

MANU/KE/2037/2021

Equivalent/Neutral Citation: 2021/KER/33516

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

WP (C) No. 18210 of 2021

**Decided On:** 07.09.2021

Queerythm and Ors. **Vs.** National Medical Commission and Ors.

**Hon'ble Judges/Coram:**

*S. Manikumar, C.J. and S.P. Chaly, J.*

**Counsel:**

*For Appellant/Petitioner/Plaintiff: Legith T. Kottakkal and Dhanuja M.S., Advs.*

*For Respondents/Defendant: Titus Mani Vettom, Standing Counsel, P. Vijayakumar, ASG, Jagdeesh Lakshmanan, CGC, P. Sreekumar, Standing Counsel and K.P. Harish, Senior Government Pleader*

**Case Category:**

ACADEMIC MATTERS

**JUDGMENT**

**S. Manikumar, C.J.**

**1.** 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 MANU/SC/0309/2014 : AIR 2014 SC 1863 and Navtej Singh Johar v. Union of India MANU/SC/0947/2018 : (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 MANU/SC/0309/2014 : AIR 2014 SC 1863 and Navtej Singh Johar v. Union of India MANU/SC/0947/2018 : (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.

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

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