

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 8TH DAY OF APRIL 2022/18TH CHAITHRA, 1944

W.P(C).NO.18510 OF 2021

PETITIONERS:

- 1 TALWIN JOSEPH
AGED 21 YEARS
KURUPPASSERY HOUSE, VALAPPU MALIPURAM P.O.,
ERNAKULAM - 682 511.
- 2 SREERAM S.KAMMATH
KRRRA-93, KUNNUNGAL LANE, KACHCHAPILLY ROAD,
VYTTEILA P.O., ERNAKULAM - 682 019.
- 3 AASHIKA P.A.
PANCHAIKKAL PARAMBIL, ELAMAKKARA,
KOCHI - 682 026.
- 4 NIVEDHYA P.A.
CHANDRA HOMES, PALATHINKAL LANE,
VADAKEKOTTA, TRIPUNITHURA,
ERNAKULAM, PIN - 682 30.
- 5 AKHILESH R.S.
SIVAKRIPA, NEAR SIVANKOVIL,
PUNALUR - 691 305.
- 6 NAYANA M.S.
SUJA BHAVAN, VAVANIKONAM, VATTAPPARA P.O.,
TRIVANDRUM - 695 028.
- 7 FEMINA S.WILSON
NABHAS, NEAR AYURVEDA HOSPITAL, ERICHALLOOR

PLAMOOTTUKKADA P.O., TRIVANDRUM - 695 122.

- 8 ASWANY S.VIJAYAN
VIJAY NIVAS, PERIYAVEEDU,
VLATHANKARA P.O. - 695 134.
- 9 ANURADHA SHAJI
ANUSHAM, PAPPANAMCODE,
TRIVANDRUM - 695 019.
- 10 HAFINA HABEEB
ZAM ZAM, ATHIKATTUKULANGARA P.O.,
NOORANAD - 690 504.
- 11 AISWARYA V.
AISWARYABHAVAN, PARAVOOR, PUNNAPRA (N) P.O.,
ALAPPUZHA - 688 014.
- 12 DEVIKA SIVADAS
DEVIKA, CHERTHALA, ALAPPUZHA - 688 582.
- 13 ANUPAMA B.
RAMNIVAS (H), KIZHAKKEMAN AKKUNNATH,
PATTANAKKAD - 688 531.
- 14 ANGEL P.ANTO
PULLIKKAN HOUSE, MANALUR,
THRISSUR - 680 617.
- 15 KRISHNENDU
MARAKKATH HOUSE, GURUVAYOOR,
THRISSUR - 680 509.
- 16 AKSHAYA
VATTAPARAMBIL (H), ERIYAD, KODUNGALLUR - 680 666.
- 17 RIYA JOSE
KURIYAPARAMBIL, KOTTAPURAM, KODUNGALLUR - 680 667

- 18 HARITHA
THOZHUTHUNGAL (H) , GOWREESWARA,
CHERAI - 683 514.
- 19 ANJU B.
THARAYIL (H) , GOWREESWARAM CHERAI P.O. ,
ERNAKULAM - 683 514.
- 20 DEVIKA MADHU SUDHAN
PROVIDENT WELWORTH CITY, BANGALORE - 561 203.
- 21 NITHA NOURIN K.
KALODATH (H) , PANAMARAM - 670 721.
- 22 JAMSHEENA M.
MUTHUVADAN (H) , PARAPPUR, KOTTAKKAL - 676 503.
- 23 SINANA T.
THEKKEDATH (H) , MANHAPETTY, KOORAD (P.O.) ,
MALAPAPURAM - 679 339.
- 24 GOPIKA K.C.
KARUKAYIL (H) , KUMARAKOM - 686 563.
- 25 ATHUL NADH
SREESHYLAM (MLATHADATHIL) ,
VIZHIKKITHODU P.O. , KANJIRAPPALLY,
KOTTAYAM - 686 518.
- 26 BLESSY JOSE
CHETTANIYIL, KARIMANOOR, THODUPUZHA 685 581.
- 27 AFNA NASEER
ALIYAKUNNEL (H) , UDUMBANNOOR P.O. ,
THODUPUZHA - 685 595.
- 28 GOPIKA SANAL
THAMARASSERIL HOUSE, NEDUMKANDAM P.O. ,
NEDUMKANDAM, IDUKKI - 685 553.

- 29 ANNA ELIZABETH MATHEW
KOIPURATHU HOUSE, KATTAPPANA - 685 511.
- 30 SHAHANA MOL K.H.
KOLLAMPARAMBIL (H) , VALARA P.O. ,
TENTH MILE, IDUKKI - 685 561.
- 31 VEENA C.VISWAM
CHIRAYIL PUTHENPURAYIL (H) ,
KALAMBOOR, MUVATTUPUZHA, ENANALLOOR P.O. ,
ERNAKULAM - 686 673.
- 32 JAIBY VARGHESE
MANGATTU MANKUZHA(H) ,
ASAMANNOR P.O. , PUNNAYAM - 683 549.
- 33 AMINA T.A.
THOTTATHIL KOTTAPPURTH (H) ,
CHALACKAL, MARAMPALLY P.O. , ALUVA - 683 105.
- 34 NAYANA M.SURESH
MUTHALAPPARAMBHIL, KEEZHILLAM,
ERNAKULAM - 683 541.
- 35 APARNA SHENOY
VALIYAPARAMBU PUTHEN MADOM (H) ,
PERUMBAVOOR, ERNAKULAM - 683 542.

BY ADV.SRI.S.MANU
BY ADV.SRI.K.S.PRENJITH KUMAR
BY ADV.SRI.BEA MARY BENNY

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO
GOVERNMENT, AYUSH DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 1.

- 2 ADMISSION AND FEE REGULATORY COMMITTEE FOR MEDICAL
EDUCATION IN KERALA
REPRESENTED BY ITS SECRETARY, T.C.15/1553-4,
PRASANTHI BUILDINGS, VAZHUTHACAUD,
THIRUVANANTHAPURAM - 695 014.
- 3 NANGELIL AYURVEDA MEDICAL COLLEGE
NELLIKUZHI P.O., KOTHAMANGALAM, ERNAKULAM,
PIN - 686 691, REPRESENTED BY ITS PRINCIPAL.
- 4 THE MANAGER
NANGELIL AYURVEDA MEDICAL COLLEGE,
NELLIKUZHI P.O., KOTHAMANGALAM, ERNAKULAM,
PIN - 686 691.
- 5 THE KERALA UNIVERSITY OF HEALTH SCIENCES
REPRESENTED BY ITS REGISTRAR, MULANKUNNATHUKAVU,
THRISSUR - 680 596.

BY ADV.SRI.GEORGE POONTHOTTAM (SR.)
BY ADV.SMT.CHITRA P. GEORGE
BY SRI.P.SREEKUMAR, SC, KERALA UNIVERSITY OF HEALTH
SCIENCES
BY ADV.SRI.NISHA GEORGE
BY SRI.BIJOY CHANDRAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 08.04.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

J U D G M E N T

A.K. Jayasankaran Nambiar, J.

The petitioners, 35 in number, are stated to be BAMS Degree students of the Nangelil Ayurveda Medical College, Kothamangalam. They joined the College during the academic year 2018-19. In the writ petition, it is their case that during the academic year 2020-21, there was a disruption in the instructions imparted to them by the College, and hence, they ought to be extended a pro rata concession in the fee demanded from them for the said academic year. The petitioners rely on the decision of the Supreme Court in **Indian School, Jodhpur and Others v. State of Rajasthan and Others - [MANU/SC/0338/2021]** to point out that under similar circumstances, the Supreme Court had directed a School to extend a 25% reduction in the fees to students.

2. In the counter affidavit filed on behalf of the respondent College, it is stated that although there was a disruption in the

functioning of the College owing to the outbreak of Covid-19 in March, 2020, the management had taken steps to ensure that instructions were imparted to the students online, and further that the staff and faculty were made available for the students by paying them the entire salary and other allowances due to them even during the pandemic period. It is therefore contended that there was no saving effected in the infrastructure costs incurred by the College the benefit of which could be passed on to the students concerned.

3. We have heard Sri.Manu S., the learned counsel for the petitioners and Sri.George Poonthottam, the learned senior counsel, assisted by Adv.Smt.Chitra P. George for the respondent College.

4. On a consideration of the facts and circumstances of the case, we find that in matters such as these, there cannot be any fixed formula on the basis of which concessions can be granted to the students for alleged disruption and lack of facilities made available to them by the College where they are studying. We note however, that in the instant case, the respondent College was a first line Covid treatment facility for a good part of the academic year 2020-21, and consequently, the hospital attached to the College was not available for

the benefit of the students pursuing the BAMS course in the said College. Taking note of the said unique situation, and finding that there was a deprivation of the hospital facility to the students during the said period, we believe that extending a reduction of 10% of the annual fee charged from the petitioners for the said academic year would not be unreasonable under the circumstances.

5. We are told that the fees paid by the petitioners for the said academic year is in an amount of Rs.1,89,000/-. Deducting 10% of the said fee for the academic year 2020-21, we direct that the petitioners before us be extended a fee concession for the said academic year, to the extent of Rs.19,000/-, and we direct that only an amount of Rs.1,70,000/- be collected as fee from the petitioners for the academic year 2020-21. We make it clear that this direction shall be confined only to the petitioners before us, who have pursued the matter and have produced material to suggest that they had not obtained the benefit of having a hospital facility in connection with their course during the period aforementioned. In the event of the College already having collected the full fee from the petitioners herein for the academic year 2020-21, the concession as aforesaid, shall be extended by way of adjustment towards the fee of the future years. The

petitioners, who have not paid the fee for the academic year 2020-21, shall do so immediately after availing of the concession directed in this judgment.

The writ petition is disposed as above.

**Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE**

**Sd/-
MOHAMMED NIAS C.P.
JUDGE**

prp/8/4/22

APPENDIX OF WP(C).NO.18510/2021

PETITIONER EXHIBITS:

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| Exhibit P1 | TRUE COPY OF THE ORDER DATED 16/5/2018 ISSUED BY THE 2ND RESPONDENT COMMITTEE FIXING THE FEE FOR 2018-19. |
| Exhibit P2 | TRUE COPY OF THE APPLICATION UNDER THE RTI ACT. |
| Exhibit P3 | TRUE COPY OF THE REPLY GIVEN TO EXT.P2. |
| Exhibit P4 | TRUE COPY OF THE UPDATED GUIDELINES ISSUED ON 9/08/2021 BY HE ADVISORY COMMITTEE OF THE 5TH RESPONDENT UNIVERSITY. |
| Exhibit P5 | TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PARENTS OF THE PETITIONERS BEFORE THE ADMISSION AND FEE REGULATORY COMMITTEE. |
| Exhibit P6 | TRUE COPY OF THE LETTER DATED 12/11/2020 ISSUED BY THE COMMITTEE TO THE COLLEGE. |
| Exhibit P7 | TRUE COPY OF THE JUDGMENT IN WP(C) NO.21567 OF 2020 DATED 11/12/2020. |
| Exhibit P8 | TRUE COPY OF THE REPRESENTATION ADDRESSED TO THE HON'BLE CHIEF MINISTER DATED 15/8/2020. |
| Exhibit P9 | THE COPY OF THE G.O.(RT) NO.789/2021 HEDN DTD. 15/6/21. |
| Exhibit P10 | TRUE COPY OF THE NOTICE DATED 18/08/2021 ISSUED BY THE PRINCIPAL DEMANDING FEE FOR 2021-22. |

RESPONDENTS EXHIBITS:

EXHIBIT R4 (A) TRUE COPY OF THE NOTICE BEARING RAFF
NO.329AC/2020 DATED 15.07.2020 ISSUED BY
THE 3RD RESPONDENT.

EXHIBIT R4 (B) TRUE COPY OF THE NOTICE BEARING RAFF
NO.333AC/2020 DATED 01.09.2020 ISSUED BY
THE 3RD RESPONDENT.

EXHIBIT R4 (C) TRUE COPY OF THE NOTICE DATED NIL ISSUED BY
THE 3RD RESPONDENT.

EXHIBIT R4 (D) TRUE COPY OF THE NOTICE DATED 24.11.2020
ISSUED BY THE 3RD RESPONDENT.

EXHIBIT R4 (E) TRUE COPY OF THE CIRCULAR DATED 30.06.2021
ISSUED BY THE 5TH RESPONDENT DIRECTING
REOPENING OF COLLEGES.

//TRUE COPY//

P.S. TO JUDGE