

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.M.MANOJ

Friday, the 6th day of September 2024 / 15th Bhadra, 1946
WP(C) NO. 31560 OF 2024

PETITIONER:

RIJU JOSEPH, (REPRESENTING LIYA ROSE RIJU, AS HER FATHER) AGED 49 YEARS S/O P.T JOSE PULAYANPARAMBIL (H), KODUMPIDI(P.O), KOTTAYAM, PIN - 686651

RESPONDENTS:

1. NATIONAL MEDICAL COMMISSION REPRESENTED BY ITS SECRETARY, POCKET-14, SECTOR – 8, DWARKA PHASE -1 NEW DELHI, PIN - 110077
2. RAJIV GANDHI GOVERNMENT GENERAL HOSPITAL/ REGIONAL MEDICAL BOARD, THROUGH ITS DIRECTOR GRAND SOUTHERN TRUNK RD, NEAR PARK TOWN, NEAR CHENNAI CENTRAL, PARK TOWN, CHENNAI, TAMIL NADU, PIN - 600003
3. MEDICAL COUNSELLING COMMITTEE (MCC) THROUGH ITS ADG (ME) & MEMBER SECRETARY, DIRECTORATE GENERAL OF HEALTH SERVICES ROOM NO. 355-A, NIRMAN BHAWAN, NEW DELHI, PIN - 110011
4. COMMISSIONER FOR ENTRANCE EXAMINATIONS, 7TH FLOOR, KSRTC BUS TERMINAL COMPLEX, THAMPANOUR, THIRUVANANTHAPURAM, PIN - 695001
5. ADDL.R5. THE SUPERINTENDENT, THIRUVANANTHAPURAM MEDICAL COLLEGE, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-695001(ADDL. R5 IS SUO MOTU IMPLEADED AS PER ORDER DATED 6/9/24 IN WP(C) 31560/2024)

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 either grant provisional admission to the Liya or to direct that a seat be kept vacant for her and order a reevaluation of her functional competency to pursue medicine, subject to the final outcome of this writ petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S MAITREYI SACHIDANANDA HEGDE & ANJALI ANIL A., Advocates for the petitioners and of the GOVERNMENT PLEADER, the court passed the following:

P.M.MANOJ, J.**W.P.(C) No.31560 of 2024****Dated this the 06th day of September, 2024****ORDER**

This is a pathetic case where a girl of 17 years who is aspiring to be a doctor, appeared in the NEET 2024 Examination, fared well and came into the rank list.

2. Now the question arose with respect to her capability to be admitted as a student of MBBS, since by birth she is having some deformities with her hands. Thereby Ext.P6 certificate says that she is not fit to be admitted for MBBS or BDS course. In fact, on going by Ext.P6 certificate it appears that the authority who conducted examination has done only a quantitative analysis in order to fix the range of disability and found that she is a candidate of 50% disability.

3. Whereas nothing is stated in detail with respect to the assessment of the functionality of the hands. No details of the test conducted in this regard is provided in the certificate. Thus, the certificate does not satisfy the conscience with respect to the 'intactness' mentioned in

the Ext.P7 Regulations, as the deformities occurred to the petitioner's hands by birth. Thereby she may be differently abled. Hence, mere quantitative analysis for assessing the range of the disability may not be sufficient. It is specifically required to conduct a functionality assessment as well in order to find out whether the candidate is fit to undertake the study of MBBS.

4. Under such circumstances, I am of the considered opinion that the petitioner shall undergo a functionality test of her both hands before a competent body recognized by the National Medical Commission. In this situation, it is stated that the Trivandrum Medical College will be the competent agency to conduct such a medical assessment as the same is recognized by the National Medical Council.

5. Since the Medical College, Thiruvananthapuram, is not a party to this proceeding, I suo motu implead the Superintendent, Thiruvananthapuram Medical College, Medical College P.O., Thiruvananthapuram – 695 011, as the additional 5th respondent. Registry shall carry out necessary amendments to the cause title.

6. There will be a direction to the additional 5th respondent to constitute a Medical Board to assess the functionality of both the hands of the petitioner in order to ascertain whether it suits the requirements of a medical student. This exercise shall be conducted on 07.09.2024 at 10.00 a.m. The petitioner shall make herself available before the Medical Board at 9.30 a.m. on 07.09.2024. On assessing such functionality, the additional 5th respondent shall furnish a report before this court on 09.09.2024 through the Government Pleader. Such a report shall contain the details of the analysis of the functionality of each hand separately, and the conclusion should be with respect to the eligibility of the petitioner to undergo the curriculum of MBBS.

Post on 09.09.2024.

H/o

Sd/-

P . M . MANOJ
JUDGE

DMR/-

APPENDIX OF WP(C) 31560/2024

Exhibit P6

A copy of the Disability Certificate dated 08.08.2024 issued by the 2nd respondent.

Exhibit P7

A COPY OF APPENDIX H-1TO GRADUATE MEDICAL EDUCATION REGULATIONS, 1997, DATED 13.05.2019, ISSUED BY RESPONDENT NO. 1.

