

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.10.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. Nos.28374, 29443 & 28759 of 2016

S.Gracy Priscilla .. Petitioner in W.P.No.28374 of 2016
R.Kangadevi .. Petitioner in W.P.No.29443 of 2016
P.Mariya Thayanaayaki .. Petitioner in W.P.No.28759 of 2016

Vs.

1. Indira Gandhi Medical College and Research Institute, Kadirgama, Puducherry.
2. The Controller of Examinations, Puducherry University, Kalapet, Pondicherry - 605 014.
3. The Medical Council of India, Represented by its Secretary, MCI Building Pocket - 14, Sector - 8, Dwarka Phase - 1, New Delhi - 110 007. ... Respondents in all WPs

PRAYER : Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to a ward "2", "1", and "4" respectively to the petitioners as grace marks in practical test of General Medicine (Practical) in the III Professional Part II in W.P.No.28374 of 2016, in her pharmacology (Practical) in Part II and in Practical Test of ENT(Practical) in the III Professional Part-I in W.P.No.28759 of 2016 M.B.B.S., June 2016 examination as per the Medical Council Regulation.

For Petitioners : Mr.V.Raghavachari

For Respondents : Ms.Reena Iswarya
Government Advocate (Pondicherry) - R1
Mr.Stalin Abimanyu - R2
Mr.V.P.Raman - R3

C O M M O N O R D E R

These Writ Petitions in W.P.Nos.28374 and 28759 of 2016 have been filed by the students who have written final year M.B.B.S. examination and W.P.No.29443 of 2016 by the student who has written fourth year M.B.B.S. examination.

The grievance of the petitioners is that as per the Medical Council Regulations, if a student has passed all the subjects, except one subject, he has either failed in theory or practical, a maximum of 5 marks can be added as grace marks so as to enable him to get pass and enable him to proceed further. The petitioners are in need of "2", "1" and "4" marks respectively in their internal practicals to get pass in their examinations. In all these cases, the petitioners have passed in their external practicals and only in the internal practicals, they need grace marks to get pass in their examination.

2. In this connection, the learned counsel for the petitioners relied on the orders of this Court pertaining to the previous years, where awarding of grace marks to the candidates is a procedure, which has been adopted to enable them to succeed in their examination. Hence, they request for the grace marks and consequently declare them as passed candidates.

3. Per contra, the learned counsel for the second respondent has brought to the notice of this Court that by virtue of a letter dated 29.06.2016, the University has taken a specific stand that from the academic year 2015-2016, the question of grace marks is abolished and there is no question of revaluation. The learned counsel would also bring to the notice of this Court that this letter was put to test, before this Court in W.P.No.31157 of 2016 and batch, and this Court, by an Order dated 22.09.2016, has dismissed the batch of petitions upholding the validity of the letter. He would also contend that prior to 29.06.2016, the University was granting grace marks. But, thereafter, in pursuant to the letter, the Vice Chancellor has got every authority to pass the Order. He would also contend that the petitioners have not given any written representation to the respondents, before coming to this Court seeking the present remedy. However, he would also contend that even the grace mark is subject to the discretionary power, either by the Medical Council of India or by the University, which discretion has already been rejected in the earlier letter.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

5. The only grievance of the petitioners is that in earlier occasions, following the Medical Council Regulations, this Court has ordered to put 5 marks as grace marks, to the students who have failed only one subject and passed in all other subjects. Here, in all the three cases, the students have failed only in the practicals, that too in the internal assessment only. But, as rightly pointed out by the learned counsel for the second respondent, it is for the University to consider the case of the petitioners.

6. Considering the rival submissions, as the petitioners have not given any written representation to the ***second** respondent, prior to the filing of these writ petitions, the ***second** respondent is directed to consider the Writ Petitions as the representations of the petitioners and consider the same in accordance with law, especially taking into consideration the judgements of this Court prior to 29.06.2016 and also the subsequent judgements and also taking a lenient view within fifteen days from the date of receipt of a copy of this Order.

7. With the above direction, these Writ Petitions are disposed of. No Costs.

Sd/-
Assistant Registrar(CS VI)
Dt.7.11.16

***Amended as per order dt.14.11.16
in WP.28374/16**

**sd/-
Assistant Registrar
Dt.15.11.16**

//True Copy//

Sub Assistant Registrar

vrc
To

1. Indira Gandhi Medical College and
Research Institute, Kadirgama,
Puducherry.

2. The Controller of Examinations,
Puducherry University,
Kalapet,
Pondicherry - 605 014.

***To be substituted to the
order already despatched on
07.11.16.**

3. The Secretary,
The Medical Council of India,
MCI Building Pocket - 14,
Sector - 8, Dwarka Phase - 1,
New Delhi - 110 007.

+3cc to M/S.V.Raghavachari, Advocate Sr.***65353,354,&356**

+1cc to the Government Pleader for Pondicherry, Sr.60113, 60114,
60115

+1cc to Mr.Stalin Abimanue, Advocate Sr.59690

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