

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

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THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 7TH DAY OF SEPTEMBER 2021 / 16TH BHADRA, 1943

WP(C) NO. 18210 OF 2021

PETITIONER:

- 1 QUEERYTHM
(REG NO.TVM/TC/461/2017), (NON-PROFIT ORGANIZATION),
QUEERYTHM LGBTIQ COMMUNITY KERALA, ARTLINE, PRRAP 110
(2) KUMBALAPALLY LANE, ASKHARAVEEDHI, PETTAH ,PIN-695
024, THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY
SYAMA S.PRABHA
- 2 DHISHA
(REG.NO,MPM/CA/294/2015) (NON-PROFIT ORGANIZATION),
JANASEVANA KENDRAM, THOKKAMPARA, GRHS ROAD, KOTTAKKAL,
MALAPPURAM-676 503, REPRESENTED BY ITS PRESIDENT
DINU.K., AGED 26 YEARS, S/O. RADHAMANI C.K., RESIDING
AT DIVYANIVAS, FAROOK COLLEGE P.O., KOZHIKODE-673 632
BY ADVS.
LEGITH T.KOTTAKKAL
DHANUJA M.S

RESPONDENTS:

- 1 NATIONAL MEDICAL COMMISSION
POCKET-14, SECTOR-8, DWARAKA PHASE-I, NEW DELHI-110
077, REPRESENTED BY ITS CHAIRMAN
- 2 UNDER-GRADUATE MEDICAL EDUCATION BOARD,
POCKET-14, SECTOR-8, DWARAKA PHASE-I, NEW DELHI-110
077, REPRESENTED BY ITS PRESIDENT
- 3 UNION OF INDIA,
MINISTRY OF HEALTH AND FAMILY WELFARE , NIRMAN BHAVAN,
NEW DELHI-110 011 , REPRESENTED BY ITS PRINCIPAL
SECRETARY
- 4 KERALA UNIVERSITY OF HEALTH SCIENCES,
MEDICAL COLLEGE P.O., THRISSUR, KERALA -680 596,

REPRESENTED BY ITS REGISTRAR

- 5 DIRECTORATE OF MEDICAL EDUCATION,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-695 011,
REPRESENTED BY ITS DIRECTOR
- 6 STATE OF KERALA
DEPARTMENT OF HEALTH AND FAMILY WELFARE DEPARTMENT, 6TH
FLOOR, SECRETARIAT, ANNEXE-II, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001, REPRESENTED BY ITS
SECRETARY
- 7 UNIVERSITY GRANTS COMMISSION (UGC),
BAHADUR SHAH ZAFAR MARG, NEW DELHI-110 002, REPRESENTED
BY ITS SECRETARY

SRI.TITUS MANI VETOM,STANDING COUNSEL FOR R1 & R2,
SRI.P.VIJAYAKUMAR, ASG FOR R3,
SRI.JAGDEESH LAKSHMANAN, CGC FOR R3
SRI.P.SREEKUMAR, STANDING COUNSEL FOR R4,
SRI.K.P.HARISH,SENIOR GOVERNMENT PLEADER FOR R5 AND R6.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 7th day of September,2021

S. MANIKUMAR,CJ.

Petitioners have filed the instant writ petition for the following reliefs:

A. To issue a writ of Mandamus directing the respondents 1 and 2 to revise Exhibit P4 to P12 text books and curriculum thereby remove the unscientific data and contains inhuman, derogatory remarks_against the transgender community and sexual minorities;

B. To issue a writ of mandamus directing the respondents 1 and 2 to consider Exhibit P13 and make revise the text books and curriculum in tune with law laid down by Hon'ble Supreme Court of India in National Legal Service Authority vs Union Of India AIR 2014 SC 1863and Navtej Singh Johar v. Union of India (2018) 10 SCC 1;

C. To issue a writ of mandamus directing the respondents 4 to 6 to consider Exhibit P14 and take appropriate actions and revising the text books and curriculum in tune with law laid down by Hon'ble Supreme Court of India in National Legal Service Authority vs Union Of India AIR 2014 SC 1863and Navtej Singh Johar v. Union of India (2018) 10 SCC 1;

2. Subject matter of the writ petition is to expose the infringement on the fundamental and constitutional rights of the sexual minority group of Lesbian, Gay, Bi-sexual, Transgender commonly referred as LGBTQ community. LGBTQ community is aggrieved by the discriminatory remarks and inhuman references used in the medical text books prescribed for medical courses in India, and according to the petitioners, which stereotypes this community's sexual or gender identities as an offence, mental disorder or perversion.

3. According to the petitioners, such references are made in the text books despite the fact that the said community's rights are recognized by the Hon'ble Supreme Court of India and decriminalized homosexual sex between consenting adults. It is also submitted that such remarks, stereotyping the LGBTQ community in an inhuman way, infringes their right to have a dignified life guaranteed under Article 21 of the Constitution of India and discriminates the said community from the social order, thereby violating Article 14 of the Constitution of India. Hence the instant writ petition is filed.

4. Though by referring to the contents of various texts, petitioners have alleged that the discrimination of transgenders commonly referred as LGBTQ, is violative of the rights guaranteed under Articles 14 & 21 of the Constitution of India and thus prayed for a direction to the National Medical Commission, New Delhi, represented by its Chairman and Under-Graduate Medical Education Board,

New Delhi, represented by its President - respondent Nos. 1&2 to revise Exhibits P4 to P12 text books and curriculum, thereby remove the unscientific data and contains inhuman, derogatory remarks against the transgender community and sexual minorities, Mr.Legith T. Kottakkal, learned counsel for petitioners, submitted that petitioners would be satisfied, if a direction is issued to National Medical Commission, New Delhi, represented by its Chairman and Under-Graduate Medical Education Board, New Delhi, represented by its President - respondent Nos. 1 & 2 respectively, to consider Exhibit P13 and further satisfied that, if this Court directs Kerala University of Health Sciences, Thrissur, represented by its Registrar, Directorate of Medical Education, Thiruvananthapuram, represented by its Director and State of Kerala, Department of Health and Family Welfare Department, Government Secretariat, Thiruvananthapuram, represented by its Secretary – respondent Nos.4 to 6, to consider Exhibit P14 and take appropriate steps.

5. Mr.Titus Mani, learned counsel for respondents 1 & 2, submitted that he has no objection in directing consideration of Exhibit P13, Mr.K.P.Harish, learned Senior Government Pleader, appearing for respondent Nos.4 to 6, submitted that Exhibit P14 representation may be directed to be considered in accordance with law.

6. However, Mr.P.Sreekumar, learned Standing Counsel, appearing for Kerala

University of Health Sciences, Thrissur, submitted that consideration of the representations by different authorities may result in divergent opinion and it is desirable to examine the representations by one authority i.e., the Under-Graduate Medical Education Board, New Delhi, represented by its President, after getting the views of the Kerala University of Health Sciences, Thrissur - respondent No.4. The above suggestion is accepted by the learned counsel for petitioners.

7. Placing on record the submission of the parties, we direct the Under-Graduate Medical Education Board, New Delhi, represented by its President, to consider Exhibit P13 representation dated 9th June, 2021 in the context of the grievances expressed regarding queer-phobic contents in medical text books, which is stated to be violative of the rights guaranteed under Article 21 of the Constitution of India.

8. Before doing so, the Under-Graduate Medical Education Board, New Delhi - respondent No.2 shall also obtain the remarks and views of the Kerala University of Health Sciences, Thrissur – respondent No.4 on Exhibit P13 dated 9th June, 2021 and Exhibit P14 dated 10th June, 2021 respectively. Such exercise shall be done within 8 weeks from the date of receipt of a copy of this judgment.

9. The Kerala University of Health Sciences, Thrissur – respondent No.4, is directed to provide its remarks and views in regard to the averments made in the

writ petition and with reference to the contents in Exhibits P13 and P14 representations without waiting for the copy of this judgment, and send the same to the Under-Graduate Medical Education Board, New Delhi, represented by its President - respondent No.2, so as to enable the said respondent to pass appropriate orders within the stipulated time.

With the above said directions, instant writ petition is disposed of.

Sd/-

S.MANIKUMAR
CHIEF JUSTICE

Sd/-

SHAJI P.CHALY
JUDGE

smv

PETITIONER'S EXHIBITS

- Exhibit P1** COPY OF THE REGISTRATION CERTIFICATE DATED 18.05.2017 ISSUED BY REGISTRAR OF SOCIETIES THIRUVANANTHAPURAM OF 1ST PETITIONER
- Exhibit P1A** ENGLISH TRANSLATION OF THE REGISTRATION CERTIFICATE DATED 18.05.2017 ISSUED BY REGISTRAR OF SOCIETIES THIRUVANANTHAPURAM OF 1ST PETITIONER
- Exhibit P2** COPY OF THE REGISTRATION CERTIFICATE DATED 24.05.2015 ISSUED BY DISTRICT REGISTRAR AND REGISTRAR OF SOCIETIES, MALAPPURAM OF 2ND PETITIONER
- Exhibit P2A** ENGLISH TRANSLATION OF REGISTRATION CERTIFICATE DATED 24.05.2015 ISSUED BY DISTRICT REGISTRAR AND REGISTRAR OF SOCIETIES, MALAPPURAM OF 2ND PETITIONER
- Exhibit P3** COPY OF THE TABLE PREPARED BY THE PETITIONER ORGANIZATIONS IN REGARD TO THE EXISTING QUEER PHOBIC MEDICAL TEXTBOOKS
- Exhibit P4** COPY OF THE RELEVANT OF VOLUME I OF THE CURRICULUM DEALING WITH 'FORENSIC MEDICINE INCLUDING TOXICOLOGY', VIDE PAGE 236, MODULE NO.FM3.16 LABELS HOMOSEXUALITY AND LESBIANISM UNDER NATURAL SEXUAL OFFICE, SEXUAL PERVERSION AND PARAPHILIA
- Exhibit P5** COPY OF THE RELEVANT PART OF VOLUME TWO OF THE CURRICULIM ON 'PSYCHIATRY', VIDE PAGE 215, MODULE NO.FM3.17
- Exhibit P6** COPY OF THE RELEVANT PART SHOWS TEXT BOOK OF GYNECOLOGY , 16TH EDITION
- Exhibit P7** COPY OF THE RELEVANT PORTIONS OF THE TEXT BOOK FORENSIC MEDICINE AND TOXICOLOGY AUTHORED BY DR.PC IGNATIUS
- Exhibit P8** COPY OF THE RELEVANT PAGES OF THE TEXT BOOK GHAI ESSENTIAL PEDIATRICS
- Exhibit P9** COPY OF THE RELEVANT PAGES OF THE TEXT BOOK REVIEW OF FORENSIC MEDICINE & TOXICOLOGY BY GAUTAM BISWAS
- Exhibit P10** COPY OF THE RELEVANT PAGES OF THE TEXT BOOK FORENSIC MEDICINE & TOXICOLOGY PRINCIPALS AND PRACTICE BY KRISHNAN VIJ, 5TH EDITION
- Exhibit P11** COPY OF THE RELEVANT PAGES OF THE TEXT BOOK

FORENSIC MEDICINE & TOXICOLOGY FOR MBBS BY
ANIL AGRAWAL, 1ST EDITION

Exhibit P12

COPY OF THE RELEVANT PAGES OF THE TEXT BOOK
ESSENTIALS OF FORENSIC MEDICINE & TOXICOLOGY
BY K.S.N.REDDY, 33RD EDITION

Exhibit P13

COPY OF EMAIL REPRESENTATION DATED 09.06.2021
SUBMITTED BY THE PETITIONERS BEFORE THE 1ST,
2ND, 3RD AND 7TH RESPONDENTS

Exhibit P14

COPY OF EMAIL REPRESENTATION DATED 10.06.2021
SUBMITTED BY THE PETITIONERS BEFORE THE 4TH,
5TH AND 6TH RESPONDENTS