)

Bhooshan V.
Additional Secretary"

4. On this day, when the matter came up for further hearing, Mr. V.Manu, learned Senior Government Pleader has filed a statement dated 20.10.2021, setting out the steps taken by the Government to provide Homoeopathic prophylactic medicines against Covid-19 to school children.

5. The details set out in the statement indicates establishment of medicine distribution Centres, Homoeopathic Immune Booster (HIB) portal registration, Medicine distribution, HIB portal Registration Campaign and Helpline numbers.

6. Paragraphs 2 to 17 of the statement dated 20.10.2021 are relevant and thus extracted:

"2. This Writ Petition has been filed praying interalia, for directions to the respondents to provide Homoeopathic prophylactic medicines against Covid-19 to school children before the reopening of the schools in the State in November 2021. It is submitted that the Director of Homoeopathy, as per

letter No.DHTVM/1434/2021-P3 dated 13.10.2021, forwarded to the Government an action plan under the name and style "Karuthalode Munnottu" ("To Proceed With Care")(hereinafter referred to as "the Action Plan"), pertaining to comprehensive implementation of Covid preventive measures, under the auspices of Department of Homoeopathy, for school children while the schools, which were closed as part of the Covid restrictions, reopens on 1st November 2021. The action plan proposed a time frame for completion of various activities with regard to the Covid prevention measures for school children. As per the said action plan, mainly two activities were proposed to be undertaken at the time of reopening of the schools.

- (1) to provide immunity booster medicines to school children.
- (2) to provide health care to the school children and monitor them at regular intervals.

3. As per G.O.(Rt.) 372/2021/AYUSH dated 11.10.2021, the Government of Kerala accepted in principle the aforementioned Action Plan forwarded by the Director of Homoeopathy and ordered that the Director, Homoeopathy must take steps for collection of Homoeopathic Immune Booster (hereinafter referred to as the 'HIB') medicines and distribute the same in the schools. It was also ordered that the medicines should be administered only with the permission of the parents/guardians of the Wards. A true copy of the G.O. (Rt.)372/2021/AYUSH dated 11.10.2021 along with its English translation is produced and marked as Annexure R1(a).

4. Pursuant to the said Annexure R1 (a) Government Order, the action plan was proceeded with by the Director of Homoeopathy. The stock of HIB in hospitals and dispensaries

were taken and it was ascertained that 42 lakhs strips were in the stock. "HOMCO (Homoeopathy Co-operative Pharmacy Limited) has further six lakh strips of HIB in stock. The number of schools and number of students in each district for the distributions are being ascertained by the concerned District Medical Officers. The Date of HIB distributions was fixed from 25th to 27th October 2021.

5. The following are the details of the steps taken/directives issued by the Director of Homeopathy to implement the Action Plan:

Medicine Distribution Centres

6. The medicines are proposed to be distributed through Government Homeopathy Institutions (Hospitals, Dispensaries, AYUSH Public Health Centres, and Special Project Dispensaries). If in any Panchayats, the homeopathic dispensary is not having easy travel access, then another centre, which is more accessible, is to be fixed as the Medicine Distribution Centre. The Panchayat office or a school in the Panchayat can be selected in such situations.

7. Similarly, if there are more schools and children in a Panchayat and it is felt that more centres will be required to distribute medicines to more people, another centre can be set up in addition to the dispensary in that Panchayat. The list of additional centres required in each district should be submitted to the Ayush Homoeopathy Information Management System (AHIMS) team by the respective District Medical Officers in consultation with the concerned medical officers. The working hours of the drug distribution centres will

be from 9:00 am to 4:00 pm during the three days of distribution.

Responsibility - Medical Officer

Consolidation - District Medical Officer

8. In each of the additional centers, the number of doctors required may be calculated and the manpower required may be obtained from the organization of homeopathic doctors. The National AYUSH Mission doctors in the district can also be deployed at the required places and the services of the students of the Homoeopathic Colleges can also be utilized.

Responsibility - Medical Officer

Consolidation - District Medical Officer, National AYUSH Mission DPM, Professional Physicians Association, Homoeo Medical College Principal.

9. Special counters / kiosks should be set up at homeopathy institutes / centres for distributing HIB. For this, posters in uniform format should be prepared and distributed in the respective institutions. Designs and posters prepared by the State Mass Media Cell should be printed and distributed in the respective districts. Posters should be put up in Panchayats, Government Homeopathy Institutes, Private Hospitals, Educational Institutions, offices of SSA (Sarva Shiksha Abhiyan) and Assistant Educational Officer and other public places. Concerned medical officers must take care of this.

Responsibility - Medical Officers, School Principal/
Head Master, PTA, SSA.

Consolidation - District Medical Officers, Reach DLEG,

District Homeopathy Mass Media.

HIB portal registration

10. Parents of children are required to register with the Department of Homeopathy's web portal for the distribution of Immunity Booster. The registration must be done using the child's or parents Aadhaar card and his or her mobile phone number. When parents register their child's information on the portal, they can select a convenient centre to get their HIB. Parents can get the exact date and time of getting HIB from the centre. There will also be a reminder through SMS, prior to the day of purchase. Parents can register on the Homoeo Immune Booster Distribution Online portal from the evening of October 22.

Integration / Technical Supervision - Homeopathy IT Cell, AHIMS

Medicine distribution

11. The respective medical officer will be responsible for administering the HIB at each centre. The services of more doctors can be obtained from professional organizations if required. The paramedical staff at the institution should assist with HIB distribution and data identification. Drug delivery should be in accordance with COVID 19 protocol. The co-operation of the Local Self Government Institution (LSGI) should be ensured for this.

12. The list of children registered to receive the medicine at each centre can be printed out by the respective medical

officers from AHIMS. When a parent comes to receive HIB, the Aadhaar number has to be verified and HIB delivered. Details of the parents / relatives who come to get HIB administered for their wards need to be registered in AHIMS.

13. Only tablets in strip should be dispensed as HIB. Only three tablets need to be given. The tablet has to be given safely in a cover. The pill must be accompanied by a printed copy of the Frequently Asked Questions to respond to the concerns of parents and children. The working hours of the drug distribution centres will be from 9:00 am to 4:00 pm during the three days of distribution.

Responsibility - Medical Officers in Charge / LSGI

HIB portal registration campaign

14. All parents and children need to know the details of the HIB Registration Portal. This requires extensive advertising campaigns. Posters and social media campaign materials need to be delivered to all parents in contact with schools. Medical officers should coordinate with school teachers, Parent Teacher Associations, Education Department and LSGIs and take steps to make the campaign materials available to all.

15. Care should be taken to give the required visual and newspaper advertisements at the State / District Level. The Directorate and the District Medical Office should pay attention to advertise through the State / District Information Departments, Victor's Channel, All India Radio, etc.

Consolidation - Homeopathy State Mass Media / Homeopathy District Mass Media / District Medical Officers / National AYUSH Mission DPM / Department of Public Information.

Help line number

16. Parents, children, educators and the general public will have a toll-free helpline number for HIB inquiries, expert advice and guidance.

17. The Principal Secretary, General Education Department, Government of Kerala has informed that the Department has no objection for implementation of the guidelines in Annexure R1(a) Government order, provided by the AYUSH Department. It was also reported by the General Education that the department would provide help and support to the Homeopathy Department to implement the programme to the schools.”

7. However, Mr. V.Manu, learned Senior Government Pleader further submitted that administration of Homoeopathic prophylactic medicines would be done only with the consent of parents/guardians of the Wards.

8. Submission of learned Senior Government Pleader is placed on record.

9. Mr. V.T. Madhavanunni, learned counsel for the petitioner submitted that Government have considered the prayers and accordingly answered.

Recording the submissions of the learned Senior Government Pleader and the steps taken, writ petition is disposed of.

Sd/-
S. Manikumar,
Chief Justice

Sd/-
Shaji P. Chaly,
Judge

sou.

APPENDIX OF WP(C) 20834/2021

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE JUDGMENT OF THIS
HONOURABLE COURT IN W.P. (C)
NO.9459/2020 DATED 21.8.2020
- EXHIBIT P2 TRUE COPY OF THE JUDGMENT OF THE
HONOURABLE SUPREME COURT IN CIVIL
APPEAL NO.4049/2020 DATED 15.12.2020
- EXHIBIT P3 TRUE COPY OF THE GUIDELINES ISSUED BY
THE UNION MINISTRY OF AYUSH MARKED AS
ANNEXURE C IN THE JUDGMENT OF THE
HONOURABLE SUPREME COURT IN CIVIL
APPEAL NO.4049/2020 DATED 15.12.2020
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION OF THE
PETITIONER EMAILED TO SECOND
RESPONDENT DATED 22.9.2021