

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.629 of 2017

S.Gracy Priscilla

... Petitioner

Vs.

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

2 The Controller of Examinations
Pondicherry 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

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and Mandamus call for the records on the in proceedings PU/ CE/ E5/ 2016-2017/895, dated 23.12.2016, on the file of 2nd respondent and quash the same illegal, incompetent and further to direct the second respondent to award "2" marks to the petitioner as grace marks, in her practical Test of General Medicine (Practical) in the III Professional part II M.B.B.S, June 2016 examinations as per the Medical Council Regulation.

For Petitioner : Ms.V.Srimathi

For Respondents : Mrs.Reena Iswariya for R1
Additional Government Pleader (P)
Mr.Stalin Abimanyu for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The writ petition has been filed challenging the impugned

order dated 23.12.2016, rejecting the application of the petitioner seeking grace marks.

3. According to the petitioner, she is a medical student. She has passed in all the subjects in the final year except in only one subject and as per the Medical Council of India directions/ regulations, upto maximum of five marks can be granted to a student who has failed in only one subject. In the case of this particular student, since she has failed in only one subject and that too if two marks is given as grace marks then automatically she will pass.

4. The learned counsel appearing for the petitioner would submit that earlier in similar cases, this Court has considered and has directed awarding of grace marks mainly on the ground that it is in tune with the MCI Regulations and prayed for appropriate directions for grant of grace marks.

5. The learned counsel appearing for the second respondent submits that the MCI Regulations is only recommendatory in nature. Infact, the MCI Regulations says that grace marks can be granted at the discretion of the University. Therefore, definitely, it cannot be called as a direction of the MCI. Even otherwise, it is a policy matter, can a student who has failed can be allowed to pass is the question which was placed to the University and the University and the MCI which is the Apex body has considered the subject and they have clearly stated that it would not be applicable insofar as the Pondicherry University is concerned. Therefore, it is the question of the student's ability and the right to pass can only be determined by the University and that cannot be made as a right or claimed as a right by any student. Therefore, University has decided that a failed student cannot be considered for any reason whatsoever for giving grace mark for passing. In that manner, the order of the second respondent is correct.

6. Heard both sides and perused the materials placed on record.

7. On a careful note, this Hon'ble Court has looked into this matter. Here is a case where a medical student in whose hands lies the life of a person now comes to the Court. Therefore, having failed should she be given grace marks to pass so that, she can deal with the life of the others. Can that be given. Definitely, the answer is no. In that background, when we analyze the order, the University, earlier, as opined by the MCI notification/ Regulations, taking into consideration the different credence or the different grades has recommended that grace marks upto five marks can be given for the purpose of

passing a failed student and especially, if a student has failed in only one subject.

8.As rightly pointed out in the impugned order as well as in the arguments of the learned counsel appearing for the second respondent, that the direction clearly specifies grace marks upto a maximum of five marks may be awarded at the discretion of the university to a student who has failed only in one subject but has passed in all other subjects. Hence, the MCI Regulation has very categorically stated that at the discretion of the University, grace marks can be given to a student who has failed. Now, the University in the Apex body meeting in the University, basing upon the quantum and merits of the student and passing of the student in that meeting, they have now come to a conclusion that here afterwards, they are not going to implement grace marks system. In that view of the matter, they have rejected the application of the petitioner.

9.Furthermore, as rightly pointed out, as far as the standard of a student in passing or going out of college is concerned, prerogative of the University to decide upon the merit of the student, as rightly pointed out, as I have stated earlier, a student who is going to deal with the life of many persons even if she fails in only one subject, even in one mark, a failed candidate is a failed candidate. Therefore, the application of seeking grace marks has been rightly rejected.

10.Though an argument was raised that in earlier cases, as per the direction of this Hon'ble Court, the system was allowed, I think this Court can come to a right conclusion at a later point of time.

11.This Court do not find any reason to interfere with the impugned order and the writ petition deserves to be dismissed. Accordingly, the writ petition is dismissed. No costs.

sd/

Assistant Registrar (CCC)

/true copy/

Sub Assistant Registrar

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To

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

2 The Controller of Examinations
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3 The Medical Council of India
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+1cc to Mr.Stalin Abimanyu Advocate Sr.No.3084.

+1cc to Mr.V.Raghavachari, Advocate Sr.No.2317.

W.P.No.629 of 2017

KSJ(CO)
GN(14/02/2017)



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