

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

Tuesday, the 11th day of March 2025 / 20th Phalguna, 1946
WP(C) NO. 30664 OF 2017 (G)

PETITIONER:

SHIJI, AGED 46 YEARS, S/O.CHANDRAN, ERUMAPURATH, THEKKETHIL,
KARTHIKAPALLY, HARIPAD, ALAPPUZHA.

RESPONDENTS:

1. CHIEF SECRETARY OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. THE SECRETARY, MINISTRY OF HEALTH & FAMILY WELFARE, GOVERNMENT OF
INDIA, HEALTH AND FAMILY WELFARE, MINISTRY OFFICE, NEW DELHI-695
034.
3. THE DIRECTOR, REGIONAL CANCER CENTRE, MEDICAL COLLEGE CAMPUS,
CHALAKKUZHI, THIRUVANANTHAPURAM-695 011.
4. THE STATE POLICE CHIEF, DGP OFFICE, VAZHUTHACAUD, THIRUVANANTHAPURAM
-695 011.

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 direct the 1st and 2nd respondents to grant adequate financial aid to the petitioner and family to recover from the mental shock of the untimely death of his daughter and to overcome the financial burden that had caused due to the heavy medical expenses, pending disposal of the Writ Petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.GEORGE POONTHOTTAM (SR.) & NISHA GEORGE, Advocates for the petitioner, PUBLIC PROSECUTOR for the respondents 1 and 4, SMT.PREMLATHA K. NAIR, CENTRAL GOVERNMENT COUNSEL for the 2nd respondent and of M/S.T.A.SHAJI (SR.) & ATHUL SHAJI, Advocates for the 3rd respondent, the court passed the following:

MOHAMMED NIAS C. P. , J.

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W. P. (C) No. 30664 of 2017

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Dated this the 11th day of March, 2025

ORDER

Heard in part.

2. This writ petition is filed by a father who lost his daughter. The petitioner's daughter was suspected of Leukemia and was being treated at the Medical College Hospital, Alappuzha before being referred to the Regional Cancer Centre, Trivandrum. The undisputed fact shows that there were 49 blood transfusions on the petitioner's daughter and one of the reports suggested that one of the donors had turned HIV Positive. At the beginning of the treatment, the petitioner's daughter was HIV Negative but was infected later and shown as HIV Positive. This admittedly happened during the course of the treatment.

3. The affidavit filed on behalf of the Government shows that the testing technology that was employed at that time was not adequate to promptly detect the infection of the donor for the reason that, there was a window period of 4 to 8 weeks before it was possible

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to detect infection.

4. In the light of the undisputed facts noted above, the Chief Secretary or the Principal Secretary of Health, Government of Kerala is directed to file an affidavit, after consultation at the highest level, as to whether the State intends to compensate the petitioner for the unfortunate death of his daughter in the circumstances referred to above.

5. The affidavit shall also state the steps taken after the above incident and detail the machines now being used in the Regional Cancer Centre for such blood testing, including the technology, the make & model of the machine and the advantages it has over the technology which was used at the relevant time.

The affidavit shall be filed within three weeks from today.

Post for further orders on 2.4.2025.

Sd/-

MOHAMMED NIAS C. P.,
JUDGE

MMG