

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.1019 of 2016
and C.M.P.No.13275 of 2016

The Registrar
The Tamil Nadu Dr.MGR Medical University
No.69, Anna Salai
Guindy
Chennai-32
....Appellant

Vs.

- 1.Dr.D.Muthu Kumaran
- 2.The Govt.of Tamil Nadu
Rep. By Secretary to Government
Health and Family Welfare Department
Fort St.George
Secretariat, Chennai-9
- 3.The Secretary
Selection Committee
Directorate of Medical Education
Kilpauk
Chennai-10
- 4.The Secretary
Medical Council of India,
Pocket-14, Sector-8, Dwarka
Phase-1, New Delhi

...Respondents

Writ Appeal filed under clause 15 of Letters patent
against the interim order dated 26.07.2016 passed in
W.P.No.17882 of 2013.

WP.No.17882 of 2013:Writ Petition filed under article 226 of the
Constitution of India, praying for issuance of a Writ of
Mandamus to directing the 2nd respondent herein to permit the
petitioner to sit for the Entrance Examination for admission to
Three Year Higher Specialty Courses in Tamilnadu during the
academic session 2013-14 to be held on 7.7.2013 under
application No. 10119 and select the petitioner for admission

to the said course on the basis of the performance in the said examination.

For Appellant : Mr.S.Gomathinayagam, Senior counsel
Assisted by
M/s.G.Harihara Arum Somasankar

For Respondents : Mr.V.Selvaraj, Addl.Govt.Pleader
for R2 and R3.

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH,J.)

Heard Mr.S.Gomathinayagam, learned Senior counsel
Assisted by Mr.G.Harihara Arum Somasankar, learned Standing
counsel appearing for the appellant/University and
Mr.V.Selvaraj, learned Additional Government Pleader for
respondents 2 and 3.

2. The learned Senior counsel appearing for the
appellant-MGR Medical University submits that the 1st
respondent/Writ Petitioner possess qualification of MRCS Degree
(General Surgery from the Royal College of Surgeons, Edinburgh
(U.K.) and the said degree cannot be considered as equivalent to
P.G.Degree and therefore, if he had been allowed to take up the
examination for M.Ch.Course, he would claim equity that he is
eligible to study 3 year Higher Speciality Course. He further
submits that when the 1st respondent/writ petitioner does not
qualify himself for admission to the post of M.Ch.Examination,
the interim order of the learned Single Judge dated 26.07.2016,
permitting the Writ Petitioner/1st respondent herein, to take up
exams and also the direction to the 3rd respondent to value the
paper and to give result in a sealed cover and submit before
this court on the next date of hearing viz., 22.08.2016 would
cause hardship to the appellant/MGR Medical University.

3. On a careful reading of the order of the learned
Single Judge, we find that no prejudice or favour has been shown
either in favour of the MGR Medical University or the student.
However, the learned Single Judge would consider the case with
regard to qualification held by the petitioner as to whether it
is equivalent to MD/MS Courses in India. Further, the learned
Single Judge while permitting the student to sit for
M.Ch.Examination, which is commencing from 01.08.2016 onwards,
made it clear that the result of the examination shall be kept
in a sealed cover by the University and to be placed before the
Court on the next hearing date. The learned Single Judge also
pointed out that the said order is passed without prejudice to

the rights of the Department of Medical Education and also subject to the result of the Writ Petition and further pointed out that the petitioner shall not claim equity by virtue of the interim order at the time of final disposal.

4. Further, since the entire issue regarding equivalence of the course of study or training shall be decided by the Standing Academic Board in the ensuing meeting to be held in future, we are of the considered view that for the valuation of the paper written by the student, the time is extended upto 15.09.2016 and the result of the said examination shall be kept in a sealed cover by the 3rd respondent/University and the same be placed before the learned Single Judge. Thereafter, the learned Single Judge, is requested to consider the entire issue before him and pass orders thereon. We are of the view that the issue could only be decided at the time of final disposal and therefore, we are not inclined to interfere with the matter at this stage.

5. The Writ Appeal is disposed of with the above observation. No costs. Consequently, connected CMP is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

nvsri
To

1.The Registrar

The Tamil Nadu Dr.MGR Medical University
No.69, Anna Salai
Guindy, Chennai-32

2.The Secretary to Government

Government of Tamil nadu
Health and Family Welfare Department
Fort St.George
Secretariat, Chennai-9

3.The Secretary

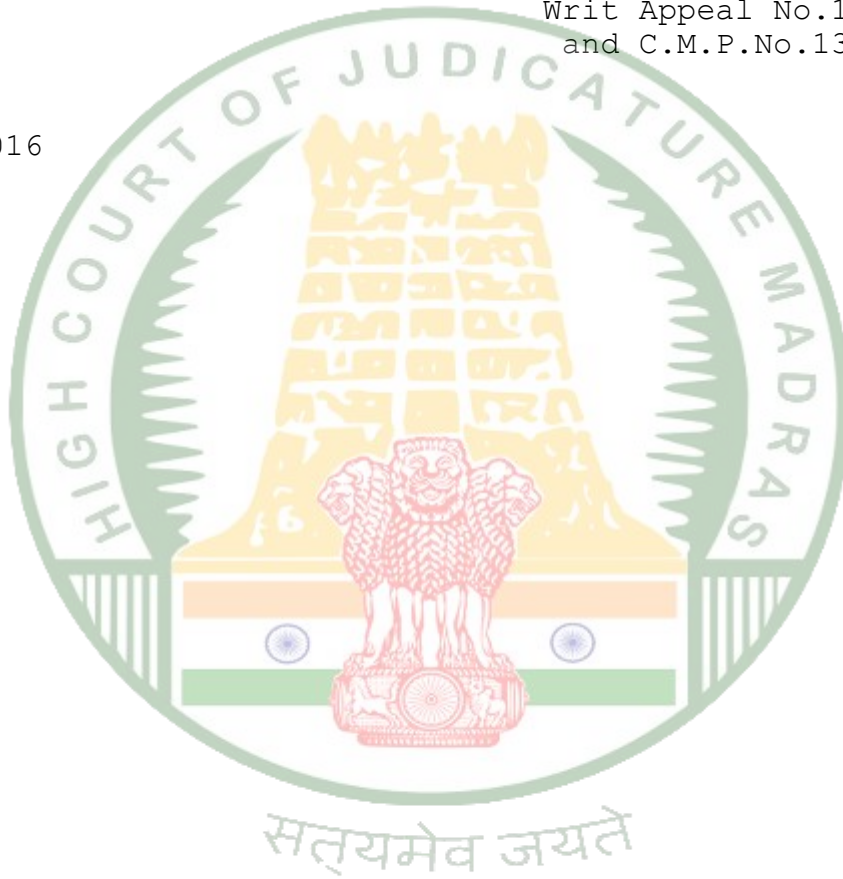
Selection Committee
Directorate of Medical Education
Kilpauk
Chennai-10

4.The Secretary
Medical Council of India,
Pocket-14, Sector-8, Dwarka
Phase-1, New Delhi

+1 cc to Mr.G.Harihara Arun Somasankar Advocate sr 47132
+2 ccs to Government Pleader HighCourt Madras
sr nos.47275 & 48045

Writ Appeal No.1019 of 2016
and C.M.P.No.13275 of 2016

aa06/09/2016



WEB COPY