

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:14.09.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
W.P. Nos. 21132 of 2016

&

W.M.P. Nos. 18077 to 18079 of 2016

K. Vishnu
rep. by his natural guardian,
S.S. Kalyanasundaram

..Petitioner

Vs.

1. The Medical Council of India,
rep. by its Head Secretary,
Pocket-14, Sector-8,
Dwaraka Phase-I,
New Delhi.
2. The Dean (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research(JIPMER),
Dhanvantri Nagar,
Puducherry - 605 006.
3. The Director,
JIPMER,
Dhanvantri Nagar,
Puducherry - 605 006.
4. The Secretary to Government of India,
Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi - 110 011.

5. Mages S. ..Respondents in WP.21132

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the 2nd and 3rd respondents relating to MBBS Entrance Examination 2016 and quash the lists of candidates eligible for 1st round of counselling dated 14.06.2016 published pursuant to JIPMER Entrance Examination 2016 held on 05.06.2016 and consequently direct the 2nd and 3rd respondents to conduct fresh MBBS Entrance Examination 2016 based on the single shift method and single common question paper covering both State

Board and CBSE syllabuses in an equal manner.

For Petitioner :: Mr.V.T.Gopalan, Sr.C.for
Mr.S. Sathiaseelan

For Respondents:: Mr.V.P.Raman for R1
Mr.G. Rajagopalan,
Additional Solicitor General
assisted by
Mr.M.T. Arunan for R2 & R3
Mr.P. Saravanan for R4
Mr.V.B.Perumal for R5

ORDER

The above writ petition has been filed for issue of a Writ of Certiorarified Mandamus to call for the records of the 2nd and 3rd respondents relating to MBBS Entrance Examination 2016 and quash the lists of candidates eligible for 1st round of counselling dated 14.06.2016 published pursuant to JIPMER Entrance Examination 2016 held on 05.06.2016 and consequently direct the 2nd and 3rd respondents to conduct fresh MBBS Entrance Examination 2016 based on the single shift method and single common question paper covering both State Board and CBSE syllabuses in an equal manner.

2. The petitioner's son, after completing his higher secondary examination, applied for MBBS entrance examination 2016 conducted by the 2nd and 3rd respondents, pursuant to the notification issued by the 2nd respondent dated 27.02.2016 through online registration. The petitioner's son wrote the entrance examination on 05.06.2016 in the morning shift. Eventhough the petitioner's son applied and appeared for the examination, he was not successful in the examination. Therefore, the present writ petition has been filed to quash the said examination on the ground that the examination was conducted in two shifts and two different sets of question papers were given, namely, one for the morning session and the other for the afternoon session. When two sets of question papers are used for assessing the calibre of the candidates, then it is highly unlikely that there will be uniformity or level playing field available for the candidates. Therefore, the petitioner would submit that the examination conducted with two different sets of question papers, for morning session and afternoon session and the consequential select list prepared based on the marks obtained in the examination has to be set aside.

3. However, Mr. M.T. Arunan, learned counsel appearing for 2nd and 3rd respondents would draw the attention of this Court to

clause 2 of the Addendum Document to the JIPMER MBBS Entrance Examination 2016 Prospectus dated 10.3.2016 at Page No. 25., wherein it is stated that, "In view of the anticipated increased in application registration and the likelihood of exceeding the available capacity for computer based test (CBT), it has been decided to conduct entrance examination in TWO shifts (Morning Shift and Afternoon Shift)" and would submit that conducting examination in two different shifts was already stated in the addendum to the prospectus. Further the learned counsel would submit that since the facilities for conducting examination in one session are available only in a few centres and due to participation of more number of candidates in the examination, respondents 2 and 3 were compelled to conduct the examination in two sessions. However, the merit of the candidates has been tested based on their performance in the examination and there is no bias, whatsoever, in the valuation. Therefore, according to the learned counsel, the select list cannot be quashed.

4. Heard the learned counsel on either side.

5. The examination conducted is for selection of candidates for MBBS course in JIPMER. When examination is conducted, normally, it has to be conducted in one session so that the calibre of the candidates could be decided based on their performance whereas the examination conducted by JIPMER has got two shifts, with two different sets of question papers, for each shift. Though it is contended on behalf of the petitioner that the question paper for morning session was problem-oriented while the question paper for afternoon session was theory-oriented, which was said to be comparatively easy, however, the contention in this regard has to be rejected as 94 candidates were selected from morning session and 104 students were selected from afternoon session and there is not much difference. Nonetheless, it has to be stated that it is necessary for the Institute to conduct the examination in one session making use of same set of question paper for all the candidates, which will ensure uniformity and fairness in assessing the calibre and merit of the students.

6. Though Mr.M.T. Arunan, learned counsel would submit that considering the availability of technical capacity for computer based tests (CBT) and administrative infrastructure in each State, only limited Cities were chosen, namely, 75 cities and 349 Examination Centres were notified to conduct the examination and that when NEET, IIT and NIT Entrance Examinations are being conducted on different dates in two sessions and they are being accepted, but, merely because some other tests are conducted in two different sessions, it does not mean that JIPMER Institute is also justified in conducting

examination in two sessions. Moreover, the statement regarding conduct of NEET examination in two sessions is also false as it is known to everybody that the controversial NEET Examination was conducted in a single session only. It is also unacceptable that only 75 cities in the whole of India have got technical capacity for computer based tests. We are living in an electronic era and more cities and towns are well-equipped to conduct such kind of tests and therefore, respondents 2 and 3 are directed to conduct a survey and find out more cities and notify more examination centres so that all the candidates, who appear for the qualifying examination to Medical Course in JIPMER could take up the examination in one session which will alone ensure uniformity, fairness and level playing field for the candidates, who are writing the examination, by use of single question paper. Eventhough this Court is not approving the manner in which the entrance examination was conducted in two sessions, making use of two different question papers, considering the results, this Court is not inclined to interfere with the selection already made. Moreover, the selection was made as early as in the year 2016 and the selected students would have completed their first year and would have entered their second year of study. Hence, this Court is not inclined to interfere with the selection at this stage, which will prejudice the interest of the selected students and their future. Therefore, the writ petition is dismissed with the following direction:

The 2nd and 3rd respondents shall conduct a survey and find out more cities with technical capacity for conducting computer based tests and administrative infrastructure in each State before December, 2017 and notify centres in those cities for conducting entrance examination in a single session, by making use of a single question paper, in the interest of students and by doing so, they can avoid any sort of allegation against them with regard to the conduct of examination.

No costs. Connected W.M.Ps are closed.

7. For reporting compliance, call the matter during the first week of February, 2018.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Medical Council of India,
rep. by its Head Secretary,
Pocket-14, Sector-8,
Dwaraka Phase-I,
New Delhi.
2. The Dean (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research(JIPMER),
Dhanvantri Nagar,
Puducherry - 605 006.
3. The Director,
JIPMER,
Dhanvantri Nagar,
Puducherry - 605 006.
4. The Secretary to Government of India,
Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi - 110 011.
5. The Section Officer,
Writ Section, High Court, Madras

+1cc to Mr.S.Ashok Kumar, Advocate Sr.No.67169
+1cc to Mr.M.T.Arunan, Advocate SR.No.67132

RV(CO)
sm:23.1.2018

W.P. No.21132 of 2016
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