

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.17612 & 17613 of 2015 &
M.P.Nos.1,3, 4 & 5 of 2015 (8 MPS)

Ramya.P
W.P.No.17612/2015
Fenla Bell.E
W.P.No17613/2015

.. Petitioner in

.. Petitioner in

v.

- 1 The Selection Committee
Directorate of Medical Education
No.162, Periyar EVR High Road
Kilpauk, Chennai - 600 010
 - 2 The Secretary to Government
Health and Family Welfare (ME) Dept.
Fort St. George Chennai 9
 - 3 The Dean
Karpaga Vinayaga Institute of Medical
Sciences & Research Centre
GST Road, Chinna Kolambakkam
Palayanoor PO, Madhuranthagam TK
Kanchipuram 603308
 - 4 The Medical Council of India
Rep by its Secretary
Dwarakha
New Delhi
- .. Respondents in both W.Ps

Writ Petitions filed under Article 226 of The Constitution of India praying to issue appropriate Writs Orders or Directions and in particular a Writ in the nature of CERTIORARI after calling for the records from the 1st & 2nd respondents relating to the prospectus for the admission to MBBS/BDS courses 2015 - 2016 session and quash the same in so far as clause 6(c) of the Prospectus for the Admission to MBBS/BDS courses 2015-2016 session as illegal, arbitrary, vindictive, without jurisdiction and consequently direct the respondents 1 & 2 to consider the Petitioners for MBBS admission for 2015-2016 also calling them for counseling as per their rank grant admission.

(Prayer amended as per order dated 9.9.2015 made in M.P.Nos.2 & 2 of 2015 in W.P.Nos.17612 & 17613/2015)

For Petitioner : Mrs.I.Bobby Portia in both petitions

For Respondents : Mr.P.Vijayakumar
Addl. Govt. Pleader - for R1 & R2
in both Petitioner

No appearance - for R3
in both Petitioner

Mr.V.P.Raman - for R4 in both petitioner
Mr.Anand David standing counsel
Mr.MGR University

COMMON ORDER

Heard Ms.I.Bobby Portia, learned counsel appearing on behalf of the petitioners, Mr.P.Vijayakumar, learned Additional Government Pleader, appearing on behalf of the respondents 1 and 2 and Mr.V.P.Raman, learned Standing Counsel appearing on behalf of the 4th respondent.

2. Despite the notice having been served on the 3rd respondent and his name printed in the cause list, none appeared on behalf of the 3rd respondent. This court is passing orders based upon the available records.

3. Both the petitioners got admitted to the 3rd respondent college for the academic year 2014-2015 under the Government Quota. They have completed the 1st year recently. Thereafter, they made applications seeking Migration 10.09.2015, during the pendency of the writ petitions.

4. Clause 6(c) of the General Instructions prohibits a student

who got admitted for the previous year for being considered for the next year. The petitioners made a challenge to this clause. Pending the writ petitions, the petitioners filed applications for amendment. The applications filed were ordered.

5. The learned counsel for the petitioners submitted that there are vacancies available at the Stanley Medical College, Chennai and the Coimbatore Medical College, both belonging to the Government of Tamil Nadu. The petitioners need not pay the excess fee to the 3rd respondent college in view of the availability of the seats. Migration is available under Regulation 6(1) of the Medical Council of India. Therefore, appropriate orders will have to be passed.

6. This court directed the learned Additional Government Pleader to get instructions, who based upon the oral instructions obtained submitted that there are two seats available one at Stanley Medical College, Chennai and another at Coimbatore Medical College.

7. Mr.V.P.Raman, learned Standing Counsel, appearing on behalf of the Medical Council of India submitted that the petitioners will have to comply with the regulations 6(1) and 6(4) of Medical Council of India

8. Admittedly, the petitioners got admission with the 3rd respondent college under the Government Quota based upon their merit. When there are vacancies available with the Government colleges, there is no difficulty in considering their request. The absence of the 3rd respondent college before this court is taken as a no objection certificate from it. The official respondents cannot have any objection for the petitioners being accommodated in the Government colleges. The Migration if granted is restricted to 5% intake. The inability of the students to pay the fees as submitted by the learned Senior Counsel for the petitioners would be a genuine ground especially when seats are available in the Government College. There is a difference between a student admitted in the management quota and on merit. It is not a mere migration of a private college student to Government College, since the admission was in the Government quota. Between the financial interest of an institution and the education of students the latter should be given primacy. The very fact that the petitioners want themselves to be considered on merit in the ensuing academic year would show the situation in which they are placed. They are even willing to forego one year of studies and instead want an accommodation in the Government College due to their inability to continue. Thus, this court is of the view that the applicability of the Regulation 6 of the Medical Council of India to the facts of this case itself is in doubt, since the petitioners were admitted in the Government quota. Though the applications for amendment have been filed subsequently, the position appears to be the same, as even if the original prayer

is there and in the event of that being allowed, the 3rd respondent college would be losing two students.

9. Considering the above, this court is of the considered view that it is a case where the petitioners being Medical students will have to be given appropriate orders by this court to enable them to pursue their studies, particularly, when there are available seats with the Government colleges, which are otherwise not likely to be filled up and thus go unfilled. Accordingly, a direction is issued to the respondents 1 and 2 to consider the case of the petitioners and accommodate them either at Stanley Medical College, Chennai or at Coimbatore Medical College, within a period of four weeks from the date of receipt of a copy of this order.

The writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

Rj

To

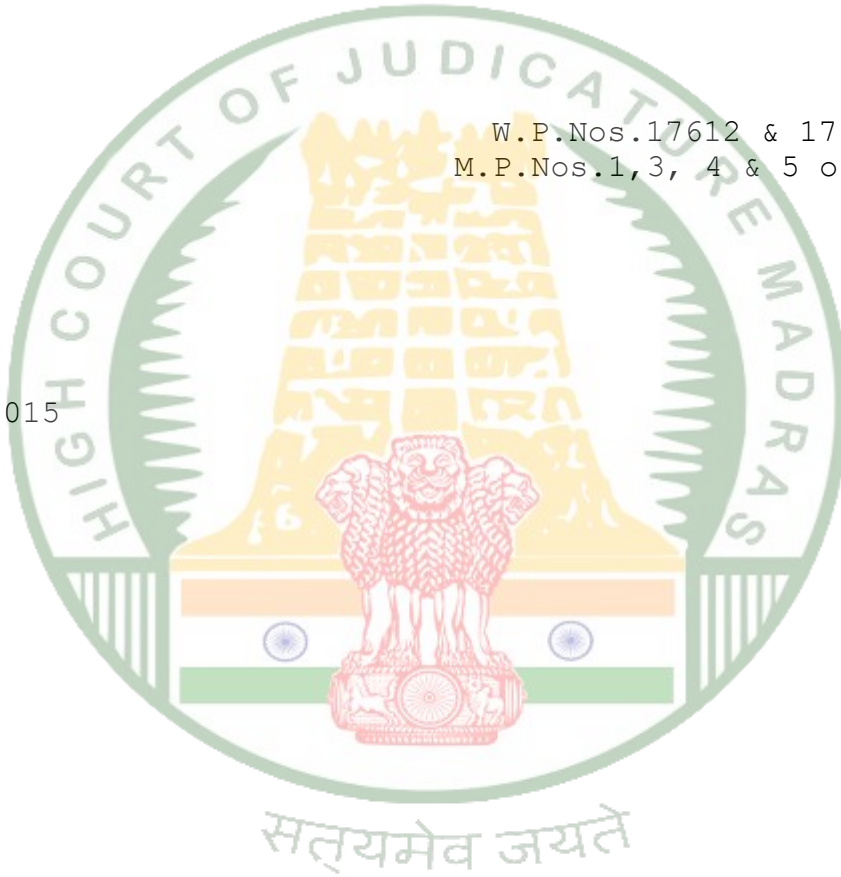
- 1 The Selection Committee
Directorate of Medical Education
No.162, Periyar EVR High Road
Kilpauk, Chennai - 600 010
- 2 The Secretary to Government
Health and Family Welfare (ME) Dept.
Fort St. George Chennai 9
- 3 The Dean
Karpaga Vinayaga Institute of Medical
Sciences & Research Centre
GST Road, Chinna Kolambakkam
Palayanoor PO, Madhuranthagam TK
Kanchipuram 603308

4 The Medical Council of India
Secretary
Dwarakha, New Delhi

+1 cc to Government Pleader (sr.51205)
+2 cc to Mrs.I.Bobby Portia, Advocate (sr.51055&51056)
+2cc to Mr.V.P.Raman, Advocate (sr.51257&51364)
+1 cc to Mr.Anand David, Standing council for MGR University (sr.51273)

W.P.Nos.17612 & 17613 of 2015 &
M.P.Nos.1, 3, 4 & 5 of 2015 (8 MPS)

pur (co)
cp 25/09/2015



WEB COPY