

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P. Nos.3052 to 3061 and 3072 of 2016 and
34344, 32626 and 33092 of 2015

Dr. V.Sriram	...Petitioner in W.P. No. 3052 of 2016
Dr. R.Saraswathi	...Petitioner in W.P. No. 3053 of 2016
Dr. Hemapriya	...Petitioner in W.P. No. 3054 of 2016
Dr. Sivagamasundari	...Petitioner in W.P. No. 3055 of 2016
Dr. Sukanya	...Petitioner in W.P. No. 3056 of 2016
Dr. Diego Edwin	...Petitioner in W.P. No. 3057 of 2016
Dr. Velayutharaj	...Petitioner in W.P. No. 3058 of 2016
Dr. K.Anandaraj Vaidy	...Petitioner in W.P. No. 3059 of 2016
Dr. Ronald Bosco	...Petitioner in W.P. No. 3060 of 2016
Dr. L.Ravichandran	...Petitioner in W.P. No. 3061 of 2016
Dr. Sony Joseph	...Petitioner in W.P. No. 3072 of 2016
Dr. Sandeep Suresh	...Petitioner in W.P. No. 34344 of 2015
Dr. S.Swara Sahithya	...Petitioner in W.P. No. 32626 of 2015
Dr. Prathula Sivakumar	...Petitioner in W.P. No. 33092 of 2015

Vs

1. The Union of India
Rep by the Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi.

2. The Secretary
Medical Council of India,
Pocket-14, Sector-A, Dwaraka Phase-I,
New Delhi.

3. The Secretary,
Tamil Nadu Medical Council,
No. 914, Poonamallee High Road,
Arumbakkam, Chennai. ...Respondents 1 to 3 in
W.P.3052/16 to 3061/16 and 3072/16

4. The Dean,
Mahatma Gandhi Medical College and Research Institute,
Pondi Cuddalore, Main Road, Pilaiyar Kuppam, Puducherry.

5. The Vice Chancellor,
Sri Balaji Vidhyapeeth University,
Pondi Cuddalore Main Road,
Pilaiyar Kuppam, Puducherry.

...R4, R5 Respondents in W.P. Nos. 3053,
3054, 3055, 3056, 3057,
3058, 3061, and 3072 of 2016.

4. The Dean,
Sri. Manakula Vinayagar Medical College and Hospital,
Madagadipet, Puducherry.

5. The Vice Chancellor,
Pondicherry University, Kalapet, Pondicherry.

... Respondents 4 & 5 in W.P. Nos.
3052, 3059, and 3060 of 2016.

1. The Secretary to Government
Department of Health and Family Welfare,
Government of Tamil Nadu,
Fort St. George, Chennai.

2. The Director of Medical Education,
E.V.R. Periyar Salai, Kilpauk, Chennai.

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

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

5. The Dean,
PSG Institute of Medical Sciences & Research,
Peelamedu, Coimbatore.

6. The Secretary,
Tamil Nadu Medical Council,
No. 914, Poonnamallee High Road,
Arumbakkam, Chennai.

... Respondents in W.P. Nos.
34344, 32626 and 33092 of 2015.

The Controller of Examinations
National Board of Examinations
National Board of Examinations Office
PSP Area
Sector -9 Dwaraka New Delhi -110 077.

... 7th Respondent in W.P. 32626/15

Prayer in W.P. No. 3052 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. 14008025 dated 17.11.2015 for the Master of Pathology M.D. By receiving his application in Token No. 16656 taking into consideration of the amount of Rs. 1500/- towards fees for Registration.

Prayer in W.P. No. 3053 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the

petitioner with Registration No. SB09183 Serial No. 005 for the Master of Microbiology MD by receiving her application in Token No. 23435 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 3054 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. UIN1201051002 dated 29.04.2015 for the Master of Community Medicine MD by receiving her application in Token No. 23382 after receiving the necessary registration fee of Rs. 2000/-.

Prayer in W.P. No. 3055 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. 1101111003 Serial No. 26 for the Master of Microbiology M.D. by receiving her application in Token No. 23416 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 3056 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. UIN1201111002 dated 29.04.2015 for the Master of Microbiology MD by receiving her application in Token No. 23488 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 3057 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. UIN1201111001 dated 29.04.2015 for the Master of Microbiology MD by receiving her application in Token No. 23355 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 3058 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. SB 09022 Serial No. 007 (Institutional Code - 01) for the Master of Biochemistry MD by receiving his application in Token No. 23439 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 3059 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. 13MDP012 dated 08.11.2014 for the Master of Pathology MD by receiving her application in Token No. 23366 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 3060 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. 14008024 Serial No. C23/12/17988 dated 07.11.2015 for the Master of Pathology MD by receiving his application in Token No. 14957 taking into consideration of the amount of Rs. 1500/- towards fees for Registration.

Prayer in W.P. No. 3061 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. 1101111002 (Institutional Code 01) Serial No. 25 for the Master of Microbiology MD by receiving her application in Token No. 23442 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 3072 of 2016 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 3rd respondent to register the name of the petitioner with Registration No. UIN1201041002 for the Master of Biochemistry MD by receiving his application in Token No. 23736 taking into consideration of the amount of Rs. 2000/- towards fees for Registration.

Prayer in W.P. No. 34344 of 2015 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 6th respondent to register the name of the petitioner with Registration No. 22112141 for the Post Graduate in ENT (MS) by receiving his application in Token No. 20022 dated Nil after receiving the necessary Registration fee of Rs. 1000/-.

Prayer in W.P. No. 32626 of 2015 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 6th respondent to register the name of the petitioner with Registration No. 95594 for the Diploma in ENT (DLO) by receiving her application in Token No. 19605 dated Nil after receiving the necessary Registration fee of Rs. 1000/-.

Prayer in W.P. No. 33092 of 2015 : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 6th respondent to register the name of the petitioner with Registration No. 112548 for the Post Graduate in ENT (MS) by receiving her application in Token No. 19937 dated Nil after receiving the necessary Registration fee of Rs. 1000/-.

For Petitioners : Mr.S.Subbiah for Y.Praksh &
B.Jeevankumar.

(W.P. Nos. 3052 to 3061 and 3072 of 2016)

For Petitioners : Mr.S. Subbiah
(W.P. Nos. 34344, 32626 and 33092 of 2015)

For Respondent No. 1: Mr.L.Murugan
Central Govt. Standing Counsel

For Respondent No. 2: Mr.M.T.Arunan (For R4 in W.P.
Nos.34344, 32626 and 33092 of 2015)
R7 in W.P.32626/15

For Respondent No. 3: Mr.Veerakathiravan (For R6 in W.P.
Nos.34344, 32626 and 33092 of 2015)

For Respondent No. 4 : Mr.L.Swaminathan
(W.P. Nos. 3052, 3059, 3060 of 2016)

For Respondent No. 5 : Mr.Stalin Abhimanyu
(W.P. Nos. 3052, 3059, 3060 of 2016)

For Respondent Nos. 4
and 5 : Mr.Kandanduraisamy
(W.P. Nos. 3053,3054, 3055, 3056, 3057,
3058, 3061, 3072 of 2016)

For Respondent Nos.
1 and 2 : Mr.S.Subbiah
(W.P.Nos.34344, and 33092 of 2015)
Mrs.P. Rajalakshmi G.A. for R1-R2 in
W.P.32626/15

For Respondent No. 3 : Mr.Abdul Saleem
(W.P.Nos.34344, 32626 and 33092 of 2015)

For Respondent No. 5 : Mr.Muthumani Doraisamy
(W.P.Nos.34344, 32626 and 33092 of 2015)

COMMON ORDER

As the issues involved in all the writ petitions are one and the same, they have been taken up together and disposed of by a common order.

2. The petitioners have successfully completed the M.B.B.S. Course in various streams under the Pondicherry University. Thereafter, they have joined post graduation under the respective respondent - College. It is the grievance of the petitioners that though, they have completed the course, the petitioners were not permitted to register their names for the additional qualification in the post graduate course. Therefore, they have come before this Court by way of filing these present writ petitions.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

4. Considering the similar issue governing the very same facts, wherein, there was an issue of recognition/permission at the time of entry of the petitioner into the post graduation course, this Court was pleased to pass appropriate orders in batch case W.P. Nos. 26326 to 26331, 26333 and 26334 of 2014 dated 04.01.2016, in the following manner;

"3. In all these cases, at the time of joining the course by the petitioners, there was a due recognition/permission granted by the respondent Nos. 1 to 3, therefore, the petitioners duly joined the course with the respondent No. 4 Institution. It appears that the difficulty has arisen, since the respondent No. 2 has felt certain deficiencies, which have not been rectified by the respondent No. 4. Therefore, in the schedule of the Medical Council of India, the respondent No. 4 Institution was not shown. Resultantly, the petitioners could not be registered by the respondent Nos. 2 and 3. It is not in dispute that the petitioners have completed their respective courses having written their examinations conducted by the respondent No. 3 and passed out successfully.

4. The learned counsel appearing for the respondent No. 2 submitted that the compliance on the part of the respondent No. 4 will have to be verified and insofar as, one particular course is concerned, a decision is likely to be taken shortly.

5. This Court, while considering a similar issue in W.P. No. 16812 of 2015, after taking note of the earlier decision of the Apex Court and the judgement of the Division Bench of the Bombay High Court, by judgement dated 11.09.2015, was pleased to hold as follows:

"16. Thus, it is clear that for a similarly placed students, though studying in a different College, recommendations were indeed made by the 2nd respondent and accepted by the Government viz., the 6th respondent (since impleaded). There is no reason why the said yardstick shall not be adopted to the students of the 5th respondent. There is no material to hold that case of the petitioners is different with that of the students in that case. Hence, this decision coupled with the observation in paragraph No. 42 of the judgment of Apex Court in Medical Council of India Vs. M.G. R. Educational and Research Institute University and another, ((2015) 4 SCC 580) would certainly come to the aid of the petitioners. Though in the said decision, the facts would reveal the illegality committed by the College, the present case is a better one as at the time of entry of the petitioners, there was indeed a proper permission and hence, the ratio laid down therein would apply to the case on hand with all fours. For the same reasoning, this Court is of

the view that the direction given thereunder to the students to undergo the examination once over again may not have an application to the case on hand, since in that case, examinations have been conducted by the Management as against the present case, when it was done by the 4th respondent University. There is also no quarrel about the nature of examinations conducted by the 4th respondent University. Perhaps, that is the reason why even the 2nd respondent did not impose any condition on the students of Shri Satya Sai Medical College. Therefore, this Court is of the view that the petitioners are entitled to succeed.

17. Accordingly, the 2nd respondent is directed to send his recommendations to the 6th respondent by only taking into consideration of the piquant situation in which the petitioners and other students joined in the year 2009-10 are placed, within a period of four weeks from the date of receipt of a copy of this order and based on the same, the 6th respondent will have to pass appropriate orders to include the petitioners along with the 5th respondent for the relevant year within a period of eight weeks thereafter, thus making it clear that it is applicable only to the students, who joined in that particular year. The order passed in the writ petition may also be made applicable to the students who joined in the year 2008-09, as they are also similarly placed. This direction, though positive in nature, is passed also by taking note of the decision taken by the 2nd respondent in respect of Shri Satya Sai Medical College, which was duly accepted by the 6th respondent. Insofar as the next batch of students after the petitioners are concerned, the respondents viz., particularly, the 2nd respondent will have to take appropriate decision in consultation with the other respondents, if so required. As the petitioners would be deprived from being considered for the P.G. Course, the respondents are directed permit the petitioners to take part in the selection process of the said P.G. Course, as if they have valid and recognised degree. Considering the facts of the case, this Court is of the view that the 2nd respondent could have been more diligent while deciding not to recognise the degrees, by taking appropriate steps to protect the interests of the students and so is the case of the other respondents. Therefore, this Court deems fit that it would be appropriate for the 2nd respondent to take appropriate steps much in advance in future when a similar situation might arise."

6. The ratio laid down in the aforesaid judgement shall be applicable to the case on hand. It is not as if, the petitioners are at fault. The facts as narrated are not in dispute. In such view of the

matter, this Court is of the considered view that the writ petitions will have to be allowed. Accordingly, a direction is issued to the respondent Nos. 2 and 3 to register the name of the petitioners in respective courses being M.D.Forensic Medicine, M.D. Community Medicine and M.D.Microbiology, within a period of eight weeks from the date of receipt of copy of this order. It is hereby made clear that the order passed by this Court will not stand in the way of the respondent No. 2, while taking appropriate action, in accordance with law, against the respondent No. 4.

7. With the above directions, the writ petitions are disposed of. Consequently connected miscellaneous petitions are closed. No costs.'

5. In the light of the order referred to above, the present writ petitions are allowed in the same manner. Accordingly, a direction is issued to the respondent Nos. 2 and 3 in W.P. Nos.3052 to 3061 and 3072 of 2016 and to the respondent Nos. 4 and 6 in W.P. Nos 34344, 32626 and 33092 of 2015, to register the name of the petitioners in respective courses within a period of eight weeks from the date of receipt of copy of this order. It is hereby made clear that in W.P. Nos.3052 to 3061 and 3072 of 2016 the order passed by this Court will not stand in the way of the respondent No. 2, while taking appropriate action, in accordance with law, against the respondent No. 4. While in writ petition Nos. 34344, 32626 and 33092 of 2015, the order passed by this Court will not stand in the way of the respondent No. 4, while taking appropriate action, in accordance with law, against the respondent No. 5.

6. With the above directions the writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

rms

To

1. The Ministry of Health and Family Welfare,
The Union of India
Nirman Bhawan, New Delhi.

2. The Secretary
Medical Council of India,
Pocket-14, Sector-A, Dwaraka Phase-I,
New Delhi.

3. The Secretary,
Tamil Nadu Medical Council,
No. 914, Poonamallee High Road,
Arumbakkam, Chennai.

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11. The Dean,
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Peelamedu, Coimbatore.

12. The Controller of Examinations
National Board of Examinations National
Board of Examinations Office PSP Area
Sector -9 Dwaraka New Delhi -110 077.

11 ccs to Mr.Y. Prakash, Advocate, sr. 5657
2 ccs to Mr. Subbiah, Advocate, sr. 5645 and 5646
2 ccs to Mr.D. Saravanan, Advocate, Sr. 6677 and 6678
2 ccs to M.M.T. Arunan, Advocate, sr. 5658
3 ccs to Mr.S. Subbiah, Advocate, sr. 6292
1 cc to Mr.Muthumani Doraisami, Advocate, sr. 6271
1 cc to Mr.Veerakathiravan, Advocate, Sr. 6577
1 cc to Government Pleader, Sr. 6099

W.P. Nos.3052 to 3061 and 3072 of 2016 and
34344, 32626 and 33092 of 2015

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