

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.11.2016

CORAM

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.A. NOS. 1294 OF 2016

W.P. NO. 37729 OF 2016

AND

C.M.P. NO. 16789 OF 2016

W.M.P. NOS. 32346 & 32347 OF 2016

V.Jeyarama Pandian .. Appellant in WA 1294/2016

Dr. S.Ummer Sheriff .. Petitioner in WP 37729/2016

- Vs -

1. The Tamil Nadu Dr. M.G.R.
Medical University
No.69, Anna Salai, Guindy
Chennai 600 032, rep. By
its Registrar
2. The Controller of Examination
The Tamil Nadu Dr. M.G.R.
Medical University
No.69, Anna Salai, Guindy
Chennai 600 032. .. Respondents in both Writ Appeal
and Writ Petition

Writ Appeal filed against the order dated 29.9.2016 passed by the learned single Judge in W.P. No.24441 of 2016, etc., Batch. Prayer in WP.24441/16

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus 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.

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus forbearing the respondent University from retrospectively applying the subsequent regulation dated 31.1.2014 for the petitioner having Regn. No.201314305 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 the 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 dated 17.2.2012 of the respondent University existing at the time of admission of the petitioner.

For Appellant/ : Mr. S.Thankasivan
Petitioner

For Respondents : Mr. Harihara Arun Somasankar

COMMON JUDGMENT

(DELIVERED BY HULUVADI G.RAMESH, J.)

While the writ appeal is directed against the order passed by the learned single Judge rejecting the contention of the appellant for continuation of composite system, as approved by the academic council with retrospective effect, the writ petition has been filed by the petitioner praying to permit him to appear only for the failed papers under the regulation pertaining to the year 2012, viz., component system of examination.

2. It is the contention of the appellant as well as the petitioner that the composite system has been introduced in the middle of the academic year with retrospective effect after the commencement of the academic year and such introduction is totally arbitrary and violative of Article 14 of the Constitution. It is the contention of the appellant/petitioner that the advantage, which was available to the students under the component system, wherein they could appear for any of the paper pertaining to the particular year piecemeal and the balance can be taken at the fag end of the year, was lost due to the introduction of composite system through the amendment which was introduced by the academic council in the meeting held during July, 2013. It is further contended by the appellant/petitioner that such introduction of composite system was made in the middle of the academic year, which is impermissible, as the students have been admitted to the Post Graduate course through the process of admission and following the regulations, which were in vogue prior to the introduction of the composite system in July, 2013. Such introduction of composite system, that too in the middle of the year, for the candidates, who have been admitted for the Post Graduate degree course for the academic year 2013-2014 is bad in law

and, therefore, the composite system should be set aside and the component system, which was in practice and based on which students have been admitted for the academic year 2013-2014 should be made applicable to the candidates so as to enable them to appear in the remaining papers, be it theory or practical, and not in its entirety as prescribed under the composite system.

3. It is the further submission of the learned counsel for the appellant/petitioner that if at all the academic council wants to introduce composite system in the place of component system, which is already in existence, the academic council should implement the said composite system from the academic year 2014-2015 and it should not try to introduce the same from the academic year 2013-2014, wherein the students have been taken in based on the regulation which was in existence prior to July, 2013. Any retrospective introduction of composite system over the component system will work out hardship to the students, who have been taken in prior to the amendment to the regulation. Learned counsel for the appellant/petitioner, to substantiate his contentions, relied upon the judgment of this Court in 2015 (2) CTC 416.

4. Learned counsel appearing for the respondent University, while refuted the submissions advanced on behalf of the appellant/petitioner, submitted that the academic council, in its meeting, after due deliberations, in the interest of imparting quality education and to enhance academic standards to bring out the best in the students, sought to introduce the composite system from July, 2013, which was immediately after the commencement of the academic year. It is further submitted that the system having been changed immediately after the commencement of the academic year, it cannot be said that the students were put to great hardship by the change in the system. Also it cannot be said to be a retrospective amendment, as the decision was taken immediately on the commencement of the academic year, which normally commences in June-July of every year. Therefore, for all practical purposes, it is only a prospective amendment and not a retrospective amendment. Further, it is well within the domain of the academic council to change the regulation in the best interests of the institution and the students and, therefore, the learned single Judge had rightly negatived the contention advanced by the appellant herein and, therefore, no interference is called for with the well considered finding of the learned single Judge.

5. Heard the learned counsel appearing for the appellant/petitioner and the learned counsel appearing for the first respondent and perused the materials available on record.

6. It is not in dispute that the academic council, in the month of July, 2013, had, after due deliberations, decided to amend the regulation bringing in composite system by doing away with the component system. It is also trite that the academic year starts

from June of every year to April/May of the succeeding year. Normally, examination for the academic year would normally be held only in the month of May. In the case on hand, the examination for the academic year would be held only in May, 2014. Such being the case, the first of the examination for persons, who had joined the University, would be held only in May, 2014. The resolution has been passed by the academic council within a month from the opening of the academic year, more specifically in July, 2013. Therefore, in the above backdrop, the resolution having been passed at the earliest point of time, and none of the persons, who had joined the University having taken up any examination, it cannot be held that the resolution has been given retrospective effect. No person having taken up any of the examination, the resolution passed by the academic council could only be termed to have a prospective effect and, therefore, the resolution of the academic council to have composite system by doing away with component system for the academic year 2013-2014 cannot be said to be in violation of Article 14 of the Constitution of India.

7. It is further evident from the counter of the University that almost 96% of the candidates, who were undergoing the three year Post Graduate course have passed out. Such being the position as placed before the Court, except for the few who have come before this Court, the majority of the persons having taken up the examination and completed the same under the composite system, which has been introduced in July, 2013 for the academic year 2013-2014, it cannot be said that the composite system is either bad in law or violative of Article 14 of the Constitution of India and that there is any arbitrariness in changing the system.

8. In the case on hand, a few of the candidates may have faced some difficulty in taking up the examinations under the composite system and trying to pass the same at a time, but that would not be a ground to contend that the system is violative and arbitrary, in that they are being asked to compete in all the subjects and clear it at one go, which was not the case when they had joined the University.

9. Further, it is borne out by record that admission to the University was completed in May-June, 2013 and the composite system was sought to be introduced by the resolution of the academic council during July, 2013, which is within a month from the completion of the admission process. In effect, none of the students, who had joined the course, had taken up even a single exam under the component system so as to plead before this Court that they have been deprived of the opportunity which they had already availed in the preceding years. The students, being in the first year and having not taken the examination even for the first year, cannot claim that they have a right to take up the examination in a particular system, viz., component system and that the resolution of the academic council cannot be sustained. Even well before the examination, more specifically, more than a period of ten months before the examination

in May, 2014, the resolution having been passed and the students having been appraised of much prior to their taking their examination, the candidates had sufficient time to get themselves prepared for the examination and undertake the examinations in one go. In the above scenario, the candidates having already been put on notice well before the notification of the examination, principles of natural justice have been strictly adhered to. Therefore, the candidates cannot plead that they have been taken by surprise, with regard to the change to composite system, to contend that the scheme has been introduced all of a sudden. The composite system having been introduced at the threshold by the academic council even in July, 2013, for the admission, which was completed in May, 2013, within a matter of one month, it cannot be said that the resolution has been passed with retrospective effect.

10. However, an incidental argument has been advanced by the learned counsel for the appellant/petitioner stating that some of the candidates have not cleared either the theory or practical examination and due to the introduction of the composite system, they are made to take the examination once again, which will cause considerable hardship. It is admitted that 96% of the candidates have cleared the examinations through the composite system, which has been introduced and that few of them, depending on their IQ level (intelligent quotient level), could not clear the examination. However, that cannot be a ground to contend that the system introduced by the academic council is bad. If the persons, who have not cleared some of the examinations due to introduction of the composite system, it is open to them to approach the authorities concerned and submit a representation enabling them to complete the said subject alone by relaxing the rules.

11. In the above circumstances, while this Court is not inclined to grant the relief as sought for, however, it is open to the appellant/petitioner to submit a representation to the authorities concerned requesting to allow them to complete the papers in which they have failed and on such representation being submitted, it is for the academic council to take a decision to permit the appellant/petitioner to take up the examination in the relevant papers by relaxing the rules, if it is permissible as per the rules.

12. The writ appeal as well as the petition are disposed of with the aforesaid observation. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.
GLN

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Assistant Registrar

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Sub Assistant Registrar

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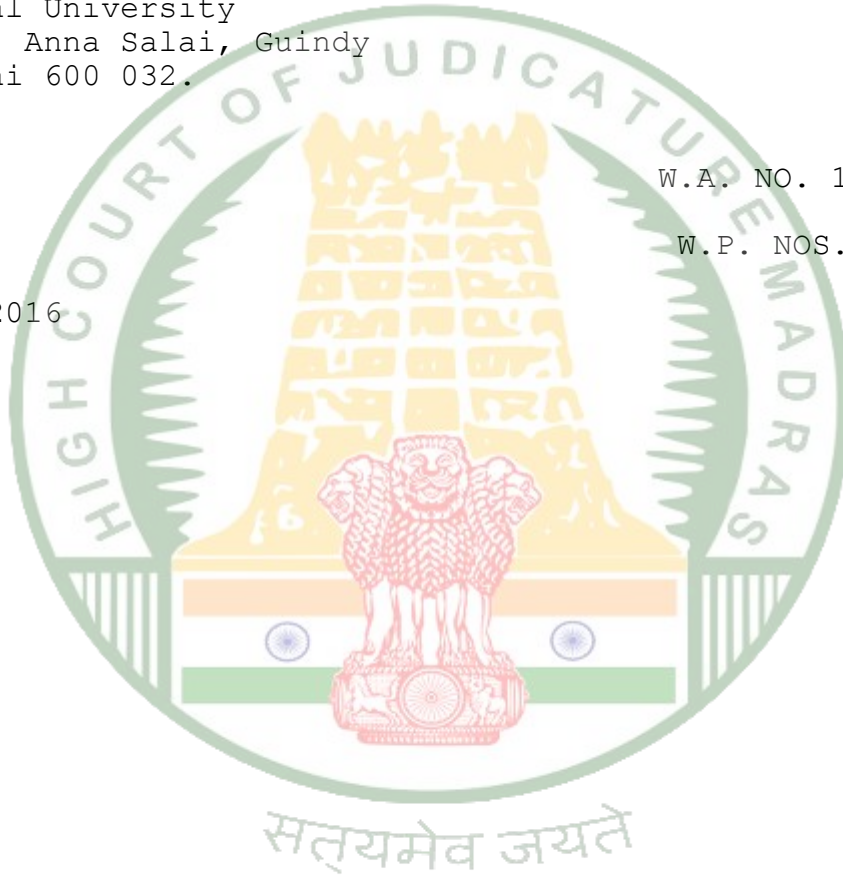
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KAK (CO)
VS 30.12.2016



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