

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.06.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.18588/2016

Pedapatti S.S.K.Vijaya Gunasurya

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Petitioner

Versus

1 Indira Gandhi Medical College
and Research Institute, kadirgama
Puducherry.

2 The Controller of Examinations
Pondicherry University, Kalapet
Pondicherry 605014.

3 The Secretary
The Medical Council of India
MCI Building, Pocket-14
Sector-8, Dwarka Phase-1
New Delhi 110077.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the 2nd respondent to award "1" mark to the petitioner as grace marks in his practical Test of Paediatrics [Practical] in the III Professional Part II MBBS November 2015 examinations as per the Medical Council Regulation.

For Petitioner : Mr.V.Lakshminarayanan
For R1 : No appearance
For R2 : Mr.Stalin Abimanyu
For R3 : Mr.V.P.Raman

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that he joined first year MBBS Course in the year 2011 in the 1st respondent / Institution, which is affiliated with the 2nd respondent and also approved by the 3rd respondent. The petitioner had written III Professional Part II examinations, which were held during November 2015 with Roll No.11770696 and the results of the same were published on 22.01.2016 and the re-evaluated

results were published on 12.05.2016. According to the petitioner, he secured good marks in all the subjects except the subject "Paediatrics". It is relevant to extract the marks obtained by the petitioner in the said subject:-

Subject Name	Component Name	Marks
Paediatrics	Theory	39
	Oral	13
	Theory IA	10
	Practical	25
	Practical IA	14

3 The petitioner would state that the examination was held for 1250 marks and the petitioner has secured 733 marks altogether and in Paediatrics [practical], the pass mark required is 40 and the petitioner was awarded only 39 marks and as a consequence, he was declared "failed" in that particular subject. The petitioner, on receipt of the mark statements, had approached the 2nd respondent on 26.05.2016 for revision of Practical Marks in Paediatrics [Practical] and also prayed for grant of grace mark of "1" based on the Medical Council of India Regulations and however, he was informed that such a kind of benevolence will be given only on Court orders and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

4 The learned counsel for the petitioner has drawn the attention of this Court to the order dated 16.02.2015 made in WP.Nos.3272 to 3277/2015 as well as to the order dated 17.03.2015 made in WP.Nos.7361 and 7364/2015 and would submit that as per the said orders, grace marks of 5% is applicable to all the annual/summative examinations conducted semester-wise and there is no bar for awarding grace marks in the practical subject. Therefore, there cannot be any impediment in awarding grace mark of "1" to the petitioner for the subject Paediatrics [Practical] and prays for appropriate orders.

5 Per contra, Mr.Stalin Abimanyu, learned Standing Counsel who accepts notice on behalf of the 2nd respondent, would submit that the Regulations permit award of grace marks and in the light of the above cited orders passed by this Court, appropriate orders may be passed.

6 Heard the submissions of Mr.V.P.Raman, learned counsel who accepts notice on behalf of the 3rd respondent.

7 As rightly contended by the learned counsel for the petitioner, this Court in similar facts and circumstances, vide above cited orders, had awarded grace

marks and in the considered opinion of this Court, the petitioner is also similarly placed and therefore, he is entitled to get the grace mark of "1" in Paediatrics [Practical].

8 In the result, the writ petition is disposed of with a direction to the respondents 1 and 2 to consider the claim of the petitioner for award of grace mark of "1" in Paediatrics [Practical] in the III Professional Part II MBBS examinations, held during November 2015, in the light of the orders passed by this Court dated 16.02.2015 and 17.03.2015 made in WP.Nos.3272 to 3277/2015 and 7361 and 7364/2015 respectively, within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1 Indira Gandhi Medical College
and Research Institute, kadirgman
Puducherry.

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Pondicherry University, Kalapet
Pondicherry 605014.

3 The Secretary
The Medical Council of India
MCI Building, Pocket-14
Sector-8, Dwarka Phase-1
New Delhi 110077.

1 cc to Mr.V.Raghavachari, Advocate, sr.29303

W.P.No.18588/2016

ak co
kra 06.06.2016