

**IN THE HIGH COURT FOR THE STATE OF TELANGANA  
HYDERABAD**

\*\*\*

**WRIT PETITION No.18828 OF 2021**

**Between:**

Mohd. Ibrahim & others .. Petitioner

v.

The State of Telangana,  
Rep. by its Principal Secretary  
Health, Medical and Family Welfare Department,  
Secretariat, Hyderabad & 3 others .. Respondents

**DATE OF ORDER PRONOUNCED: 21-01-2022**

**SUBMITTED FOR APPROVAL:**

**HON'BLE SRI JUSTICE B. VIJAYSEN REDDY**

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? : No
2. Whether the copies of judgment may be  
Marked to Law Reporters/Journals. : Yes
3. Whether Their Ladyship/Lordship wish  
to see the fair copy of the Judgment? : Yes

**B. VIJAYSEN REDDY, J**

**\* HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY**

**+ WRIT PETITION No.18828 OF 2021**

% Date: 21-01-2022

# Mohd. Ibrahim & others .. Petitioners

v.

\$ The State of Telangana,  
Rep. by its Principal Secretary  
Health, Medical and Family Welfare Department,  
Secretariat, Hyderabad & 3 others .. Respondents

! Counsel for the Petitioners : Mr. Mohammad Abdul Quayam  
Ms. Tasleem Fatima

^ Counsel for the respondent : G.P. for Medical and Health

< **GIST:**

> **HEAD NOTE:**

? **CASES REFERRED:**

1. AIR 2021 SC 3795

**C/15**

**HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY****WRIT PETITION No.18828 OF 2021****ORDER :**

This writ petition is filed questioning the action of respondent No.1 - the State of Telangana, represented by its Principal Secretary, Health, Medical and Family Welfare Department, Hyderabad, in not issuing orders for enhancement of stipend to the petitioners, who are House Surgeons and Post Graduate students of AYUSH Institutions from the year 2016 onwards on par with the allopathic institutions who are accorded sanction of enhancement of stipend vide G.O. Ms. No.88 dated 18.05.2021 as being illegal, arbitrary and unconstitutional.

2. Heard Ms. Tasleem Fatima, learned counsel, representing Mr. Mohammad Abdul Quayam, learned counsel for the petitioners, and learned Government Pleader for Medical and Health for the respondents, and perused the material on record.

3. The petitioners are stated to be Post Graduate Doctors and House Surgeons of AYUSH Department and had been rendering services in different hospitals. Vide G.O.Ms. No.219, Health, Medical and Family Welfare (R1) Department, dated 26.07.2004, respondent No.1 has accorded sanction for enhancement of stipend with effect from 01.01.2002 to 31.12.2003 and from 01.01.2004 to 31.12.2005 to the Internees, Post Graduate students, House Surgeons of Indian Medicines and Homeopathy Department at 15% on par with

the Allopathic Department. The Government continued to enhance the stipend to the Internees, Post Graduate Degree and Diploma students of Medical Colleges including those of Dental Colleges and Post Graduate students of Super Specialities at 15% once in every two years and during the year 2007, the Government has issued G.O. Ms. No.51 dated 09.02.2007 enhancing the stipends in respect of House Surgeons and Post Graduate students of AYUSH Institutions on par with the Allopathic Department with immediate effect.

4. Subsequently, upon request made by respondent No.3 - the Deputy Director, Department of AYUSH, Hyderabad, for enhancement of stipend to House Surgeons and Post Graduate students of AYUSH Department with effect from 01.01.2008 on par with the Allopathic Department, G.O. Ms. No.65 dated 05.03.2008 and G.O. Ms. No.77 dated 02.03.2009 were issued for payment of stipends to the House Surgeons and Post Graduate students of AYUSH Institutions at the enhanced rates i.e., 15% on par with the Internees and Post Graduate students of Allopathic Departments with effect from 01.01.2008.

5. It is submitted that the petitioners had been receiving the stipend irregularly until the Commissioner of AYUSH, Telangana, Hyderabad, requested the Government for enhancement of stipend to the House Surgeons and Post Graduate students of AYUSH Department on par with the House Surgeons and Post Graduate students of Allopathic Department with effect from 01.01.2012. In

pursuance thereof, the Government issued G.O. Ms. No.152 dated 03.11.2016 enhancing stipends to the House Surgeons and Post Graduate students of AYUSH Institutions on par with the House Surgeons and Post Graduate students of Allopathic Institutions with effect from 01.01.2014. However, the petitioners have been receiving the stipend irregularly till now without any enhancement.

6. The petitioners submit that in terms of G.O. Ms. No.219 dated 26.07.2004, they are entitled to get stipend at 15% enhancement once in every two years but the Government vide G.O. Ms. No.152 dated 03.11.2016 enhanced the stipend till 2016 and later for the reasons best known to them, did not enhance the stipend in spite of repeated requests. It is the case of the petitioners that Allopathic Institution doctors had been receiving enhanced stipend at 15% for every three years as their stipend was enhanced for the year 2016 and 2018 but enhancement for AYUSH Institutions is pending since 2014 onwards and the Government is not taking any action. A representation has been submitted by the House Surgeons and Post Graduate students of AYUSH Department for enhancement of stipend which is pending in File No.4631/E2/2018.

7. Thereafter, respondent No.4 addressed a letter dated 28.01.2021 requesting the Government to enhance the scholarship and stipend to the petitioners - House Surgeons and Post Graduate students of AYUSH Institutions on par with Allopathic Doctors. It is submitted that AYUSH Hospitals have been treated as isolation

centres as Level I & II during this COVID-19 Pandemic Time. The petitioners are House Surgeons and Post Graduate Scholars of AYUSH Department and equally performing their duties regularly and sincerely on par with allopathic House Surgeons and Post Graduate Scholars and COVID-19 duties have been assigned to the petitioners. The petitioners are rendering their services to the utmost satisfaction of the patients and the Government as well in the call centres on requirement. The Government has utilised services of the petitioners to the maximum requirement on par with Allopathic Doctors, however, enhancement of stipend for succeeding years i.e., 2016-2018 and 2018-2020 for Allopathic Doctors is continuing whereas AYUSH Doctors are denied the said benefits. It is stated that the Government while not acting upon the representations of the petitioners, AYUSH Doctors, and the recommendations submitted by respondent No.4, surprisingly issued orders vide G.O. Ms. No.88 dated 18.05.2021 according sanction for enhancement of stipend at 15% to the Medical students prosecuting MBBS / BDS (House Surgeons), Post Graduate Degree, Post Graduate Diploma, MDS and Super Speciality courses. The petitioners claim that they are rendering services on par with allopathic institutions and since there is no response from the Government, they are constrained to approach this Court.

8. The learned counsel for the petitioners relied on the decision of the Supreme Court in **North Delhi Municipal Corporation v. Dr.**

**Ram Naresh Sharma**<sup>1</sup>, wherein the following observations have been made:

“ ... .. Therefore, we are quite clear in our mind that the respondents must be paid their lawful remuneration- arrears and current, as the case may be. The State cannot be allowed (to) plead financial burden o deny salary for the legally serving doctors. Otherwise it would violate their rights under Articles 14, 21 and 23 of the Constitution.

The common contention of the appellants before us is that classification of AYUSH doctors and doctors under CHS in different categories is reasonable and permissible in law. This however does not appeal to us and we are inclined to agree with the findings of the Tribunal and the Delhi High Court that the classification is discriminatory and unreasonable since doctors under both segments are performing the same function of treating and healing their patients. The only difference is that AYUSH doctors are using indigenous systems of medicine like Ayurveda, Unani, etc. And CHS doctors are using Allopathy for tending to their patients. In our understanding, the mode of treatment by itself under the prevalent scheme of things, does not qualify as an intelligible differentia. Therefore, such unreasonable classification and discrimination based on it would surely be inconsistent with Article 14 of the Constitution. The order of AYUSH Ministry dated 24.11.2017 extending the age of superannuation to 65 years also endorses such a view. This extension is in

---

<sup>1</sup> AIR 2021 SC 3795

tune with the notification of Ministry of Health and Family Welfare dated 31.05.2016.”

9. A common counter is filed on behalf of respondent Nos.1, 3 and 4. It is submitted that a representation has been submitted by the Telangana AYUSH P.G. Doctors and House Surgeons Association for enhancement of stipend on par with Allopathic Doctors. There is no rule mandating enhancement of stipend for AYUSH Doctors on par with Allopathic Doctors. In fact, pay scales of Allopathic are different from AYUSH Department. The Doctors of Allopathic Department are drawing scales as per the U.G.C. norms, whereas the Doctors working in the AYUSH Department are drawing scales as per the State scales. The daily outpatient and inpatient cases in Allopathic are few thousands whereas in AYUSH Department, it is few hundred only. Thus, there is no comparison between the Allopathic House Surgeons / P.G. Scholars and AYUSH House Surgeons / P.G. Scholars.

(a) In Allopathic, the House Surgeons / P.G. Scholars will be performing emergency duties in Intensive Care Unit to manage life saving procedures and they are trained in suturing for wounds, tapping of fluids, central line, intubations and many more procedures. Apart from that, they have to attend maternity, post surgical and other emergency wards where night duties are to be performed, whereas workload in AYUSH Department is much lesser compared to Allopathic Department.



(b) There is no rule in Health, Medical and Family Welfare Department which mandates equal stipends to AYUSH Institutions on par with Allopathic, as such, request of the petitioners may not be feasible for consideration. Further, Allopathic Department is having regular public outreach services for the House Surgeons in their Department for conducting various medical / mobile camps as a part of their academic curriculum, whereas there is no such regular outreach program in AYUSH Department. However, a proposal has been submitted by the Commissioner, Department of AYUSH to the Government for enhancement of stipend to the Post Graduate Scholars and House Surgeons of AYUSH Institution vide Letter No.3106/C1/2018 dated 28.01.2021 and the same is under examination. It is also stated that there is no similarity of workload and other aspects for the AYUSH House Surgeons / P.G. Scholars to claim parity on par with Allopathic House Surgeons / P.G. Scholars.

(c) The learned Assistant Government Pleader for Medical and Health has submitted that the proposal dated 28.01.2021 submitted by the Director (FAC), Department of AYUSH, Telangana, to the Government for enhancement of scholarship and stipend to the Post Graduate Scholars and House Surgeons of AYUSH Institution on par with Allopathic Department is under active consideration of the Government and directions may be issued to the Government to take decision pursuant to such proposal.

10. The request of the learned Assistant Government Pleader is rejected as a clear stand is taken by the respondents in their counter affidavit stating that services rendered by the AYUSH Post Graduate Scholars and House Surgeons cannot be compared to the Allopathic Post Graduate Scholars and House Surgeons, and this Court is of the view that no useful purpose would be served if directions are issued to the Government to consider proposal dated 28.01.2021 in Letter No.3106/C1/2018 submitted by the Director (FAC), Department of AYUSH, more particularly, in view of the authoritative pronouncement of the Hon'ble Supreme Court in **Dr. Ram Naresh Sharma's Case** (Supra 1).

11. As per the above referred Government Orders, it is undisputed that all the House Surgeons and Post Graduate students of AYUSH Institutions were paid stipend at enhanced rates on par with Internees and Post Graduate students of Allopathic Departments from time to time. Further, it is evident from the above Government Orders that the Government had been uniformly enhancing the stipend from time to time until 2016. Thus, having enhanced the stipend for M.B.B.S. / B.D.S., Post Graduate, M.D.S. and Super Speciality courses, as per G.O. Ms. No.88 dated 18.05.2021, there is no reason whatsoever for the Government in not extending the same benefit to the petitioners. Thus, the action of the respondents is discriminatory, arbitrary and violative of Articles 14 of the Constitution of India.

12. In view of the above, the writ petition is allowed directing the respondents to pay enhanced stipend to the petitioners - House Surgeons and Post Graduates of AYUSH Institutions from the year 2016 onwards on par with Allopathic Institutions as per G.O. Ms. No.88 dated 18.05.2021. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition stand closed.

---

**B. VIJAYSEN REDDY, J**

**January 21, 2022.**

**NOTE:**

**L.R. COPY TO BE MARKED.**

**(BO) PV**