

(1984) 10 KL CK 0018
In the High Court Of Kerala
Case No : O.P. No. 8852 of 1984-F

Dr. P.R. Vydianathan

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 30-10-1984

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1985 Ker 188

Hon'ble Judges : P.C. Balakrishna Menon, J

Bench : Single Bench

Advocate : K.S. Rajamony and M. Lalitha Nair, for the Appellant; Govt. Pleader and M.N. Sukumaran Nayar, for the Respondent

Judgement

P.C. Balakrishna Menon, J.—Due to a mistake in communication and for no fault of the petitioner, he had been denied admission for the M.D. Course in General Medicine for the year 1982-83. Instead the 4th respondent had been admitted to the course which commenced in Feb. 1984. The petitioner passed the M.B.B.S. Examination of the Calicut University in 1981 with First Class and First Rank. He completed the Course of House Surgeoncy in 1982 and applied for admission to the postgraduate M.D. Course, with first choice in General Medicine and the second choice in Gynaecology. An Entrance Test was held by the Commissioner of Entrance Examinations in Nov., 1983. The petitioner was selected for M.D. in Gynaecology. He was No. 2 in the waiting list for M.D. in General Medicine. He was called for interview at the Kottayam Medical College on 20-2-1984 for admission in that College for M.D. in Gynaecology. Since he was not interested in the subject he did not turn up for the interview.

2. Sometime in Oct. 1984, the petitioner came to know that No. 3 in the waiting list for admission to the M.D. in General Medicine was admitted in the Medical College, Trivandrum, and he had joined the Course that commenced in Feb. 1984. On further enquiries at the Office of the 2nd respondent, the Director of Medical Education, it was noticed that a communication from that Office was

issued to the petitioner addressed to the Kottayam Medical College, offering him admission for M.D. in General Medicine. The envelope was returned unserved with postal endorsement "addressee not known". The return of the envelope was in Mar. 1984. No further communication was issued to the petitioner and it was at the place lawfully due to him that the 4th respondent, No. 3 in waiting list was given admission.

3. In his application for admission, the petitioner had given his address at "Sreenilayam", V. Kavu, Palghat". It was to that address that all communications were issued to him from the Office of the 2nd respondent, except the one offering him admission for M.D. in General Medicine. May be, it was due to a bona fide mistake of the person concerned in the 2nd respondent's Office that the letter offering admission was issued to the petitioner at the Kottayam Medical College address apparently under the impression that he might have joined that College for M.D. in Gynaecology. But at least when it was found that the envelope addressed to Kottayam was returned unserved the 2nd respondent owed a duty to the petitioner to have issued a second communication to the address furnished by him in his application. The result of such a mistake and omission on the part of the 2nd respondent's Office had been to deny admission to the petitioner to the Course of his choice. It is clear from his academic records that he had been a brilliant student who had obtained first rank at the M.B.B.S. Examination held by the Calicut University. It will be unfair to exclude such candidates from Post-Graduate studies for the reason of a mistake or omission committed by the 2nd respondent and his Office.

4. Learned Government Pleader appearing on behalf of respondents 1 to 3 submits that the 2nd respondent the Director of Medical Education is willing to consider the petitioner's case for admission for M.D. in General Medicine and is prepared to admit him if there is any vacancy. No useful purpose will be served in admitting the petitioner at this stage after the lapse of about eight months to a Course that commenced in Feb., 1984. I am told that the Course for M.D. in General Medicine for the year 1984-85 is due to commence in Feb. 1985. There are altogether 35 seats for the M.D. Course in General Medicine.

5. In *Randhir Singh Vs. State of Haryana and Another*, almost under similar circumstances for the reason of the late receipt of intimation a candidate for admission to an educational institution could not present himself for the requisite medical test and was declined admission for his absence at the test, the Supreme Court directed a fresh medical test and admission of the candidate, if found fit In *Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others*, , it was found that 16 candidates had been wrongly admitted for the Engineering Course in the Punjab Engineering College, Chandigarh and those wrongly admitted had completed one or two semesters. 16 others legally entitled were denied admission for the reason of the wrong admission of candidates. Under those circumstances a direction was issued by the Supreme Court to increase the number of seats for the next academic year

to provide for admission of the 16 candidates wrongly denied admission earlier.

6. In the decision of the Supreme Court in Dr. Vinay Rampal Vs. State of Jammu and Kashmir and Others, , a direction was issued to admit a candidate wrongly denied admission for M.D. in General Medicine without any further test or selection for the Course due to commence thereafter.

7. Considering all these aspects of the case, the only method that can be devised to rectify the injustice done to the petitioner is to direct his admission for M.D. in General Medicine for the Course commencing in Feb., 1985, without any further test or selection. I do so.

The original petition is disposed of as above. There will be no order as to costs.