

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5736 of 2016

Dr.P.Prasanna

.. Petitioner

Vs.

1. The Union of India,
Rep. by the Ministry of Health,
Office of the Health Minister, New Delhi.
 2. The President,
Medical Council of India,
Pocket 14, Sector 8,
Dwarka, Phase-I, New Delhi.
 3. The President,
Tamil Nadu Medical Council,
No.914, Poonamallee High Road,
Arumbakkam, Chennai.
 4. The Vice Chancellor/The Dean,
Mahatma Gandhi Medical College and
Research Institute,
Sri Balaji Vidyapeeth University,
Pondy Cuddalore Main Road,
Pillayar Kuppam, Puducherry.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the second and third respondents to register the name of the petitioner for M.D. Forensic Medicine.

For Petitioner : Mr.R.Manickavel

For Respondents : Mr.Ramesh Kumar Chopra, CGSC for R-1
Mr.V.P.Raman for R-2
No appearance for R-3
Mr.L.Swaminathan for R-4

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the second and third respondents to register the name of the petitioner for M.D. Forensic Medicine.

2. It is averred by the petitioner in the affidavit filed in support of the Writ Petition that he completed MBBS course from Annamalai University, Chidambaram in March 2011, after which, he was issued with Course Completion Certificate on 14.02.2011 and registered himself as Medical Practitioner with the third respondent on 04.03.2011, after which, the petitioner had been preparing for the entrance examination for his post-graduate. After a year, the petitioner joined the post-graduation course in M.D. Forensic Medicine in the fourth respondent-College on 08.05.2012 for the academic year 2012-2015. The second respondent gave a letter of intent, dated 25.03.2011 for starting M.D. Forensic Medicine course with annual intake of two students per year with prospective effect from the academic session 2011-2012. The above said letter of intent was issued by the second respondent under Section 10(a) of the Indian Medical Council Act. Subsequently, the fourth respondent issued a letter of permission, dated 19.04.2011 from the second respondent, which was published in the website of the fourth respondent. Based on the aforesaid letter of intent and letter of permission, the fourth respondent started taking admission for various post graduate courses like Forensic Medicine, Pharmacology, Anatomy etc. After seeing the above official permission by the second respondent, the petitioner joined M.D. Forensic Medicine course in May 2012 in the fourth respondent-College and he was the only candidate admitted to the said course out of the permitted two seats. Thereafter, he completed the course in April 2015 and the Provisional Certificate was also issued by the fourth respondent on 29.04.2015. Though the petitioner successfully completed the course, his registration in M.D. Forensic Medicine Degree with the second and third respondents could not be done and hence, he is not able to specialize his practice or avail Government job and even the Private Medical Colleges and the Government Medical Colleges in Tami Nadu and Pondicherry do not offer any job to the petitioner as Assistant Professor in the respective Department, thereby, the petitioner's career got affected, since the communication with regard to the recognition of the fourth respondent-College for M.D. Forensic Medicine course has not been issued by the second respondent-MCI.

3. It is further stated by the petitioner that due to some deadlock between the second and fourth respondents, recognition was not accorded to the fourth respondent and many students like the petitioner, who have joined in various disciplines like M.D. Anatomy, Bio-Chemistry, Pharmacology, Forensic Medicine, Community Medicine, Microbiology, etc., could not register their names before the second and third respondents and start their practice in their respective disciplines.

4. It is the stand of the petitioner that all students joined the fourth respondent-College because prior permission was issued by the second respondent-MCI, but after the completion of the course and even after issuance of the provisional and course completion certificate, their registrations and resumption of their practice had been kept in abeyance till date. The second respondent neither informed by any manner nor notified the general public or students that the institution had some shortfalls or non-compliance of any statutory requirements or academic stipulation or conditions as the second respondent proposed to de-recognise the institution for certain non-compliance. Since the respondents 2 and 4 had not registered the name of the petitioner to start his practice, though he successfully completed his course by April 2015, coupled with the fact that the Provisional and Course Completion Certificate had also been obtained and that the petitioner has lost ten precious months of practice, he has filed this Writ Petition for the above said relief.

5. Heard both sides.

6. When the Writ Petition is taken up for consideration, learned counsel for the petitioner submitted that in an identical case in W.P.Nos.26326 to 26331, 26333 and 26334 of 2014, by order dated 04.01.2016, this Court held as follows:

"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 to 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 petition 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."

7. Following the above order of this Court in W.P.No.26326 to 26331, 26333 and 26334 of 2014, dated 04.01.2016, this Writ Petition is disposed of, directing the respondents 2 and 3 to register the name of the petitioner in M.D. Forensic Medicine course, within a period of eight weeks from the date of receipt of a copy of this order, making it clear that the order passed by this Court will not stand in the way of the second respondent while taking appropriate action in accordance with law against the fourth respondent-College. No costs.

cs

-s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

Copy to

1. The Union of India,
Rep. by the Ministry of Health Office,
Office of the Health Minister, New Delhi.

2. The President,
Medical Council of India,
Pocket 14, Sector 8,
Dwarka, Phase-I, New Delhi.

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

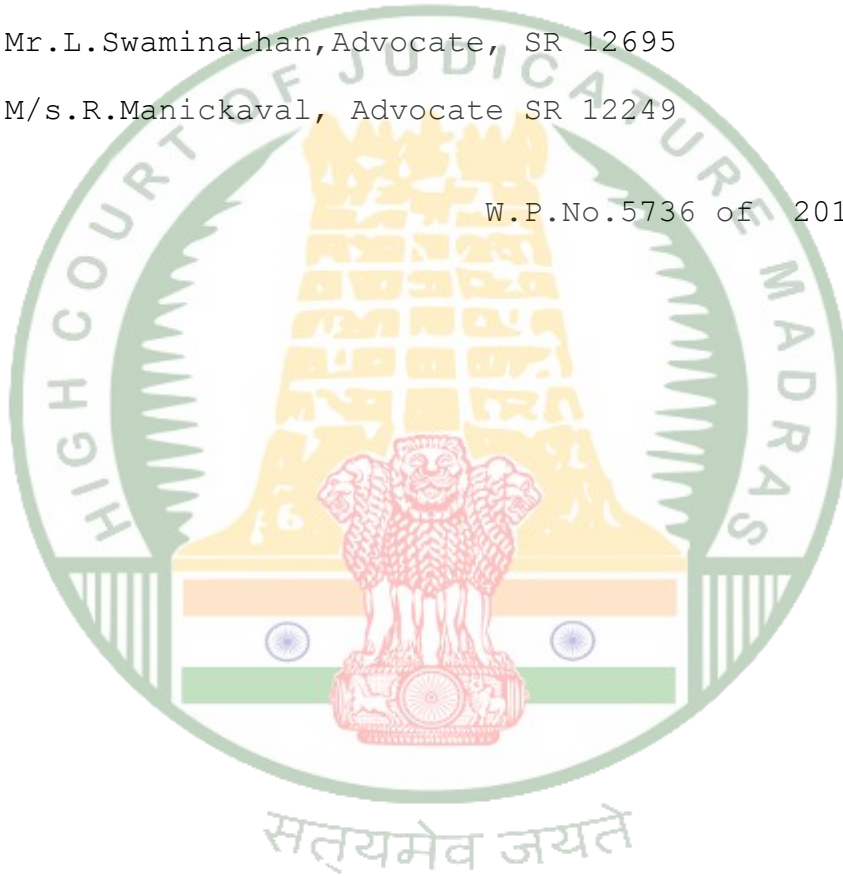
+ 1 cc to Mr.V.P.Raman,Advocate, SR 12794

+ 1 cc to Mr.L.Swaminathan,Advocate, SR 12695

+ 1 cc to M/s.R.Manickaval, Advocate SR 12249

ctk(co)
prk2/3

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