

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

Friday, the 2nd day of September 2022 / 11th Bhadra, 1944
WP(C) NO. 27167 OF 2022 (U)

PETITIONERS:

1. KERALA STATE INDIAN SYSTEM OF MEDICINE SELF-FINANCING COLLEGE MANAGEMENT ASSOCIATION (KISMA), REG. NO. CA 444/11, REGISTERED OFFICE AT PNNM AYURVEDA MEDICAL COLLEGE, CHERUTHURUTHY P.O., THRISSUR DISTRICT - 679 531, REPRESENTED BY THE SECRETARY.
2. MANNAM AYURVEDA CO-OPERATIVE MEDICAL COLLEGE, M.S.M. P.O., PANDALAM, PATHANAMTHITTA - 689 501, REPRESENTED BY ITS MANAGING DIRECTOR.
3. NANGELIL AYURVEDA MEDICAL COLLEGE, REG. NO. SR/P/3-2011, NELLIKKUZZHI-P.O., KOTHAMANGALAM, ERNAKULAM DISTRICT. REPRESENTED BY ITS MANAGING DIRECTOR.
4. POOMULLI NEELAKANDAN NAMBOODIRIPAD MEMORIAL AYURVEDA MEDICAL COLLEGE AND HOSPITAL, CHERUTHURUTHY P.O., THRISSUR DISTRICT - 679 531, REPRESENTED BY THE SECRETARY.
5. AHALIA AYURVEDIC MEDICAL COLLEGE, ELIPPARA, KOZHIPPARA-PO., PALAKKAD DISTRICT, REPRESENTED BY THE TRUSTEE & AUTHORISED SIGNATORY, AHALIA INTERNATIONAL FOUNDATION, PALAKKAD - 678557.
6. SREE NARAYANA HEALTH CARE SOCIETY, KARIMPINPUZHA P.O., KOLLAM - 691 507, REPRESENTED BY THE SECRETARY.
7. PANKAJAKASTHURI AYURVEDA MEDICAL COLLEGE AND POST GRADUATE CENTRE, KATTAKKADA, THIRUVANANTHAPURAM - 695 572, REPRESENTED BY ITS MANAGING DIRECTOR.

RESPONDENTS:

1. UNION OF INDIA, MINISTRY OF AYURVEDA, YOGA & NATUROPATHY, UNANI, SIDDHA AND HOMOEOPATHY, AYUSH BHAVAN, B BLOCK, GPO COMPLEX, INA, NEW DELHI - 110023. REPRESENTED BY THE SECRETARY.
2. NATIONAL COMMISSION FOR INDIAN SYSTEM OF MEDICINE, JAWAHAR LAL NEHRU BHARTIYA CHIKITSA AVAM HOMOEOPATHY ANUSANDHAN BHAWAN, 61-65, INSTITUTIONAL AREA, JANAKPURI "D" BLOCK, NEW DELHI-110058.
3. THE KERALA UNIVERSITY OF HEALTH SCIENCES, MULAMKUNNATHUKAVU, MEDICAL COLLEGE P.O., THRISSUR DISTRICT - 680596, REPRESENTED BY THE REGISTRAR.
4. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF AYUSH, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001.

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 stay the operation of Exhibits-P7 and P8 with a further direction to consider the application for grant of permission by the 1st respondent without reference to Exhibit-P7 and further direct the 2nd respondent to issue the continuation of affiliation without insisting for the compliance of the stipulations as contained in Exhibit-P8, pending

disposal of the 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 SRI.GEORGE POONTHOTTAM (SENIOR) along with M/S.NISHA GEORGE & SIDHARTH.R.WARIYAR, Advocates for the petitioners, SRI.MANU S, ASSISTANT SOLICITOR GENERAL OF INDIA for R1, SRI.P.SREEKUMAR, Advocate for R3 and of GOVERNMENT PLEADER for R4, the court passed the following:



DEVAN RAMACHANDRAN, J.

WP(C)Nos.25759/2022 & 27167/2022

Dated this the 2nd day of September, 2022

ORDER

It is the specific case of the petitioners in these matters that the National Commission for Indian System of Medicine (NCISM) do not have the competence to frame Regulations with respect to the determination of salary to the faculty of the self-financing colleges; and they refer to Section 55(o) of the National Commission for Indian System of Medicine Act, 2020 (hereinafter referred to as 'the Act' for short).

Sri.Kurian George Kannamthanam and Sri.George Poonthottam – learned Senior Counsel appearing in these matters, vehemently argued that, going by Section 55(o) of the Act, the NCISM cannot fix salary of the faculty of the self-financing colleges and that their competence are confined to the conduct of National Teachers' Eligibility Test for Indian System

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of Medicine and nothing more.

The learned Assistant Solicitor General of India – Sri.S.Manu, however, sought time saying that his client has to respond to the afore allegations, through a counter pleading.

That said, since the petitioners have shown me the schedule fixed by the Kerala University of Health Sciences (KUHS) for completing the admission process and commencement of classes, I am of the view that they are entitled to an interim order, lest the courses are prejudiced in future.

Resultantly, I adjourn these matters to be called on 29.09.2022; within which time, the NCISM, as also the other respondents, will complete their counter pleadings.

Until the next posting date, I direct the NCISM to process the applications of the petitioners and forward them to the KUHS as per the statutory scheme, without insisting payment of salary to the faculty of the self-financing colleges under their Regulations; however, on condition that if these Writ Petitions

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are to finally end against the petitioners, they will pay the said amount to the faculty, along with all applicable interest and charges, as may be statutorily required.

H/o

Sd/-

DEVAN RAMACHANDRAN,
JUDGE

RR/02.09.2022



APPENDIX OF WP(C) 27167/2022

Exhibit P7

**TRUE COPY OF THE COMMUNICATION GIVEN BEARING REF.
NO.3/2022/MARB/GENERAL MATTERS ON 13.08.2022.**

Exhibit P8

**TRUE COPY OF THE COMMUNICATION/ CIRCULAR NO. 9443/
2022/A1/ACAD-AYUSH/KUHS DATED 01.08.2022.**

