

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 22ND DAY OF DECEMBER 2021 / 1ST POUSHA,

1943

WP(C) NO. 27168 OF 2021

PETITIONER/S:

VINAY SHANKER, AGED 21 YEARS
S/O.SREENIVASAN, CHAKKAMPILATH HOUSE, OORAKAM
DESOM, OORAKAM VILLAGE, THIROORANGADI TALUK,
OORAKAM MELMURI P.O., MALAPPURAM DISTRICT.

BY ADVS.
C.DHEERAJ RAJAN
ANAND KALYANAKRISHNAN

RESPONDENT/S:

- 1 UNION OF INDIA
REP. BY JOINT SECRETARY, MINISTRY OF HIGHER
EDUCATION, 122-C, SHASTRI BHAVAN, NEW DELHI -
110 001.
- 2 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
MINISTRY OF PERSONNEL AND ADMINISTRATIVE REFORMS
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM -
695 001.
- 3 DIRECTOR OF MEDICAL EDUCATION
MEDICAL COLLEGE, MEDICAL COLLEGE, KUMARAPURAM
ROAD, CHALAKKUZHI, THIRUVANANTHAPURAM DISTRICT -
695 011.
- 4 COMMISSIONER OF ENTRANCE EXAMINATIONS
5TH FLOOR, HOUSING BOARD BUILDINGS, SANTHI
NAGAR, THIRUVANANTHAPURAM - 695 001.
- 5 DENTAL COUNCIL OF INDIA
REP. BY ITS SECRETARY, ALWAN-E, MARG, KOTLA
ROAD, TEMPLE LANE OPP MATA SUNDARI COLLEGE FOR
WOMEN, NEW DELHI - 110 002.

- 6 VETERINARY COUNCIL OF INDIA
REP. BY ITS SECRETARY, A-WING, IIND FLOOR,
AUGUST KRANTI BHAWAN, BHIKAJI KAMA PLACE, NEW
DELHI - 110 066.
- 7 KERALA UNIVERSITY OF HEALTH SCIENCES
REP. BY VICE CHANCELLOR, MEDICAL COLLEGE P.O.,
THRISSUR - 680 596.
- 8 KERALA VETERINARY AND ANIMAL SCIENCES
UNIVERSITY
REP. BY VICE CHANCELLOR POOKODE P.O., WAYANAD -
673 576.

BY ADVS.

SRI.P.G.PRAMOD, GOVERNMENT PLEADER
SRI.PRAKASH M.P., SC, DENTAL COUNCIL OF INDIA
AYSHA YOUSEFF, SC, KERALA VETERINARY AND ANIMAL
SCIENCES UNIVERSITY, WAYANAD

ADV. S. MANU ASGI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 22.12.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

W.P.(C).No. 27168 of 2021

Dated this the 22nd day of December, 2021

JUDGMENT

The writ petitioner seeks a direction to the 5th and 6th respondents to increase the number of seats to the Veterinary and Dental Courses so as to implement the reservation category of Economically Weaker Section and a further direction to respondents 5 and 6 to implement Ext.P4 office memorandum dated 17.01.2019 issued by the 1st respondent to the respective courses offered by respondents 5 and 6.

2. When this writ petition came up for consideration, this Court directed the 3rd respondent to get instruction. The 3rd respondent filed a counter affidavit. The relevant portion of the counter affidavit is extracted hereunder:

“3. It is submitted that the State Government has taken a policy decision to set apart 10% seats for persons belonging to Economically Weaker Section

of the society in the matter for admissions in institutions including professional colleges under Higher Education Department. True copy of G.O (Ms) No.128/2020/H.Edn dated 20.03.2020 is produced herewith and marked as **Exhibit R3(a)**. Accordingly this year 10% of seats are set apart for candidates belonging to EWS. So the apprehension raised in the Writ Petition that there will not be any reservation for Economically Weaker Section in the matter of admissions covered by the KEAM prospectus 2021 is baseless. There is nothing illegal in setting apart of 10% of the seats to EWS candidates as the total reservation will not exceed 50% of the total number of seats available.”

3. Ext.R3(a) is a Government Order passed on 20.03.2020 in which clause 5 is relevant and it is also extracted hereunder:

“5 ഈ വിഷയം സർക്കാർ വിശദമായി പരിശോധിച്ചതിന്റെ അടിസ്ഥാനത്തിൽ സംസ്ഥാനത്തെ, ഉന്നത വിദ്യാഭ്യാസ വകുപ്പിന് കീഴിലുള്ള പ്രൊഫഷണൽ കോളേജുകൾ ഉൾപ്പെടെയുള്ള എല്ലാ ഉന്നതവിദ്യാഭ്യാസ സ്ഥാപനങ്ങളിലും (സ്മൃതപക്ഷ സ്ഥാപനങ്ങൾ ഒഴികെ) സാമ്പത്തികമായി പിന്നോക്കം നിൽക്കുന്ന പൊതുവിഭാഗത്തിലെ വിദ്യാർത്ഥികൾക്ക് പ്രവേശനത്തിന് 10% സംവരണം നടപ്പിലാക്കിക്കൊണ്ട് ഇതിനാൽ ഉത്തരവാകുന്നു.”

4. The learned Government Pleader submitted that

Ext.R3(a) is a policy decision of the Government.

In the light of the affidavit of the 3rd respondent and in the light of Ext.R3(a) Government Order, I think no further clarity is necessary in this writ petition. Recording the affidavit and clause 5 of Ext.R3(a), this writ petition is closed.

sd/-

P.V.KUNHIKRISHNAN
JUDGE

das

APPENDIX OF WP(C) 27168/2021

PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF EWS CERTIFICATE NO.250/2020 DATED 15/09/2020 ISSUED BY THE VILLAGE OFFICER OORAKAM IN FAVOR OF THE PETITIONER.
- Exhibit P2 THE TRUE COPY OF THE RELEVANT PAGES OF THE PROSPECTUS ISSUED BY THE 4TH RESPONDENT.
- Exhibit P3 THE TRUE COPY OF THE RANK LIST PUBLISHED BY THE 4TH RESPONDENT PERTAINING TO THE QUALIFIED ENTRANCE EXAMINATION TO THE ADMISSION TO MEDICAL AND ALLIED COURSES DATED 10/12/2020.
- Exhibit P4 THE TRUE COPY OF THE OFFICE MEMORANDUM DATED 17/01/2019 ISSUED BY THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT.
- Exhibit P5 THE TRUE COPY OF THE JUDGMENT DATED 22/11/2021 IN WPC 12307/2021.

RESPONDENT EXHIBITS

- Exhibit R3A TRUE COPY OF GO(MS)N0128/2020/H.EDN DATED 20.3.2020