

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 22-12-2016

CORAM

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

AND

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.A.No.1575 of 2016

Medical Council of India,
rep.by its Secretary,
Pocket-14, Sector-8,
Dwaraka - Phase I,
New Delhi -110 077. ... Appellant

-vs-

- 1.Mrs.S.Manimangai
- 2.Directorate of Medical Education,
rep.by its Director,
No.162, E.V.R.Periyar High Road,
Kilpauk, Chennai-600 010.
- 3.The Selection Committee,
rep.by its Secretary,
Directorate of Medical Education,
No.162, E.V.R.Periyar High Road,
Kilpauk, Chennai-600 010.
- 4.Dr.MGR Medical University,
rep.by its Registrar,
No.69, Anna Salai,
Guindy, Chennai- 600 032.
- 5.Madha Medical College & Hospital,
rep.by its Dean,
Madha Nagar,
Somangalam Road, Kundrathur,
Chennai - 600 069.
- 6.Annai Medical College and Hospital,
rep.by its Dean,
College Road, Pennalur,
Sriperumbadur,
Chennai-602 117.

...

Respondents

Appeal under Clause 15 of the Letters Patent against the order, dated 21.10.2016, passed in W.P.No.36066 of 2016 on the file of this Court.

W.P.No.36066 of 2016 Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd and 3rd respondents to forward the name of Ms.Madhuri.S having A.R. No.17610 to be admitted to any of the Private Medical Colleges under the 2nd respondent in the State of Tamil Nadu including the 5th respondent college by following the admission process contemplated under the proviso to Sec.10(d) of the India Medical Council (Amendment) Act 2016

For appellant : Mr.V.P.Raman

For respondent 1 : Mr.V.T.Gopalan,
Senior Counsel,
for Mr.A.R.Suresh.

For respondents 2 & 3 : Mr.K.Venkataramani,
Addl.Advocate General-VII,
assisted by
Mr.P.S.Sivashanmugasundaram,
Special Govt.Pleader.

JUDGMENT

(Judgment of the Court was delivered by Nooty.Ramamohana Rao,J.)

This appeal is preferred by Medical Council of India (henceforth called MCI), calling in question the correctness of the order passed on 21.10.2016 in W.P.No.36066 of 2016 by a learned single Judge of this Court. The said Writ Petition was instituted by the mother of a student, by name S.Maruthi, pursuing Bachelor of Dental Science (BDS) Course. She was granted admission to BDS Course during the academic year 2016-2017.

2. The grievance ventilated on behalf of the writ petitioner is that in the composite common application submitted for admission to both MBBS and BDS Courses, she sought for admission for MBBS Course, as first priority. In view of the general rank 20812 secured by her and backward class community rank 9492, which was determined based upon the aggregate marks secured by her at 154.75, she was granted admission to BDS Course. The counselling took place for the admission process on 05.10.2016, as the Dental Council of India granted extension of seven days for completing the admission process beyond 30.09.2016. The case set up by the writ petitioner was that as on 05.10.2016, the date on which she was granted formal

admission to BDS Course, there were several vacancies available in MBBS Course and, in particular, seats in MBBS Course are available in Madha Medical College and Hospital, Somangalam Road, Kundrathur, Chennai, and also in Annai Medical College and Hospital, Sriperumbadur, Chennai, but, in spite of the same, she was not granted admission to MBBS Course in those medical colleges and, instead, granted admission to BDS Course on 05.10.2016. Immediately coming to know of the availability of vacancies in the aforementioned two medical colleges, this Writ Petition came to be instituted on 07.10.2016, seeking a writ of mandamus, directing the respondents 2 and 3, namely, the Director of Medical Education, and the Selection Committee for admissions, respectively, to forward the name of the ward of the writ petitioner to be admitted to MBBS Course in any of the medical colleges, where the seats are available. The learned single Judge, by his order, dated 21.10.2016, had reached to a conclusion that those students who have been granted admission to BDS Course can be granted admission to MBBS Course, by way of sliding, even beyond 30th September, 2016. In that view taken by the learned single Judge, the Writ Petition came to be allowed. MCI is on appeal against the said judgment.

3. Learned counsel for the appellant would urge that students admitted to BDS Course cannot slide to MBBS Course, even though there are vacancies in MBBS Course available after the cut-off date, namely, 30.09.2016, for admission to MBBS Course. Secondly, it is also urged that the course content of the subjects pursued and prescribed for BDS Course is not the same as that of the curriculum contained and the practical examination content of the subjects taught during the first year MBBS Course. Thirdly, while several other States have preferred appeals to the Supreme Court, seeking extension of the cut-off date beyond 30.09.2016 by one week for the admission process of MBBS Course, the State of Tamil Nadu has not filed any such appeal before the Supreme Court and, hence, so far as the State of Tamil Nadu is concerned, the cut-off date for admission to first MBBS Course still remains as 30.09.2016 and, hence, beyond that date, there is no way the admission process to first MBBS Course can be kept alive beyond 30.09.2016. It is also contended that no regular process of admission is undertaken for the left over/remaining vacant seats in various medical colleges and, hence, selectively, students cannot be pegged up for admission process to MBBS Course, irrespective of their merit ranking. It is further urged that Medical Council of India is seriously concerned with securing full attention of the students pursuing MBBS Course and hence the rigorous standards are prescribed, so that the students will receive full and wholesome training before they can take the examinations concerned in the subjects. In that view of the matter, the concern of MCI is with regard to maintenance of the academic standards and hence has the locus to maintain this Writ Appeal.

4. Learned counsel for MCI would further urge that the directions issued by the learned single Judge will result in extending the admission process beyond the cut-off date prescribed by MCI, namely, 30.09.2016, and, no such admission process could have been allowed to take place, in view of the categorical directions issued by the Supreme Court not to do so.

5. Per contra, Sri V.T.Gopalan, learned Senior Counsel, appearing for first respondent/writ petitioner, would point out that Medical Council of India is not the one which has to grant admission to the ward of the writ petitioner and it is the Director of Medical Education, State of Tamil Nadu, the second respondent or, for that matter, the third respondent Selection Committee, which alone is concerned and obliged to implement the directions issued by this Court in the Writ Petition and, hence, in that sense, the MCI cannot be termed or treated as an aggrieved party of the judgment under appeal. It is also urged by the learned Senior Counsel that MCI lacks necessary locus to challenge the correctness of the discretion exercised by the learned single Judge in granting the relief prayed for by the writ petitioner. It is further urged that the State Government of Tamil Nadu has accepted the judgment rendered by the learned single Judge and it has not preferred to call in question or call the correctness of the view taken by the learned single Judge and, therefore, the question of entertaining this Writ Appeal preferred by MCI only for the purpose of denying the relief to the writ petitioner granted by the learned single Judge would tantamount to abuse of process of this Court.

6. Learned Senior Counsel would also urge that the students hailing from State of Tamil Nadu are not regulated in the process of admission to first MBBS Course by the necessity to appear at National Eligibility Entrance Test (NEET) and, on the contrary, the local eligibility test is what regulates the entire selection process and right of admission of the students. In that event, even though it is assumed that the admission process to first MBBS Course is liable to be treated as having come to an end on 30.09.2016, but, nonetheless, even if there are still vacancies remaining unfilled, for whatever be the reasons in various medical colleges, they can be allowed to be filled in by the process of sliding of BDS students. According to the learned Senior Counsel, the process of sliding need not be viewed as a process of admission undertaken for the first time. The students concerned having already been admitted to BDS Course are merely sliding from one Dental College to another Medical College. Further, there are many number of orders passed by the Supreme Court, in recent times, allowing the students pursuing BDS Course to slide to first MBBS Course. There are also observations made by the Supreme Court in the course of passing such orders that the course content of first MBBS Course and that of the first year BDS Course is virtually

the same. Above all, the learned Senior Counsel would urge that the availability of seats in first MBBS Course should not be allowed to go abegging. It would be a national waste of precious resources. On the other hand, by allowing equally meritorious students, who are granted admission to BDS course by sliding into first MBBS Course, the larger public interest of granting admission to first MBBS Course to the extent of the sanctioned intake would serve the public good. The Central Government, being conscious of the fact that the size of this country requires well trained doctors in large numbers, has been sanctioning intake to various medical colleges and, therefore, wisdom lies in allowing those seats to be filled in, rather than being allowed to go waste. Also, the learned Senior Counsel would urge that the Court is not supposed to conduct a roving enquiry in the name of trying to finding out who is a more meritorious candidate. For a variety of good reasons, the most meritorious candidates, who have been granted admission to BDS Course, may not prefer or opt for admission to first MBBS Course. The reasons could be many, including the specific choice of the candidate concerned. Possibly, the monetary implications in pursuing MBBS Course, that too in a private medical college, can also be a deterring factor that may have weighed with the meritorious candidates not opting for admission to the vacant MBBS seats. Therefore, such of those students, who have approached the Court by instituting a writ petition, need not be looked down with any disfavour and relief can be granted only to such students who have come forward and instituted the writ petitions. Therefore, no exception need be taken to the directions given by the learned single Judge.

7. We have heard Sri K.Venkataramani, learned Additional Advocate General, who has accepted notice on behalf of respondents 2 and 3. Incidentally, the learned Additional Advocate General has also placed the data, relating to the cut-off marks for various segments for admission to MBBS Course, for the academic year 2016-2017, before us.

8. Taking the first issue raised by Sri V.T.Gopalan, learned Senior Counsel for the first respondent, about the maintainability of the Writ Appeal at the hands of MCI, all we need to notice is that MCI has been statutorily entrusted with the onerous task of maintaining the standards of the profession as well as the academic teaching and training, which alone turn a raw hand into a qualified physician. The task of maintaining and overseeing the rigorous standards of education has been entrusted only to MCI. Hence, we have no hesitation to hold that MCI has the necessary interest and also the necessary locus to maintain this Writ Appeal, as any possible dilution of academic training of MBBS course cannot be allowed by it.

9. We next deal with the objection that the State Government of Tamil Nadu is not in appeal against the order of the learned single Judge and, hence, at the hands of MCI, we are not required to entertain the present appeal. The State Government may not be strictly viewed as an aggrieved party. The State is only interested and endeavouring that to the extent possible, necessary facilities are made available to the student community at large, and hence adequate number of seats in first MBBS Course are made available. But, however, it is also the responsibility of the State Government and the agency, which has been entrusted with the task of determining the relative merit of the student community at large, to ensure that the admission process is strictly regulated in the descending order of merit of the candidate. Once the Common Entrance Test is conducted or common standard of determination of the relative merit of the student is adopted and, accordingly, a merit list is drawn and published, there is no choice left in the hands of the State or the admission regulating process to depart from the said merit list. Students cannot be handpicked thereafter to the admission process wholly and the admission process is required to be regulated based strictly on merit order. Above, the State can never be a willing party for departing from the merit order of the eligible students. Therefore, the fact that the State of Tamil Nadu is not in appeal against the order of the learned single Judge, in our humble opinion, need not detain us from examining the correctness of the view expressed by the learned single Judge.

10. The fact that the State of Tamil Nadu is not allowing the admission process to the seats available in first MBBS Course to be regulated wholly by virtue of the students participation in NEET makes no difference, in our opinion, for regulating the process of admission to first MBBS Course in the State. May be that the required percentage of seats (15%) available in first MBBS Course in various medical colleges in the State of Tamil Nadu are not thrown open for competition on All India basis, for certain valid and specific reasons peculiar to the State of Tamil Nadu, the admission process might have been confined only to the student community belonging and pursuing the qualifying courses within the State. These peculiarities are not an unknown feature. Therefore, the fact that the admission process in first MBBS Course in various medical colleges within the State of Tamil Nadu is not being regulated through participation in NEET cannot offer a valid platform for not following at all the inter se merit ranking amongst the students for admission process to first MBBS Course.

11. This takes us to the substantial question as to whether sliding of students from BDS Course to first MBBS Course amounts to a process of admission at all or it is a mere case of sliding of a student from one dental college to another medical

college. In our opinion, sliding is more a facility that is made available to the student community. Sliding can be from one medical college to another medical college. For instance, in every State, there are certain medical colleges, which are treated and considered as top rated medical colleges, while the others may not be acclaimed so highly. That was because of the infrastructural and instructional facilities associated with such medical colleges. Sometimes, even their locational advantage also plays a significant role. It is not totally uncommon for a teaching hospital attached to a medical college, receiving a wide variety of patients with wide variety of ailments, where such teaching hospitals are located in larger cities, such as, Madras, Coimbatore, Madurai or Trichy. The same may not be the case with regard to other medical colleges, which may have been located in suburban areas. These are some of the imponderable factors, which would weigh in the minds of the student community. Therefore, depending upon their choice, they may opt to slide from one medical college to another medical college, while pursuing MBBS Course. However, in our opinion, sliding from one course to another course altogether is not the same as that of sliding from one medical college to another medical college. The course content, from the standpoint of curriculum and practical training point of view between BDS Course and first MBBS Course, vastly differ.

12. Learned Standing Counsel for MCI has tried to demonstrate the said feature, by making a specific reference to the contents of a counter affidavit filed before the Delhi High Court in a lis where the issue relating to the comparison of course content was engaging the attention of the said Court. It is pointed out that during the first MBBS Course, the students are required to devote the maximum attention to the study of Human Anatomy. They are required to undergo 650 teaching hours of training in Anatomy subject alone. From the course content of first MBBS, it is vividly clear that the anatomy of the whole human body is required to be studied and not confined to Head and Neck alone. That was the reason why as high as 650 teaching hours of training is spared for the said subject. In contrast, what has been prescribed for the BDS Course for the subject of Anatomy was only 275 teaching hours. Similarly, the subject matter of Human Physiology has 480 teaching hours for MBBS Course, whereas, for BDS Course, it has only 180 teaching hours. The third subject of study during first MBBS Course i.e., Biochemistry, it has 240 teaching hours for MBBS Course in comparison to 130 teaching hours BDS Course. From this data relating to course content itself, one can draw a comparative analysis to arrive at a reasonable inference that the course content and coverage of the subjects of study are different vastly between first MBBS Course and first BDS Course. It appears, MBBS Course has as exhaustive a study as is possible, at the undergraduate level, while BDS Course content is confined to the orientation necessary for understanding the Dental Course.

13. Sri V.T.Gopalan, learned Senior Counsel for the writ petitioner, would point out that the duration of first MBBS Course is only one year and that was the reason why during the first six months of the course, the students virtually study the same course content between first MBBS and first year BDS and, hence, sliding from BDS Course to first MBBS Course need not be viewed with any disfavour.

14. We are afraid, we cannot accept this contention, as Courts are ill-equipped, in our humble opinion, to make a critical evaluation of equivalence of the course content, particularly of professional courses, such as MBBS and BDS. The said task is best attended to by the trained professionals available among the competent bodies, such as, MCI and DCI. Since MCI informs us that in its opinion the Course content of first MBBS vastly differs from that of BDS Course, we have neither good reason nor adequate material to disagree with such a contention for the present; all the more so, as any question relating to evaluation of academic equivalence is allowed to be determined by the academic or professional institutions first, subject, of course, to judicial review only.

15. It must be noted that the question in regard to equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standard, and, practical attainments of such qualifications and where the decision of the Government is based on the recommendation of an expert body which possesses the requisite knowledge, skill and expertise for adequately discharging such a function, the Court, uninformed of relevant data and unaided by the technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government. It is only where the decision of the Government is shown to be based on extraneous or irrelevant considerations or actuated by mala fides or irrational and perverse or manifestly wrong that the Court would reach out its lethal arm and strike down the decision of the Government.

16. We now deal with the core issues. It is not in doubt that the ward of the writ petitioner has secured 154.75 marks, whereas, the last candidate, who has secured admission against open category in first MBBS Course, it appears, from the date made available by the learned Additional Advocate General, has secured 197.75 marks. The last open category candidate, who has got admission in self-finance MBBS courses, secured 195.75 marks. Similarly, amongst backward classes, the last merit based admission category candidate secured 196.75 marks and for self-finance course, it is 194.25 marks. Even amongst the most backward classes (MBC Category), the last candidate, who has got admission, has secured 195.25 marks and for self-finance courses, the last candidate secured 192.75 marks. Even amongst

SC Category candidates, the last of them secured 189 marks and for self-finance courses, the last candidate has secured 179.50 marks. Among STs, the last candidate who got admission secured 181.25 marks and for self-finance courses, the last ST category candidate secured 172.50 marks. The above data has been made available to us, at our request, by the learned Additional Advocate General. The above data has been called for to satisfy that the concept of relative merit ranking admission process is not violently turned upside down by the Government. The conscience of the Court demands the system to respect the principles of equality and equity and to the extent possible, see to it that they travel together hand in hand. Such an attempt, in our view, does not amount to conducting a roving enquiry. Upon a careful analysis of the above data, it is clear that the ward of the writ petitioner, who has secured only 154.75 marks was far way down in the overall merit ranking list, looked at from the perspective of all the students belonging to the backward classes also. It is also specifically brought to our notice that there are as many as 6466 candidates, who secured better marks and better ranks than the ward of the writ petitioner herein, who are not granted admission to first MBBS Course.

17. Now, in the above scenario, should a direction be issued by this Court to grant admission to the writ petitioner's ward to first MBBS Course, leaving aside thousands of students, who secured better ranks ?

18. To save the time of this Court and also to minimise the size of the judgment, we prefer to refer only to two judgments of Supreme Court, one rendered in Priya Gupta v. State of Chhattisgarh and Others, reported in 2012 (7) SCC 433, and, another rendered in Asha v. Pt. B.D.Sharma University of Health Sciences and Others, reported in 2012 (7) SCC 389. In Priya Gupta's case, the Supreme Court, after reviewing various judgments rendered by the Supreme Court earlier, has crystalised the various principles, which are needed to be followed in the matter of admission process to the prestigious professional courses, such as, first MBBS Course. The Supreme Court has issued certain directions in rem for their strict compliance without demur and default by one and all concerned in paragraph 46 of the said judgment. For our present inquiry, it will be relevant to extract paragraphs 46.5 and 46.6 thereof.

"46.5. The admission to the medical or dental colleges shall be granted only through the respective entrance tests conducted by the competent authority in the State or the body of the private colleges. These two are the methods of selection and grant of admission to these courses. However, where there is a single Board conducting the state examination and there is a single medical college, then in terms of clause

5.1 of the Medical Council of India Eligibility Certificate Regulations, 2002 the admission can be given on the basis of 10+2 exam marks, strictly in order of merit.

46.6. All admissions through any of the stated selection processes have to be effected only after due publicity and in consonance with the directions issued by this Court. We vehemently deprecate the practice of giving admissions on 30th September of the academic year. In fact, that is the date by which, in exceptional circumstances, a candidate duly selected as per the prescribed selection process is to join the academic course of MBBS/BDS. Under the directions of this Court, second counselling should be the final counselling, as this Court has already held in the case of Ms. Neelu Arora & Anr. v. UOI & Ors. [(2003) 3 SCC 366] and third counselling is not contemplated or permitted under the entire process of selection/grant of admission to these professional courses."

19. The Supreme Court has also dealt with the prospects of filling up of vacant/remaining seats in paragraphs 46.7, 46.8 and 46.9 of the aforesaid judgment. In paragraph 47, the position was put beyond any pale of doubt by the Supreme Court by firmly setting forth that the abovesaid directions shall be complied with by all concerned, including Union of India, Medical Council of India, Dental Council of India, State Governments, Universities and Medical and Dental Colleges and the Managements of respective Universities or Dental and Medical Colleges. The Supreme Court did not stop with that. It has also administered the following caution thereafter i.e., "Any default in compliance with these conditions or attempt to overreach these directions shall, without fail, invite the following consequences and penal actions. The consequences have been then recorded. Paragraph 47.3 and 47.4 read as under :

"47.3. Such defaulting authority, member or body shall also be liable for action by and personal liability to third parties who might have suffered losses as a result of such default.

47.4. There shall be due channelization of selection and admission process with full cooperation and coordination between the Government of India, State Government, Universities, Medical Council of India or Dental Council of India and the colleges concerned. They shall act in tandem and strictly as per the prescribed schedule. In other words, there should be complete harmonisation with a view to form a uniform pattern for concerted action, according

to the framed scheme, schedule for admission and regulations framed in this behalf."

20. In paragraph 48, the Supreme Court has also dealt with the evils of arbitrariness and discrimination from creeping into these selection/admission processes, which are required otherwise to be transparent, fair and non-exploitative.

21. In the face of the above legal regime, there is hardly anything more that we need to do endeavour except to point out that the view taken by the learned single Judge is not in accordance with and conformity to the aforementioned legal principles. Above all, the MCI, we are reinforced to say, has the necessary locus to file the present appeal. The State sought to discharge its duty, by placing the complete date before us. And on our part, we merely sought to enforce the legal regime.

22. Further, in Asha's case, cited supra, after reviewing the earlier judgments of the Supreme Court rendered, including the one in Priya Gupta's case, cited above, the Apex Court has pointed out in paragraph 24 that adherence to the schedule is the obligation of the authorities and the students both and that the prescribed schedule is to be maintained *stricto sensu* by all the stakeholders. In paragraph 25, it was further pointed out that that the Court cannot ignore the fact that these admissions relate to professional courses and the entire life of a student depends upon his admission to a particular course. Every candidate of higher merit would always aspire admission to the course which is more promising. Undoubtedly, any candidate would prefer to pursue the course of MBBS over BDS given the high-competitiveness in the present times, where on a fraction of a mark, the admission to a particular course could vary. Higher the competition, greater is the duty on the part of the concerned authorities to act with utmost caution to ensure transparency and fairness.

23. We have, therefore, no hesitation to hold that the directions issued by the learned single Judge are not in conformity with the legal principles enunciated by the Supreme Court, brought out supra.

24. Learned Senior Counsel Sri V.T.Gopalan has drawn our attention to various orders passed by the Supreme Court, permitting the students to slide from first BDS Course to first MBBS Course. He has also drawn our attention to an order passed by the Supreme Court on 01.12.2014 in W.P.(Civil) No.941 of 2014. The Supreme Court, in the said order, has noted as under :

"In these peculiar circumstances, we would like to examine, as a special case, whether the

petitioner can be given admission to MBBS course even after 30.09.2014."

Similarly, another order was passed by the Supreme Court on 08.12.2014 in W.P.(Civil) No.930 of 2014, wherein, it was noted as under :

"Be it noted, we have passed this order, as we have been apprised that the course content of B.D.S. and M.B.B.S. is quite similar for certain period. Let the matter be listed on 17th December, 2014."

There is another order passed by the Supreme Court on 20.01.2015 in W.P.(Civil) No.1001 of 2014, wherein, it is set out as under :

"The writ petition qua other petitioners is dismissed. Mr. Rakesh Dwivedi, learned Senior Counsel appearing for the State of Tamil Nadu, has submitted that he has instructions to state that the petitioner Nos.1 and 3 in this writ petition are prosecuting their B.D.S. course."

In view of the aforesaid, it is directed that the petitioners, who are prosecuting BDS course, would be permitted to change the stream to MBBS course and be admitted to the Chennai Medical College Hospital & Research Centre, Trichy, Tamil Nadu. The formalities in this regard be completed within two weeks hence."

There is yet another order passed by the Supreme Court on 16.02.2015 in W.P.(C) No.54 of 2015, wherein, it is held as under :

"In view of the aforesaid, it is directed that the petitioners, who are prosecuting BDS course, would be permitted to change the stream to MBBS course and be admitted to the Chennai Medical College Hospital & Research, Trichy."

25. The above orders of the Supreme Court appear to be the orders passed pending final consideration of the matters before the Supreme Court. Though we take note of those orders, as guiding factors, we are of the opinion that the Supreme Court has the competence to pass such orders, because of the wider powers conferred on the Supreme Court under Article 142 of the Constitution of India. But, at the same time, in no order, did the Supreme Court allow or authorise admission/sliding in favour of those, who approached the Courts, leaving aside more meritorious students, may be pursuing BDS Course itself.

26. More importantly, the State of Tamil Nadu has not approached the Supreme Court and did obtain any permission to

fill up vacant seats in MBBS Course to be filled beyond 30th September, 2016.

27. Learned Senior Counsel has also drawn our attention to the judgment of a learned single Judge of Punjab & Haryana High Court, whereby the respondent University in that case was directed to give admission to the petitioner, though time limit for granting admission had expired by 30.09.2016 itself.

28. However, in view of the binding precedent of the judgments of the Supreme Court in the cases of Priya Gupta and Asha, referred to above, we prefer not to allow the admissions to take place to first MBBS course beyond the time limit prescribed by the Supreme Court and adhered to by MCI and they dilute the sanctity of deadline drawn to the admission process.

29. Above all, if a vacant seat in first MBBS Course is to be filled in, there should be adopted a fair and transparent procedure by way of invitation to all concerned to respond and stake a claim. Thereafter, while following the process, such as, spot admission, notice in any leading newspaper, or on the website of the University or the Medical College concerned, and, on the website of Medical and Health Department of the Government concerned, if any, must be published and the relevant information must be made available in public domain. A minimum of three days time should be provided to the students to respond and only on the fourth day, in the descending order of merit of the candidates who responded to the said advertisement, sliding of course facility should be accorded, but not by resorting to a hand-picking method.

30. It is true, the Courts are not supposed to indulge in a roving inquiry, but the litigative zeal or the resourcefulness of an individual to spare adequate time and money and invest on a litigation cannot amount to securing a premium in the matter of jumping the merit queue for securing admissions to first MBBS Course. In public law domain, what is all the more important is equal protection, which has been accorded to all the citizens of this great nation by the visionary constitutional makers in the form of Article 14 of our Constitution. As is too well known and recognized, Article 14 is more in the nature of an injunction against the State. The equal protection of the laws is a pledge of the protection of equal laws. It ensures that persons who are similarly situated are all similarly treated. There should be no discrimination between one person or thing and another, if as regards the subject-matter of the legislation their position is substantially the same. This is sometimes epigrammatically described by saying that what the constitutional code of equality and equal opportunity requires is that among equals, the law should be equal and that like should be treated alike.

31. We prefer to rest our judgment with the following, by recalling the principles enunciated by the Constitution Bench of the Supreme Court rendered in Mohammad Shujat, Ali & Ors. v. Union Of India & Ors, AIR 1974 SC 1631 :

"It must be noted that the question in regard to equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standard, and, practical attainments of such qualifications and where the decision of the Government is based on the recommendation of an expert body which possesses the requisite knowledge, skill and expertise for adequately discharging such a function, the Court, uninformed of relevant data and unaided by the technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government. It is only where the decision of the Government is shown to be based on extraneous or irrelevant considerations or actuated by mala fides or irrational and perverse or manifestly wrong that the Court would reach out its lethal arm and strike down the decision of the Government."

32. For the aforementioned reasons, leaving it open for the concerned to follow a fair and transparent procedure in case it secures necessary permission for filling up vacancies available in MBBS Course, by providing a minimum of three working days time-frame for the student community at large to know of the fact and respond, we dispose of this Writ Appeal, by allowing it and setting aside the order of the learned single Judge. No costs. Consequently, the connected C.M.P.No.19669 of 2016 is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

dixit

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To

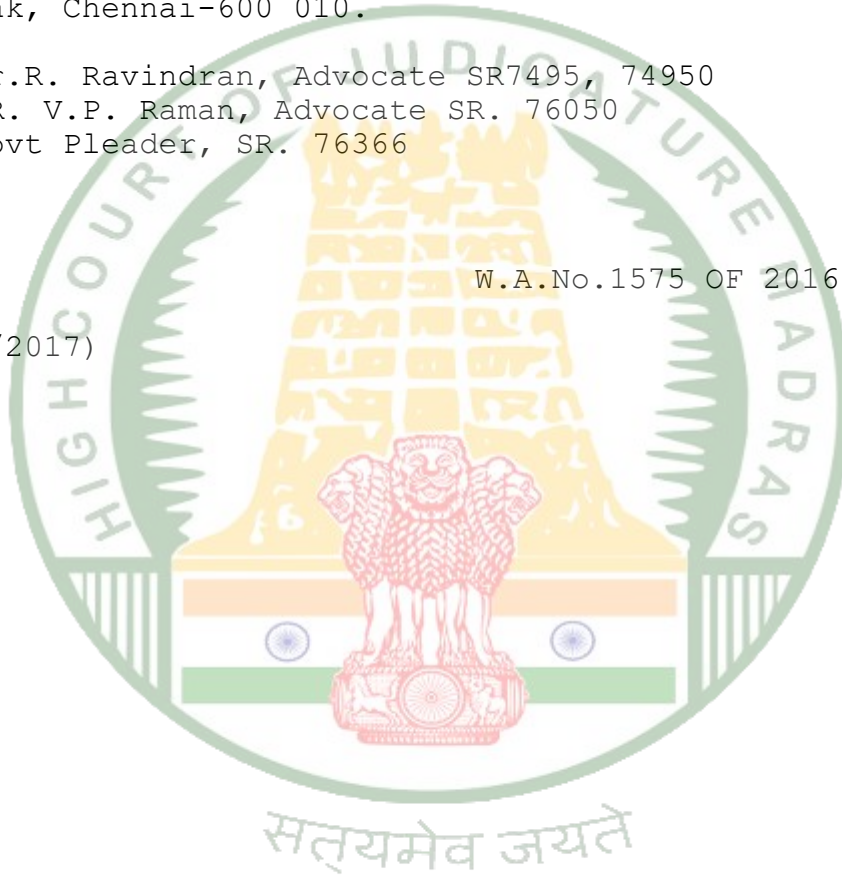
1. The Director,
Directorate of Medical Education,
No.162, E.V.R.Periyar High Road,
Kilpauak, Chennai-600 010.

2. The Secretary,
The Selection Committee,
Directorate of Medical Education,
No.162, E.V.R.Periyar High Road,
Kilpauak, Chennai-600 010.

+3cc tl Mr.R. Ravindran, Advocate SR7495, 74950
+1cc to MR. V.P. Raman, Advocate SR. 76050
+1cc to Govt Pleader, SR. 76366

W.A.No.1575 OF 2016

NM(CO)
VR (13/02/2017)



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