

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 7TH DAY OF NOVEMBER 2022 / 16TH KARTHIKA, 1944

WP(C) NO. 34991 OF 2022

PETITIONER/S:

- 1 SOCIAL HEALTH ONE HEALTH MOVEMENT CHARITABLE TRUST
REG. NO IV/99/2019, SAMATHA BUILDINGS,
POWER HOUSE EXTN. ROAD, KOCHI, KERALA
REPRESENTED BY ITS MANAGING TRUSTEE, PROF. (DR)
P. K. SASIDHARAN., PIN - 682018
- 2 PROF. (DR) P. K. SASIDHARAN
MANAGING TRUSTEE, SOCIAL HEALTH ONE HEALTH
MOVEMENT CHARITABLE TRUST, FORMER HEAD, DEPARTMENT
OF MEDICINE, GOVERNMENT MEDICAL COLLEGE,
KOZHIKODE. RESIDING AT PARIJATHAM, PIPELINE ROAD,
PATTERI, KOZHIKODE, PIN - 673016
BY ADVS.
M.R.RAJENDRAN NAIR (SR.)
SASI M.R.
N.P.SILPA
VARADA BALACHANDRAN
DHARMYA M.S
KAVYA KRISHNAN

RESPONDENT/S:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY,
MINISTRY OF HEALTH AND FAMILY MEDICINE,
NIRMAN BHAVAN, NEW DELHI, PIN - 110011
- 2 CHIEF EXECUTIVE OFFICER, NITI AAYOG
YOJANA BHAVAN, SANSAD MARG, NEW DELHI, PIN -
110011
- 3 THE CHAIRMAN
NATIONAL MEDICAL COMMISSION,
POCKET - 14, SECTOR - 8, DWARKA, PHASE - I,
NEW DELHI, INDIA, PIN - 110077

- 4 STATE OF KERALA
REPRESENTED BY ADDITIONAL CHIEF SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF KERALA, ANNEXE II - 6TH FLOOR,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001
- 5 DIRECTOR OF HEALTH SERVICES
DIRECTORATE OF HEALTH SERVICES,
KERALA GENERAL HOSPITAL JUNCTION,
THIRUVANANTHAPURAM, KERALA, PIN - 695035
- 6 REGISTRAR
KERALA UNIVERSITY OF HEALTH SCIENCE, MEDICAL
COLLEGE P. O.,
THRISSUR, KERALA, PIN - 680596
- 7 HONORARY SECRETARY GENERAL
INDIAN MEDICAL ASSOCIATION,
I.M.A. HOUSE, INDRAPRASTHA MARG, NEW DELHI, PIN -
110002
BY ADVS.
S. MANU, DSG OF INDIA
P.SREEKUMAR

OTHER PRESENT:

SRI. TEKCHAND V SR.GP;
JAISHANKER V NAIR CGC FOR R1 TO R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 07.11.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

J U D G M E N T

S. Manikumar, C. J.

Instant public interest writ petition has been filed for the following reliefs:-

“i. Issue a writ of mandamus to the respondent nos. 1, 3, 4 and 6 to create a mandatory department of Family Medicine in all Medical Colleges within their authority to train interested students in the field of Family Medicine;

ii. Issue a writ of mandamus to the 4th respondent directing that henceforth the posts in Family Health Centres must be filled only with doctors who have received specialized training in Family Medicine, i.e., MD/DNB/Diploma in Family Medicine;

iii. Issue a writ of mandamus to the 4th and 6th respondents directing that the existing doctors appointed in Family Health Centres in Kerala must be given adequate in-service training leading to a diploma/degree in the field of Family Medicine.”

2. Short facts leading to the filing of the writ petition are as under:-

a) According to the petitioners, the 1st petitioner, Social Health One Health Movement Charitable Trust, is a NGO. It is a collective of sensitive citizens, including medical professionals, organic farmers, design professionals, academicians, lawyers and activists, working towards a healthier India and a healthier planet. The 2nd petitioner, the Managing Trustee of the 1st petitioner, is a medical practitioner, Professor of Medicine and an Author. He retired as the Professor and Head of the Department of Internal Medicine at the division of Clinical Hematology at Calicut Medical College in 2015. Petitioners have been actively involved in the advocacy of the need for the Indian medical system to focus on general practice/Family Doctors. The 2nd petitioner frequently writes through social media and newspapers enlightening the masses about the issues highlighted through this petition.

b) Petitioners have submitted that only an efficient primary health care system (where Family Doctors are the dominant players) can help in focusing on health and wellness scientifically and reducing disease burden and patient load in tertiary care centers like the medical colleges. A Family Doctor is a doctor who works in the community set up and acts as the Doctor of first contact. He/she provides continuous

and comprehensive care (from womb to tomb) including emergency and palliative care to all people, irrespective of age and gender. Trained Family Doctors deployed in the community setting, including rural areas, will reduce the disease burden by educating the patients about best health and hygiene practices and also reduce the unnecessary hospital admissions and emergencies needing hospital centered care. Family Medicine Doctors (also called as GPs/Primary Care Doctors) play a very important role in prevention of diseases as well as the promotion of health, thereby reducing the disease burden and health care expenditure.

c) Petitioners have further submitted that countries like United Kingdom, Australia, Canada and Cuba had introduced Family Medicine system decades back. India stands as an outlier among the world countries by its failure or neglect to promote the most needed class of Doctors for the society, i.e., Family Doctors. It is trite law that health is a fundamental right and human right guaranteed under Article 21 of the Constitution of India.

d) Petitioners have also submitted that socio-economic determinants of health (of which people may be unaware) such as

access to proper diet, clean water, sanitation facilities, affordability of hygienic surroundings etc. play a determinative role in our overall health. We have seen during Covid-19 as to how disproportionately infectious diseases could affect the people from marginalized sections of society. The specialist care provided by private hospitals is clearly not affordable to the vast majority of persons in the country. Further, the specialist branches of medicine focus on specific diseases and their solutions, that too in a hospital setting, rather than general health and wellness. A focus on wellness and health is the domain of Family Medicine, a field whose potential and value is not adequately understood or developed in the Country.

e) It is submitted that the Ministry of Health and Family Welfare recommended in 2002, by Exhibit P11, that at least 25% of all post graduate training seats should be in Family Medicine and that no new postgraduate seats should be started in any medical college unless this condition was fulfilled. These aspects were also highlighted in the National Health Policy 2017 vide Ext. P12. However, no steps have been initiated to start courses in Family Medicine in our medical colleges. Despite being the best health care model for the rest of India,

the State of Kerala has not shown the requisite level of interest in developing Family Medicine as a field of study or practice.

f) It is further submitted that in the circumstances, the petitioners had given Exts. P2 and P3 representations to the Union and the State Government, respectively. Representations on identical lines were also given to other respondents also. However, those were not considered so far. Therefore, without intervention of this Court, the respondents will not consider the representations.

3. When the limitations of the Courts in directing mandamus to take a policy decision as prayed for is pointed out, Mr. M. R. Rajendran Nair, learned Senior Counsel appearing for the petitioners, conceded that it is suffice to dispose of Ext. P2 representation dated 25.08.2021, submitted to the Secretary, Ministry of Health and Family Welfare, New Delhi, the 1st respondent.

4. Submission of Mr. M. R. Rajendran Nair, learned Senior Counsel appearing for the petitioners, is placed on record.

5. Mr. Jaishankar V. Nair, learned Central Government Counsel appearing for the Union of India, represented by the Secretary,

Ministry of Health and Family Welfare, New Delhi, the 1st respondent, submitted that he would get appropriate instructions.

6. As the only request made by the learned Senior Counsel for the petitioners is to dispose of Ext. P2 representation dated 25.08.2021, we do not delve into the merits of the writ petition.

7. Ext. P2 representation dated 25.08.2021, addressed to the Secretary, Ministry of Health and Family Welfare, New Delhi, the 1st respondent, reads thus:-

Social Health One Health Movement Charitable Trust

(Reg. No.IV/99/2019), Inspiration, Bhavan's Vidya Mandir Road,
Eroor, Eroor West P O, Kerala-682 306 Ph. +91 484 2779470.

Email shohmtrust@yahoo.com

M.R.Rajendran Nair	Dr.P. K. Sasidharan	M.R. Sasi	Jaigopal Rao
Advocate	Physician	Advocate	Architect
Chairman	Managing Trustee	General Secretary	Treasurer
Ph No 9495952214	Ph No 9847005177	Ph No 9447805197	Ph No 9895082955

To

Shri Rajesh Bhushan
Secretary
Ministry of Health & Family Welfare
Government of India

Sir,

Sub: Inclusion of Family Medicine department as mandatory for
Minimum Standards Requirement for recognition of medical
colleges and student admission to MBBS

Ref: Admissions Regulations, 2021 to fulfil NMC requirement of Chapter V, 24 (1) c, 25(1)J and Chapter VII, 57 (2)(P)

India is overburdened with superspecialist centered, fragmented, disorganized, focal, expensive, segmented, technology-oriented, hospital centered disease care delivery systems, which hardly is a health care delivery system. We have ignored the much-needed social determinants of health, which has led to probably the highest disease burden in the world. In this scenario, we have ignored the much-needed primary health care doctors/GPs/Family doctors too. All the progressive societies in the world had promoted primary care at the base of their health system and the doctors willingly choose that even as their most preferred career option after UG training (MBBS) as their governments promote them with higher incentives and better social status. India too once had enough family doctors till the specialist boom, driven by market forces, conquered us and since there were no government policies, almost all the doctors left the general practice and went for specialization. There is a pitiable situation now that each doctor sitting in PHC is aspiring to go for specialization and the health systems suffer very badly.

Family Medicine (General practice/primary care) envisions continuous, comprehensive, Community centred, health care which is almost on the verge of extinction in India due to the lack of vision and policies by the responsible bodies. Even now such responsible bodies recommend only for increasing the number of specialists and recently another hospital

centered speciality has been made mandatory for recognition of medical colleges because there are interested parties to push it. With regard to family medicine, the only interested parties are the people but hardly anyone is aware of its significance and there are no industries to promote this branch of medicine. Bringing family medicine will reduce the disease burden and will make disease care accessible and affordable to the people.

As per the National Medical Commission (NMC) act the sections 24 (1) c, 25 (1) J and 57(1) undergraduate medical education board shall develop a competency-based dynamic curriculum for addressing the needs of primary health services by promoting family medicine to ensure health in such areas in accordance with provisions of the regulations made under this act and it mentions promoting and facilitating postgraduate courses in family medicine.

The MCI of India in the year 2012 had introduced MD in Family Medicine but till today only five medical colleges out of 542 has started the course. This is because it is not made mandatory to get recognition. If we look at the broad objectives of MBBS (which hardly is fulfilled now) it was to bring out family doctors and not to make them specialists alone. These objectives can be satisfied only with a department of family medicine. Since there are no family medicine departments, the medical students are not exposed to the concept of primary care and the need and importance of it and hence there are no takers

for this most important job and the governments have not made this training mandatory to take up a job in the PHCs and CHCs.

Once we bring out large numbers of trained family doctors (MBBS doctors need three-year training after passing out) these new generation doctors can provide comprehensive medical and surgical care to the communities in the rural, suburban and urban areas. All the members of a family can be benefitted by attending to one trained family doctor's facility always, instead of going to four or five different specialists and we can stop the widely prevalent deplorable practice of doctor-shopping in India which has been creating several unhealthy trends in the profession, which is unheard of in other countries.

This very important national objective can be fulfilled only by making it mandatory to start a family medicine department, in each medical college for its recognition. Each medical college should be asked to create the required faculty posts as an urgent need (two assistant professors, one associate professor and one professor). This will help save the health system in India from collapsing. Having separate family medicine departments will motivate the medical students to take up family medicine as their future career pathway and will pave the way to produce the necessary family medicine workforce to meet the health needs of society.

In future at least, the doctors appointed in PHCs and CHCs should be trained in family Medicine (MD/DNB/Diploma), so that they become competent and will

stick to that job and will focus on their work rather than preparing for entrance examination as is happening today. As of today, the general practitioners in the periphery are not trained adequately for the challenges of primary care and they need handholding and empowerment by force, through professional development training programmes which are not uniform and standardized. It will not be possible for them to leave the practice periodically and get trained at random. For them, NMC shall also develop some formal training programmes like certificate programs or diploma courses to make them competent family physicians.

Therefore, we the members of the Social Health One Health Movement which was started to create awareness on all the social determinants of health and health needs (primary care is one of them) appeal to you again for the following two demands:

- 1) Ensure family Medicine departments in medical college and future please do not give recognition to them if they do not have a family medicine department
- 2) Empower the existing general practitioners by a structured and organized training program by the National Board of Examinations or any other competent body to make them competent and motivated family physicians

Dated this the 25th day of August 2021

Yours truly

Expecting a positive response at the earliest

Dr. P. K. Sasidharan	Adv. M. R. Rajendran	Nair M. R. Sasi
Managing Trustee	Chairman	Gen Secretary”

8. If such representation is acknowledged and pending on the file of the Secretary, Ministry of Health and Family Welfare, New Delhi, the 1st respondent, the same be disposed of, in accordance with law, within two months from the date of receipt of a copy of this judgment.

With the above direction, instant writ petition is disposed of.

Sd/-
S. MANIKUMAR
CHIEF JUSTICE

Sd/-
SHAJI P. CHALY
JUDGE

Eb

///TRUE COPY///
P. A. TO JUDGE

APPENDIX OF WP(C) 34991/2022

PETITIONER EXHIBITS

- Exhibit P1** TRUE COPY OF THE TRUST DEED CONTAINING THE OBJECTIVES OF THE 1ST PETITIONER.
- Exhibit P2** TRUE COPY OF THE REPRESENTATION DATED 25/08/2021 GIVEN TO THE 1ST RESPONDENT.
- Exhibit P3** TRUE COPY OF THE REPRESENTATION DATED 16/09/2021 SUBMITTED BEFORE HON'BLE CHIEF MINISTER, KERALA.
- Exhibit P4** TRUE COPY OF A DOCUMENT TITLED 'ABOUT THE AUSTRALIAN GENERAL PRACTICE TRAINING (AGPT) PROGRAM' PUBLISHED BY THE DEPARTMENT OF HEALTH AND AGED CARE, AUSTRALIAN GOVERNMENT.
- Exhibit P5** TRUE COPY OF THE CURRICULUM PUBLISHED BY ROYAL COLLEGE OF GENERAL PRACTITIONERS TITLED 'BEING A GENERAL PRACTITIONER'.
- Exhibit P6** TRUE COPY OF A DOCUMENT PUBLISHED BY THE CANADIAN MEDICAL ASSOCIATION TITLED 'FAMILY MEDICINE PROFILE'.
- Exhibit P7** TRUE COPY OF AN ARTICLE PUBLISHED BY MENDELEY CAREERS TITLED 'MEDICAL CAREERS: SPECIALISING AS A FAMILY PHYSICIAN' EXPLAINING THE REQUISITES FOR PRACTICING FAMILY MEDICINE THE U. K.
- Exhibit P8** A TRUE COPY OF AN ARTICLE TITLED 'FAMILY MEDICINE IN CUBA: COMMUNITY-ORIENTED PRIMARY CARE AND COMPLEMENTARY AND ALTERNATIVE MEDICINE' BY LEE T. DRESANG MD ET AL. PUBLISHED IN THE JOURNAL OF THE AMERICAN BOARD OF FAMILY PRACTICE.
- Exhibit P9** TRUE COPY OF THE ARTICLE ON FACEBOOK POSTED BY THE 2ND PETITIONER.
- Exhibit P10** TRUE COPY OF A REPORT PUBLISHED BY MATHRUBHUMI E - PAPER DATED 29/05/2022.
- Exhibit P11** TRUE EXTRACT OF THE RECOMMENDATION OF THE MINISTRY OF HEALTH AND FAMILY WELFARE, GOVERNMENT OF INDIA.
- Exhibit P12** TRUE COPY OF THE NATIONAL HEALTH POLICY 2017.
- Exhibit P13** TRUE COPY OF THE REPORT PUBLISHED IN THE HINDU DATED 30/08/2022.