

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-11-2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.25449 of 2017

and

W.M.P.Nos.26889 and 26890 of 2017

Muhammed Ali Kambran

... Petitioner

Vs

1.Indira Gandhi Medical College  
and Research Institute,  
Represented by its Director -Principal,  
Kathirkamam, Puducherry-605009.

2.The Controller of Examinations,  
Pondicherry University,  
Kalapet, Pondicherry-605014.

3.The Medical Council of India,  
Represented by its secretary,  
MCI Building Pocket-14  
Sector-8, DwarakaPhase-1,  
New Delhi - 110 077.

.... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in proceedings of 2nd respondent in PU/CE/E5/2017-18/171 dated 24.05.2017 and to quash the same and to direct the 2nd respondent to award grace mark of 5 marks in Forensic Medicine examination conducted in June 2017.

For Petitioner : Ms.M.Devi Rudra

For Respondents: Mr.Stalin Abhimanyu (for R2)

Standing counsel

Mr.V.P.Raman (for R3)

Standing counsel

O R D E R

The petitioner was selected by the CENTAC for admission into medical course in the academic year 2014-15. The petitioner wrote the second Professional examination and in one paper

namely forensic medicine the petitioner was declared failed as the petitioner secured only 55 marks out of 120 in theory, while the petitioner ought to have secured 60/120 to be declared as pass. The petitioner sought for 5 marks as grace marks and to be declare him as pass in Forensic Medicine. However, the University clarified by communication dated 24.05.2017 addressed to the various medical colleges regarding awarding of grace marks that the grace marks would be awarded for papers only if the candidate failed in single subject while appearing for all subjects prescribed for that particular session and if the candidate clears one paper of a particular session and sits for remaining papers in the subsequent sessions he/she would not be eligible for grace marks. The said communication dated 24.05.2017 is being challenged before this Court.

2. Heard Ms.M.Devi Rudra, learned counsel for the petitioner; Mr.Stalin Abimanyu, learned standing counsel for the second respondent and Mr.V.P.Raman, learned standing counsel appearing for the third respondent.

3. There is no doubt regarding awarding of grace marks for single subject, provided the student had cleared the other papers in the single examination for that session and the grace marks should not be granted to those students who appears for examination in compartment.

4.As per the Pondicherry University Examination Regulations, the minimum marks for declaration of pass is given in the following tabular column:

|                                | University | Internal Assessment | University + Internal Assessment aggregate + Viva |
|--------------------------------|------------|---------------------|---------------------------------------------------|
| Theory                         | 40%        | 35%                 | 50%                                               |
| Practical / Clinical (minimum) | 50%        | 35%                 | 50%                                               |

5.A perusal of the records would show that in respect of forensic medicine, the petitioner has got the following marks:

Theory - 35/80  
 Oral - 12/20  
 Practical - 35/50  
 IA. Theory - 8/20  
 IA. practical- 20/30

If the internal marks are taken into consideration, the petitioner would be failing in theory by obtaining 55/120 only viz.,  $35/80 + 12/20 + 8/20 = 55/120$ , as the marks required for passing

the paper is 60/120. Therefore, the petitioner is short of 5 marks as per the above said Regulations.

6.However, as per regulation 12 of the Medical Council of India, internal assessment marks cannot be clubbed with the University examination (external) marks to ascertain whether a candidate has passed in theory with oral and practicals. Medical Council of India regulation 12 (4) is extracted as follows:

"Pass: In each of the subjects, a candidate must obtain 50% in aggregate with a minimum of 50% in theory including oral and minimum of 50% in Practical/clinicals"

7.As per regulation, the petitioner should write all papers of the examination in a session and should have passed all the papers, except one and can lack of maximum of 5 marks for applying grace marks. If the Medical Council of India's regulation 12 is followed, (ie) without clubbing the internal marks along with external marks, the petitioner will be short of 3 marks and the petitioner is entitled to get grace marks of 5. Since the petitioner is short of only 3 marks, as per regulation 12(4) of the Medical Council of India, the petitioner is entitled to be granted with 3 marks of grace marks and to declare as successful candidate in the subject. Therefore, by applying the above said regulation, this Court holds that the petitioner is entitled to be awarded with 3 marks as grace marks in theory paper (Forensic Medicine) and to be declared as "pass", as the petitioner secures minimum of pass mark required in the Examination. Consequently, the second respondent University is directed to receive the required fees from the petitioner and allow the petitioner to write the third Professional Part A Examination. Since the petitioner cleared all the papers by virtue of this order, the petitioner is permitted to write professional III part A examination.

With the above directions, this writ petition is disposed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-  
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

sai/tkp

To

1.The Director -Principal,  
Indira Gandhi Medical College and Research Institute,  
Kathirkamam, Puducherry-605009.

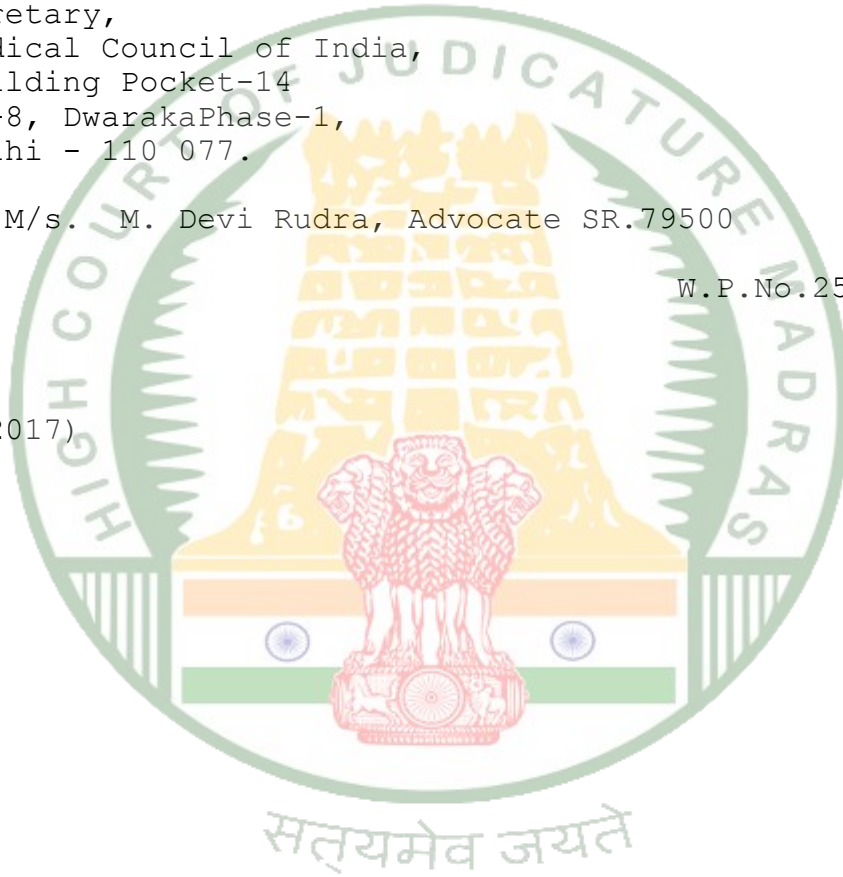
2.The Controller of Examinations,  
Pondicherry University,  
Kalapet, Pondicherry-605014.

3.The secretary,  
The Medical Council of India,  
MCI Building Pocket-14  
Sector-8, DwarakaPhase-1,  
New Delhi - 110 077.

+ 1 cc to M/s. M. Devi Rudra, Advocate SR.79500

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MP (CO)  
EU (14/11/2017)



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