

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.10.2015

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

W.P.Nos.25120 to 25122 and 26108 of 2014
and

M.P.Nos.1 and 2 of 2014 (3 Nos. each) and 2 and 3 of 2014

Ragas Dental College and Hospital
rep. by its Secretary ... Petitioner in
W.P.No.25120 of 2014

K.S.R. Institute of Dental Science
and Research rep. by its
Administrative Officer ... Petitioner in
W.P.No.25121 of 2014

Rajas Dental College and Hospital
rep. by its Chairman ... Petitioner in
W.P.No.25122 of 2014

J.K.K. Nataraja Dental College and
Hospital rep. by its
Secretary ... Petitioner in
W.P.No.26108 of 2014

Vs

1.The Tamil Nadu Dr.MGR Medical
University rep. by its Registrar,
No.69, Anna Salai, Guindy,
Chennai - 32.

2.The Committee to Regulate/Monitor
Admissions,
F1 DOTE Staff Quarters,
Gandhi Mandapam Road,
Chennai - 25.

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3.Tamil Nadu Private Dental Colleges
Association rep. by its President,
2/102, East Coast Road,
Uthandi, Chennai - 19.

4.The Controller of Examinations,
The Tamil Nadu Dr.MGR Medical
University, No.69, Anna Salai,
Guindy, Chennai - 32.

5.The Dental Council of India
rep. by its Secretary,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
New Delhi - 110 002.

.. Respondents in
all the W.Ps

Prayer in All the WPs:

Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the first respondent in order dated 27.04.2014 in Ref.No.ExIII(5)/5328/2014 and the fourth respondent in order dated 12.08.2014 in Ref.No.ExIII(5)/5328/2014, quash the same and consequently direct the first respondent to register the students admitted in the petitioners' institutions in the M.D.S. Course during the academic year 2013-14.

For Petitioner .. Mr.R.Muthukumarasamy,
Sr. Counsel for Mr.A.Jenasenan
in all the W.Ps

For Respondents .. Mr.Sanjai Ramasamy for R1 to R4
in all the W.Ps
Dr.S.Seethalakshmi for R5
in all the W.Ps

COMMON ORDER

As the issue involved in all these writ petitions is one and the same, they are taken up together and disposed of by a common order.

2.All the petitioners have admitted the students who have got less than 50% being the eligibility criteria fixed by the respondents. It appears that this has been done from the year 2007 onwards. Though the Notification has come into effect from 20.11.2007, the petitioners have admitted the students for the academic year 2013-2014 for the MDS course, which is a three

years course with less than 50% eligibility for General Category. For the academic year 2013-2014, the order impugned dated 27.4.2014 has been passed stating that the students named therein, having secured less than 50%, could not be registered in the MDS degree course, though they have successfully come out of the entrance test conducted for PG admission. During the pendency of the writ petitions, the students have been allowed to write the examination. It appears that they have few more months to complete the course and this is the factual position.

3.The learned senior counsel appearing for the petitioners has submitted that while permitting the private institutions to take part in the entrance examination, in the case of P.A.Inamdar Vs. State of Maharashtra, ((2005) 6 SCC 537), the Apex Court did not fix any minimum marks. From the year 2007 onwards, Revised MDS Course Regulations, 2007, have not been given effect to till the passing of impugned order. There were instances in the past in which the petitioners as well as other private institutions admitted the students, who got less than 50% marks, which has been prescribed for admission to post graduate course. After the academic year 2013-2014 also, no such student has been admitted. There is a delay in intimating the above said decision to the petitioners. At present, the students are on the verge of completing their course. Therefore, appropriate orders will have to be passed.

4.Learned counsel appearing for the first respondent submitted that the Regulations would govern the case of the petitioners. Having violated the Regulations, they cannot contend contrary. Equity of law would prevail. Therefore, no interference is required.

5.The facts as narrated above are not in dispute. Certainly, the Regulations would govern the case of the petitioners. Apart from that, there being no challenge to the Regulations, the decision of the Apex Court, as sought to be interpreted, cannot be accepted, since what is sought to be fixed is eligibility for admission to post graduate course. Eligibility is different from suitability. Therefore, this Court does not find any merit in the submission made by the learned senior counsel for the petitioners in this regard.

6.Coming to the other two submissions, admittedly, the students are on the verge of completing their course. They joined in the academic year 2013-2014. The said seats cannot be utilised for any other purpose at this point of time. There is no dispute about their clearance in the entrance test conducted by the University. There is some mistake on the part of the first respondent also in not taking appropriate action from the year 2007 onwards. In other words, though the Regulations have

come into effect from 2007, they have not been implemented till the passing of the impugned order. Had the Regulations of 2007 been implemented strictly, the students of the petitioner institutions would not have been affected. The order impugned has also been passed one year after the admission made. Considering the said peculiar facts, this Court is inclined to allow the writ petitions.

7. Accordingly, all these writ petitions are allowed by setting aside the orders passed by the first respondent with a consequential direction to register the students admitted in the petitioners' institutions in the M.D.S. Course during the academic year 2013-2014 within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

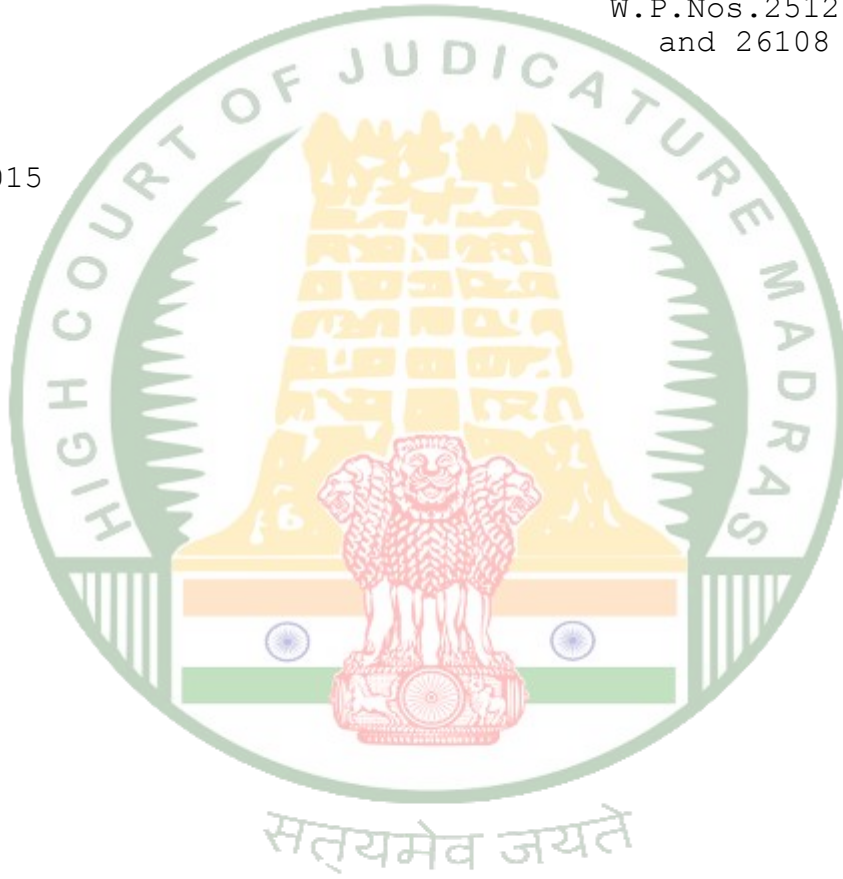
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+6 ccs to Mr.A.Jenasenan, Advocate sr.58172
+1 cc to Mr.Sanjay Ramasamy Advocate sr.58488
+1 cc to Mrs.D.Seethalakshmi Advocate sr.58156

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