

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
23.09.2016	29.09.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.26476 to 26486, 27526, 27899 to 27903,
24437 to 24446, 27887 to 27895, 25452 to 25460, 26136,
27561 to 27567, 29031, 28571, 21155, 21156
and 23888 to 23891 of 2016
+
its respective W.M.Ps.

- 1 DR.IVAN A JONES ... PETITIONER in WP No.26476 of 2016
(REGN. NO.201311202)
- 1 DR.N.NAVEETHA LAKSHMI ... PETITIONER in WP No.26477 of 2016
(REGN. NO.201323401)
- 1 DR.PAUL T.RAJAN ... PETITIONER in WP No.26478 of 2016
(REGN. NO.201311108)
- 1 DR.A.KARTHIKEYAN ... PETITIONER in WP No.26479 of 2016
(REGN. NO.221312152)
- 1 DR.R.SUNDER ... PETITIONER in WP No.26480 of 2016
(REGN. NO.341416059)
- 1 DR.S.UMMER SHERIFF ... PETITIONER in WP No.26481 of 2016
(REGN. NO.201314305)
- 1 DR.A.RAJ BABITHA ... PETITIONER in WP No.26482 of 2016
(REGN. NO.201323452)
- 1 DR.SOBIN E.JOSEPH ... PETITIONER in WP No.26483 of 2016
(REGN. NO.201311208)
- 1 DR.D.VISHNUPRATHAP ... PETITIONER in WP No.26484 of 2016
(REGN. NO.201313307)
- 1 DR.ALEX BABY ... PETITIONER in WP No.26485 of 2016
(REGN. NO.201311201)
- 1 DR.MICHAEL RAJAM GEETHA ... PETITIONER in WP No.26486
of 2016
(REGN. NO.201323003)

1 DR.B.SARAVANAN ... PETITIONER in WP No.27526 of 2016
S/O.N.BASKARAN

1 DR.T.SELVAKUMAR ... PETITIONER in WP No.27899 of 2016
(REGN. NO.221312156)

1 DR.S.SATKHIVEL ... PETITIONER in WP No.27900 of 2016
(REGN.NO.221311311)

1 DR.M.GOWRISHANKAR ... PETITIONER in WP No.27901 of 2016
(REGN.NO.341412051)

1 DR.T.E.BALAJI ... PETITIONER in WP No.27902 of 2016
REGN.NO.221316002

1 DR.A.SUDHARSAN ... PETITIONER in WP No.27903 of 2016
(REGN. NO.221312202)

1 DR.S.R.MURALI PRASATH ... PETITIONER in WP No.24437 of 2016
(REGN. NO.201313201)

1 DR.S.SUBITHA ... PETITIONER in WP No.24438 of 2016
(REGN.NO.201313151)

1 DR.R.SELVARAJ ... PETITIONER in WP No.24439 of 2016
(REGN.NO.201325201)

1 DR.JAI PRAKASH ... PETITIONER in WP No.24440 of 2016
(REGN.NO.201317651)

1 DR.V.JAYARAMA PANDIAN ... PETITIONER in WP No.24441
of 2016
(REGN.NO.201317652)

1 DR.LIDIYA GEORGE ... PETITIONER in WP No.24442 of 2016
(REGN.NO.201320701)

1 DR.R.PRABHU RAM KUMAR ... PETITIONER in WP No.24443
of 2016
(REGN.NO.251312002)

1 DR.K.SOMASUNDAR ... PETITIONER in WP No.24444 of 2016
(REGN.NO.221312008)

1 DR.A.KARTHIKEYAN ... PETITIONER in WP No.24445 of 2016
(REGN.NO.221312152)

1 DR.D.VISHNUPRATHAP ... PETITIONER in WP No.24446 of 2016
(REGN.NO.201313307)

1 DR.S.SAKTHIVEL ... PETITIONER in WP No.27887 of 2016
(REGN. NO.221311311)

1 DR.PAUL T RAJAN ... PETITIONER in WP No.27888 of 2016
(REGN. NO.201311108)

1 DR.N.NAVEETHA LAKSHMI ... PETITIONER in WP No.27889
of 2016
(REGN. NO.201323401)

1 DR.A.RAJ BABITHA ... PETITIONER in WP No.27890
of 2016
(REGN. NO.201313452)

1 DR.SOBIN E. JOSEPH ... PETITIONER in WP No.27891 of 2016
(REGN. NO.201311208)

1 DR.ALEX BABY ... PETITIONER in WP No.27892 of 2016
(REGN. NO.201311201)

1 DR.MICHAEL RAJAM GEETHA ... PETITIONER in WP No.27893
of 2016
(REGN. NO.201323003)

1 DR.R.MADHU MITTHA ... PETITIONER in WP No.27894 of 2016
(REGN. NO.201313551)

1 DR.IVAN A JONES ... PETITIONER in WP No.27895 of 2016
(REGN. NO.201311202)

1 DR.NEVIL BHARATKUMAR DOCTOR ... PETITIONER in WP No.25452
of 2016

1 DR.P.V.TEJASWI PRASAD ... PETITIONER in WP No.25453
of 2016
S/O.H.VOOVAYYA REGN. NO.351412015

1 DR.A.ELAIYARAJA ... PETITIONER in WP No.25454
of 2016
(REG. NO.201311601)

1 DR.B.DHANARAJ ... PETITIONER in WP No.25455 of 2016
S/O.DR.S.M.BALASUBRAMANIAM (REGN. NO.
341416352)

1 DR.P.AKSHYA ... PETITIONER in WP No.25456 of 2016
REGN. NO.351412251

1 DR.S.AMUDHA ... PETITIONER in WP No.25457 of 2016
REGN. NO.351412001

1 DR.G.THIRUMAL ... PETITIONER in WP No.25458 of 2016
(201311121)

1 DR.K.ALEX FRANKLIN ... PETITIONER in WP No.25459 of 2016
REG. NO.221311251

1 DR.RAMKUMAR I ... PETITIONER in WP No.25460 of 2016
S/O.B.IRISAPPAN (REGN. NO.341416111)

1 DR.JEBINTH BRAYAN ... PETITIONER in WP No.26136 of 2016
REG. NO.221313351 NO.281

1 DR.R.ANITHA ... PETITIONER in WP No.27561 of 2016
(REGN. NO. 221316601)

1 DR.D.POOVANNAN ... PETITIONER in WP No.27562 of 2016
(REGN. NO. 201320009)

1 DR.K.SARAVANAN ... PETITIONER in WP No.27563 of 2016
(REGN. NO. 201320010)

1 DR.M.SHANMUGARAJA ... PETITIONER in WP No.27564 of 2016
(REGN. NO.221312005)

1 DR.V.NAGARAJAN ... PETITIONER in WP No.27565 of 2016
(REGN. NO.221311551)

1 DR.T.CHAKRAVARTHY ... PETITIONER in WP No.27566 of 2016
(REGN. NO.201311551)

1 DR.S.SILAMBARASAN ... PETITIONER in WP No.27567 of 2016
(REGN. NO.201320012)

1 DR.G.MOHAMMED FAROOK ... PETITIONER in WP No.29031
of 2016

1 DR.RAJU MATHEW CYRIAC ... PETITIONER in WP No.28571
of 2016

1 DR.T.E.BALAJI ... PETITIONER in WP No.21155 of 2016
(REGN.NO.221316002)

1 DR.M.GOWRISHANKAR ... PETITIONER in WP No.21156 of 2016
(REGN.NO.341412051)

1 DR.A.SUDHARSAN ... PETITIONER in WP No.23888 of 2016
(REGN.NO.221312202)

1 DR.R.MEIRAJAN ... PETITIONER in WP No.23889 of 2016
(REGN. NO.201311056)

1 DR.G.HEMAMALINI ... PETITIONER in WP No.23890 of 2016
(REGN. NO.341419002)

1 DR.J.CHANDRU ... PETITIONER in WP No.23891 of 2016
(REGN.NO.201311652)

vs

1 THE TAMIL NADU DR.M.G.R.
MEDICAL UNIVERSITY NO.69 ANNA SALAI
GUINDY CHENNAI-32 REP. BY ITS REGISTRAR

2 THE CONTROLLER OF EXAMINATIONS
THE TAMIL NADU DR.M.G.R. MEDICAL UNIVERSITY
NO.69 ANNA SALAI GUINDY CHENNAI-32
... RESPONDENT in WP No.26476 to
26486, 27899 to 27903, 24437 to 24446, 27887
to 27895, 25452 to 25460, 26136,
27561 to 27567, 21155, 21156,
23888 to 23891 of 2016

1 THE TAMIL NADU
DR.M.G.R.MEDICAL UNIVERSITY REP BY ITS
REGISTRAR NO.69 ANNA SALAI GUINDY CHENNAI-
600 032

2 THE CONTROLLER OF EXAMINATION
THE TAMIL NADU DR.M.G.R. MEDICAL UNIVERSITY
NO.69 ANNA SALAI GUINDY CHENNAI-600 032

3 THE MEDICAL COUNCIL OF INDIA
REP BY SECRETARY POCKET NO.14 SECTOR 8
DWARAKA NEW DELHI-110 077
... RESPONDENT in WP No.27526, 29031, 28571,
of 2016

W.P.Nos.26476 to 27567 of 2016

Writ Petitions filed Under Article 226 of the Constitution
of India prying for the issue of a Writ of Mandamus

WP No.26476 of 2016:

directing the respondent University to grant the benefit of
second, third evaluation to the petitioner having Regn.
No.201311202 for the Theory Papers in respect of the Post
Graduate Final Year Examination held during April 2016 within
time to be fixed by this Honourable Court.

WP No.26477 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201323401 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26478 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201311108 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26479 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.221312152 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26480 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.341416059 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26481 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201314305 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26482 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201323452 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26483 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201311208 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26484 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201313307 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court

WP No.26485 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201311201 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.26486 of 2016:

directing the respondent University to grant the benefit of second, third evaluation to the petitioner having Regn. No.201323003 for the Theory Papers in respect of the Post Graduate Final Year Examination held during April 2016 within time to be fixed by this Honourable Court.

WP No.27526 of 2016:

directing the 1st & 2nd respondents university to grant the benefit of second evaluation to the petitioner having P.G.Examination Register NO.221312004 for the theory papers in respect of the Post Graduate Final year Examination held during April 2016 within a time to be fixed by this Honourable Court.

WP No.27899 of 2016:

directing the respondent university to grant the benefit of second/ third evaluation to the petitioner having Regn. No.221312156 for the theory papers in respect of the Post Graduate Final year examination held during April 2016 within a time to be fixed by this Honourable Court.

WP No.27900 of 2016:

directing the respondent university to grant the benefit of second/ third evaluation to the petitioner having Regn. No.221311311 for the theory papers in respect of the Post Graduate Final year examination held during April 2016 within a time to be fixed by this Honourable Court.

WP No.27901 of 2016:

directing the respondent university to grant the benefit of second/ third evaluation to the petitioner having Regn. No.341412051 for the theory papers in respect of the Post Graduate Final year examination held during April 2016 within a time to be fixed by this Honourable Court.

WP No.27902 of 2016:

directing the respondent university to grant the benefit of second/ third evaluation to the petitioner having Regn. No.221316002 for the theory papers in respect of the Post Graduate Final year examination held during April 2016 withi,n a time to be fixed by this Honourable Court.

WP No.27903 of 2016:

directing the respondent university to grant the benefit of second/ third evaluation to the petitioner having Regn. No.221312202 for the theory papers in respect of the Post Graduate Final year examination held during April 2016 withi,n a time to be fixed by this Honourable Court.

WP No.24437 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201313201 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

W.P No.24438 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201313151 who has joined the Post Graduate Medical Course in the respondent University on 31.7.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24439 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201325201 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24440 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201317651 who has joined the Post Graduate Medical Course in the respondent University on 19.8.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24441 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201317652 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the

petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24442 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201320701 who has joined the Post Graduate Medical Course in the respondent University on 29.06.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24443 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.251312002 who has joined the Post Graduate Medical Course in the respondent University on 19.06.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24444 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.221312008 who has joined the Post Graduate Medical Course in the respondent University on 19.06.2016 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24445 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.221312152 who has joined the Post Graduate Medical Course in the respondent University on 10.07.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.24446 of 2016:

Forbearing the respondent university from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201313307 who has joined the Post Graduate Medical Course in the respondent University on 29.08.2013 under the Regulation dated 17.2.2012 covered by 43rd Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate Supplementary Medical Examinations in accordance with the Examination Regulations dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27887 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.221311311 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27888 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201311108 who has joined the Post Graduate Medical Course in the respondent University on 19.6.2013 under the regulation dt 17.2.2012 covered by 43rd

Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27889 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201323401 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27890 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201313452 who has joined the Post Graduate Medical Course in the respondent University on 1.8.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27891 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201311208 who has joined the Post Graduate Medical Course in the respondent University on 9.7.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with

the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27892 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201311201 who has joined the Post Graduate Medical Course in the respondent University on 19.8.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27893 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201323003 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27894 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201313551 who has joined the Post Graduate Medical Course in the respondent University on 19.6.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27895 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201311202 who has joined the Post Graduate Medical Course in the respondent University on 28.6.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Theory for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.25452 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25453 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25454 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25455 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25456 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25457 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25458 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25459 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.25460 of 2016:

directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent university published in Ref. Re. No. ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.26136 of 2016:

Directing the respondents to send all the papers of the petitioner to second valuation as per the decision of the Governing Council dated 31.1.2014, and further direct the respondents to apply moderation and grant grace marks cumulatively in all the Theory Papers by following the regulation of the 2nd respondent University published in Ref. Re.No.ACAD-I(3)/ 18100/10 dated 14.1.2011 and the regulation published pursuant to the 44th Standing Academic Board Meeting of the respondents held on 15.6.2012.

WP No.27561 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No. 221316601 who has joined the Post Graduate Medical Course in the respondent University on 30.5.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27562 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No. 201320009 who has joined the Post Graduate Medical Course in the respondent University on 28.6.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27563 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201320010 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27564 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No. 221312005 who has joined the Post Graduate Medical Course in the respondent University on 19.6.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27565 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No. 221311551 who has joined the Post Graduate Medical Course in the respondent University on 10.7.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27566 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No. 201311551 who has joined the Post Graduate Medical Course in the respondent University on 30.8.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

WP No.27567 of 2016:

forbearing the respondent University from retrospectively applying the subsequent regulation dt 31.1.2014 for the petitioner having Regn. No.201320012 who has joined the Post Graduate Medical Course in the respondent University on 25.7.2013 under the regulation dt 17.2.2012 covered by 43rd Meeting of the Standing Academic Board of the respondent and permit the petitioner to appear only in the failed papers (Practicals for the Post Graduate Course) in the forthcoming October 2016 Post Graduate supplementary medical examinations in accordance with the examination regulations dt 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

Writ Petition filed under Article 226 of the constitution of India praying for the issue of writ of Certiorarified Mandamus

WP No.29031 of 2016:

calling for the records on the file of the 1st respondent in RC. No.A1(3)/ 48325/2013 dated 31.1.2014 quash the Regulation No.3 contained in Page No.11 in so far as component system of examination is concerned and direct the respondent university to grant the benefit of second evaluation to the petitioner having Diploma in PG. Examination Register No.341416152 for the Theory Papers in respect of the Post Graduate Final year Examination held during April 2016 within a time framed to be fixed by this Honourable Court.

Writ Petition filed under Article 226 of the constitution of India praying for the issue of writ of Certiorarified Mandamus

WP No.28571 of 2016:

calling for the records on the file of the 1st respondent in RC. No. A1 (3)/ 48325/ 2013 dated 31.01.2014 quash the regulation No.3 contained in Page No.11 in so far as component system of examination is concerned and direct the respondent university to grant the benefit of second evaluation along with moderation to the petitioner having Diploma in P.G.Examination Register No.341415102 for the theory papers in respect of the Post Graduate Final year examination held during April 2016 within a time framed to be fixed by this Honourable court.

Writ Petitions filed under Article 226 of the constitution of India praying for the issue of writ of Certiorarified Mandamus

WP No.21155 of 2016:

directing the respondent university to grant moderation of four (4) marks to the petitioner having Regn.No. 221316002, either in Theory Paper-III or cumulatively in all the Theory papers by following the regulation of the respondent university published on 14.01.2011 in Rc.No. ACAD-I(3)/ 18100/ 10 and the regulation published in pursuant to the 44th Standing Academic Board meeting of the respondents held on 15.06.2012 and declare him as Pass.

WP No.21156 of 2016:

directing the respondent university to grant moderation of four (4) marks to the petitioner having Regn.No. 341412051, for the Theory papers by following the regulation of the respondent university published on 14.01.2011 in Rc.No. ACAD-I(3)/ 18100/10 and the regulation published in pursuant to the 44th Standing Academic Board meeting of the respondents held on 15.06.2012 and declare him as Pass.

WP No.23888 of 2016:

directing the respondent university to grant moderation of three (3) marks to the petitioner having Regn. No.221312202, either in Theory Paper IV or cumulatively in all the Theory papers by following the regulation of the respondent university published on 14.1.2011 in Rc.No.ACAD-I(3)/ 18100/10 and the regulation published in pursuant to the 44th Standing Academic Board meeting of the respondents held on 15.6.2012

WP No.23889 of 2016:

directing the respondent university to grant moderation of three (3) marks to the petitioner having Regn. No.201311056, either in Theory Paper I or cumulatively in all the Theory papers by following the regulation of the respondent university published on 14.1.2011 in Rc.No.ACAD-I(3)/ 18100/10 and the regulation published in pursuant to the 44th Standing Academic Board meeting of the respondents held on 15.6.2012

WP No.23890 of 2016:

directing the respondent university to grant moderation of Five (5) marks to the petitioner having Regn. No.341419002, for the Theory Papers by following the regulation of the respondent university published on 14.1.2011 in Rc.No.ACAD-I(3)/ 18100/10 and the regulation published in pursuant to the 44th Standing Academic Board meeting of the respondents held on 15.6.2012 and declare her as pass.

WP No.23891 of 2016:

directing the respondent university to grant moderation of Five (5) marks to the petitioner having Regn. No.201311652, either in Theory Paper II or cumulatively in all the Theory papers by following the regulation of the respondent university published on 14.1.2011 in Rc.No.ACAD-I(3)/ 18100/10 and the regulation published in pursuant to the 44th Standing Academic Board meeting of the respondents held on 15.6.2012.

In all W.Ps.

For Petitioners in W.P.Nos.21155, 21156,
23888 to 23891, 24437 to 24446, 26476
to 26486, 27561 to 27567, 27887 -27895,
& 27899 to 27903/2016 :Mr.S.Thankasivan

For Petitioners in 27526,
28571 and 29031 of 2016 : Mr.S.N.Kirubanandam

For Petitioners in W.P.Nos.
25452 to 25460 & 26136/2016 : Mr.N.R.Chandran,
Senior Counsel assisted by
Mr.R.Natarajan.

For respondent-Tamil Nadu
Dr. M.G.R. Medical University
R1 & R2 :Mr.G.Hari Hara Arun Somasankar
(in all WPs)

For respondent-Medical
Council of India : Mr.M.S.Seshadri for
For R3 Mr.V.P.Raman
(in W.P.Nos.27526, 29031
and 28571/2016)

COMMON ORDER

Since the issue involved in all these Writ Petitions pertains to the candidates, who have undergone their Post Graduate Medical Course under the respondent-University, these Writ Petitions were taken together and disposed of by this common order.

2. The first set of cases is for issuance of a writ of mandamus to forbear the respondent-University from retrospectively applying the Regulation, dated 31.01.2014, for the petitioners, who have joined the Post Graduate courses in the respondent-University during July/August 2013, as they would be covered by Regulation, dated 17.02.2012, pursuant to the decision of the 43rd Standing Academic Board Meeting of the respondent-University, and to permit the petitioners to appear only in the failed papers in the forthcoming examination, in October, 2016.

3. In the second set of cases, the petitioners have sought for a direction upon the respondent-University to send the answer scripts of the petitioners for second or third evaluation, as per the decision of the Governing Council of the respondent-University, dated 31.01.2014, and to apply the moderation and grace marks cumulatively in all theory papers, by following the Regulation of the respondent-University, dated 14.01.2011, and the Regulation published by the 44th Standing Academic Board on 15.06.2012.

4. In the third set of cases, the petitioners have sought for issuance of a writ of certiorari to quash the proceedings of the respondent-University, dated 31.01.2014, insofar it relates to Regulation No.3 and to direct the respondent-University to grant the benefit of second evaluation along with moderation.

5. Thus, it could be seen that, except for two Writ Petitions, wherein, the prayer is for issuance of writ of certiorari, all other writ petitioners seek for issuance of writ of mandamus. Nevertheless, all the Writ Petitions were heard together, and all the counsels made their submissions.

6. Heard Mr.N.R.Chandran, the learned Senior Counsel, assisted by Mr.R.Natarajan, learned counsel, Mr.S.Thankasivan and Mr.S.N.Kirubanandam, the learned counsels appearing for petitioners, and Mr.G.Hari Hara Arun Somasankar, learned counsel appearing for the respondent-University and Mr.M.S.Seshadri for Mr.V.P.Raman, learned counsels for the Medical Council of India, and carefully perused the materials placed on record.

7. For the purpose of considering as to what relief, the petitioners are entitled to in these Writ Petitions, it would be suffice to take note of the following facts:-

i) All the petitioners have joined the Post Graduate Medical Course in the respondent-University, during the academic year 2013-14, and to be more specific, they were admitted to the respective courses during July/August, 2013.

ii) The petitioners case is that, at the time, when they participated in the selection process for the Post Graduate courses, they had weighed all options, i.e., the option to join the courses offered by the respondent-University as well as other University in India, by appearing National Eligibility

Test (NET), and the other option being, joining the Post Graduate Medical Course offered by the National Board of Examination, Government of India.

iii) The petitioners case is that, they found the regulation of the respondent-University more favourable to them, since it provided for a unique pattern of separating theory and practical examinations into component systems, and it is the petitioners specific case that, this component system was in vogue, when they had opted to join the Post Graduate courses offered by the respondent-University and continued to remain in force till 31.01.2014.

iv) It is submitted that, in terms of the component system, a) if a candidate fails in one theory paper, he/she has to appear for all the theory papers, and theory and practical will be treated as separate components and the failed component alone should be repeated. b) If the candidate fails in any one part of any one component, both the components, theory and practical should be repeated, and c) If the candidate fails in both components, he/she has to appear for both the components together.

v). The petitioners contention is that, this component system was fully conducive to the students, and this is all the more the reason for the petitioners to opt for Post Graduate Medical Course offered by the respondent-University, while other options were also available to them. It is submitted that, contrary to the said component system, the respondent-University have now stated that the component system does not exist, and if the petitioners fails in one of the papers, in the final year, i.e., in the third year of the course, they have to repeat all the papers.

8. Thus, the contentions raised by the learned counsels appearing for petitioners in this regard could be summarized as follows:-

i) At the time, when the petitioners were admitted to the course, i.e., during the academic year 2013-14, the Regulation of the respondent-University permitted the Post Graduate and Super Specialty students to repeat only the failed papers, viz., theory or practical, as may be applicable to them, and as such, when they wrote the examination in 2015-16, the respondent-University was bound to implement the Regulation, which was in vogue, and compelling the petitioners to reappear in all the

examinations, including the papers, which they cleared, is arbitrary and illegal.

ii) Enforcing a Regulation of the academic year 2014-15 on the petitioners with retrospective effect, who are all students admitted to the course during the academic year 2013-14, is totally violative of the principles of natural justice, and defeats the legitimate expectations of the petitioners. In this regard, reliance has been placed on the decisions of this Court, a) in the case of (Anjana S. Nair Vs. Tamil Nadu Dr. M.G.R. Medical University) reported in (2015) 2 CWC 411 and b) (Dr.Manikandasamy Vs. The Tamil Nadu Dr.M.G.R. Medical University and another) in W.P.No.21127 of 2015, dated 14.12.2015, and the decision of Hon'ble High Court of Kerala, in the case of (Dr.Geethu and others Vs. Kerala University of Health Sciences and others) in W.P.No.31364 of 2015, dated 31.03.2016.

iii). The next contention raised by the learned counsels for petitioners is that, in terms of the Regulation of Medical Council of India (MCI), a student, who has obtained a minimum of 40% marks in each theory paper, and not less than 50% marks cumulatively in all four papers for the Degree Examination, and three papers in Diploma Examination, to be declared as pass in the Degree or Diploma Examination, as the case may be. The respondent-University has adopted the second evaluation procedure only in respect of the students, who have secured less than 40% marks in each individual answer script, but, they have not extended the said benefit to the students, who have failed to secure overall 50% marks cumulatively. Therefore, it is submitted that the approach of the respondent-University is discriminatory.

iv) Further, it is submitted that, as per the decision of the Standing Academic Board of the respondent-University, in its meetings held on 14.01.2011 and 15.06.2012, five grace marks can be awarded to the candidates, who have failed only in one theory paper and passed in all other papers, insofar Post Graduate Medical Degree/Diploma courses are concerned, and the Regulation seeks moderation to a student, who fails in one or more subjects also. Therefore, it is submitted that, there cannot be discrimination in the matter of treating a candidate as a failed candidate, if he secures less than 40% marks in the individual answer script, but, not treating him as failed candidate, if he fails to secure 50% marks in the aggregate, though he is declared failed. In this regard, reliance has been placed on the decision of this Court, in the case of (Mr.Ashwathanarayan Ramji Vs. Pondicherry Institute of Medical Sciences and others) in W.P.Nos.3272 to 3277 of 2015, dated 16.02.2015, and the

decision of the Hon'ble High Court of Kerala, in the case of (University of Calicut Vs. Arun Mozhi Varman) in W.A.No.409 of 2011, dated 28.03.2011.

v). The next contention raised by the learned counsels for petitioners is that the respondent-University has adopted single valuation procedure contrary to the MCI Regulation, which mandates multiple evaluation. Thus, broadly on the above grounds, the petitioners seek for appropriate relief, so as to enable them to be declared as pass.

9. The respondent-University has filed three counter affidavits, presumably, for three set of cases, and the following relevant points were highlighted by the learned counsel appearing for the respondent-University.

i) It is submitted that, all the petitioners were admitted to the Post Graduate Medical Course for the academic year 2013-14, the duration of the course is three years, and the cut off date for admission is 31st May of every year. The candidates, who have been admitted for the academic year 2013-14, shall appear for an examination at the end of the final year, i.e. April, 2016. All the petitioners have appeared for the final year examination held during April, 2016. It is submitted that the respondent-University had two systems for examination, viz., component system and non component system. Under the component system, the candidate will appear for one theory paper at the end of the first year, and three papers at the end of the third year. So far as non component system is concerned, there is no examination in the first year, and the candidate appears in all four papers in the final year of the three years course.

ii) The petitioners were admitted in the year 2013-14, under the non component system, as they have not taken any examination in the first year, and therefore, if they have failed in one subject, under non component system, they have to appear for all subjects, irrespective of number of subjects they have failed. In September 2015, the Standing Academic Board of the respondent-University passed a resolution adopting the Regulations of MCI, recommending that the candidate should obtain minimum 40% marks in each theory paper, and not less than 50% marks cumulatively in all four papers for a Degree Examination.

iii) Therefore, it is submitted that the petitioners, who appeared under the non component system, are bound by the Regulations of MCI, which stipulates that they should pass theory and practical examinations separately, in terms of the governing provisions, pertaining to the scheme of examination in

the Post Graduate Regulation, and recommended that an examinee should obtain minimum 40% marks in each theory paper, and not less than 50% marks cumulatively in all four papers for Degree examination and three papers in Degree/Diploma Examination to be declared as pass. It is submitted that the said Regulations have not been challenged, and the decision of the Standing Academic Board, or the Governing Council of the respondent-University have not been put to question, and therefore, the relief sought for by the petitioners should not be granted.

iv). It is further submitted that, total number of candidates, who have appeared for the examination is 1397, out of which, 941 candidates appeared for MD/MS degree and 456 candidates appeared for PG Diploma degree, and out of 941 candidates, who appeared for MD/MS degree, 879 candidates passed, and 62 alone have been failed, and out of 456 candidates, who appeared for the Post Graduate Diploma course, 407 candidates have passed and 49 candidates have failed. The details of the said candidates have been furnished in a tabulated format. This information is relied upon by the learned counsel for the respondent-University to show that only handful of candidates have approached this Court, and all others have remitted the exam fees for all papers, and they have not challenged the Resolution of the respondent-University, nor sought for any other relief. Therefore, it is submitted that this is also one more ground to deny the relief sought for by the petitioners, as those candidates, who have not approached this Court, have not been impleaded as respondents.

10. Therefore, it is submitted by the learned counsel for the respondent-University that the resolution passed by the Governing Council of the respondent-University is a valid piece of law, and the Governing Council has been empowered to make ordinance, or amend or repeal the same under Section 22 (2) of the Tamil Nadu Dr. M.G.R. Medical University Chennai Act, 1987. Further, it is specifically pointed out that the resolution of the Governing Council, in its meeting held on 13.08.2013, adopting the MCI Regulation during the academic year 2013-14, has not been put to challenge, and therefore, the relief sought for by the petitioners cannot be granted.

11. With regard to the award of grace marks is concerned, it is submitted that, there is no provision under the statute for award of grace marks, which shall be applicable to the present set of candidates, and the Regulation of MCI also do not provide for the same. Further, it is submitted that the resolution adopted in the 40th Meeting of the Governing Council of the respondent-University held on 03.03.2015, has resolved that, double evaluation shall be applicable for all UG and PG

courses, except, BDS course from April 2015 examination session onwards, and this double evaluation shall be done for all answer scripts that are awarded marks below the minimum required for a pass in the respective theory paper during the first evaluation.

12. It is submitted by the learned counsel that the Resolution of the supreme body of the respondent-University, viz., the Governing Council, has not been challenged by the petitioners. However, it is pointed out by the learned counsel for the petitioners that in W.P.Nos.28571 and 29031 of 2016, the said resolution has been put to challenge. The said submission is factually correct, and therefore, this Court would also examine as to whether such Resolution is in consonance with the Regulation of MCI.

13. The learned counsel appearing for MCI pointed out that, there is no provision for award of grace marks in Post Graduate Medical Course, therefore, the petitioners have absolutely no right to state that there are entitled to the award of grace marks. With regard to the type of evaluation to be done, the learned counsel has referred to Post Graduate Medical Education Regulations 2000 as well as Appendix II to the Regulation, and submitted that there should be at least four examiners in each examination, out of which, 50% shall be external examiners. However, it appears that the respondent-University has resolved to have single evaluation and second evaluation to be done for all answer scripts that are awarded marks below the minimum required for pass in the respective theory papers during the first evaluation. Therefore, it is submitted that to this extent, the resolution of the Governing Council of the respondent-University is not inconsonance with the MCI Regulation.

14. After elaborately hearing the learned counsel for the parties and carefully perusing the materials placed on record, the first point, which this Court proposes to consider is as to whether the petitioners are entitled to the award of grace marks. Though certain resolutions, which were adopted by the respondent-University in the past have been referred to, the course of study, which the petitioners have chosen is Post Graduate Medical Course, which is admittedly, a very tough course, involving strenuous efforts to be put by the candidates.

15. Settled legal position is that, the respondent-University can adopt the regulation framed by the Central Council, which is MCI, and in case of inconsistency between the Resolution of the respondent-University and Regulation of MCI,

the Regulation of MCI shall prevail. It is an undisputed legal position that the Regulation of MCI does not provide for award of grace marks. Therefore, in the absence of any statutory backing for award of grace marks, the petitioner cannot seek for a direction, compelling the respondent-University to award grace marks. Therefore, the prayer sought for by the petitioners in one set of Writ Petitions, with regard to the award of grace marks is rejected.

16. Second aspect to be seen is as to whether the petitioners have undertaken the course under component system, or non component system.

17. The petitioners' case rests upon the decision/resolution passed in the meeting of the Board of Studies of the respondent-University, dated 17.11.2011, the portion of which reads as follows:-

"i) The theory and practical be treated as separate components and the failed component alone be repeated ;

ii) If the candidate fails in one theory paper, he/she has to appear for all the theory papers, and this does not apply for Part -1;

iii) If the candidate fails in any one part of any one component, component (theory or practical) should be repeated; and

iv) If the candidate fails in both the components, he/she has to appear for both the components together.

This system will come into effect from April, 2012 Examination onwards. "

18. The petitioners' case is that, the above recommendation of the Board of Studies, which were approved by the Standing Academic Board of the respondent-University, in its meeting held on 19.12.2011 provides for component system. The petitioners' case is that, component system would mean theory as one component, and practical as other component, and if the candidate fails in one theory paper, he has to appear for all

theory papers, and this will not apply to part I, and if the candidate fails in any one part of any one component, the component, theory or practical should be repeated, and if the candidates fails in both components, he/she has to appear for both components together.

19. Thus, what has to be looked into is that, this component system compartmentalizes the course into two parts, Part-I and Part-II. Component system Part-1 consists of one theory paper, which the candidate has to appear for, at the end of the first year, and there is no clinical or dissertation. Component system Part-II consists of three papers, which should be taken by the candidates at the end of the final year, i.e. third year of the course. The petitioners proceeded on the wrong premise that, component system means theory and practical, but, the actual component system means the component system Part-1, which consists of one theory paper, to be attended at the end of the first year, and non component system, consists of three theory papers, clinical and dissertation, to be attended in the final year of the course.

20. Thus, on mistaken impression the petitioners have been hinging on an idea that the course adopted by them is a component system. The very fact that the petitioners did not appear for any examination at the end of the first year itself, is a clear indicator that the petitioners took the course under a non component system. Furthermore, during the academic year 2013-14, the component system was not in vogue, both on paper and on action. Therefore, the relief sought for by the petitioners under the presumption that they are selected under the component system is misconceived and liable to be rejected.

21. Before proceeding to consider the third aspect with regard to the regulation regarding the evaluation of answer papers, it would be necessary to discuss the decisions, which were referred to by the learned counsels for the petitioners, viz., the decision of this Court in the case of Dr.Manikandasamy Vs. The Tamil Nadu Dr.M.G.R. Medical University and another (supra) and the decision of the Hon'ble High Court of Kerala, in the case of Anjana S. Nair Vs. Tamil Nadu Dr. M.G.R. Medical University (supra).

22. A perusal of the facts involved in Anjana S. Nair's case (supra) will clearly show that, it would pertain to Post Graduate courses under the component system, where, there is one examination at the end of the first year and three theory papers at the end of the third year, apart from clinical and practical

examinations. Therefore, the cases on hand cannot be decided based on those decision, as the regulations, under which, those candidates sat for the examination were different. So far as the decision of this Court in the case of Mr. Ashwathanarayan Ramji Vs. Pondicherry Institute of Medical Sciences and others (supra), the same pertains to MBBS course, where, there is provision for providing grace marks, in such circumstances, direction were issued. Therefore, the said decision also is clearly distinguishable on facts.

23. Similar is the decision of the Hon'ble High Court of Kerala, in the case of University of Calicut Vs. Arun Mozhi Varman (supra), which pertains to the candidates, who have appeared for final year MBBS Course Part II, and the said decision is of little assistance to the case of the petitioners. To buttress the contention that, Regulation cannot be given retrospective effect, or retroactive operation, reliance was placed on the decision of the (Vice Chancellor M.D. University Rohtak Vs. Jahan Singh) reported in (2007) 5 S.C.C. 77, and this reliance was limited to a specific plea that the regulation, which is now sought to be imposed on the petitioners was introduced midway, i.e. after the petitioners joined the course during July/August, 2013. However, technically, it has been found that the petitioners were not admitted under the component system, but, they were candidates admitted under the non component system, which is clear from the fact that none of them have appeared for any examination at the end of the first year. Therefore, the question of giving retrospective effect to the Regulation, or retroactive operation does not arise, as the petitioners were admitted to the course under the non component system regulation.

24. Moving on to the last issue, i.e., the issue as to whether the answer scripts of the petitioners should be sent for second/third valuation, it has to be seen as to whether the procedure adopted by the respondent- University is just and proper, and in consonance with the Regulation of MCI.

25. Post Graduate Medical Education Regulations 2000 were made in exercise of power conferred under Section 33 read with 20 of the Indian Medical Council of India Act, 1956. Regulation 14 deals with examinations and the following provisions under Regulation 14 would be relevant for the purpose of deciding the last issue involved these cases:-

14. EXAMINATIONS

The examinations shall be organised on the basis of grading or marking system to evaluate and certify candidates level of knowledge, skill and competence at the end of the training and obtaining a minimum of 50% marks in theory as well as practical separately shall be mandatory for passing the whole examination. The examination for M.S., M.D, M.Ch shall be held at the end of 3 academic years (six academic terms) and for diploma at the end of 2 academic years (four academic terms). The academic terms shall mean six months training period.

(1) EXAMINERS

(a) All the Post Graduate Examiners shall be recognised Post Graduate Teachers holding recognised Post Graduate qualifications in the subject concerned.

(b) For all Post Graduate Examinations, the minimum number of Examiners shall be four, out of which at least two (50%) shall be External Examiners, who shall be invited from other recognised universities from outside the State. Two sets of internal examiners may be appointed one for M.D./M.S. and one for diploma.

(c) Under exceptional circumstances, examinations may be held with 3 (three) examiners provided two of them are external and Medical Council of India is intimated the justification of such action prior to publication of result for approval. Under no circumstances, result shall be published in such cases without the approval of Medical Council of India.

(d) In the event of there being more than one centre in one city, the external examiners at all the centres in that city shall be the same. Where there is more than one centre of examination, the University shall appoint a

Supervisor to coordinate the examination on its behalf.

(e) The examining authorities may follow the guidelines regarding appointment of examiners given in Appendix-II. "

26. Appendix II to the Post Graduate Medical Education Regulations 2000 deals with Post Graduate Examination, and the guidelines for appointment of Post Graduate examiners reads as follows:-

"[1. No person shall be appointed as an internal examiner in any subject unless he/she has three years experience as recognized PG teacher in the concerned subject. For external examiners, he/she should have minimum six years of experience as recognized PG teacher in the concerned subject.]

2. There shall be at least four examiners in each subject at an examination out of which at least 50% (Fifty percent) shall be external examiners. The external examiner who fulfils the condition laid down in clause (1) above shall ordinarily be invited from another recognised university, from outside the State: provided that in exceptional circumstances examinations may be held with 3 (three) examiners if two of them are external and Medical council of India is intimated with the justification of such examination 2 [the result in such a case shall be published with the approval of Medical Council of India].

[An examiner shall ordinarily be appointed for not more than two consecutive terms.]

4. The internal examiner in a subject shall not accept external examinership for a college from which external examiner is appointed in his subject.

5. [***]

6. [***]

7. There shall be a Chairman of the Board of paper - setters who shall be an external examiner and shall moderate the question papers.

8.[Where there is more than one centre of examination, there shall be Coordinator/Convenor/Chairman who shall be the

senior most internal examiner, appointed by the university & shall supervise and co-ordinate the examination on behalf of the university with independent authority. "

27. In terms of the above regulations, MCI has stipulated the basis for evaluating a candidate and to certify the level of knowledge, skill, competency of the candidate at the end of the training. Obtaining minimum of 50% marks in the theory as well as practical separately shall be mandatory for passing the examination as a whole. With regard to the appointment of examiners in terms of Regulation 14 (1) (a), all the Post Graduate examiners shall be recognized Post Graduate teachers holding recognized Post Graduate qualifications in the subject concerned. As per Regulation 14 (1) (b), for all the Post Graduate examinations, the minimum number of examiners shall be four, out of which, atleast two (50%) shall be external examiners, and shall be invited from other recognized Universities from outside the State. Clause (c) provides that, under exceptional circumstances, examinations may be held with three examiners, provided, two of whom are external, and MCI has to be intimated the justification of such action, prior to publication of result for approval, and under no circumstances, results shall be published in such cases without the approval of MCI. The Authorities, who conduct Post Graduate Examinations have to follow the guidelines enunciated under Annexure II of Post Graduate Medical Education Regulation, 2000 (referred supra) .

28. Thus, the Post Graduate Medical Education Regulations 2000 mandates that the examiners should be four in numbers, and it can be reduced to three with prior approval of MCI, and results to be declared with their approval.

29. The Governing Council of the respondent-University, in its Resolution No.40, dated 03.03.2015, resolved as follows:-

" Resolved to ratify the action of the University in selecting the higher of the two marks in the double evaluation system introduced for all UG and PG Courses, regular and arrear batches in February, 2015 examination session.

The double evaluation will be applicable for all UG and PG courses, except, BDS course, where Dental Council of India Regulations are followed, from April 2015

examination session onwards for regular and arrear batches. This double evaluation shall be done for all answer scripts that are awarded marks below the minimum required for a pass in the respective theory paper during the first evaluation. The average of the two evaluations or the first evaluation mark, whichever is higher, will be taken as the final mark. "

30. In the above resolution, it is stated that, double evaluation will be applicable for all UG and PG courses, except, BDS course, from April 2015 examination session onwards for regular and arrear batches, and this double evaluation shall be done for all answer scripts that are awarded marks below the minimum required for a pass in the respective theory paper during the first evaluation.

31. Thus, it is not clear as to whether the number of examiners appointed by the respondent- University is four or less than four. If it is less than four, it is in violation of the Regulation of the Governing Council of the respondent-University mandated under MCI regulation, and if there is any inconsistency, MCI regulation will prevail.

32. Thus, the manner, in which, paper evaluation has been done appears to be not inconsonance with the regulation of MCI, and keeping aside for the moment the said issue, one other issue that arises for consideration is as to whether the decision of the respondent-University to extend the benefit of second evaluation to only those candidates, who secured less than 40% marks in an answer script, and not to the candidates, who have secured less than 50% marks in aggregate is proper and justified. In fact, there is challenge to the said Regulation also by the petitioners in W.P.Nos.28571 and 29031 of 2016. Before considering that aspect, it would be necessary to consider the qualification prescribed by MCI with regard to the Post Graduate Examination, which reads as follows:-

"The Academic Committee noted that the students are required to pass theory and practical examinations separately in terms of the governing provisions pertaining to the scheme of examination in the Post Graduate Regulation, and recommended that an examinee should obtain minimum 40% marks in each theory paper, and not less than 50% marks cumulatively in all four papers for Degree examination and three papers in Diploma Examination to be cleared as "passed", at the said Degree/Diploma examination, as the case may be".

33. The above stipulation is mandatory and binds the respondent-University. Of course, the respondent-University had adopted the above regulation, and there is no quarrel about it. However, when it comes to the second valuation, the Standing Academic Board of the respondent-University took a decision on 18.12.2013, and it was approved by the Governing Council, in its meeting held on 07.01.2014, and it has been indicated to all the Deans/Principals of the PG Medical Colleges, affiliated to the respondent-University, by the Registrar of University, vide communication, dated 31.01.2014, and one of the decision taken thereunder is as follows"-

" Any other items placed and approved in the Standing Academic Board:

1) It was resolved that from February, 2014/April, 2014, session onwards, only single valuation will be done for all Undergraduate, Post Graduate and Super Specialty Degree Courses, unless, the double valuation is advised by the respective councils.

Guidelines for II valuation wherever prescribed by their council:-

Answer scripts of the candidates, who have failed in their first valuation will be subject to second valuation.

The average marks of the two valuations will be considered for processing the results."

34. Though by virtue of the above Regulation, the respondent-University seeks to provide for second valuation only for candidates, who failed in the answer scripts in the first evaluation, it is conspicuous mistake, as the candidates, who have failed to secure 50% marks in the aggregate, as stipulated by MCI, will be denied the benefit of second valuation. The underlying test would be as to whether the candidates has been declared as pass or fail. If the above resolution of the respondent-University is given effect to, it will result in an anomalous situation, where the candidate, who has not secured minimum marks as stipulated by MCI in single paper, will be entitled to the benefit of second valuation and the candidates, who has failed to secure minimum marks in the aggregate is denied the benefit. This is clearly discriminatory. If the respondent-University has decided to make second valuation for the candidates, who failed, there should be no dichotomy/distinction between the candidates, who has failed in

one answer script, or failed to secure minimum marks in the aggregate. Therefore, the contention raised by the petitioners in this regard, merits consideration.

35. One more aspect, which has to be pointed out is that, MCI regulation mandates that for conducting Post Graduate Examination, minimum number of examiners shall be four. At this stage, it would be worthwhile to point out that Post Graduate Medical Education Regulations 2000 are binding on the respondent-University, as held by the Hon'ble Supreme Court in the case of (Preeti Srivastava Vs. State of Madhya Pradesh) reported in A.I.R. (1999) 7 S.C.C. 120.

36. In the light of the above discussions and reasons, the petitioners are entitled to succeed to the extent as indicated hereinbelow:-

i) For the above reasons, the prayer sought for by the petitioners for awarding grace marks is rejected, as there is no such provision in terms of MCI Regulation.

ii) The petitioners have undergone the respective Post Graduate courses under the non component system, as they have not taken any examination at the end of the first year, which is a basic requirement for component system. Therefore, the contention raised by the petitioners in that regard stands rejected.

iii) Restricting the benefit of second valuation to the candidates, who have secured less than 40% marks in a single answer script and denying the benefit to candidates, who have failed to secure minimum 50% marks in the aggregate is discriminatory, and contrary to MCI Regulation, and therefore, contention raised by the learned counsel for the respondent-University in that regard is not sustainable. It would be pertinent to mention here that, in cases, where, the respondent-University has done second valuation, the candidates have scored higher marks than what they scored in the first valuation, and the difference in the marks between the first valuation and second valuation exceeds more than 30%, which would go to show that there were serious flaws in the first valuation.

iv) For the reasons stated hereinabove, the Writ Petitions are partly allowed, and the respondent-University are directed to conduct second or third valuation, as the case may be, and send all the answer scripts of the petitioners, irrespective whether the petitioners have failed to secure minimum pass mark in one paper, or failed to secure minimum marks in the aggregate. This relief can very well be extended by the

respondent-University to the candidates, who have not approached this Court, as it appears that there are only few candidates, who have been declared fail.

v) No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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29.09.2016

After the pronouncement of the order, the learned counsel for the petitioners requested that time limit may be fixed to the respondent University to comply with the directions issued in these batch of cases.

2.As agreed to by Mr.G.Kannabiran, law Officer(S) of the respondent University, who is present in Court, the directions issued in the above Writ Petitions shall be complied with by the respondent University, within a period of ten days from today. This is required to be done so, because, the arrears examinations is to commence from 17.10.2016.

rpa

29.09.2016

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sd

To

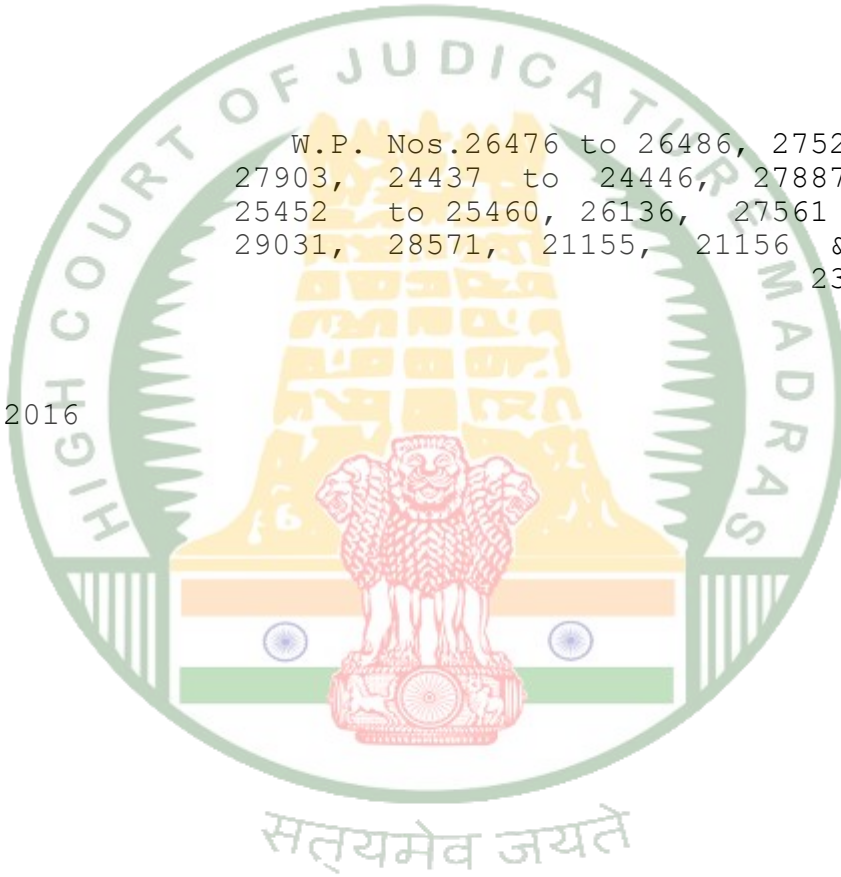
1. The Tamil Nadu Dr. M.G.R. Medical University,
rep. by its Registrar,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
2. The Controller of Examination
The Tamil Nadu Dr. M.G.R. Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

3 The Medical Council of India,
Rep by Secretary Pocket No.14 Sector 8
Dwaraka New Delhi-110 077.

+1cc to Mr.G.Harihara Arun Somasankar, Advocate sr.55949
+1cc to Mr.S.N.Kirubanandam, Advocate sr.56012
+15cc to Mr.S.Thankasivan, Advocate sr.56285
+1cc to Mr.V.P.Raman, Advocate sr.56206
+11cc to Mr.R.Natarajan, Advocate sr.56030

W.P. Nos.26476 to 26486, 27526, 27899 to
27903, 24437 to 24446, 27887 to 27895,
25452 to 25460, 26136, 27561 to 27567,
29031, 28571, 21155, 21156 & 23888 to
23891 of 2016

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