

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P. No.36467 of 2015

&

M.P. Nos. 1 & 2 of 2015

1. Dr. N. Ahmed Munsif
2. Dr.G. Arun Kumar
3. Dr. R. Durga
4. Dr. R. Rajeswari
5. Dr.R. Nithiyanantham
6. Dr. R. Alagarsamy
7. Dr.M.R. Lenin
8. Dr.M.Kokilavani
9. Dr.M. Rekha
10. Dr.K. Brindha ..Petitioners

Vs.

1. The Medical Council of India
rep. by its Secretary,
Sector-8, Dwaraka Phase II,
New Delhi 77.
2. The Secretary,
The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai 600 010.
3. Dr.MGR University,
rep. by its Registrar,
Guindy, Chennai.
4. The Employees' State Insurance
Corporation Medical College &
Post Graduate Institute of
Medical Science & Research,
K.K. Nagar, Chennai.
5. The Tamil Nadu Medical Council,
rep. by its Registrar,
New No. 914, Old No. 569,
Poonamallee High Road,
Arumbakkam,
Chennai 600 106. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 5th respondent herein to register the PG degree of the petitioners issued by the 3rd respondent University forthwith enabling the petitioners to participate in their further educational programmes/employment within a reasonable time as may be fixed by this Hon'ble Court.

For Petitioners:: Mr.L.S.M. Hasan Fizal for
Mr.P. Saravanan

For Respondents:: Mr.V.P. Raman for R1
Mr.Doraisamy,
Addl. Govt. Pleader for R2
Mr.Anand David for R3
Mr.K. Prabhakaran for R4
Mr. Veerakathiravan for R5

O R D E R

This writ petition is filed for issue of a Writ of Mandamus directing the 5th respondent herein to register the PG degree of the petitioners issued by the 3rd respondent University forthwith enabling the petitioners to participate in their further educational programmes/employment within a reasonable time as may be fixed by this Court.

2. All the petitioners have completed their Post Graduation Course with the 4th respondent College. There is no dispute that at the time of their admission, the Course was duly recognised and the 1st respondent had also granted a Letter of Permission enabling the 4th respondent to commence and conduct PG programmes and admissions to PG courses. The 3rd respondent University is having territorial control over the Educational Programme and Educational Standard of the 4th respondent and all the petitioners were duly registered before the 3rd respondent University as recognised admitted students. The petitioners wrote the examination conducted by the 5th respondent and completed their course. After clearing the examination, they were also issued with provisional certificates. However, the petitioners were not permitted to register their PG degrees before the 5th respondent on the ground that the 4th respondent Institution is not included in the Schedule of the Act by the 1st respondent. Therefore, the petitioners have come forward to file this writ petition with the prayer aforesaid.

3. Learned counsel for the petitioners and learned counsel for respondent No.4 submitted that the issue involved in the writ petition is already covered by the judgment of this Court in W.P. No. 16812 of 2015 dated 11.09.2015.

4. However, learned counsel for the 1st respondent submitted that the ratio laid down in the said judgment for Under Graduate Courses cannot be applied for Post Graduation Courses. He would further submit that the 4th respondent did not comply with the deficiencies pointed out.

5. By way of reply to the above submission made by the learned counsel for the 1st respondent, the learned counsel for the 4th respondent submitted that compliance report has been sent on 06.11.2015 to the 1st respondent. He would further submit that all the deficiencies pointed out were after a long delay and for the same, neither the 4th respondent nor the students can be made to suffer.

6. 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 judgment of the Division Bench of the Bombay High Court, by judgment 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."

7. Whether it is for Under Graduate Course or for Post Graduate Course, the position of law remains the same. In the case on hand, there is no dispute on facts as narrated above. All the petitioners had joined PG course with respondent No.4 when there was due recognition and permission. As on today, recognition and permission has not been withdrawn. While it is well open to the 1st respondent to take appropriate action against the 4th respondent, the petitioners cannot be made to suffer, especially, when there was valid recognition/permission

at the time of their joining the Course. They completed the course and also cleared the examination conducted by the 5th respondent. The provisional certificates were also issued by the 5th respondent. Therefore, they cannot be denied the relief sought for.

8. Accordingly, the writ petition stands allowed by directing the 5th respondent to register the Post Graduate Degree of the petitioners issued by the 3rd respondent, within a period of eight weeks from the date of receipt of a copy of this order. However, it is made clear that this order will not stand in the way of the 1st respondent in taking appropriate action as per law. It is also open to the 1st respondent to consider the compliance report stated to have been sent by the 4th respondent on 06.11.2015, before taking action, if it is true and available. No costs. Connected M.Ps are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

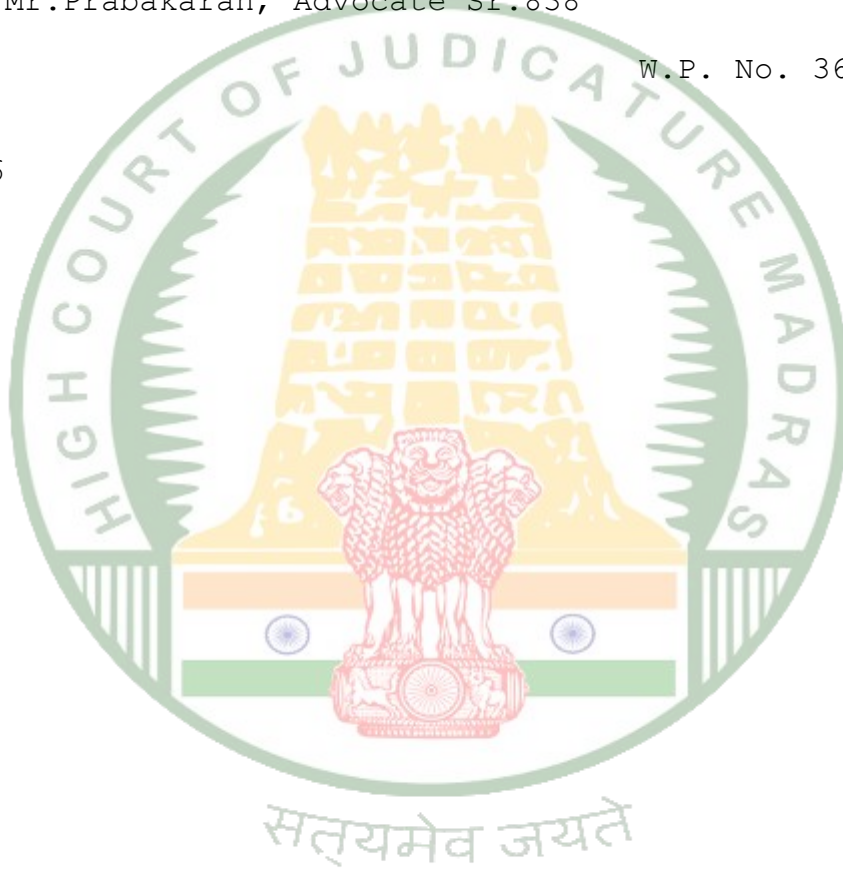
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+ 10 ccs to M/s. P. Saravanan, Advocate Sr.110
+ 1 cc to Mr.Veerakathiravan, Advocate SR.111
+ 1 cc to Mr.Anand David, Advocate SR.219
+ 1 cc to Mr.V.P. Raman, Advocate Sr.298
+ 1 cc to Mr.Prabakaran, Advocate Sr.838

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