

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.8558 to 8560 of 2015

Reshma
ESIC Medical College
and PGIMSR
K.K.Nagar,
Chennai - 600 078

.... Petitioner in W.P.No.8558 of 2015

G.Keerthana
Reshmak Reshma
R.Naveenkumar
ESIC Medical College
and PGIMSR
K.K.Nagar,
Chennai - 600 078

.... Petitioner in W.P.No.8559 of 2015

Naveenkumar
Ravichandran
ESIC Medical College
Mens hostel
K.K.Nagar,
Chennai - 600 078

.... Petitioner in W.P.No.8560 of 2015

vs.

1. The Tamilnadu Dr.MGR medical University,
rep. By its Registrar,
No.69, Annasalai, Guindy
Chennai - 600 032

2. The Controller of Examinations,
Tamilnadu Dr.MGR Medical University,
No.69 Annasalai,
Guindy, Chennai - 600 032

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3. The ESIC Medical College and PGIMSR,
represented by its Dean
K.K.Nagar, Chennai - 600 078

4. Medical Council of India

Pocket - 14

Sector - 8

Dwaraka Phase I,

New Delhi - 110 077 ... Respondents in W.P.Nos.8558 to
8560 of 2015

Writ Petitions filed under Article 226 of the Constitution of India praying for a issuance of Writ of Mandamus directing the 1st respondent to dispose of the representation dated 06.03.2015 and consider the request for 2nd valuation.

For Petitioners : Ms. K.Kala

C O M M O N O R D E R

Heard the learned counsel for the petitioners and perused the materials placed on record.

2.The petitioners have filed these Writ Petitions for a issuance of Writ of Mandamus directing the 1st respondent to dispose of the representation dated 06.03.2015 and consider the request for 2nd valuation.

3.Earlier the petitioner in W.P.No.8558 of 2015 had approached this Court by filing W.P.No.1373 of 2015 for identical relief requesting for revaluation of the paper. This Court declined to grant the relief and disposed of the Writ Petition by the order dated 06.02.2015. The order reads as follows:-

"The prayer sought for in the Writ Petition, is for issuance of Mandamus, directing the respondent-Tamil Nadu Dr.M.G.R. Medical University, to conduct second evaluation of the petitioner's answer scripts in the examination held in November, 2014, in Anatomy Papers 1 and II and Biochemistry Papers 1 and II.

2. Mr.Sanjay Ramasamy, the learned Standing Counsel for the respondent-University submitted that there is no provision for second valuation/double valuation, and the provision has been done away with and resolution has also been passed by the Standing Academic Board to that effect. Therefore, the prayer sought for, by the petitioner cannot

be granted.

3. It is brought to the notice of this Court by the learned counsel appearing for the petitioner, that the Standing Academic Board, in its 47th Meeting held on 18.12.2013, in Agenda No.47 (11) considered the recommendations of the Board of Studies in Super Specialty, passed in its meeting held on 06.11.2013. One of the issues, which was taken up for consideration is with regard to the guidelines for double valuation, if prescribed by their respective Councils. In the said meeting, the following decisions were taken under the heading,

Any other items:-

"1. It was resolved that from February/2014/April 2014 sessions onwards, only single valuation will be done for all Undergraduate, Post Graduate and Super Specialty Degree Courses, unless, the Double Valuation is advised by the respective Councils.

Guidelines for Double Valuation, if prescribed by their respective Councils.

- Answer scripts of the candidates, who have failed in the first valuation will be subject to second valuation.
- The average marks of the two valuations will be considered for processing the results.
- If the difference of marks between the two valuations is more than 30% then the answer scripts be subject to third valuation and the best of two valuations among the three will be considered for processing the results.

The Dental Council of India has prescribed that, "in Universities, where double evaluation provision exists, the provision of revaluation is not applicable.". Therefore, for B.D.S. Degree course, the theory answer scripts of all the candidates, who have scored less than 35 marks in a maximum of 70 marks paper and less than 18 marks in a maximum of 35 marks paper, be subjected for second valuation. The average of the two scores be considered as the marks obtained for processing

the results.

2. It has been resolved that, "once hall ticket is issued by the University to a candidate, based on his/her application for Examination submitted along with necessary fee forwarded by the College, it will be treated as an attempt, irrespective of the fact whether the candidate is actually appearing for the Examination or not due to any reason." Only when the candidate has taken up/appeared for any part of the Examination, it will be considered as an appearance.

3. From April, 2014 Examination sessions onwards, for all the Post Graduate Degree/Diploma Courses and Super Specialty, it has been decided to remove the component system of appearing in the Examination, following the norms of the respective Councils.

4. The fees for issue of Migration Certificate need to be collected along with the Examination fees and the Migration certificates shall be issued on receipt of application."

4. In terms of the above decision, it is seen that from February 2014 to April 2014 sessions onwards, only single valuation will be done for all Undergraduate, Post Graduate and Super Specialty Degree Courses, unless, the Double Valuation is advised by the respective Councils. In the same resolution, based on the advice given by the Junior Counsel of India, the second valuation has been permitted by the respondent-University. However, as on date, there is no proceeding, said to have been passed by the Medical Council of India, has been placed before this Court for consideration, wherein, there is any recommendation for second valuation. In such circumstance, the respondent-University cannot be compelled to conduct second valuation of the petitioner's answer scripts in subjects, where she has failed. However, the learned counsel for petitioner pleads that liberty may be granted to the petitioner to submit her representation before the Authorities concerned, who may be directed to consider the same in accordance with law. Even as per the resolution passed by the respondent-University, unless and until, their respective Council recommends for double valuation, the respondent-University cannot consider the petitioner's request.

5. Therefore, necessarily the petitioner has to approach the Medical Council of India. Accordingly, this Court, while dismissing the Writ Petition, is granting liberty to the petitioner to approach the Medical Council of India, by way of representation with a copy marked to the respondent-University, and, if such representation is made to the Medical Council of India, the competent Authority of the Council shall consider the same, as expeditiously as possible, preferably, within a period of three weeks from the date of receipt of such representation. No costs"

4.Thus, from the above order, it is seen that the prayer sought for revaluation is negatived and only direction was ordered permitting the said petitioner to make a representation to the Medical Council of India for being considered. Accordingly, the petitioner has made a representation before the Medical Council of India, it has been rejected.

5.In the light of the above, question of now once again granting the same relief, which was earlier negatived by this Court, cannot be granted. Further more, in the absence of any such provision for revaluation provided to by the respondent-University, the reliefs sought for by the petitioners for revaluation fail and the same are dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Registrar,
The Tamilnadu Dr.MGR medical University,
No.69, Annasalai, Guindy
Chennai - 600 032
2. The Controller of Examinations,
Tamilnadu Dr.MGR Medical University,
No.69 Annasalai,
Guindy, Chennai - 600 032
3. The Dean
The ESIC Medical College and PGIMSR,
K.K.Nagar, Chennai - 600 078

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Dwaraka Phase I,

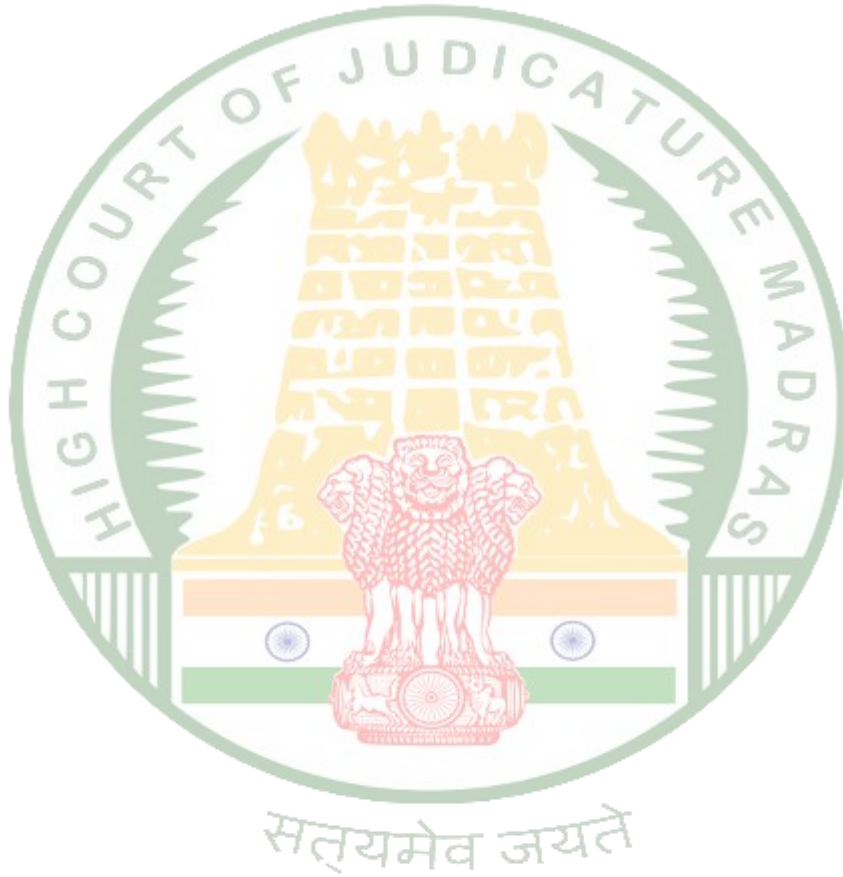
New delhi - 110 077

1 cc to Mr. K.Kala, Advocate, SR.No.16795

W.P.Nos.8558 to 8560 of 2015

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pmk.11.4.2015



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