

## IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

Tuesday, the 14<sup>th</sup> day of June 2022 / 24th Jyaishtha, 1944WP(C) NO. 18999 OF 2022PETITIONER:

XXX RESIDENT OF ERNAKULAM

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE, GOVERNMENT OF INDIA, ROOM NO. 348; 'A' WING, NIRMAN BHAVAN, NEW DELHI-110011
2. SECRETARY, DEPARTMENT OF PHARMACEUTICALS, MINISTRY OF CHEMICALS AND FERTILIZERS, GOVERNMENT OF INDIA, 236A, A- WING, 2ND FLOOR, SHASTRI BHAWAN, DR. RAJENDRA PRASAD ROAD, NEW DELHI - 110001
3. SECRETARY, DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE (DPIIT) UDYOG BHAWAN, NEW DELHI - 110011
4. SECRETARY, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, SHASTRI BHAWAN, DR. RAJENDRA PRASAD ROAD, NEW DELHI - 110001
5. CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS, PATENT OFFICE KOLKATA, BOUDHIK SAMPADHA BHAWAN, CP-2 SECTOR V, SALT LAKE CITY, KOLKATA - 700091
6. INDIAN COUNCIL OF MEDICAL RESEARCH, REPRESENTED BY DIRECTOR GENERAL, ANSARI NAGAR, NEW DELHI - 110029

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 3rd respondent to consider and pass orders on Ext.P25 representation within a timeframe to be fixed by this Hon'ble Court.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.MAITREYI SACHIDANANDA HEGDE, Advocate for the petitioner, the court passed the following:

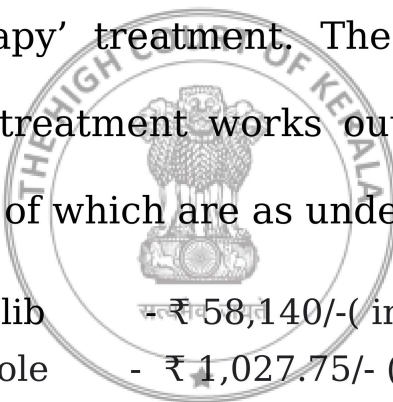
**V.G.ARUN, J.**

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**W.P (C) No. 18999 of 2022**

.....  
**Dated this the 14<sup>th</sup> day of June, 2022**

**O R D E R**

The petitioner, a retired Bank employee receiving a monthly pension of Rs. 28000/-, is diagnosed with HER2-Negative Metastatic Breast Cancer and is undergoing 'targeted therapy' treatment. The monthly cost of the medicines for treatment works out to Rs. 63,480/-. The split up details of which are as under:-



1. Ribociclib	- ₹ 58,140/- (including tax)
2. Latrazole	- ₹ 1,027.75/- (including tax)
3. Zolendronic	- ₹ 4,313/- (including tax)
Total	- ₹ 63,480/-

The costliest medicine is Ribociclib, the price which alone comes to Rs. 58,140/- per month. Ribociclib is not manufactured in India and according to the petitioner if the medicine is manufactured in India, the cost will come down substantially and will be affordable to persons like the petitioner. Ribociclib presently enjoys patent monopoly and their manufactures are hence prevented

**W.P (C) No. 18999 of 2022**

2

from producing the medicine without the consent of the patent holder. The petitioner refers to Section 92 of the Patents Act, 1970 which provides for compulsory license and Section 100 which empowers the Government to requisition life saving medicines in cases of extreme necessity. Pointing out these aspects and requiring immediate action, the petitioner has submitted Ext.P25 representation before various authorities. The petitioner has received an acknowledgment from the 4<sup>th</sup> respondent informing that her representation is placed before the 3<sup>rd</sup> respondent. As an interim measure the petitioner is seeking a direction to the 3<sup>rd</sup> respondent to consider her representation and take reasoned decision thereon without further delay.

Having heard the learned counsel for the petitioner, I find that the issue projected through the writ petition require serious consideration at the hands of the authorities available. As per the available statistics an alarming number of women succumbing to Breast cancer by reason of their inability to afford expensive treatment and medication. The right to life guaranteed under the Constitution, coupled with

**W.P (C) No. 18999 of 2022****3**

the State's duty to improve public health, call for emergent and effective action in the matter. Hence, there shall be an interim direction to the 3<sup>rd</sup> respondent to take up Ext.P25 representation and to pass a reasoned order thereon after consultation with the other authorities. The order, as directed above, shall be passed within four weeks. The learned ASG shall communicate a copy of this order to the 3<sup>rd</sup> respondent.

Post on 18.7.2022.

The respondent shall file counter affidavit / statement in the meanwhile.

**SJ**

**Sd/-**  
**V.G.ARUN**  
**JUDGE**

**APPENDIX OF WP(C) 18999/2022**

**Exhibit P25**

**TRUE COPY OF THE REPRESENTATION DATED 10.01.2022  
SUBMITTED BY THE PETITIONER ALONG WITH THE POSTAL  
RECEIPTS.**

