

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.23139 of 2017

ORDER:

Heard learned counsel for the petitioner and Sri T.Nageswar Rao, learned Standing Counsel for respondent Nos.1 & 2 and before ordering notice to respondent No.3-the Principal, Gandhi Medical College, Hyderabad, where the petitioner is doing DM Nephrology Final Year and also Sri Vivek Chandra Sekhar, learned standing counsel for 4th respondent and perused the prayer in the writ petition with the supporting affidavit and other material on record.

The prayer in the writ petition reads as follows:

“To issue writ, order or a direction, more particularly one in the nature of writ of mandamus by declaring the proceedings vide Letter No.E2(b)/SS/5419/July, 2017 dated 04.07.2017 (received on 10.07.2017) issued by the 3rd respondent in not permitting the petitioner to write the Super Speciality Examination – DM (Nephrology) scheduled to be held from 13.07.2017 to 19.07.2017 is unsustainable in law, illegal, arbitrary and set aside the same and consequently, direct the respondent University to issue Hall ticket to the petitioner and allow her to appear for examination along with other students, who are appearing the examination scheduled to be held from 13.07.2017 to 19.07.2017 and also clinical examination on 28.07.2017 and further direct the 1st respondent University to declare the results as and when the results are declared for all other students by the University and permit her to complete the course of study period for the maternity leave availed by her and pass such other order or orders.”

The supporting affidavit says despite the petitioner got eligibility to appear for the examination being conducted in this

month commencing from 13.07.2017, the respondents are not allowing to get the hall ticket to appear for the examination consequently despite she could secure the minimum attendance required of 80% as contemplated by P.G. Admission Rules, particularly from Rule No.10.4.

It is the submission of the learned counsel for the petitioner by reiterating the same in saying without any justifiable cause or reason, the non-issuance of hall ticket in permitting examination is unjust and there is no other alternative remedy, but for to direct since the examination is commencing from 13.07.2017 (tomorrow).

Sri T.Nageswar Rao, learned standing counsel for respondent Nos.1 & 2 submits that the petitioner is eligible if at all any concession granted by the court for the 10 days difference of she will complete the duration of course by 10.12.2017, for the examinations being commence afresh in December 2017 w.e.f. 01.12.2017 and thereby the hall ticket is not ordered to be issued for her no eligibility as on date to appear for the examinations commencing from 13.07.2017. It is also the submission that she availed maternity leave for 78 days out of 91 days eligibility that was granted by the proceedings of the 3rd respondent-Principal, Gandhi Medical College, dated 10.03.2017 from 15.03.2016 to 01.06.2016 during her 2nd year PG course in Nephrology out of the 3 years and the maternity leave even granting of leave no way be counted, but for extension of said period to be reckoned for the minimum attendance required of actual days attended as PG

course the actual days to be counted for the academic year is 292 days out of 365 days.

A perusal of the Controller of Examinations addressed to the 3rd respondent-Principal, Gandhi Medical College, on 04.07.2017 shows as per the MCI/University Regulations, a candidate must have 80% attendance in each academic year and the candidate who joined in Super Speciality Course should attend 292 working days in each academic year for getting 80% attendance. The candidate has to complete three years training period and the period of absence will be extended. The attendance particulars of the writ petitioner furnished is that for the 1st year-94%, 2nd year-80% and the 3rd year-95%. In the 2nd year she availed maternity leave as referred supra and the said percentage of attendance till 31.07.2017 and the duration of course is to complete is by 10.12.2017. A perusal of the revised time table dated 20.06.2017 of the Controller of Examinations of respondent Nos.1 & 2 shows the revised time table is fixed from 13.07.2017 to end by 19.07.2017 for the 4 subjects in the PG course final year Nephrology and it is mentioned clinical examinations will commence from 28.07.2017 and a detailed time table will sent later and for further information that next Super Speciality Examinations will be conducted from 01.12.2017 instead of 02.11.2017.

A perusal of the above proceedings itself show when there is minimum required attendance of 80% even in the 2nd year for the actual working days of 292 days out of 365 days, there is 5 days less ($365-292=73$, but availed maternity leave for 78 days).

However, in similar situation the Kerala High Court in W.P.No.14649 of 2012 dated 17.12.2012 in Dr. Deepthi Vs. Director of Medical Education, Thiruvananthapuram and two others held in relation to the 3rd year student in DM Neurology, once availed the medical leave even that is to be counted so far as attendance concerned to represent 80%, but for by extending the period to prosecute the study by attendance.

Having regard to the above and therefrom, the petitioner is eligible for writing examination and thereby the respondents are directed to permit and release the hall ticket and attendance of the petitioner to write examination being commencing from 13.07.2017 (tomorrow) at 10.30 AM till 19.07.2017. It is on satisfaction of the compliance of the attendance the result even valued in the meantime can be declared.

Accordingly and in the result, the Writ Petition is disposed of. Needless to say the petitioner has to give an undertaking to that effect of she could attend the college personally and complete the course from what is mentioned to give undertaking mentioned at Para 12 of the Writ Petition.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.07.2017
Note: Issue C.C. today
(B/o)
ska