

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.Nos.12787 to 12797 of 2016

U. Arul Mozhi	..Petitioner in W.P.No.12787 of 2016
R. Ponni	..Petitioner in W.P.No.12788 of 2016
C. Sanjay	..Petitioner in W.P.No.12789 of 2016
G. Karthikeyan	..Petitioner in W.P.No.12790 of 2016
C.K.Karthickkumar	..Petitioner in W.P.No.12791 of 2016
G. Karthick	..Petitioner in W.P.No.12792 of 2016
M. Naveen Nirmal	..Petitioner in W.P.No.12793 of 2016
Pavith Jayaraj	..Petitioner in W.P.No.12794 of 2016
G. Arun	..Petitioner in W.P.No.12795 of 2016
M. Rajammal	..Petitioner in W.P.No.12796 of 2016
J. Mini Joy	..Petitioner in W.P.No.12797 of 2016

Vs.

1.The Registrar
The Tamil Nadu Dr. M.G.R. Medical University
Guindy, Chennai-32.

2.The Controller of Examination
The Tamil Nadu Dr.MGR Medical University
Guindy, Chennai-32.

WEB COPY

3. Medical Council of India
Rep. By its Secretary
Sector B, Dwaraka Phase-I
New Delhi - 110077.

(R3 is impleaded as per Order
of this Court, dated 18.7.2016
in W.M.P.Nos.20969 to 20979
of 2016 in W.P.Nos.12787 to 12797
of 2016) .. Respondents in all the writ petitions

Prayer in W.P.No.12787 of 2016 to 12795/16:

The writ petitions are filed under Article 226 of the Constitution of India praying for the issue of a writ of mandamus, directing the respondents to re-evaluate review the proceedings of the internal and external examiners in the practical examination of the petitioner having Regn.No.521134142,52113488,52113513,52113458,52113454,52113455,52113481,52113487,52113415, respectively in the subject General Medicine and grant full marks for the question of long case in " Neurology" which has been put forth from outside the permitted syllabus in violation of Clause 12(3) of the Medical Council of India Regulations on Graduate Medical Education 1997 (amended upto February 2012).

Prayer in WP.12796 and 12797/16: The Writ Petitions are filed under Article 227 of Constitution of India praying to issue a Writ of Mandamus directing the respondents to re evaluate/review the proceedings of the internal and external examiners in the practical examination of the petitioner having Regn. No. 52113501 in the subject Paediatrics including Neonatology and grant full marks for the question of long case in Neurology (Cerebral Palsy) which has been put forth from outside the scheme of examination/permitted syllabus in violation of Clause 12 (3) of the Medical Council of India Regulations on Graduate Medical Education 1997 (amended upto February 2012)

For Petitioners : M/s.S. Thanka Sivan
For Respondent Nos.1 & 2 : Mr.G. Harihara Arun
For Respondent No.3 : Mr.V.P. Raman

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C O M M O N O R D E R

Since the issues involved in all the above writ petitions are similar in nature, they have been taken up for hearing, together, and disposed of by way of a common order.

2. The petitioners are final year M.B.B.S. students of Madha Medical College and Research Institute, affiliated to the Tamil Nadu Dr.M.G.R. Medical University, Guindy, Chennai, (hereinafter referred to as 'the University').

3. The petitioners have stated that they are meritorious students and they had obtained good marks in the previous examinations, written by them, as part of their M.B.B.S. Degree Course. However, they have been declared to have failed in the practical examination, held during the month of February, 2016.

4. The petitioners have stated that the respondent University is governed by the Regulations of the Medical Council of India, New Delhi, (hereinafter referred to as 'MCI'), known as the Medical Council of India Regulations on Graduate Medical Education, 1997, as amended upto February, 2012, (hereinafter referred to as 'the Regulations').

5. Clause 12(3) of the Regulations, relating to the examinations to be conducted by the University reads as follows:-

" (3) University Examinations:

Theory papers will be prepared by the examiners as prescribed. Nature of questions will be short answer type/objective type and marks for each part indicated separately.

Practicals/clinical will be conducted in the laboratories or hospital wards. Objective will be assess proficiency in skills, conduct of experiment, interpretation of data and logical conclusion. Clinical cases should preferably include common diseases not esoteric syndromes or rare disorders. Emphasis should be on candidate's capability in eliciting physical signs and their interpretation.

Viva/oral includes evaluation of management approach and handling of

emergencies. Candidate's skill in interpretation of common investigative data, x-rays, identification of specimens, ECG etc. also is to be evaluated.

The examinations are to be designed with a view to ascertain whether the candidate has acquired the necessary for knowledge, minimum skills along with clear concepts of the fundamentals which are necessary for him to carry out his professional day today work competently. Evaluation will be carried out on an objective basis. Question papers should preferably be short structure/objective type.

Clinical cases/ practicals shall take into account common diseases which the student is likely to come in contact in practicals. Rare cases /obscure syndromes, long cases of neurology shall not be put for final examination.

During evaluation (both internal and external) it shall be ascertained if the candidate has acquired the skills as detailed in Appendix-B."

6. It has been stated that the question papers should preferably be of short structure/ objective type. Clinical cases and practicals shall take into account common diseases, which the students are likely to come in contact with, during their medical practice. It has also been prescribed that rare cases and obscure syndromes, and long cases of Neurology should not be a part of the practical examination. While so, the questions involving long essay type answers, relating to the Central Nervous System have been asked, by the examiners, in the practical examination. The long answer questions were relating to ' Hemiplegia', which occurs in rare cases and therefore, such questions should not be asked in the final year practical examination, as per the regulations of the MCI.

7. It had been further stated that the total marks to be awarded for the practical examination in the subject of General Medicine is 100 marks and the long answer question alone carries 40 marks and the other questions are for the remaining 60 marks.

8. It has been further stated that the very inclusion of the cases relating to Neurology in the practical examination is contrary to the regulations of the MCI. Thus it is clear

that the pattern of questions in the practical examination conducted in respect of the petitioners, is against Clause 12(3) of the Regulations of the MCI, as it had included the long answer questions in Neurology, which is out of the prescribed syllabus. Thus, grave injustice has been done to the petitioners, as they are shown to have failed in their practical examination. Therefore, the authorities of the respondent University should be directed to reconsider and re-evaluate the results of the petitioners, relating to the practical examination, and to grant them full marks in respect of the long answer questions written by the petitioners.

9. It has also been stated that the non compliance of the regulations of the MCI, by the respondent University, while conducting the practical and viva voce examination, for the subject of General Medicine, is contrary to the well settled principles laid down by the Supreme Court of India in its decision, reported in 2011 (6) CTC 801 (Tamil Nadu Dr. M.G.R. Medical University, represented by its Registrar, NO.69, Anna Salai, Guindy, Chennai and another vs. P. Anand and ten others).

10. In such circumstances, it could be appropriate for the respondent University to re-evaluate the answers of the petitioners, relating to the practical and viva voce examination, held in the month of February, 2016, and to grant full marks to the petitioners, in respect of the long answer questions attempted by them, in the practical examination.

11. It had been further stated that the respondent University has acted in total contravention of the Regulations of the MCI, by asking the petitioners to attempt the questions in Neurology, in the practical examination, while conducting the viva voce/oral examination, simultaneously, on the same day.

12. The authorities of the respondent University are fully empowered to rectify the error, which had occurred in the practical examination, by giving full marks to the petitioners as held in the decision of the Supreme Court reported in 2009 (11) SCC 599 (Sahiti and others vs. Chancellor, Dr.N.T.R. University of Health Sciences and others (2009) 1 SCC 599).

13. The learned counsel, appearing on behalf of the petitioners had relied on the decision of the Supreme Court, in Guru Nanak Dev University vs. Saumil Garg and others (2005) 13 SCC 749). Paragraph No.12 of the said decision reads as follows:-

"12. There is yet another problem, namely, that of seven questions which are so vague that they are incapable of having a correct answer. The appellant University, in respect of those seven questions, has given the credit to all the students who had participated in the entrance test irrespective of whether someone had answered the questions or not. We do not think that that is the proper course to follow. It is wholly unjust to give marks to a student who did not even attempt to answer those questions. This course would mean that a student who did not answer say all the seven questions would still get 28 marks, each correct answer having four marks. The reasonable procedure to be followed, in our opinion, would be to give credit only to those who attempted the said questions or some of them. Having regard to the circumstances of the case, we direct that for the students who attempted those questions or some of those questions, insofar as they are concerned, the said questions should not be treated to be part of the question paper. To illustrate, if a student answered all the said seven vague questions, insofar as that student is concerned, total marks would be counted out of 772 i.e., 800 less 28 and likewise depending upon number of such questions, if any, answered by the student. The seven vague questions are Questions 4 in Physics, Questions 76 and 89 in Chemistry, Questions 147 and 148 in Botany and Questions 156 and 163 in Zoology of Question paper Code A."

14. The learned counsel had also relied on the decision of the Supreme Court in Sahiti and others vs. Chancellor, Dr.N.T.R. University of Health Sciences and others (2009) 1 SCC 599).

15. In the said decision, the Apex Court has held, in paragraph Nos.31 and 32, as under:-

"32. As per the Statutes of university, the Vice-Chancellor is whole-time Officer of the university and by virtue of his office, is a Member and Chairman of the Executive Council and of the Academic Council. He has power to convene meetings of the Executive Council and the Academic Council.

33. The plea that there is absence of specific provision enabling the Vice-Chancellor to order re-evaluation of the answer scripts and, therefore, the Judgment impugned should not be interfered with, cannot be accepted. Re-evaluation of answer scripts in the absence of specific provision is perfectly legal and permissible. In such cases, what the Court should consider is whether the decision of the educational authority is arbitrary, unreasonable, mala fide and whether the decision contravenes any statutory or binding rule or ordinance and in doing so, the Court should show due regard to the opinion expressed by the authority."

16. The learned counsel, appearing on behalf of the petitioners had relied on the decision of a Division Bench of this Court, in the Tamil Nadu Dr. M.G.R. Medical University, represented by its Registrar, NO.69, Anna Salai, Guindy, Chennai and another vs. P. Anand and ten others (2011 (6) CTC 801), wherein, it has been held as follows:-

" 40. From the perusal of the above passage, it is evidently clear that as per MCI Regulation passing in each subject a candidate must obtain 50% of the marks in the aggregate. The method of calculating the passing marks states that theory including orals and practicals shall be taken into consideration. However, the impugned guidelines issued by the appellant University has given a complete go-by to such requirement and when the provisions of Regulation 12(4) are clear and unambiguous the appellant University alleging that it is enhancing the standards has in fact set at naught the Regulation of the MCI. Ultimately, the Hon'ble Supreme Court held that a student has to secure 50% of the total marks for theory with orals, 50% of marks for practicals/clinicals and 50% of the aggregate (total of external and internal) and candidate must have 35% internal assessment for eligibility to appear for the University examination. Therefore, the crux of the decision rendered by the Hon'ble Supreme Court is that the aggregate mark in practicals and clinicals has to be taken together as 50% and there is absolutely no scope for the appellant University to divide the clinical subject into two stipulating minimum pass mark in each of the

subject. This undoubtedly, is in direct conflict and inconsistent with the MCI Regulations. Therefore, in exercise of the powers under Entry 25 in List III, the appellant University cannot introduce a guideline which contradicts the MCI Regulation or a guideline inconsistent with the criteria fixed by MCI.

41. In view of the above, we have no hesitation to hold that the impugned guidelines issued by the appellant University is inconsistent with Regulation 12(4) of the MCI Regulation and the same cannot be stated to be prescribing higher standards. Accordingly question No.1 is decided against the appellant University.

42. Decision on Question No.2:-

For the purpose of answering this question, it would be essential to look into certain facts. It is stated that about 2300 students are admitted to the M.B.B.S course in institutions which are affiliated to the appellant University and only such of those students have been put to peril by virtue of the impugned guidelines. It is stated that about 35000 students all over India appear for the final M.B.B.S Part II examination and only 6% of the said student community have been affected on account of the impugned guidelines. It has not been disputed that institutions like AIIMS, JIPMER, Maharashtra University of Health Sciences, Annamalai University and other deemed Universities in Tamilnadu have been following the MCI Regulations. It has been brought to our notice that students who have completed M.B.B.S. Course from other Universities which follow MCI Regulation have been permitted to undergo internship in the colleges affiliated to the appellant University and in many cases if the impugned guidelines of the appellant University is applied to such candidates they have to be declared as failed candidates. However those candidates have been permitted to undergo internship. The learned counsel appearing for the appellant does not deny the fact that such students have been permitted to undergo internship, but states that it is done in rarest of rare case. Further, students on completion of their M.B.B.S course from other Universities which follow MCI Regulation are permitted to apply for and secure admission to post graduate courses

offered by the appellant University though such candidates are deemed to have failed in the M.B.B.S course by applying the impugned guideline.

43. In our view, these facts clearly established that the students undergoing the courses under the appellant University have been discriminated and treated differently from those candidates who have or had undergone M.B.B.S course from other Universities. Therefore, the action of the appellant University does not satisfy the test of reasonableness and it offends Article 14 of the Constitution.

44. Yet another factor which has to be taken into consideration, is that the final year students have all joined the M.B.B.S course during 2006-07 and as per the Regulations of MCI, on phase Distribution and Timings of Examination details have been given and for subject Orthopaedics, the candidates are required to undergo the course for four weeks in the fifth semester, four weeks in the 6th semester and two weeks in the 9th semester. Admittedly, these postings are over for the respondents/writ petitioners during 2010 and thereafter, the impugned guidelines have been brought into force in February 2011. This fact is sufficient to demonstrate the arbitrariness committed by the appellant University. Further, the Board of studies in its meeting held on 03.05.2011, recommended various academic issues relating to 3rd M.B.B.S degree course which were approved by the Standing Academic Board on 14.06.2011 and accepted by the Governing Council on 14.06.2011. In the said meeting, a decision was taken to re-approve the decision of the Standing Academic Board held on 22.06.2010 to have separate pass mark in the sub-branches, namely, practical for General Surgery and Orthopaedics. At this stage, it would be worthwhile to quote the decision taken :-

The Standing Academic Board has again approved that in the subject Surgery including Orthopaedics of Final MBBS Degree course, the separate pass mark in the sub-branches viz., practical for General Surgery and Orthopaedics is the decision of the academic body in order to raise the standards of the University Examinations. This is in lieu of having a separate paper in Orthopaedics which will be a increased burden on the students.

Further, it was resolved that, from the next academic year the marking pattern will be as given below:

Maximum	Minimum	Theory	200	100	Surgery	Clinical
100	50	Orthopaedics	Clinical	100	50	Viva-Voce
100	50	Internal	Assessment	100	50	(Theory+Practicals)
100	50.					

17. Per contra, the learned counsel appearing on behalf of the respondents 1 and 2 had relied on the order passed by the First Bench of this Court, dated 5.3.2012, in W.P.No.3207 of 2012 (A. Sivaranjani vs. The Tamil Nadu Dr.M.G.R. Medical University, represented by its Registrar, No.69, Anna Salai, Guindy, Chennai-32 and three others).

18. Paragraphs Nos.3, 4, 5, 6, and 7 of the said order reads as under:-

"3. As directed, the photocopy of the concerned answer sheet was furnished to the petitioner. Thereafter, the petitioner has come forward by this writ petition stating that the answer paper has to be re-evaluated on the ground that certain questions were asked outside the syllabus, when such chapters were not to be tested in examination. Further, it is stated that certain answers given by the petitioner, are correctly given, yet the evaluator did not consider the correct answers.

4. The respondent University has filed a counter affidavit stating that there is no provision in the University Rules, Regulations or Scheme under the University Act for re-evaluation. It is further stated that the petitioner who is pursuing education in the field of medicine is expected to have basic knowledge in the subject and none of the questions have been asked for from outside the syllabus and the answer paper was evaluated by a Senior Professor having 15 years teaching experience in the said subject.

5. After having heard the learned counsel appearing for the parties, it has to be seen whether this Court would be justified in directing the respondent University to re-evaluate the petitioner's answer paper in the absence of any Rule/Regulation or Scheme for re-evaluation in the respondent University. In HP Public Service

Commission vs. Mukesh Thakur and Another, (2010) 5 MLJ 746, one of the questions which arose for consideration was whether in the absence of any statutory provision for re-evaluation, the Court could direct for re-evaluation. After referring to the various earlier decisions, it was held that in the absence of any provision for re-evaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his papers. At this stage, it would be beneficial to refer to the operative portion of the judgment and order of the Supreme Court:-

24. The issue of revaluation of answer book is no more res integra. This issue was considered at length by this Court in Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth¹⁷, wherein this Court rejected the contention that in the absence of the provision for revaluation, a direction to this effect can be issued by the Court. The Court further held that even the policy decision incorporated in the Rules/Regulations not providing for rechecking/verification/revaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision. The Court held as under: (SCC pp. 39-40 & 42, paras 14 & 16)

"14. ... It is exclusively within the province of the legislature and its delegate to determine, as a matter of policy, how the provisions of the statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act. ...

16. ... The Court cannot sit in judgment over the wisdom of the policy evolved by the legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to

effectuate the purposes of the Act.”

25. This view has been approved and relied upon and reiterated by this Court in Pramod Kumar Srivastava v. Bihar Public Service Commission¹⁸ observing as under: (SCC pp. 717-18, para 7)

“7. ... Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer book. There is a provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for revaluation of his marks.”

(emphasis added)

26. A similar view has been reiterated in Muneeb-Ul-Rehman Haroon (Dr.) v. Govt. of J&K State and Others AIR 1984 SC 1585, Board of Secondary Education v. Pravas Ranjan Panda and Another, (2004) 13 SCC 383, Board of Secondary Education v. D. Suvankar and Another (2007) 1 SCC 703, W.B. Council of Higher Secondary Education v. Ayan Das and Others AIR 2007 SC 3092: (2008) 1 MLJ 866 and Sahiti v. Dr. N.T.R. University of Health Sciences and Others (2009) 1 SCC 599.

27. Thus, the law on the subject emerges to the effect that in the absence of any provision under the statute or statutory rules/regulations, the Court should not generally direct revaluation.

6. In the light of the above categorical pronouncement, the prayer sought for by the petitioner cannot be granted. Further, it is stated in the counter affidavit that the petitioner appeared for the examination in February 2012 in the subject which, she was declared 'failed'.

7. In view of the above, no relief can be granted to the writ petitioner and accordingly, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed."

19. The learned counsels had also relied on the order passed by a Division Bench of this Court, dated 1.4.2014, in W.P.(MD) No.172 of 2014, (Jagadeeswaran vs. Vice Chancellor, the Tamil Nadu Dr.M.G.R. Medical University, No.69, Anna Salai, Guindy, Chennai), wherein, in paragraphs Nos.5 and 6, the Division Bench has held as under:-

"20. In Sahiti, what was in issue before the Supreme Court was whether the action of the Vice-Chancellor of Dr.N.T.R.University of Health Sciences in ordering re-verification/revaluation/re-examination of answer scripts of 436 students, was proper or not. It is, in that context, the Supreme Court in Paragraph 32 held that revaluation even in the absence of specific provision is perfectly legal and permissible. But, there is a world of difference between an educational authority ordering revaluation on account of certain large scale irregularities and the right of a person to approach the court and seek a mandamus for directing revaluation. The Court's power to order revaluation especially in matters relating to examinations, is extremely circumscribed. Where the educational authorities, who are experts in the field, themselves are of the opinion that there must be revaluation, this Court would not interfere with such a decision. But, it does not mean that this Court could issue a direction to the University to order revaluation."

20. At this stage of the hearing of the writ petition, the learned counsel, appearing on behalf of the respondent University had placed before this Court, a U.O. Note, dated 3.8.2016, issued by the Deputy Controller of Examinations, stating that the practical examination is conducted in the institution concerned, by four Professors (2 from affiliated institutions and 2 Professors from other University). The students are asked to examine the patient and present the case. The questions are based on the presentation of the case by the students. There is no set question paper for the practical examination.

21. The Deputy Controller of Examinations of the respondent University had appeared before this Court to explain the stand of the University. She had stated that there was no error in the practical examination conducted by the University as alleged by the petitioners herein. She had stated that the students are asked to examine some patients and to pen down their impressions with regard to the condition of the patients.

22. The questions are asked by the examiners, orally, for assessing the knowledge of the students, during the practical examinations. She had also placed before this Court the Minutes of the Meeting of the Expert Committee, held on 8.8.2016, which read as follows:-

"The meeting of the Expert Committee to discuss on the Neurology cases placed for the viva examinations for the final year MBBS students was held at 4.30 p.m. On 08.08.2016 at the Chambers of the Deputy Controller of Examinations (MBBS) of this University. The following members attended the meeting.
1. Dr. Tito, M.D., Professor of Medicine, Madras Medical College and Rajiv Gandhi General Hospital, Chennai-3.
2. Dr. Raghunandan, M.D., Professor of Medicine, Madras Medical College and Rajiv Gandhi General Hospital, Chennai-3.
3. Dr. Mayilvahan, M.D., Professor of Medicine, Govt. Royapettah Hospital, Chennai-14.
The Expert committee discussed in detail and opined as follows:-

The Final MBBS Degree course (Non-Semester) regulations - 2005 of The Tamil Nadu Dr. MGR Medical University, Chennai clearly states that Cerebrovascular diseases (Hemiplegia) is a Must to know criteria for MBBS students.

'Hemiplegia' is a very common Neurological disease presenting frequently in daily Out-patient department and in-patient wards.

As hemiplegia is a very common illness, for decades, all UG students are trained in examination and diagnosis of hemiplegia. Knowledge about Hemiplegia should be acquired by the candidate to carry out the day to day professional work competently.

In all the Final year exams throughout Tamil Nadu. Hemiplegia cases are kept as a long case routinely for many decades. (30-40% of long cases)."

23. A common counter affidavit had been filed on behalf of the first and second respondents. Paragraphs Nos.2 to 7 of the common counter read as under:-

"2. It is submitted that the petitioners herein have filed the above writ petitions before this Hon'ble High Court for Writ of Mandamus or any other order in the nature of writ directing the respondents to re-evaluate / review the proceedings of the internal and external examiners in the practical examination of the petitioners in the subject General Medicine and grant full marks for the question of long case in " Neurology" which has been put forth from outside the permitted syllabus in violation of Clause 12(3) of the Medical Council of India Regulations on Graduate Medical Education 1997 (amended upto February 2012) and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

3. It is submitted that the petitioners have joined MBBS Degree course during the academic year 2011-2012 and has made their appearance in the final year MBBS examinations part-II in February 2016.

4. It is submitted that under Section 5 of the Tamil Nadu Dr.M.G.R. Medical University, Chennai, Act, 1987 (Tamil Nadu Act 37 of 1987) the University is the authority to hold examinations and to confer degrees, diplomas and decide on any other academic distinctions. It is further submitted that under Chapter VIII Statue 4(a) of General Statutes of the Tamil Nadu Dr. M.G.R. Medical University, the Controller of Examinations shall be responsible for the conduct of all University Examinations as prescribed by the authorities of the University, it shall be her duty to arrange with prior approval of the Vice-Chancellor the schedule for the preparation for all University Examinations and all other matters connected with the University Examinations therefore any dispute in relation to University examination should be decided by the Tamil Nadu Dr. M.G.R. Medical University.

5. It is submitted that the examination held on February 2016 was conducted in accordance with the guidance prescribed by the University.

It is submitted that around 3000 candidates have appeared for General Medicine, obstetrics and Paediatrics papers out of which petitioners are one of the candidate. It is submitted that around 2800 candidates (93.5%) have passed and around 100 (6.5%) candidates have failed in General Medicine papers and around 2800 candidates (96%) candidates have passed and around 100 (4%) candidates have failed in Obstetrics papers. Further, it is submitted that around 2900 candidates (97%) have passed and around 90 candidates (3%) have failed in Paediatrics papers. The petitioners are few among the candidates who have failed in the said examinations. It is submitted that all answer scripts of the candidates have been evaluated in accordance with the same question prepared by the Respondent University. It is submitted that the candidates who have passed in all the subjects are necessary parties and would be aggrieved by the said challenge. Therefore, the writ petition is not maintainable and relief may not be granted by this Hon'ble Court without impleading them as the parties to this writ petition.

6. It is submitted that the petitioners have filed the writ petitions under Article 226 of the Constitution of India seeking reevaluation. It is submitted that the writ petition will not be maintainable under Article 226 of the Constitution of India unless the petitioners have been aggrieved by a right. There is no rule under the University Regulations, or in the Regulations of the Medical Council of India governing the revaluation. In the absence of the rule governing revaluation the writ petitions filed by the petitioners would not be maintainable in law. Therefore, this writ petitions are liable to be dismissed.

7. It is submitted that the relief sought in the above writ petitions are misconceived. The content of the above writ petitions are devoid of merits and that the above writ petitions are liable to be dismissed."

24. A copy of the "Final M.B.B.S. Degree Course (Non-Semester) Regulations-2005 of the respondent University has been placed before this Court, to show that the students, apart from knowing the common symptoms of various diseases, they should

also know the conditions relating to Cerebrovascular diseases. Therefore, it is not open to the petitioners to claim that the questions relating to Neurology cannot be asked during the practical examination.

25. The learned counsel appearing on behalf of the respondent University had pointed out that, as per Section 5 of the Tamil Nadu Dr.M.G.R. Medical University, Chennai Act, 1987, (Tamil Nadu Act 37 of 1987), the University has the power to hold examinations and to confer degrees, diplomas and other academic distinctions. Pursuant to the said powers vested with the respondent University. Regulations have been issued prescribing the syllabus for the students undergoing M.B.B.S. Degree course in the Medical Colleges affiliated to the respondent University. As such, the petitioners had been informed, in advance, the subjects on which the examinations would be held, including the practical examination. Therefore, it would not be open to the petitioners to claim that the questions which had been asked in the practical examination, during the final year of the M.B.B.S. Degree Course, are not within the subjects prescribed by the University.

26. In view of the submissions made by the learned counsel appearing for the petitioners and the learned counsel, appearing on behalf of the respondents and on a perusal of the records available, it is noted that the petitioners are the final year students of M.B.B.S. Degree Course of Madha Medical College and Research Institute, who had participated in the practical examination, conducted by the Tamil Nadu Dr.M.G.R. Medical University.

27. The main allegation made by the petitioners in the present writ petitions is that the respondent University had conducted the practical examination in which questions had been asked, relating to rare cases, for which long answers had to be written, contrary to the regulations of the MCI, and therefore, the respondent University should re-evaluate the answer papers of the petitioners and to grant them full marks, as they attempted the said questions.

28. During the course of the hearing of the writ petitions, this Court had directed the respondent University to produce the answer papers relating to the practical examination conducted by the respondent University. The respondent University had also placed before this Court, the opinion of the Expert Committee of Senior Doctors, who are Professors of Medicine.

29. The Expert committee had stated that the Final Year M.B.B.S. Degree Course (Non Semester) Regulations-2005, issued by the Tamil Nadu Dr.M.G.R. Medical University, Chennai, clearly

states that Cerebral Vascular Diseases (Hemiplegia) is a MUST TO KNOW criteria for M.B.B.S. Students. 'Hemiplegia' is a very common Neurological disease presenting in daily out patient department and in the in-patient wards. As 'Hemiplegia' is a very common illness, which has been prevailing for many decades and all the undergraduate students are trained in the examination and diagnosis of 'Hemiplegia'.

30. It has also been stated that the knowledge about 'Hemiplegia' should be acquired, by the candidate, to carry out the day to day professional work, competently. The Expert committee had also stated that in all the final year examinations, held throughout Tamil Nadu, 'Hemiplegia' cases are kept as a long case, routinely, for many decades.

31. In such circumstances, this Court is not in a position to accept the contentions raised on behalf of the petitioners that the questions relating to Neurology, requiring long answers, in the practical examination, are not part of the syllabus prescribed for the students of the M.B.B.S. Degree Course. Further, it cannot be said that the practise followed by the respondent University, during the practical examination, are contrary to the regulations issued by the MCI.

32. It is not in dispute that there are no provisions available for the re-evaluation of the answer papers, either in the regulations issued by the respondent University, for the final year M.B.B.S. Degree Course (Non Semester), or in the Tamil Nadu Dr. M.G.R. Medical University Act, 1987.

33. As such, it is not open to the petitioners to claim that their answer papers of the practical examination, conducted during their final year M.B.B.S. Degree course, ought to be re-evaluated and full marks be awarded to the petitioners, for having attempted the questions relating to Neurology.

34. This Court is of the view that the decisions cited by the learned counsel appearing on behalf of the petitioners had arisen under different facts and circumstances and therefore, they do not lend any support to the case on hand.

35. It is a well-settled position in law that the candidates, who had participated in the examination, cannot claim, as a matter of right, the re-evaluation of the answer papers, especially, when there are no provisions for such re-evaluation.

36. The decisions of the Division Bench of this Court, made in W.P.No.3207 of 2012 and in W.P.(MD) No.172 of 2014, relied on by the learned counsel appearing on behalf of the respondent University, make it clear that a Writ of Mandamus ought not

to be issued, directing the University concerned to re-evaluate the papers of the candidates, especially, when no provision is available for such re-evaluation in the Regulations governing the said issue.

In such view of the matter, this Court finds it appropriate to reject the claims made by the petitioners, as they are devoid of merits. Hence, all the writ petitions stand dismissed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rnb
To

1.The Registrar
The Tamil Nadu Dr. M.G.R. Medical University
Guindy, Chennai-32.

2.The Controller of Examination
The Tamil Nadu Dr.MGR Medical University
Guindy, Chennai-32.

3.The Secretary
Medical Council of India
Sector B, Dwaraka Phase-I
New Delhi - 110077.

+1 cc to Mr.S.Jhankasivan Advocate sr 47405

+1 cc to Mr.G.Hariharaarun somasankar Advocate sr47309

सत्यमेव जयते

W.P.Nos.12787 to 12797 of 2016

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