

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1815 of 2018 and C.M.P.No.15391 of 2018
and

W.P.No.21089 of 2018 and W.M.P.No.24747 of 2018

W.A.No.1815 of 2018:

Auroprajna Pal ... Appellant

-vs-

- 1.Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006,
rep.by its Director.
- 2.Professor (Examinations),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 3.Dean (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 4.Registrar (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.

5.Dr.Ramesh ... Respondents

Appeal filed under Clause 15 of the Letters Patent, against
the order passed by this Court in W.P.No.5577 of 2018 dated
04.04.2018.

WP.No.5577/2018:Writ petition filed under Article 226 of the
Constitution of India praying to issue a writ of Mandamus
directing the respondents 1 to 4 to revalue answer paper bearing
Register No.11411031 pertaining to ophthalmology held in
December 2017.

W.P.No.21089 of 2018:

Dr.Gopal Krushna Pal

... Petitioner

-vs-

- 1.The President,
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 2.Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006,
rep.by its Director.
- 3.Professor (Examinations),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 4.Dean (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 5.Registrar (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.

6.Dr.Ramesh

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing an enquiry into the allegations of criminality in valuation of MBBS Final Year Part I, Ophthalmology answer paper bearing Registration No.11411031 of Ms.Auroprajna Pal.

W.A.No.1815 of 2018:

For Appellant :: Mr.P.Selvaraj for Mr.D.Jayasingh

For Respondents:: Mr.M.T.Arunan,
Standing Counsel for JIPMER
for R1 to R4

W.P.No.21089 of 2018:

For Petitioner :: Mr.P.Selvaraj for Mr.D.Jayasingh

For Respondents:: Mr.M.T.Arunan,
Standing Counsel for JIPMER
for R1 to R5

COMMON JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The appellant in W.A.No.1815 of 2018 filed a writ petition before this Court in W.P.No.5577 of 2018 to revalue her answer paper bearing Reg.No.11411031 pertaining to Ophthalmology held in December 2017. According to the appellant, she is one among the meritorious students, who had been selected for MBBS Course in JIPMER. She also completed her 1st and 2nd year MBBS Examinations and appeared for the final year Part-I examination during December 2017. Out of three papers in which she appeared, she failed in one subject, ie., Ophthalmology. As she performed well in the said subject also, she had opted for a photocopy of the answer sheet. On a perusal of the paper, it was found that a great injustice has been caused to the appellant while awarding marks. According to the appellant, her father (Dean of JIPMER, Karaikal and Nodal Officer to Ministry) and the fifth respondent, viz. Dr.Ramesh, had prior enmity and due to the same, in order to take vengeance against her father, the fifth respondent has made her to fail in one subject.

2.The learned single Judge, by order dated 04.04.2018, dismissed the writ petition on the ground that there is no provision for re-evaluation in the curriculum. It was also observed that since dummy numbers were allotted and two different persons have evaluated the papers and also in the absence of any specific rule, the prayer sought for by the appellant cannot be granted.

3.Challenging the order passed in the writ petition, the present writ appeal has been filed.

4.The learned counsel for the appellant has pointed out to the letter of the Director, JIPMER dated 10.07.2018 in Ref.No.DIRECTOR-JIP/PER/2018, in which the Director of JIPMER has stated that he is making all efforts to get the permission of HR Sub-Committee of Institute Body (IB) or the Standing Academic Committee (SAC) of the institute for re-evaluation of the appellant's Ophthalmology answer scripts to be done by two outside external examiners, as a one-time measure in view of the unfairness done in the valuation of the answer scripts. Pointing out to the said letter, the learned counsel has submitted that

the Director himself has accepted that unfairness has been done in the valuation of the papers in respect of the appellant.

5.The learned counsel for JIPMER, Puducherry, has vehemently opposed the prayer contending that there is no provision for re-evaluation in the curriculum and that the learned single Judge has considered the matter in proper perspective and has passed the impugned order and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record.

7.It is the case of the appellant that due to prior enmity between her father and the fifth respondent-Dr.Ramesh, in order to take vengeance against her father, the fifth respondent has made her to fail in one subject. According to the learned counsel for JIPMER, there is no provision for re-evaluation in the curriculum. But the fact remains that injustice has been done in the case of the appellant, as is evident from the letter of the Director, JIPMER dated 10.07.2018 in Ref.No.DIRECTOR-JIP/PER/2018, wherein it is stated as follows:-

"This is to inform you that myself as 'Professor of Examinations' after going through the Ophthalmology answer scripts of your daughter I was fully convinced that the gross injustice has been done to her in the valuation of Ophthalmology theory paper. As there is no provision of re-evaluation of answer scripts in 'JIPMER Academic Rules & Regulations', now as the Director of the Institute, I am making all efforts to get the permission of HR Sub-Committee of Institute Body (IB) or the Standing Academic Committee (SAC) of the Institute for re-evaluation of her Ophthalmology answer scripts to be done by two outside external examiners, as a one-time measure in view of the unfairness done in the valuation of her said answer scripts."

8. The above letter would establish the case of the appellant that due to prior enmity between her father and the fifth respondent, no proper valuation has been done to the answer script of the writ petitioner for the subject of Ophthalmology. In the light of the above facts, this Court is of the view that the case of the appellant deserves consideration. In fine, the impugned order passed by the learned single Judge is set aside. The respondents 1 to 4 are directed to re-evaluate the answer sheet of the appellant pertaining to Ophthalmology, in question, by the Professors of All India Institute of Medical Sciences, New Delhi and declare the results within a period of one month from the date of receipt of a copy of this judgment. Accordingly, the writ appeal is allowed. No costs. Consequently the connected miscellaneous petition is closed.

9.W.P.No.21089 of 2018 is filed by the appellant's father

for a direction to enquire into the allegations of criminality in the valuation of MBBS Final year Part-I Ophthalmology answer paper bearing Regn.No. 11411031 of his daughter, ie., the appellant in W.A.No.1815 of 2018. In view of the order passed in W.A.No.1815 of 2018, no order need to be passed in the writ petition and accordingly W.P.No.21089 of 2018 is closed. No costs. Consequently the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The President,
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 2.The Director,
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006,
- 3.The Professor (Examinations),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 4.The Dean (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.
- 5.The Registrar (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Puducherry 605 006.

+1cc to Mr.D.Jayas Singh, Advocate SR.NO.64427
+1cc to Mr.M.T.Arunan, Advocate SR.NO.64445

SJ(CO)
sm:10.10.2018

W.A.No.1815 of 2018
and C.M.P.No.15391 of 2018
and
W.P.No.21089 of 2018
and W.M.P.No.24747 of 2018