

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1080 of 2018

and

WMP Nos.1301 to 1303 of 2018

1.Dr.Jasim Abdulla Odayappurath
2.Dr.Madlapelli Mahendar
3.Dr.MD.Ziaul ... Petitioners

Vs

- 1.The President,
Medical Council of India,
Pocket -14, Sector -8, Phase-1
Dwarka, New Delhi - 110 077.
- 2.The Secretary to Government of Puducherry,
Health and Family Welfare Services Department,
Secretariat, Beach Road, White Town,
Puducherry - 605 001.
- 3.The Director,
Department of Health and Family Welfare Services (DHFWS)
Old Maternity Hospital Complex,
Victor Simonel Street, Puducherry- 605 001.
- 4.The Convenor,
Centralised Admission Committee (CENTAC)
PEC Campus, ECR Road,
Pillaichavadi, Puducherry - 605 014.
- 5.The Principal,
Mahatma Gandhi Medical College & Research Institute,
Pondy Cuddalore Main Road,
Pillaiyarkuppam, Puducherry - 607 402. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the Order No.MCI-23(1)(MC)/2017/126218 dated 24.07.2017 passed by the first respondent and to quash the same in so far as it relates to the petitioners alone and consequentially to direct the respondents to permit the petitioners to continue and complete their P.G. Medical Diploma

(Broad -Speciality) courses in the fifth respondent College.

For Petitioners	: Mr.V.B.R.Menon
For R1	: Mr.P.R.Gopinath
For R2 to R4	: Mr.C.T.Ramesh, AGP (Pondy)
For R5	: Mr.Menon Karthik Mukundan

ORDER

This writ petition has been filed by the petitioners, challenging the order dated 24.07.2017 passed by the first respondent and consequentially, directing the respondents to permit the petitioners to continue and complete their P.G. Medical Diploma (Broad -Speciality) courses in the fifth respondent College.

2.It is the case of the petitioners that they had appeared for NEET conducted in December 2016 by the National Board of Examinations. Thereafter, the petitioners had applied for centralized counselling to the fourth respondent for admissions to PG Medical Diploma courses. After selection through counselling under the management quota and based on the allotment orders issued by the fourth respondent, they joined in the fifth respondent college and have been attending their classes. When things stood so, the first respondent passed an order dated 24.07.2017 calling upon the fifth respondent to discharge the petitioners on the ground that their names were not found in the list of admitted students provided by the respondents 2 to 4 to the first respondent. Hence, this writ petition.

3.When the matter was taken up for consideration, the learned counsel for the petitioners as well as the learned counsel for the respective respondents jointly submitted that the issue involved herein is squarely covered by the earlier order of this Court dated 20.12.2017 in WP.No.26008 of 2017, wherein, this Court quashed the similar order passed by the first respondent dated 24.07.2017 and allowed the said writ petition.

4.For better appreciation, the relevant paragraphs of the said order dated 20.12.2017 made in WP.No.26008 of 2017 are reproduced hereunder:

"2.A counter affidavit has been filed by the 3rd respondent adopted by the 2nd and 4th respondents stating that the petitioner was validly selected by the CENTAC. The relevant portion at Paragraph No.13 of the counter affidavit reads as follows:

"13. I respectfully submit that the petitioner was selected by CENTAC and admitted to the Post Graduate Diploma in Obstetrics and Gynaecology course in the Mahatma Gandhi Medical College and Research Institute. The petitioner is a bona fide student of the Post Graduate Diploma Course, since she was selected and sponsored by the CENTAC as per the regulations of Medical Council of India and the procedures laid down by the Government of India and in compliance with the directions of the Hon'ble Supreme Court of India in W.P.(C) No. 244 of 2017."

3. From the above extract of the counter affidavit, it is clear that the petitioner was selected by CENTAC and admitted to Post Graduate Diploma in Obstetrics and Gynaecology Course in the 5th respondent College and that the petitioner is a bona fide student of the said course since she has been selected and sponsored by CENTAC as per the regulations of Medical Council of India and procedures laid down by the Government of India. The reason for the 1st respondent passing the impugned order has been stated in paragraph No.12 of the counter affidavit and it is extracted as hereunder:

"12. I respectfully submit that neither the Government of India nor the Medical Council of India had instructed to furnish the list of candidates allotted/admitted in Post Graduate Medical Course. However, the CENTAC has furnished the list of Post Graduate Degree candidates allotted admission to the Director of Health and Family Welfare Services, Puducherry, but the CENTAC has not furnished the list of students who were allotted PG Diploma courses and the same has been e-mailed to Medical Council of India, New Delhi, by the Director of Health and Family Welfare Services, Puducherry. The Medical Council of India vide Letter No.MCI-23(1)(MC)/2017/126218 dated 24.07.2017 has directed the private medical colleges to discharge a list of students including Dr. Garima Sharma because of the reason that the list of students allotted in Diploma seats by CENTAC to the private medical colleges has not been sent to Medical Council of India. However, the Director of Health and Family Welfare Services in the letter dated 28.08.2017 has intimated the fact and requested

that those students who have been allotted seats by CENTAC for admission in various Post Graduate and Diploma in Private/Deemed University may be considered as bona fide students and not to discharge them from Medical Colleges."

Merely because the 3rd respondent and the 4th respondent failed to send the list of names of selected students to PG Diploma Courses to the MCI, it cannot be a ground to discharge the petitioner. Since, based on non-furnishing of information by the 3rd and 4th respondents, the petitioner was discharged from the course and now, that the 3rd and 4th respondents have come up with counter affidavit stating that by mistake, the list was not sent, the impugned order is liable to be quashed, insofar as the petitioner is concerned.

4. Accordingly, the impugned order dated 24.07.2017 is quashed, insofar as the petitioner is concerned and the writ petition is allowed. No costs. Connected W.M.Ps are closed."

5. In the light of the aforesaid order, this Court is inclined to quash the impugned order passed by the first respondent, as the petitioners herein are the similarly placed persons like that of the petitioner therein.

6. Accordingly, the impugned order dated 24.07.2017 passed by the first respondent is quashed and the writ petition is allowed insofar as the petitioners herein are concerned. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

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To

1. The President, Medical Council of India,
Pocket -14, Sector -8, Phase-1
Dwarka, New Delhi - 110 077.

2.The Secretary to Government of Puducherry,
Health and Family Welfare Services Department,
Secretariat, Beach Road, White Town, Puducherry - 605 001.

3.The Director,
Department of Health and Family Welfare Services (DHFWS)
Old Maternity Hospital Complex,
Victor Simonel Street, Puducherry- 605 001.

4.The Convenor,
Centralised Admission Committee (CENTAC)
PEC Campus, ECR Road,
Pillaichavadi, Puducherry - 605 014.

+1cc to Mr.Menon, Karthik, Mukundan & Neelakanntan, Advocate
SR.No.8847

+1cc to Mr.V.B.R.Menon,, Advocate SR.No.5803

+1cc to Mr.V.P.Raman, Advocate SR.No.8861

+1cc to Government Pleader SR.No.8989

+1cc to Government Pleader (Puducherry) SR.No.8618

W.P.No.1080 of 2018

SSV(CO)
GN(13/03/2018)



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