

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.24253 of 2015

J.Pradip

... Petitioner

Vs.

1. Medical Council of India,
Pocket 14, Sector 8,
Dwaraka, New Delhi,
rep. by its Chairman
2. The Vice Chancellor,
Pondicherry University,
Kalapet, Pondicherry.
3. The controller of Examinations,
Pondicherry University,
Kalapet, Pondicherry.
4. The Registrar,
Mahatma Gandhi Medical College and
Research Institute,
Pondicherry.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of declaration declaring the petitioner herein as pass in Obstetrics and Gynaecology and in Paediatrics in the examinations written by the petitioner in November 2013 under registration No.246375045 in the fourth respondent college and permit the petitioner herein to undergo CRRI Internship Training and complete the MBBS degree course.

For Petitioner : Mr.ARL.Sundaresan, Senior Counsel
for Mr.Al.Gandhimathi

For Respondents : Mr.V.P.Raman, for R1
Mr. A.V.Bharathi, for R2
Mrs.Mala, for R3

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2. The petitioner has come forward with the present Writ of declaration declaring that the petitioner herein has passed in Obstetrics & Gynaecology and in Paediatrics in the examinations written by the petitioner in November 2013 under registration No.246375045 in the fourth respondent college and permit the petitioner to undergo CRRI Internship Training and complete the MBBS degree course.

3. The petitioner has joined in the fourth respondent medical college in MBBS Course during the year 2003-2004. Since the date of joining, he has been regularly attending classes and appearing for the examinations. Due to some health problems and family issues, he was not able to concentrate his studies and he failed in General Medicine, Obstetrics & Gynaecology and Paediatrics. In the month of November 2013, the petitioner had written the examination in the said three papers and when the results were published in internet in December 2013, he was shown as passed in General medicine and failed in Obstetrics & Gynaecology and paediatrics. The candidates were not given the mark sheets immediately after the examination results were published in the internet. Hence, he was constrained to appear again in May 2014 for the said two papers and again it was shown as fail in both the papers. Hence, again, he applied for the examination in November 2014 and he was waiting for the hall tickets to be issued. But, he was not issued the hall tickets and on enquiry, he was simply told that he is not eligible to write the exams. Only on 10.03.2015, the fourth respondent returned the exam application simply stating that he was directed to return the exam application along with the demand draft received from him. The petitioner made repeated representations to the respondents for giving opportunity to the petitioner to write the examinations.

4. The mark sheet for the month of 2013 was given to the petitioner only in the end of July 2015. From which, it was found that though the petitioner has secured 118 marks out of 200 over all, the petitioner was declared as fail. The minimum pass mark for theory and practical was 70 and 30 respectively, while it was shown in the mark list he had secured 78 and 40 respectively. So far as paediatrics is concerned, he was shown as fail by awarding 49 marks against a minimum pass mark of 50. In theory paper, he was awarded 25 as against a minimum pass mark of 30 and in practical, he was awarded 24 marks as against a minimum pass mark of 20. Since the marks were on border line and in spite of having secured more than the minimum pass marks,

yet he was declared as failed in Obstetrics & Gynaecology. Moreover, if he pass in anyone of the two failed papers, he is entitled to a consequential grace mark in the sole failed paper as per the Regulations. So far as Obstetrics & Gynaecology is concerned, theory mark was 76 and practical mark was 42, in all totaling to 118. However, in the break-up for the theory papers, which comprises of 4 parts, viz.P1, P@ OR and T1, the marks which were shown in the break up was 18, 18, 15 and 27 respectively, in all totaling to 78. In the break up for the practical comprising of 2 parts, as against PR and P1, the break up shown 13 marks and 27 marks respectively.

5. On the date, when he had done his practical in Obstetrics and Gynaecology, he was informed that he has got 15 in PR and 27 in P1 and that he had passed in the same. However, in the break up which was shown subsequently, as if he had secured 13 in PR and 27 in P1, which will work out only to 40, whereas in the aggregate practical marks, it was correctly shown as 42. The two marks which has wrongly been reduced in the PR by some correction or manipulation has been added in the theory paper, whereas the break-up, if it is added comes to 78 and the aggregate, which is shown in the theory paper, is correct, it is only 76. However, he was erroneously declared as fail in Obstetrics & Gynaecology in November 2013. If the said error had not been occurred and he was declared as pass in Obstetrics & Gynaecology, then the only paper, in which he would have failed is paediatrics by a shortfall of 1 mark over all and a shortfall of 5 marks in theory.

6. The Regulation of 13 of Graduate Medication Education (Amendment) Regulations 2002 provides that 'the grace marks up to a maximum of five marks may be awarded at the discretion of the University to a student who has failed only in one subject, but had passed in all the subjects'. As such, if the petitioner's results has been declared correctly, he would have failed only in Paediatrics and he would be entitled to grace marks as per the above Regulation and he is entitled to be declared as pass. The action on the part of the respondents is arbitrary and the petitioner is entitled to be declared as pass in both the subjects. Hence he has come forward with the present writ petition.

7. Heard the submissions of learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 and 2.

8. The learned counsel for the respondents filed counter and it has been stated that the Academic Council of the University vide its Resolution No.2016.76.50 dt: 29.01.2016 has resolved to grant two additional chances i.e. in May-2016 and November-2016 for those students who could not complete the

course within the prescribed time limit subject to submission of an undertaking by the students to the effect that they are well aware that these are the two last chances for completion of the course and no further extension would be granted.

9. In view of the said submission made in the counter, the learned counsel for the petitioner gave an undertaking that as per Resolution No.2016.76.50, dated 29.01.2016, the petitioner will write examination in May 2016 as per the old syllabus, by utilizing the charges given by the Academic Council of the University.

10. In view of the submission of the learned counsel for the petitioner based on the statement made in the counter, I am of the view that there is no need to give any specific direction. Hence, recording the statement made in the counter as well as the submission of the learned counsel for the petitioner, this Writ Petition is closed.

mrp

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

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4. The Registrar,
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+ 1 cc to M/s.Al.Gandhimathi, Advocate Sr 13848
+ 1 cc to Mr.V.P.Raman, Advocate Sr 13828
+ 1 cc to M/s. A.V.Bharathi, Advocate Sr 13688

KR/4/3/16

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