

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2015

Date of Reserving the Order	Date of Pronouncing the Order
27.02.2015	03.03.2015

CORAM

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. Nos.32194 & 20880 of 2014 and
M.P.Nos. 1 and 1 of 2014

W.P.No.32194 of 2014

Karthika Gajendran

... Petitioner

Vs

1. The Registrar,
The Tamil Nadu Dr.M.G.R., Medical University,
69, Mount Road, Guindy,
Chennai - 600 032.

2. The Dean,
Karpagam Faculty of Medical,
Sciences and Research
Othakkalmandapam,
Coimbatore - 641 032.

... Respondents

W.P.No.20880 of 2014

Karthika Gajendran

... Petitioner

Vs

1. The Registrar,
The Tamil Nadu Dr.M.G.R., Medical University,
69, Mount Road, Guindy,
Chennai - 600 032.

2. The Controller of Examination,
The Tamil Nadu Dr.M.G.R., Medical University,
69, Mount Road, Guindy,
Chennai - 600 032.

- 3.2. The Dean,
Karpagam Faculty of Medical,
Sciences and Research
Othakkalmandapam,
Coimbatore - 641 032.
4. Dr.Praveen Kumar Reddy
Head of the Department,
Department of Physiology,
Karpagam Faculty of Medical,
Sciences and Research
Othakkalmandapam,
Coimbatore - 641 032.

... Respondents

Prayer in W.P.No.32194 of 2014 :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, to direct the respondents to permit the petitioner to attend the M.B.B.S., course and take up the examinations, pending the declaration of results for the one year Physiology examination.

Prayer in W.P.No.24078 of 2014 :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, to direct the respondents 1 and 2 to verify the attendance records maintained by the third respondent and to initiate appropriate action against the fourth respondent for tampering with the petitioner's attendance.

For petitioner : Mr.V.Raghavachari

For Respondents : Mr.Sanjay Ramasamy
Standing Counsel for R1
in W.P.No.32194 of 2014 and
RR1&R2 in W.P.No.20880 of 2014

Mr.S.Saravanan for R2
in W.P.No.32194 of 2014 and
RR3&R4 in W.P.No.20880 of 2014

C O M M O N O R D E R

The petitioner in both these Writ Petitions is Ms.Karthika Gajendran and she has filed these Writ Petitions for the following relief. In W.P.No.20880 of 2014, the petitioner seeks for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 namely, Tamil Nadu Dr.M.G.R. Medical College, to verify the attendance records maintained by the third respondent Institution and to

initiate appropriate action against the fourth respondent, who is the Head of Department of Physiology alleging that there has been a tampering.

2. In W.P.No.32194 of 2014, the petitioner seeks for issuance of a Writ of Mandamus, to permit her to attend the M.B.B.S., course and take up the examination pending declaration of the results of the first year Physiology examination.

3. An interim order was granted in W.P.No.20880 of 2014 on 04.08.2014, permitting the petitioner to write the Physiology paper Nos.1 and 2, with a rider that she will not claim any benefit on the ground that she has been permitted to write the examination by virtue of the interim order.

4. The petitioner secured admission in the respondent Medical College under Management quota and the petitioner would state that she has been attending the theory and practical classes as per the norms fixed by the University and she has been diligent in maintaining the records and the petitioner's father is an Orthopaedician, and the petitioner's mother is the Principal of a Nursing College in Coimbatore. It is stated that the petitioner goes to the college by the Transportation provided by the Institution and she has near 100% attendance in Bio-chemistry and Anatomy and however in the subject Physiology alone, it has been stated that the petitioner was lacking in attendance. According to the petitioner it is for various other reasons and the reasons best known to the Head of Department, such a stand is being taken. The petitioner would reiterate that she has attended all the classes and the attendance, which has been furnished by the concerned Head of Department is incorrect. In this regard, representations were sent to the respondent University as well as its Vice Chancellor.

5. The respondent University has filed a counter affidavit inter alia contending that the minimum requirement of attendance for appearing in the University Examination is 75% for theory and practical separately as per MCI Norms and the second respondent Institution makes online entry for attendance and internal assessment and the petitioner has secured only 67% in the subject Physiology practicals and therefore, hall ticket was issued to the petitioner only for two subjects namely Anatomy & Biochemistry and hence, she was not permitted to appear for Physiology examination. Thus from the counter affidavit of the respondent University, it appears that they have proceeded solely based on the information furnished by the Institution.

6. The third respondent Institution has filed a counter affidavit justifying the stand taken by the concerned Professor namely, the fourth respondent and denying the allegations made by the petitioner. Further, it is submitted that the petitioner came with her parents on 01.08.2014 and the fourth respondent has shown the attendance particulars for each month from September 2013 to July 2014 and simple calculation ought to have convinced the petitioner of the correctness of the report. By referring to the tabulated statement of the percentage of the attendance secured by the petitioner monthwise and cumulative attendance at the end of the month, it is submitted that the petitioner has not put in adequate attendance in the afternoon sessions and the attendance percentage fell in December 2013 and in the subsequent six months of 2014, the petitioner did not make any attempt to improve the records. It is further submitted that the petitioner has been careless and indifferent despite the department regularly notifying the petitioner about her attendance position. Therefore, it is stated that the plea raised by the petitioner is frivolous.

7. An identical stand has been taken by the fourth respondent in his counter affidavit.

8. The petitioner in reply would submit that the fourth respondent has certified the attendance of the petitioner in the practical book on 05.12.2013, 09.12.2013 and 06.01.2014, 16.01.2014, 24.03.2014, however she was shown 'absent' in the records produced before this Court. Further, it is submitted that the fourth respondent has produced a certificate that he has conducted 16 practical classes and on a perusal of the original books of the petitioner as well as her classmates shows that without holding classes an attendance record was created and the petitioner was marked as 'absent'. It is submitted that on the following dates, (16 days) practical classes were not conducted, but attendance record has been created, as if the petitioner was 'absent'. The dates being 24.10.2013; 02.12.2013; 12.12.2013; 16.12.2013; 19.12.2013; 09.01.2014; 20.02.2014; 03.03.2014; 10.03.2014; 28.04.2014; 02.05.2014; 12.05.2014; 15.05.2014; 09.06.2014; 11.06.2014; and 23.06.2014. Further, it is submitted that totally there are 28 practical classes and the petitioner has attended all of them and the attendance is duly counter signed by the staff. Further, reference has been made to the circular issued by the Controller of Examinations of the respondent University dated 28.09.2012, regarding the updation of attendance records and it is submitted that the Circular has not been followed. Further, it is stated that the third respondent Institution before forwarding the attendance as given by the Head of Department has to verify the same and without

verification, the record has been forwarded. In this regard, the learned counsel for the petitioner elaborately referred to the Physiology practical record book, more particularly, its index as well as the index of the record books of two other students, who are classmates of the petitioner. Further, by referring to the attendance register for 05.12.2013, 09.12.2013, 06.01.2014 and 16.01.2014, in comparison with the signatures found in the index of the practical record book, it is submitted that the petitioner has been deliberately shown as 'absent' for these classes.

9. After hearing the learned counsels appearing for the parties and perusing the materials placed on record, it is seen that there are certain records to show that the petitioner has attended the practical classes and atleast on five days, the record notebook shows that 'she is present', whereas the attendance maintained by the department, shows that 'she is absent' for the practical class. This discrepancy goes to the root of the matter. Further, the learned counsel would state that practical classes were not conducted on 16 days, but it was shown as if it was conducted and the petitioner was shown marked as 'absent'. The Physiology practical record notebooks of two other candidates, (whose names and Register numbers are not disclosed, at this stage), has been relied on to establish that no practical classes were conducted on those days. These issues being serious disputed questions cannot be resolved in a Writ Petition. However, the petitioner should not be left without any remedy and necessarily the aspects pointed out by the petitioner has to be examined by the University by summoning all relevant records from the Institution concerned.

10. The learned counsel appearing for the petitioner pointed out that in terms of Section 36 of the Tamil Nadu Dr.M.G.R., University Act, 1987, the University has plenary powers to examine the correctness of the records submitted by the Institution, which are affiliated to the University. In any event, the hall ticket being issued by the University, it is well within the jurisdiction of the University to examine any discrepancy in the attendance when brought to its notice either at the instance of the students or at the instance of the Management.

11. In the light of the above facts, this Court is of the view that the respondent University should examine the correctness of the stand taken by the petitioner vis-a-vis the respondent Institution.

12. Accordingly, the Writ Petitions are disposed of, by directing the respondent institution namely, Karpagam Faculty of Medical, Sciences and Research, Othakkalmandapam, Coimbatore, to

produce all attendance records and other particulars pertaining to Physiology practical of all the students of the petitioner's batch for verification before the University, within a period of two weeks from the date of receipt of a copy of this order. The respondent University shall verify the attendance particulars and take note of the discrepancies pointed out by the petitioner and after affording an opportunity to the petitioner and her father as well as the Head of Department of the respondent Institution and pass a reasoned order on merits and in accordance with law, within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst. Registrar

/true copy/

PBN

Sub Asst. Registrar.

To

1. The Registrar,
The Tamil Nadu Dr.M.G.R., Medical University,
69, Mount Road, Guindy,
Chennai - 600 032.
2. The Controller of Examination,
The Tamil Nadu Dr.M.G.R., Medical University,
69, Mount Road, Guindy,
Chennai - 600 032.
3. The Dean,
Karpagam Faculty of Medical,
Sciences and Research
Othakkalmandapam,
Coimbatore - 641 032.

+2cc's to Mr.S.Saravanan, Advocate, S.R.No.11781,11782

+2cc's to Mr.V.Raghavachari, Advocate, S.R.No.11606,11607

KJI (CO)
CA(09/03/2015)

W.P. Nos.32194 & 20880 of 2014

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