

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.18415 to 18417 of 2013
and
M.P.Nos.1 & 2 of 2013

1.Dr.R.Mohamed Yaseen ... Petitioner in W.P.18415/2013
2.Dr.S.Mohan Kumar ... Petitioner in W.P.18416/2013
3.Dr.Khaiya Bharathan ... Petitioner in W.P.18417/2013

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai.
2. The Tamil Nadu Private Dental College Association,
TPDCA, No.108, Pandy Bazaar, Rajalakshmi Mahal, III Floor,
T.Nagar, Chennai-17.
3. The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai, Guindy,
Chennai.
4. The Additional Director of Medical Education/
Secretary of Selection Committee,
Chennai-600 010.
5. The Dental Council of India,
rep. by its Secretary,
Aiwan-E-Galib Marg,
Kotla Road, New Delhi-110 002.
6. Sri Ramakrishna Dental College and Hospital,
SNR Road, Avaramapalayam,
Coimbatore-641 006.
7. The Chairman,
Committee to Regulate/Monitor the Admission,
F-1, DOTE Staff Quarters,
Gandhi Mandapam Road,
Chennai.

... Respondents in
all WPs

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the entire records pursuant to the Letter dated 27.06.2013 in SRDH/MDS/2013 on the file of the 6th respondent, consequent to the letter dated 03.6.2013 in Letter No.COA/MDS/Medical/365/2013 on the file of the 7th respondent and to quash the same.

For Petitioner : Mr.L.Chandrakumar
for Mr.S.Saravanan

For respondents : Mr.S.Pattabiraman, GA (For R1 & R4)
Ms.S.Seethalakshmi (For R5)
No appearance of R6, R7 & R2
Mr.Anand David for R3

COMMON ORDER

These writ petitions have been filed by the petitioners praying for issuance of a Writ of Certiorari, to call for the entire records pursuant to the Letter dated 27.06.2013 in SRDH/MDS/2013 on the file of the 6th respondent, consequent to the letter dated 03.06.2013 in Letter No.COA/MDS/Medical/365/2013 on the file of the 7th respondent, and to quash the same.

2.It is stated by the petitioners that the petitioners had completed B.D.S. Course in Sri Ramakrishna Dental College. Thereafter, they applied for M.D.S. Post Graduate in Dental Course and they appeared for the private dental college entrance examination conducted by the 2nd respondent on 27.05.2013 in Chennai. The results were announced on 29.05.2013 and the petitioners were selected and counseling was conducted on 30.05.2013. Thereafter, the 2nd respondent had issued allotment letters dated 30.05.2013 to the petitioners allotting seat in 6th respondent-college at Coimbatore. As per the allotment letter of the 2nd respondent, the 6th respondent has also admitted the petitioners in M.D.S., on payment of necessary fees. The petitioners have also been attending the classes from 31.05.2013. While so, the 6th respondent issued a letter dated 27.06.2013 stating that as per the letter No.CO/MDS-Medical/365/2013 dated 03.06.2013 of the Committee to Regulate/Monitor the admissions of students of professional courses by Self Financing Professional Colleges, the petitioners were not found as eligible for admission to the said course due to lack of minimum qualifying marks in the CET Examinations as specified in Government of Tamil Nadu G.O.(D).No.1289, Health & Family Welfare (MCA-1) Department, dated 11.12.2012 and DCI Regulation No.1-Section I Selection of Post Graduate Students. According to the

petitioners, they are fully qualified as per the requisite qualifications. Hence, the petitioners have filed the present writ petitions before this Court for the reliefs as stated supra.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioners submitted that only after verifying the qualifications of the petitioners, they were admitted in the MDS Course by the respondents. Now, the petitioners are on the verge of completing their course. Thus, the learned counsel for the petitioners sought for appropriate direction to the respondents. In this regard, the learned counsel for the petitioners has also relied upon the decision of this Court in the case of Ragas Dental College and Hospital and others Vs. The Tamil Nadu Dr.MGR Medical University and others, in W.P.Nos.25120 to 25122 & 26108 of 2014, dated 26.10.2015.

4. Heard both sides and perused the materials available on record.

5. As submitted by the learned senior counsel for the petitioner, in an identical case in Ragas Dental College and Hospital and others Vs. The Tamil Nadu Dr.MGR Medical University and others, in W.P.Nos.25120 to 25122 & 26108 of 2014, by common order dated 26.10.2015, this court has allowed the writ petitions. The relevant portions in the said order are extracted hereunder—

"3. The learned senior counsel appearing for the petitioners has submitted that while permitting the private institutions to take part in the entrance examination, in the case of P.A.Inamdar Vs. State of Maharashtra, ((2005) 6 SCC 537), the Apex Court did not fix any minimum marks. From the year 2007 onwards, Revised MDS Course Regulations, 2007, have not been given effect to till the passing of impugned order. There were instances in the past in which the petitioners as well as other private institutions admitted the students, who got less than 50% marks, which has been prescribed for admission to post graduate course. After the academic year 2013- 2014 also, no such student has been admitted. There is a delay in intimating the above said decision to the petitioners. At present, the students are on the verge of completing their course. Therefore, appropriate orders will have to be passed.

4.Learned counsel appearing for the first respondent submitted that the Regulations would govern the case of the petitioners. Having violated the Regulations, they cannot contend contrary. Equity of law would prevail. Therefore, no interference is required.

5.The facts as narrated above are not in dispute. Certainly, the Regulations would govern the case of the petitioners. Apart from that, there being no challenge to the Regulations, the decision of the Apex Court, as sought to be interpreted, cannot be accepted, since what is sought to be fixed is eligibility for admission to post graduate course. Eligibility is different from suitability. Therefore, this Court does not find any merit in the submission made by the learned senior counsel for the petitioners in this regard.

6.Coming to the other two submissions, admittedly, the students are on the verge of completing their course. They joined in the academic year 2013-2014. The said seats cannot be utilised for any other purpose at this point of time. There is no dispute about their clearance in the entrance test conducted by the University. There is some mistake on the part of the first respondent also in not taking appropriate action from the year 2007 onwards. In other words, though the Regulations have come into effect from 2007, they have not been implemented till the passing of the impugned order. Had the Regulations of 2007 been implemented strictly, the students of the petitioner institutions would not have been affected. The order impugned has also been passed one year after the admission made. Considering the said peculiar facts, this Court is inclined to allow the writ petitions.

7.Accordingly, all these writ petitions are allowed by setting aside the orders passed by the first respondent with a consequential direction to register the students admitted in the petitioners' institutions in the M.D.S. Course during the academic year 2013-2014 within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

The above decision is squarely applicable to the present facts of the case. Hence, by following the above decision, the present writ petitions also deserve to be allowed.

6. Accordingly, the impugned orders are set aside and the writ petitions is allowed. Consequently, Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The Secretary,
State of Tamil Nadu
Health and Family Welfare Department,
Fort St.George, Chennai.
2. The Tamil Nadu Private Dental College Association,
TPDCA, No.108, Pondy Bazaar, Rajalakshmi Mahal III Floor,
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No.69, Anna Salai, Guindy, Chennai.
4. The Additional Director of Medical Education/
Secretary of Selection Committee,
Chennai-600 010.
5. The Secretary,
Dental Council of India,
Aiwan-E-Galib Marg, Kotla Road, New Delhi-110 002.

+3cc's to Mr.S.Saravanan, Advocate, S.R.Nos.13363 to 13365
+1cc to Mr.Anand David, Advocate, S.R.No.13414
+1cc to the Government Pleader, S.R.Nos.13705 & 13704

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and
M.P.Nos.1 & 2 of 2013

ALA(CO)
CA(03/03/2016)