

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2017

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 474 of 2017
and
W.M.P. No. 506 of 2017

S. Dhivagar

... Petitioner

Versus

1. The Director
Jawaharlal Institute of Postgraduate Medical
Education and Research (JIPMER)
Danvantari Nagar
Puducherry - 605 006

2. The Dean
Jawaharlal Institute of Postgraduate Medical
Education and Research (JIPMER)
Danvantari Nagar
Puducherry - 605 006

... Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records on the file of the second respondent culminating in the impugned order No.J1 Dean (A)/33/2016 dated 03.01.2017 and quash the same and issue a consequential direction directing the respondents to declare the final year part-II (NS) examination (Nov/Dec-2016) result of the petitioner enabling him to continue his further studies (House Surgeon).

For Petitioner : Mr. Vijayan
for M/s. Karan & Uday

For Respondents : Mr. M.T. Arunan

ORDER

The petitioner calls in question the order dated 03.01.2017 passed by the second respondent. By the said order, the second respondent refused to declare the final MBBS results of the petitioner on the ground that a criminal case is pending against the petitioner and until the final conclusion of the case, the result cannot be declared. It is this order dated 03.01.2017 of the second respondent which is challenged in this writ petition.

2. The petitioner appeared for the written examination conducted by the respondents on 07.06.2009 for admission to M.B.B.S. course. The petitioner was declared as selected and he was admitted in the first year M.B.B.S. course. The petitioner also attended the classes from July 2009. While so, it was alleged by the respondents that the petitioner and three other candidates appeared for such examination by impersonating the candidate for whom hall tickets have been issued. In other words, it is alleged that the petitioner did not write the entrance examination on 07.06.2009 and in his place, some other person has written the entrance examination. Based on such allegation, on 01.04.2010, the petitioner was suspended from pursuing his MBBS course and he was not permitted to attend the classes. The petitioner therefore filed WP No. 8063 of 2010 before this Court praying for issuing a Mandamus directing the respondents to permit him to attend the classes, pending the criminal case. The writ petition was dismissed on 19.01.2011 against which the petitioner filed W.A. No. 179 of 2011 before the Division Bench of this Court. The Division Bench of this Court, by judgment dated 09.03.2011, allowed the writ appeal. As against the same, the respondents have filed Special Leave to Appeal (Civil) No. 12307 of 2011 and it was dismissed by the Honourable Supreme Court on 24.07.2012. Thereafter, the petitioner was permitted to undergo the course but his results were not declared.

3. The learned counsel for the petitioner would contend that the petitioner has now completed the five year course. As per the Syllabus, he has to undergo one year House Surgeon course after completing the five years course. However, the results of the petitioner has not been declared so far. Therefore, the learned counsel for the petitioner prayed this Court to direct the respondents to publish the results of the MBBS course so as to enable him to undergo the further studies.

4. The learned counsel appearing for the respondents, by placing reliance on the counter affidavit, opposed the writ petition. According to the learned counsel for the respondents, the Division Bench of this Court, in the judgment dated 09.03.2011 in W.A. No. 179 of 2011 has clearly held that the petitioner is entitled to pursue his MBBS course of study and it shall be subject to the result of the criminal case pending in C.C. No. 393 of 2010 on the file of the learned Judicial Magistrate No.II, Puducherry. While so, even before completion of the criminal case, the petitioner ought not to have filed the present writ petition and therefore he prayed for dismissal of the writ petition.

5. I heard the learned counsel for the petitioner and perused the materials placed on record. It is stated that the petitioner has completed five years MBBS course but his results are not published. In other words, the result of the petitioner from the first year to the fifth year has not been published. According to the petitioner, unless his result are declared, he will not be in a position to take up further studies. During the course of arguments, it is stated that the

examination for the House Surgeon Course will be conducted only after six months and therefore, this Court is of the view that if a direction is issued to the learned Judicial Magistrate No.II, Puducherry to expedite the trial in C.C. No. 393 of 2010 and to dispose of the same at an early date, the result of the petitioner will be declared by the respondents depending upon the verdict in the criminal case and it will also enable the petitioner to decide his future course of action. In other words, if the petitioner passed in all the subjects, he can proceed with the higher studies and if he has failed in any one of the subjects, even then, he has to wait to re-write the examination, which is also likely to take place in another six months. The learned counsel for the respondents also brought to the notice of this Court that the trial in C.C. No. 393 of 2010 is in an advanced stage.

6. Having regard to the above facts, without examining the validity or otherwise of the order which is impugned in this writ petition, the learned Judicial Magistrate No.II, Puducherry is directed to expedite the trial in C.C. No. 393 of 2010 on its file and to dispose it of on merits within a period of three months from the date of receipt of a copy of this order. The petitioner and the respondents are directed to extend their cooperation for expeditious completion of the criminal case so that the criminal case will come to an end which will decide as to whether the petitioner is guilty of the offence complained of and also the consequences that may flow therefrom.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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Puducherry - 605 006

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+2 cc to Mr.M.T.Arunan, Advocate, sr 11617