

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-03-2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.14753 of 2017

and

W.M.P.Nos.15983 and 15984 of 2017

Dr.Pallala Iswarya

... Petitioner

Vs

1. The Secretary,
Ministry of Ayush,
Ayush Bhavan, 'B' Block,
GPO Complex, INA, New Delhi 110 023.
2. The Director,
National Institute of Siddha,
Ministry of Ayush,
Ministry of Health & Family Welfare,
Government of India,
Tambaram Sanatorium,
Chennai 600 047.
3. The Commissioner,
Indian Medicine & Homeopathy,
Arumbakkam, Chennai 600 106.
4. The Joint Director of Indian Medicine & Homeopathy,
Arumbakkam,
Chennai 600 106.
5. The District Siddha Medical Officer,
District Siddha Medical Officer,
Vellore, Vellore District.
6. The Registrar,
Tamil Nadu Dr.M.G.R. Medical University,
69, Anna Salai, Guindy,
Chennai 600 032.
7. The Principal Secretary to Government,
Health and Family Welfare Department,
Chennai 600 009.

(R7 suo motu impleaded, as per order of this Court dated 04.12.2017 passed in WP.No.14753 of 2017 and W.M.P.No.26750 of 2017)

... Respondents

PRAYER :

Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records relating to the proceedings of 2nd respondent in F.No.NIS/1-146, Grievance/2013 dated 05.04.2017 and to quash the same and consequently direct the respondents to allow the petitioner to re-join the M.D.(Siddha) in the branch of Maruthuvam General Medicine in 2nd Respondent Research Institute and to refund the stipend for the research study already undergone by the petitioner and to continue to pay monthly stipend for the petitioner while undergoing further course of study in the light of orders passed in similar cases in G.O.(D) No.530 Health and Family Welfare (IM2-1) Department dated 27.05.2011.

For Petitioner : Mr.G.Sankaran

For Respondent : *** Mr.A.K.Manoj Kumar, Central Government
Standing Counsel For R1**

Mrs.Y.Kavitha (for R2)
for M/s.Giridher & Sai

Mrs.P.Kavitha, (for R3 to R5)
Government Advocate

Mr.D.Ravichander (for R6)

O R D E R

As per the earlier order of this Court passed on 21.02.2018, the Government passed G.O. Ms. No.320, Health and Family Welfare (IM2-1) Department, dated 26.02.2018, relieving the petitioner, giving the details. The same was recorded by this Court by order dated 27.02.2018.

2.On 27.02.2018, Mr.D.Ravichander, learned counsel for the Tamil Nadu Dr.M.G.R. Medical University would submit that the University would condone the break in study of the petitioner and appropriate orders would be passed.

3.When the matter is called today, Mr.D.Ravichander, learned counsel appearing for the Tamil Nadu Dr.M.G.R. Medical University would produce a communication dated 01.03.2018

addressed to the Director/Dean, National Institute of Siddha, Tambaram Sanatorium, Chennai, in which, it is stated that the petitioner, who is an M.D.(Siddha) student of 2014-15 batch, had a break of study from 07.03.2016 till date and the break is condoned and she is permitted to rejoin at the beginning of the second year of study, at which stage the candidate had discontinued the course.

4.Since Tamil Nadu Dr.M.G.R. Medical University, has condoned the break in study, the petitioner is automatically entitled to stipend. Only in cases of those students, whose break in study is not condoned, they would not be eligible for grant of any stipend during the break period and also during the extended period of study consequent to the break. In this case, though the break in study has been condoned, the petitioner is not claiming any stipend for the break in study period.

5.Since the break in study period is condoned and the petitioner is permitted to rejoin the course and is entitled to stipend, the Department of Ayush has to take this fact into consideration and accordingly, give stipend to the petitioner. The petitioner shall be entitled to stipend along with other amounts, including refund of stipend already recovered, on par with other students, if they have been already given.

6.Since this Court by earlier order dated 18.12.2017, directed the State Government not to relieve the petitioner, as the relieving order passed by the State Government did not contain the material details and only thereafter, the Government order, in respect of the petitioner giving all the details has been passed, the respondent Government is directed to relieve the petitioner to enable her to join M.D. (Siddha) course on or before 15.03.2018.

7.The petitioner had completed more than four months in the second year course. If she has to rejoin the course from the beginning as per the order of the University, the petitioner may be losing attendance and she may not be in a position to write the second year examination. Therefore, the period during which she already studied has to be taken as part of the second year course and attendance, which she already acquired during 01.11.2015 and 07.03.2016 should be taken into consideration for the second year course when she rejoins the second year course. The same should be put together for the purpose of attendance so that the student will not be affected in any way.

8.The above direction has been given in view of the peculiar circumstances of this case that the petitioner underwent second year course from 01.11.2015 to 07.03.2016, till she was relieved. Thereafter, she applied to the University on

20.05.2016, which is because of the proceedings pending before this Court, she could not rejoin the course and therefore, this Court directs the respondent to take the attendance of the petitioner from 01.11.2015 to 07.03.2016 as the second year attendance of the petitioner for the purpose of completing second year course. Hence, this should not be taken as a precedent.

9. The respondent Government, as undertaken, shall relieve the petitioner on 19.03.2018 and she shall rejoin the second year course on 20.03.2018.

10. With the above directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

11. This Court appreciates the efforts taken by Mr.D.Ravichander, learned counsel for Tamil Nadu Dr.M.G.R. Medical University in getting the condonation order within 24 hours, without even order copy being produced to the University and the University's gesture also has to be appreciated.

12. To ensure that the order of this Court is complied with, by all the parties and to see whether the petitioner joins the course on 20.03.2018, call the matter on 21.03.2018.

Sd/-

Assistant Registrar(CS V)

***Included as per order dated 27.04.2018 15.03.2018**

and made in WP.14753 of 2017

-s/d-

Assistant Registrar(CS II)

dt 19.06.2018

//True Copy//

Sub Assistant Registrar

sai
To

1. The Secretary,
Ministry of Ayush,
Ayush Bhavan, 'B' Block,
GPO Complex, INA, New Delhi 110 023.

**To be substituted
to the order already
despatched on
16.03.2018**

2. The Director,
National Institute of Siddha,
Ministry of Ayush,
Ministry of Health & Family Welfare,
Government of India,
Tambaram Sanatorium,
Chennai 600 047.
3. The Commissioner,
Indian Medicine & Homeopathy,
Arumbakkam, Chennai 600 106.
4. The Joint Director of Indian Medicine
& Homeopathy,
Arumbakkam,
Chennai 600 106.
5. The District Siddha Medical Officer,
District Siddha Medical Officer,
Vellore, Vellore District.
6. The Registrar,
Tamil Nadu Dr.M.G.R. Medical University,
69, Anna Salai, Guindy,
Chennai 600 032.
7. The Principal Secretary to Government,
Health and Family Welfare Department,
Chennai 600 009.

+1cc to Mr.D.Ravichander, Advocate,
S.R.No.02/03/2018

+1cc to Mr.A.K.Manoj Kumar, CGSC, in sr.no.31885

W.P.No.14753 of 2017

RRK(15/03/2018)
CS/19/06/18

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