

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.3.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

Writ Appeal No.189 of 2017

Medical Council of India
Pocket 14, Sector 8
Dwarka, Phase - I, B
New Delhi 110 077.

.. Appellant

Vs.

1. Dhiraj Singh

2. The Registrar

Tamil Nadu Dr.MGR Medical University
No.69, Anna Salai
Guindy
Chennai 600 032.

3. The Principal

Christian Medical College & Hospital
Ida Scudder Road
Vellore
Tamil Nadu 632 004.

... Respondents

Appeal under Clause 15 of Letters Patent filed against the order dated 29.11.2016 in W.P.No.36376 of 2016.

Prayer in W.P.36376/16:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ Of Mandamus Directing the respondents herein to permit the petitioner to join the Course D.M. Cardiology in the 3rd respondent College in the academic year 2016-2017 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Appellant	:	Mr.V.P.Raman
For Respondent-1	:	Mr.T.Poornam
For Respondent-2	:	Mr.P.R.Gopinathan
For Respondent-3	:	Mr.Krishna Srinivas
		For M/s. Ramasubramanian Associates

J U D G M E N T

(Delivered by the Hon'ble Acting Chief Justice)

The writ appeal is directed against the order of the learned single Judge dated 29.11.2016 made in W.P.No.36376 of 2016.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents 1, 2 and 3 respectively.

3. The first respondent filed the writ petition seeking a direction to the appellant and respondents 2 and 3 to permit him to join the course of D.M. Cardiology in the third respondent College in the academic year 2016-2017. Admittedly, the first respondent was the fourth candidate in the waitlist in D.M.Cardiology Course. Since the candidates 1 to 3 in the waitlist had already joined the Course, the next candidate to get admission was the first respondent. On 31.8.2016, one candidate who had already been selected, orally informed the third respondent that he was not willing to pursue the course and therefore, one seat fell vacant and it was not filled up.

4. The first respondent, contending that had he been communicated about the unwillingness of the candidate who had already been selected in pursuing the course, he would have joined the course immediately and since the third respondent failed to do so, the first respondent sought a direction to grant admission to him in the third respondent Institution.

5. The learned single Judge taking note of the submissions made on behalf of both sides and also taking note of the ratio laid down by various High Courts that valuable seats of D.M.Cardiology should not go waste, directed the appellant to consider the first respondent for admission in the D.M.Cardiology Course, in the third respondent institution, within a period of two weeks.

6. According to the learned counsel for the appellant, the last date for admission to the super specialty medicine courses was 31st August 2016 and therefore, no admission could be made thereafter and that if there was any vacant seat, it would be deemed to have lapsed. It is contended by the learned counsel for the appellant that the third respondent was not aware of the unwillingness of the candidate who had already been selected, as alleged by the first respondent, on 31.8.2016 and even assuming the same was informed to the third respondent on 31.8.2016 itself, since no payment could be made after 4 pm, the first respondent could not have been granted admission thereafter.

7. Indisputably, the first respondent was the fourth candidate in the waiting list. Though the third respondent was not aware of the unwillingness expressed by the selected candidate in pursuing the course on 31.8.2016, on coming to know about the same thereafter, the third respondent ought to have intimated the same to the first respondent immediately, in view of the fact that one seat of D.M.Cardiology Course would go waste for three years, unless it is filled.

8. A perusal of the order of the learned single Judge would make it clear that the learned single Judge, only after taking note of the decisions of the Delhi High Court and Punjab and Haryana High Court and considering the fact that one seat fell vacant on 31.8.2016 itself, which was the cut off date for admission and also the ratio that a valuable seat should not go waste, directed the appellant to consider the case of the first respondent for admission.

9. We are, therefore, of the considered opinion that the order of the learned single Judge has to be upheld. Accordingly, the writ appeal is dismissed. The appellant is directed to grant admission to the first respondent in the third respondent Institution within a period of one week from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, CMP Nos.2988 and 3676 of 2017 are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

kpl

To

1.The Registrar
Tamil Nadu Dr.MGR Medical University
No.69, Anna Salai
Guindy,Chennai 600 032.

2.The Medical Council of India,Pocket-14,Sector-8,Dwarka Phase I,New Delhi-11077.

3.The Principal,Christian Medical College & Hospital,
Ida scudder Road,Vellore,Tamilnadu-632004.

+1cc to M/s.S.Raghunathan,Advocate sr.14812

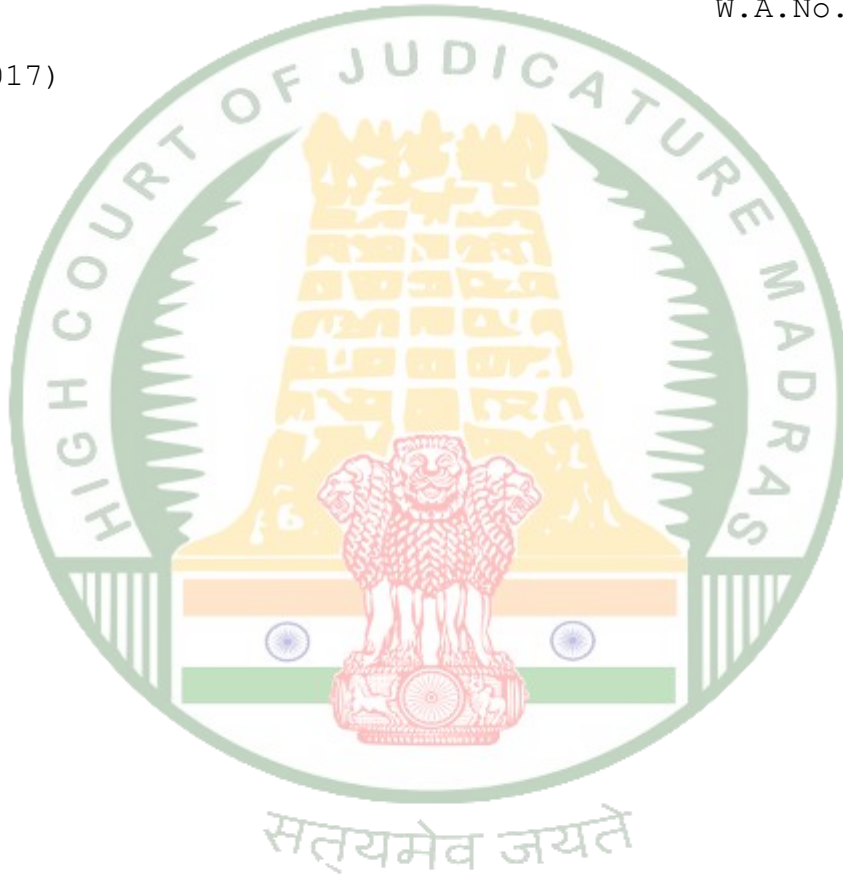
+1cc to M/s.P.R.Gopinathan,Advocate sr.15040

+1cc to M/s.S.Ramasubranmaniam,Advocate sr.15065

+1cc to M/s.V.P.Raman,Advocate sr.14823

W.A.No.189 of 2017

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