

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.21967 of 2015
and
M.P.Nos.1 & 2 of 2015

Fathima College of Pharmacy,
Represented by its Managing Trustee,
Mr.Ravi @ Mohideen Basha,
103, Main Road, Krishnapuram,
Kadayanallur, Tirunelveli District.

... Petitioner

- Vs -

1. The Vice Chancellor,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
2. The Controller of Examinations,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
3. The Registrar,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
4. Pattu Selvam

... Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records of the second respondent in his proceedings bearing Ref.No.EXV & VI/59324/2013, dated 10.07.2015 and quash the same.

For Petitioner : Mr.S.Senthil Nathan

For Respondents : Mr.Anand David

O R D E R

By consent, the writ petition is take up for final disposal.

2. The petitioner on an earlier occasion challenged the order dated 26.06.2014, passed by the second respondent, wherein the decision of the Tamil Nadu Dr.M.G.R. Medical University, Guindy, Chennai - 32 has been communicated stating that the entire pharmacy third year February, 2014 exam session has been cancelled and three students who were present on 20.02.2014 were debarred for three subsequent sessions and the Chief Superintendent and the Invigilator were debarred from being examiners for a period of two years. The said order was put to challenge by filing a writ petition in W.P.No.19523 of 2014 under Article 226 of the Constitution was disposed of by this Court by an order dated 16.02.2015 and it is relevant to extract paragraphs 11, 12 and 13, which is as follows:

"11.Accordingly, the clauses [2] and [3] of the impugned order, insofar as debarring the Chief Superintendent and the Invigilator from being an Examiner for a period of two years ; and debarring the Institute/College from being an examination Centre for the next four sessions, [i.e., two years], are set aside.

12.The respondent/University is directed to issue a show cause notice to the petitioner/Institution based on the findings of the Examination Disciplinary Committee and the petitioner/Institution is directed to reply to the Show Cause Notice and after affording an opportunity of personal hearing to the petitioner/Institution, the respondent/University is directed to pass a speaking order on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

13.The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed. "

3. The second respondent has issued a show cause notice dated 01.04.2015, to the petitioner and the petitioner has also submitted its detailed representation on 06.07.2015, requesting the inclusion of the college as their own exam centre for the August, 2015 exam. The third respondent sent a communication dated 09.07.2015 pointing

out certain irregularities for which the petitioner has also offered its explanation dated 14.07.2015. The second respondent has considered the explanation submitted by the petitioner to the show cause notice dated 16.04.2015 and passed the impugned order dated 10.07.2015 communicating the decision of the Governing Council. Challenging the same, the present writ petition has been filed.

4. Mr.S.Senthil Nathan, learned counsel appearing for the petitioner would vehemently contend that though the impugned order refers to the order dated 16.02.2015, passed by this Court in W.P.No.19523 of 2014, the second respondent in contempt and in violation of the said order passed the cryptic order without considering the explanation submitted by the petitioner to the show cause notice and without affording him an opportunity of personal hearing and the very same reasons which was set aside by this Court in the earlier writ petition has been substituted once again and hence prays for appropriate orders.

5. Mr.Anand David, learned counsel accepts notice for the respondents 1 to 3 and would submit that the explanation submitted by the petitioner to the show cause notice was placed before the Governing Council which on detailed consideration, decided to stick on to the earlier version and passed the earlier order and hence prays for the dismissal of the writ petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. As rightly contented by the learned counsel appearing for the petitioner, the second respondent has not understood the purport of the order dated 16.02.2015 made in W.P.No.19523 of 2014, though the said order was cited as reference No.1 in the impugned proceedings dated 10.07.2015. The petitioner was not afforded with an opportunity of personal hearing and the explanation to the show cause notice submitted by the petitioner was also not considered by the second respondent. A perusal of the impugned order would also disclose the very same reason assigned in the earlier order, which was set aside by this Court on an earlier occasion, has been substituted once again.

8. In the light of the non-speaking cryptic order coupled with the fact that the second respondent has not understood the purport of the order dated 16.02.2015 made in W.P.No.19523 of 2014, this Court is left with no other option except to set aside the impugned order dated 10.07.2015 and remand the matter once again to the second respondent for fresh consideration.

9. In the result, the writ petition is allowed and the order dated 10.07.2015 is set aside and once again the matter is remanded to the second respondent, who shall take into consideration the order dated 16.02.2015 made in W.P.No.19523 of 2014 as well as the explanation dated 16.04.2015, submitted by the petitioner to the show cause notice dated 01.04.2015 and decide the same in accordance with law after affording an opportunity of personal hearing to the petitioner and shall pass orders within a period of three weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. Consequently, the miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Vice Chancellor,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
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No.69, Anna Salai, Guindy,
Chennai - 600 032.

+1cc to Mr.S.Senthilnathan, Advocate, S.R.No.37269

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W.P.No.21967 of 2015
and
M.P.Nos.1 & 2 of 2015

JSV(CO)
CA(27/07/2015)