

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.Nos.19981, 20853 and 20854 of 2015

And

M.P.Nos.1 to 1 of 2015

Dr.S.Sasikala Devi, MBBS (MD)

... Petitioner in W.P.No.19981/2015

Dr.S.K.Senthil Kumar, MBBS (MD)

... Petitioner in W.P.No.20853/2015

Dr.Aiswarya Durga Kamaraj, MBBS (MD)

... Petitioner in W.P.No.20854/2015

Vs.

1 The Tamilnadu Dr.M.G.R.
Medical University rep. by its Registrar
No.69 Anna Salai Guindy Chennai-32

2 The Controller of
Examination The Tamilnadu
Dr.M.G.R. Medical
University No.69 Anna Salai
Guindy Chennai-32

.... Respondents in W.P.No.19981/2015

1 The Registrar
The Tamilnadu Dr.M.G.R.
Medical University
No.69 Anna Salai
Guindy Chennai-32

2 The Controller of Examination
The Tamilnadu Dr.M.G.R. Medical
University No.69 Anna Salai Guindy
Chennai-32

3 Medical Council of India
Rep. by its Chairman
Sector 8, Dwaraka Phase - I
New Delhi - 110077.

... Respondents in W.P.Nos.
20853 and 20854/2015

Prayer in W.P.No.19981 of 2015:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned regulation of the 1 & 2 respondent universities dated 17.2.2012 Ref.Rc.No.ACAD-1(3) 52811/2011 published by them in its official website and quash the same and consequently direct the respondents to follow the Medical Council of India Regulation on Post Graduate Medical Education 2000 (as amended upto 2013) and declare the petitioner having Registration No.201225003 as pass in Post Graduate Medical Course 2012-2015 in MD - Community Medicine.

Prayer in W.P.Nos.20853 and 20854 of 2015:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned regulation of the respondent university dated 17.2.2012 Ref.Rc.No.ACAD-1(3) 52811/2011 published by them in its official website and quash the same and consequently direct the respondents to follow the Medical Council of India Regulation on Post Graduate Medical Education 2000 (as amended upto 2013) and declare the petitioners having Registration Nos.201225102, 201217501 respectively, as pass in Post Graduate Medical Course 2012-15 in MD - Community Medicine and MD - Paediatrics respectively.

For Petitioner : Mr.S.Thanka Sivan

For Respondents: Mr.Anand David for R1 and R2(in all)
Mr.V.P.Raman for R3(in WPs.20853&20854/15)

C O M M O N O R D E R

Since the issue involved in all these writ petitions are one and the same, these writ petitions are disposed of by this common order.

2.The petitioner in W.P.No.19981 of 2015 would state that after successfully completing MBBS Degree, she subsequently joined the Tamil Nadu Health Department and presently working as the Assistant Professor in the Department of Community Medicine in Government Medical College, Villupuram. The petitioner states that she joined Post Graduate in Community Medicine in the year 2012-13 on merit basis and after joining the said course, she underwent three years Post Graduate Training. The petitioner would contend that insofar as the subject of Community Medicine is concerned, it is covered by Clause 13(8) (2) and the examination thereof is covered by Clause 14 of the Medical Council of India Regulation, 2000 and as per the regulation, the examinations shall be organized/ conducted by the respondent University at the end of third academic year (final year) only and it further stipulates that a student has to obtain 50% collectively under the theory papers as one component and 50%

collectively in practical examination and the said rule is mandatory in nature and it is in force even in the academic year 2012-13.

3.The petitioner would further state that in MD-Community Medicine, there are four theory papers namely,

(a) Tropical Medicine and Public Health Basic Sciences in community Medicine;

(b) Community Medicine;

(c) Health Care of Special Groups;

(d) Health Practice and Administration and Recent Advances

4.Each theory paper will be valued for 100 marks. The grievance expressed by the petitioner is that in spite of the mandatory nature of the above said Regulations framed by the Medical Council of India, the respondent University has followed their own procedure and as per the website publication dated 17.02.2012, the students are called upon to write the paper namely, Tropical Medicine and Public Health Basic Sciences in Community Medicine during the end of the first academic year in 2012-13 itself and the petitioner has secured 60 marks out of 100.

5.It is also brought to the knowledge of this Court by the petitioner that the University has followed similarly a different pattern/ procedure for examination for the Under Graduate course as well as for Post Graduate students during the academic year 2011-12 and 2012-13 and a challenge was made and this Court in the judgment reported in 2011 (6) CTC 801 (The Tamil Nadu Dr.M.G.R.Medical University Versus P.Anand) and 2012 (6) MLJ 475 (Color Plus Sashions Limited versus Controller of Legal Metrology) and also the order passed by the Hon'ble First Bench of this Court in W.P.No.15949 of 2013 and other batch has held that such act is unconstitutional.

6.The petitioner has further pointed out that the respondent while publishing the result on 04.06.2015 has acted in total violation of the above said MCI Regulations. While calculating 50% of the theory papers, they had reckoned only three papers namely, (i) Community Medicine, (ii) Health Care of Special Groups (iii) Health Practice and Administration and Recent Advances and they omitted Tropical Medicine and Public Health Basic Sciences in Community Medicine - the examination for the said subject was written by the petitioner during the first year. The petitioner would further state that the MCI Regulations are to be followed in letter and spirit. All four theory paper marks should be added together and 50% should be considered as pass. However, the respondent by basing reliance on the impugned communication, uploaded the said norms in the website and calculated 50% of three theory papers only and omitted to take the paper written by the petitioner during the first year and awarded 149 out of 300 marks and declared her as fail in the theory papers. The petitioner made a challenge the impugned regulation of the respondent University dated 17.02.2012 published in their website with consequential direction directing them to follow the Medical Council of India Regulations and declare her as pass in Post Graduate Medical Course in MD-Community Medicine for the academic year 2012-15.

7.The petitioner in W.P.No.20853 of 2015 would state that after completing MBBS Course, he joined Post Graduate in Community Medicine during the academic year 2012-13 in PSG Institute of Medical Sciences and Research, Coimbatore and underwent the three years Post Graduate training meritoriously. The petitioner has also made similar plea like that of the petitioner in W.P.No.19981 of 2015 and prays for similar relief.

8.The petitioner in W.P.No.20854 of 2015 would state that after completing MBBS Course, she joined Post Graduate in MD - Paediatrics during the academic year 2012-13 in PSG Institute of Medical Sciences and Research, Coimbatore and she also raised similar contentions put forth by the petitioners in W.P.Nos.19981 of 2015 and 20853 of 2015.

9.The learned counsel appearing for the petitioners has drawn the attention of this Court to the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010 and would submit that as per clause 14, the examinations shall be organised on the basis of 'Grading' or 'Marking system' to evaluate and to certify candidate's level of knowledge, skill and competence at the end of the training. Obtaining a minimum of 50% marks in 'Theory' as well as 'Practical' separately shall be mandatory for passing examination as a whole. The examination for M.D./ MS, D.M., M.Ch shall be held at the end of 3rd academic year and for Diploma at the end of 2nd academic year. An academic term shall mean six month's training period.

10.The attention of this Court was also drawn to clause 14(II)(b) of the Regulation which deals with Clinical/Practical and Oral and as per the said Regulation, a candidate shall secure not less than 50% marks in each head of passing which shall include (1) Theory (2) Practical including clinical and viva voce examination and in blatant violation of clause 14, the respondent University by placing reliance upon the impugned Regulation, uploaded in their website has conducted the examination in respect of Tropical Medicine and Public Health Basic Sciences in community Medicine, Tropical Medicine and Public Health Basic Sciences in community Medicine and Applied Basic Sciences in Paediatrics respectively, in the first year itself and by adopting their own procedure, the have declared the petitioners as fail and if all the four papers are taken up together, the petitioners would have been declared as pass.

11.Per contra, the learned Standing Counsel appearing for the respondents 1 and 2 would submit that the impugned Regulation of the respondent published in their website is solely for the purpose of enhancing the quality of Post Graduate Medical Examination and it is always open to the University to prescribe better bench mark than the bench mark prescribed by the Medical Council of India and therefore, the impugned Regulation is perfectly in order and admittedly, by applying the Regulation the result of the petitioners have been declared as fail and secondly, the petitioners cannot express any grievance and prays for dismissal of the writ petitions.

12. Mr. V. P. Raman, the learned Standing Counsel appearing for the Medical Council of India, was called upon to explain the stand of the Medical Council of India and he would submit that the impugned

Regulation prima facie appears to be not in consonance with the clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010 and prays for appropriate orders.

13.This Court had carefully considered the rival submissions and also perused the materials placed before it. Clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010 would prescribe among other things that "the examination for M.D./ MS, D.M., M.Ch shall be held at the end of 3rd academic year and for Diploma at the end of 2nd academic year. An academic term shall mean six month's training period." However, the impugned regulation reads as follows:

"I) THE MARKING PATTERN FOR ALL
P.G.CLINICAL COURSES: Theory
4 Papers x 100 = 400 marks
Part-I : 1x100 = 100 marks
Part-II : 3x100 = 300 marks"

It also says that the theory and practical be treated as separate components and failed component alone be repeated.

14.The perusal of the clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010 with the impugned Regulation uploaded in the website of the respondent University would clearly reveal that the impugned Regulation of the respondent University which is the subject matter of these writ petitions, is not in consonance with clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010.

15.Though it is contended by the learned Standing Counsel for the respondent University that to enhance the quality of education in Post Graduate Course, such kind of Regulation came to be framed, the respondent University is unable to substantiate in what manner, the quality of education in Post Graduate Course will be enhanced by splitting up four theory papers into 1 + 3 to be written in the first year as well as in the third year. It is also brought to the knowledge of this Court that the said pattern was followed only for the academic year 2012-15 and in the subsequent academic years, the respondent University has adopted clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010.

16.Since the impugned regulation of the respondent University is not in consonance with clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010 and further taking into consideration the fact that in subsequent academic year, the respondent University has scrupulously followed clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010 and conducted examination, this Court is of the considered view that the impugned Regulation is liable to be quashed.

17. In the result, all the writ petitions are allowed and the impugned Regulation insofar as the petitioners are quashed. The respondent University is directed to follow clause 14 of the Medical Council of India Regulation on Post Graduate Medical Education 2000 amended upto 2010 and declare the petitioners with Registration Nos. 201225003, 201225102 and 201217501 respectively, as having passed in Post Graduate Medical Course 2012-2015 in MD - Community Medicine, MD - Community Medicine and MD - Paediatrics respectively and issue the revised mark list accordingly, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are also closed.

PRI

28.07.2015

For Being mentioned

WP.Nos.19981, 20853 & 20854 of 2015:

These writ petitions having been posted this day under the caption "For Being Mentioned" in pursuant to the order of this court dated 28.07.2015 and made herein, in the presence of the aforesaid advocates the court made the following order;

The matter is listed under the caption "for being mentioned", at the instance of the learned Counsel appearing for the petitioner, who would submit that in paragraph No.5 of the common order dated 28.7.2015, the second citation viz. 2012 (6) MLJ 475 (Color Plus Sashions Limited versus Controller of Legal Metrology), is wrongly given and the correct citation is CDJ 2013 MHC 5972 (R.Puvarthini & Others versus The Tamil Nadu Dr. M.G.R. Medical University, represented by its Registrar, Chennai & Others) and the same may be rectified.

2. The Court heard the submissions of Mr. Anand David, learned Standing Counsel, appearing for the respondents 1 and 2, and Mr. V.P. Raman, learned Standing Counsel, appearing for the third respondent, also.

3. Accordingly, instead of 2012 (6) MLJ 475 (Color Plus Sashions Limited versus Controller of Legal Metrology), the correct citation viz. CDJ 2013 MHC 5972 (R.Puvarthini & Others versus The Tamil Nadu Dr. M.G.R. Medical University, represented by its Registrar, Chennai & Others), is incorporated in paragraph No.5 of the common order dated 28.7.2015.

nsv

12.08.2015

Sd/-
Assistant Registrar

To

- 1 The Registrar
The Tamilnadu Dr.M.G.R.
Medical University
No.69 Anna Salai
Guindy Chennai-32
 - 2 The Controller of Examination
The Tamilnadu Dr.M.G.R. Medical
University No.69 Anna Salai Guindy
Chennai-32
 - 3 The Chairman Medical Council of India
Sector 8, Dwaraka Phase - I
New Delhi - 110077.
- + 2 ccs to Mr.Anand David, Advocate Sr.38873, 42747
+ 5 ccs to Mr.V.P. Raman, Advocate Sr.38456, 38457, 42997,
+ 2 ccs to Mr.S. Thankasivan, Advocate Sr.38573 and 42276

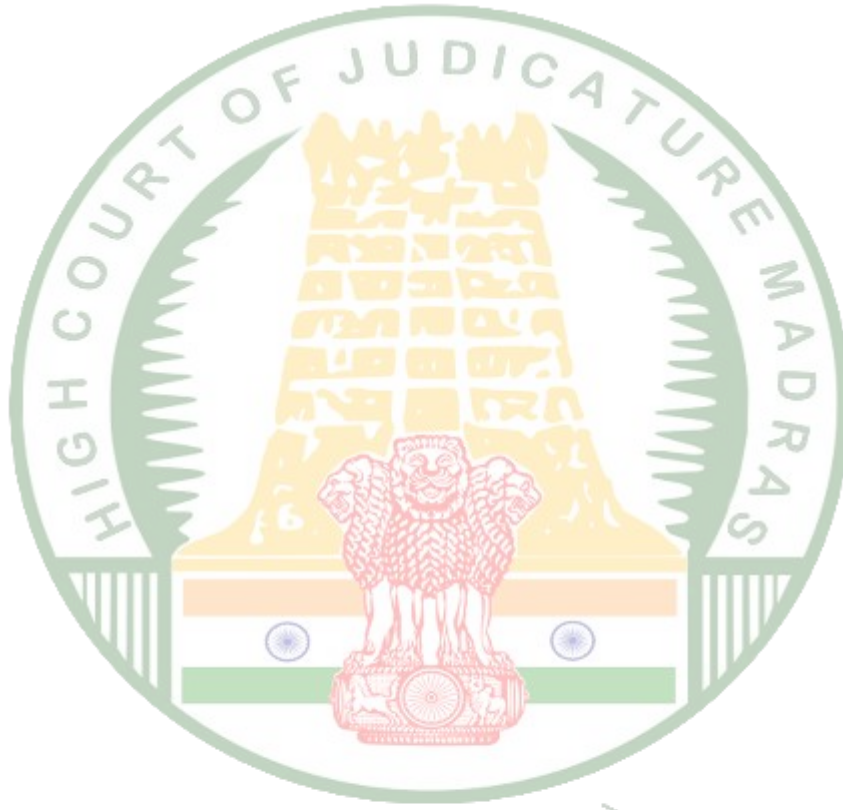
RV (CO)
Eu 17.08.15

W.P.Nos.19981, 20853
and 20854 of 2015
And
M.P.Nos.1 to 1 of 2015

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