

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.8521 and 8522 of 2015 and
M.P.Nos.1 and 1 of 2015

M.Nirmalkumar ... Petitioner in W.P.No.8521 of 2015
R.Priyanka ... Petitioner in W.P.No.8522 of 2015

vs.

- 1.Sri Venkateswara Medical College
and Research Institute,
rep by its Director Principal,
Ariyur, Puducherry
2. The Controller of examinations,
Pondicherry University,
Kalapet, Puducherry - 605 014
3. The Medical Council of India
MCI Building Pocket - 14,
Sector - 8, Dwaraka Phase - 1
New Delhi - 110 077 ... Respondents in both the petitions

Writ Petitions filed under Article 226 of the Constitution of India praying for a issuance of Writ of Mandamus directing the 2nd respondent to grant 4 marks as grace marks towards the petitioners respectively practical test of paediatrics in the III professional Part II M.B.B.S., (Exam held during the month of) November 2014 Examinations as per Paragraph 3 of the examination regulations 2009-2010 of the Pondicherry University.

For Petitioners : Mr.D.Senthilkumar
For Respondents : Mr.V.Balamurugane for R2
Mr.V.P.Raman for R3

COMMON ORDER

Heard Mr.D.Senthilkumar, learned counsel appearing for the petitioners and Mr.V.Balamurugan, learned counsel appearing for 2nd respondent and Mr.V.P.Raman, learned counsel appearing for 3rd respondent and perused the materials placed on record. With the consent on either side, the Writ Petitions themselves are taken up for final disposal at the admission stage.

2. The petitioners seek for a issuance of Writ of Mandamus directing the 2nd respondent to grant 4 marks as grace marks towards each of the petitioner on the practical test of paediatrics in the III professional Part II M.B.B.S., Exam held during the month of November 2014 Examinations as per Paragraph 3 of the examination regulations 2009-2010 of the Pondicherry University.

3. The learned counsel for the petitioners submitted that the legal issue involved in these Writ Petitions are covered by the earlier Writ Petition of this Court in W.P.Nos.3272 to 3277 of 2015.

4.The learned counsel appearing for the 2nd respondent does not dispute the fact that the issue involved in these Writ Petitions are covered by the earlier decision of this Court.

5.This Court in the earlier Writ Petitions considered the identical issue and allowed the Writ Petitions on 16.02.2015 by passing the following order and the operative portion of the order reads as follows:-

"... 14. In the instant case, admittedly, there is no challenge to the regulation of the respondent which provides grant of grace marks in practicals being 5 %. In such circumstances, the decision relied on by the learned counsel for the 2nd respondent University is of little avail to support the stand taken by the University. Even assuming the stand taken by the respondent University is correct and if the regulations of Medical Council of India are applied, then, there will be no difficulty for the petitioner in W.P.No.3276 of 2015 as he requires only one grace marks in general medicine practical test.

15. In the light of the above reasoning, this court is fully satisfied that the regulation which is prevailing is the regulation produced by the petitioners and uploaded in the official website which provides for grant of 5% grace mark and there is no distinction made for practical or theory examination . The past practice of the Respondent University shows that the University has granted grace mark for practical examination held during November 2013 and the mark statement clearly establishes the same .

16. In the light of the above, the petitioners are entitled to succeed and accordingly, the Writ Petitions are allowed and there will be a direction to the 2nd respondent University to award the grace

mark to each of the petitioners and consequently declare the results of the petitioners within a period of 10 days from the date of receipt of a copy of this order. No costs. Consequently, all the connected M.P.s, if any, in all the writ petitions are closed..."

6. In the light of the above, by following the earlier decision of this Court referred supra, these Writ petitions are allowed and there shall be a direction to the 1st respondent/University to award the grace marks to each of the petitioner and consequently declare the results of the petitioners within a period of ten days from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar
Dated: 30.3.15

True Copy

Sub Assistant Registrar

To

1. Director-Principal
Sri Venkateswara Medical College
and Research Institute
Ariyur, Puducherry
2. The Controller of Examinations,
Pondicherry University,
Kalapet, Puducherry - 605 014
3. The Medical Council of India
MCI Building Pocket - 14,
Sector - 8, Dwaraka Phase - 1
New Delhi - 110 077

+4 cc's to Mr.D.Senthilkumar, Advocate, SR.16731, 16732

+1 cc to Mr.V.balamurugane, Advocate, SR.17198.

br(co)
krd 30/3

W.P.Nos.8521 and 8522 of 2015 and
M.P.Nos.1 and 1 of 2015