

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.Nos.26326 to 26331, 26333 and 26334 of 2014

Dr.R.Udhaya Banu ... Petitioner in W.P. No. 26326 of 2014
Dr.V.Sivaranjani ... Petitioner in W.P. No. 26327 of 2014
Dr.S.Suganthi ... Petitioner in W.P. No. 26328 of 2014
Dr.T.Prasad ... Petitioner in W.P. No. 26329 of 2014
Dr.E.Raghunath ... Petitioner in W.P. No. 26330 of 2014
Dr.S.Lavanya ... Petitioner in W.P. No. 26331 of 2014
Dr.Akhila Kalyani ... Petitioner in W.P. No. 26333 of 2014
Dr.J.Venkatesaprasanna ... Petitioner in W.P. No. 26334 of 2014

Vs

1. The Union of India,
Rep by the Ministry of Health
Office of the Health Minister,
New Delhi.

2. The President,
Medical Council of India,
Pocket 14, Sector 8,
Dwarka, Phase-II,
New Delhi.

3. The President,
Tamilnadu Medical Council,
No. 914, Poonamallee High Road,
Arumbakkam, Chennai.

4. The Vice Chancellor/The Dean,
Mahatma Gandhi Medical College and Research Institute,
Sri Balaji Vidyapeeth University,
Pondy Cuddalore Main Road,
Pillayar Kuppan, Puducherry. ... Respondents in all WPs

Prayer in W.P. Nos. 26326 and 26334 of 2014: Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 2nd and 3rd respondents to register the name of the petitioner for M.D.Forensic Medicine.

Prayer in W.P. Nos. 26327, 26331 and 26333 of 2014: Petition filed under Article 226 of The Constitution of India praying to

issue a writ of mandamus directing the 2nd and 3rd respondents to register the name of the petitioner for M.D. Microbiology.

Prayer in W.P. Nos. 26328, 26329 and 36330 of 2014: Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 2nd and 3rd respondents to register the name of the petitioner for M.D. Community Medicine.

For Petitioners in all writ petitions	:Mr.E.Gurupatham
For Respondent No. 1 in all writ petitions	:r.V.P.Sengottuvel,
For Respondent No. 2 in all writ petitions	:Mr.V.P.Raman,
For Respondent No. 3 in all writ petitions	:Mr.Veerakathiravan,
For Respondent No. 4 in all writ petitions	:Mr.L.Swaminathan.

COMMON ORDER

As the issues involved in all the writ petitions are res integra, they have been taken up together and disposed of by a common order.

2. Heard the learned counsel appearing for the petitioners and the learned counsels for the respondents.

3. In all these cases, at the time of joining the course by the petitioners, there was a due recognition/permission granted by the respondent Nos. 1 to 3, therefore, the petitioners duly joined the course with the respondent No. 4 Institution. It appears that the difficulty has arisen, since the respondent No. 2 has felt certain deficiencies, which have not been rectified by the respondent No. 4. Therefore, in the schedule of the Medical Council of India, the respondent No. 4 Institution was not shown. Resultantly, the petitioners could not be registered by the respondent Nos. 2 and 3. It is not in dispute that the petitioners have completed their respective courses having written their examinations conducted by the respondent No. 3 and passed out successfully.

4. The learned counsel appearing for the respondent No. 2 submitted that the compliance on the part of the respondent No. 4 will have to be verified and insofar as, one particular course is concerned, a decision is likely to be taken shortly.

5. This Court, while considering a similar issue in W.P. No. 16812 of 2015, after taking note of the earlier decision of the Apex Court and the judgement of the Division Bench of the Bombay High Court, by judgement dated 11.09.2015, was pleased to hold as follows:

"16. Thus, it is clear that for a similarly placed students, though studying in a different College, recommendations were indeed made by the 2nd respondent and accepted by the Government viz., the 6th respondent

(since impleaded). There is no reason why the said yardstick shall not be adopted to the students of the 5th respondent. There is no material to hold that case of the petitioners is different with that of the students in that case. Hence, this decision coupled with the observation in paragraph No. 42 of the judgment of Apex Court in Medical Council of India Vs. M.G. R. Educational and Research Institute University and another, ((2015) 4 SCC 580) would certainly come to the aid of the petitioners. Though in the said decision, the facts would reveal the illegality committed by the College, the present case is a better one as at the time of entry of the petitioners, there was indeed a proper permission and hence, the ratio laid down therein would apply to the case on hand with all fours. For the same reasoning, this Court is of the view that the direction given thereunder to the students to undergo the examination once over again may not have an application to the case on hand, since in that case, examinations have been conducted by the Management as against the present case, when it was done by the 4th respondent University. There is also no quarrel about the nature of examinations conducted by the 4th respondent University. Perhaps, that is the reason why even the 2nd respondent did not impose any condition on the students of Shri Satya Sai Medical College. Therefore, this Court is of the view that the petitioners are entitled to succeed.

17. Accordingly, the 2nd respondent is directed to send his recommendations to the 6th respondent by only taking into consideration of the piquant situation in which the petitioners and other students joined in the year 2009-10 are placed, within a period of four weeks from the date of receipt of a copy of this order and based on the same, the 6th respondent will have to pass appropriate orders to include the petitioners along with the 5th respondent for the relevant year within a period of eight weeks thereafter, thus making it clear that it is applicable only to the students, who joined in that particular year. The order passed in the writ petition may also be made applicable to the students who joined in the year 2008-09, as they are also similarly placed. This direction, though positive in nature, is passed also by taking note of the decision taken by the 2nd respondent in respect of Shri Satya Sai Medical College, which was duly accepted by the 6th respondent. Insofar as the next batch of students after the petitioners are concerned, the respondents viz., particularly, the 2nd respondent will have to take appropriate decision in consultation with the other

respondents, if so required. As the petitioners would be deprived from being considered for the P.G. Course, the respondents are directed permit the petitioners to take part in the selection process of the said P.G. Course, as if they have valid and recognised degree. Considering the facts of the case, this Court is of the view that the 2nd respondent could have been more diligent while deciding not to recognise the degrees, by taking appropriate steps to protect the interests of the students and so is the case of the other respondents. Therefore, this Court deems fit that it would be appropriate for the 2nd respondent to take appropriate steps much in advance in future when a similar situation might arise."

6. The ratio laid down in the aforesaid judgement shall be applicable to the case on hand. It is not as if, the petitioners are at fault. The facts as narrated are not in dispute. In such view of the matter, this Court is of the considered view that the writ petition will have to be allowed. Accordingly, a direction is issued to the respondent Nos. 2 and 3 to register the name of the petitioners in respective courses being M.D.Forensic Medicine, M.D. Community Medicine and M.D.Microbiology, within a period of eight weeks from the date of receipt of copy of this order. It is hereby made clear that the order passed by this Court will not stand in the way of the respondent No. 2, while taking appropriate action, in accordance with law, against the respondent No. 4.

7. With the above directions, the writ petitions are disposed of. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Ministry of Health
The Union of India,
Office of the Health Minister,
New Delhi.

2. The President,
Medical Council of India,
Pocket 14, Sector 8,
Dwarka, Phase-I,
New Delhi.

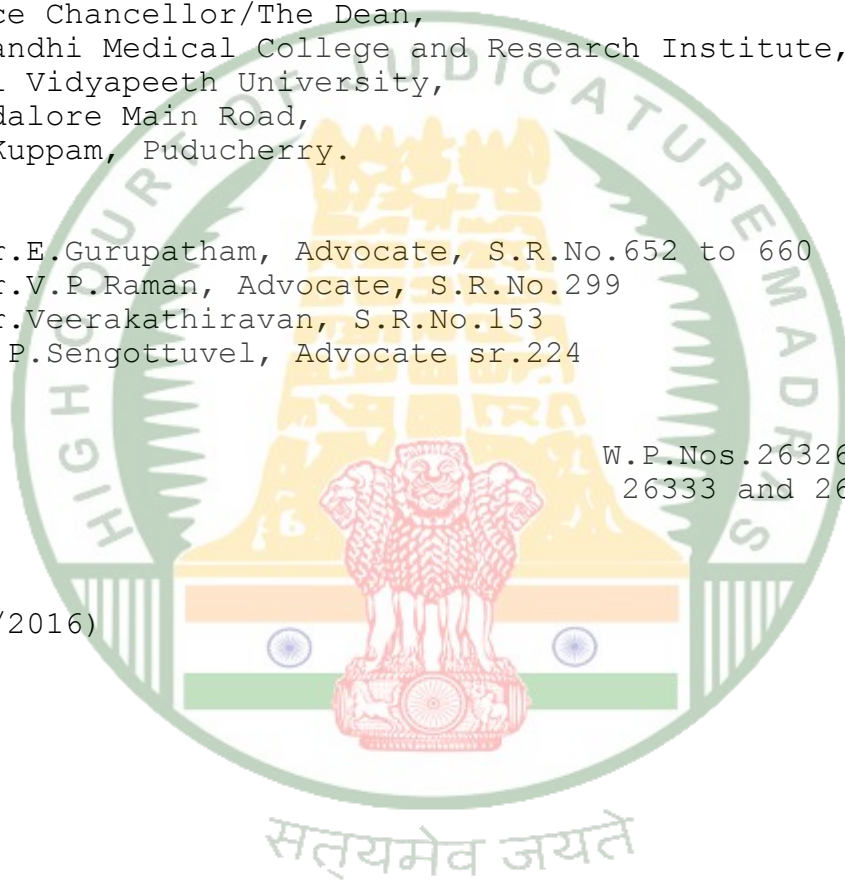
3. The President,
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4. The Vice Chancellor/The Dean,
Mahatma Gandhi Medical College and Research Institute,
Sri Balaji Vidyapeeth University,
Pondy Cuddalore Main Road,
Pillayar Kuppam, Puducherry.

+9cc to Mr.E.Gurupatham, Advocate, S.R.No.652 to 660
+1cc to Mr.V.P.Raman, Advocate, S.R.No.299
+1cc to Mr.Veerakathiravan, S.R.No.153
+1cc to V.P.Sengottuvel, Advocate sr.224

W.P.Nos.26326 to 26331,
26333 and 26334 of 2014

ksj (CO)
srg (20/01/2016)



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