

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.05.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.12153 to 12155 & 12163 of 2018

and

W.M.P.Nos.14172 to 14177, 14187 & 14188 of 2018

Sunu George Fenn ..Petitioner in W.P.No.12153/2018
D.Elavalagan ..Petitioner in W.P.No.12154/2018
Nahakpam Rojita Devi ..Petitioner in W.P.No.12155/2018
A.M.Sugantharanathan ..Petitioner in W.P.No.12163/2018

vs

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

2.The Registrar,
Pondicherry University,
S.V.Nagar Kalapet,
Pondicherry - 605 104.

3.The Controller of Examination,
Pondicherry University,
Kalapet, Pondicherry - 605 104.

.. Respondents 1 to 3 in
Wp.Nos.12153, 12154, 12155/18

4.Sri Venkateswara Medical College Hospital
Research Centre,
Ariyur, Pondicherry - 605 102

.. 4th Respondent in
WP.No.12153, 12154/2018

4.Pondicherry Institute of Medical Science,
Kalapet, Puducherry.

.. 4th Respondent in W.P.No.12155 of 2018

1.The Medical Council of India,
MCI Building Pocket-14,
Sector - 8 Dwarka Phase-I,
New Delhi - 77.

2.The Registrar,
The Pondicherry University,
R.Venkataraman Nagar,
Kalapet,
Puducherry - 605 014.

3.The Controller of Examinations,
The Pondicherry University,
Administrative Complex,
R.Venkataraman Nagar,
Kalapet, Pondicherry - 605 104.

4.Sri Manakula Vinayagar,
Medical College and Hospital,
Kaliatheerthaikuppam,
Madagadipet,
Puducherry - 605 107.

..Respondents in W.P.No.12163/2018

Prayer in W.P.Nos.12153 to 12155 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to publish the results for the III and IV Professionals Examination undergone by the petitioner in November 2017 and permit the petitioner to pay the fees and undergo the examination commencing from May 2018 for the III and IV Professionals Examination in the failed subjects if any.

Prayer in W.P.Nos.12163 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to publish the results for the III Professionals Examination undergone by the petitioner in November 2017 and permit the petitioner to pay the fees and undergo the examination commencing from May 2018 for the IV Professionals Examination in the failed subjects if any.

For Petitioners
(in W.P.Nos.12153 to 12155 of 2018) : Mr.K.Mohanamurali

(in W.P.No.12163 of 2018) : Mr.SK.Chandrakumar

For Respondents
(in all W.Ps.)

: Mr.V.P.Raman (MCI) for R1
Ms.A.V.Bharathi for R2 & R3

C O M M O N O R D E R

The relief sought for in respect of W.P.Nos.12153 to 12155 of 2018 is for a direction to direct the the 2nd and 3rd respondents to publish the results for the III and IV Professionals Examination undergone by the petitioner in November 2017 and permit the petitioner to pay the fees and undergo the examination commencing from May 2018 for the III and IV Professionals Examination in the failed subjects if any and in respect of W.P.No.12163 of 2018 is for a direction to direct the the 2nd and 3rd respondents to publish the results for the III Professionals Examination undergone by the petitioner in November 2017 and permit the petitioner to pay the fees and undergo the examination commencing from May 2018 for the IV Professionals Examination in the failed subjects if any.

2.The Pondicherry University Examination Wing, more specifically, the Controller of Examination passed an order in proceedings dated 09.11.2016, which reads as under:

"2.As per Pondicherry University/MCI regulations for MBBS "No student shall be permitted to join the Phase II(Pre-clinical/clinical) group of subjects until he has passed in all the Phase I (Pre-clinical) subjects for which he will be permitted not more than four chances(actual examination), provided four chances are completed in three years from the date of enrollment" i.e., For the students who joined in Aug.14 the last chance to clear I MBBS is May'17.

3.Also as per MCI and Pondicherry University Regulations MBBS degree(theory paper) must be completed within eight years of joining the course, i.e., the last chance for students of 2009-10 batch is to be over by May'17.

Students of previous batches i.e. prior to 2009-10 batch cannot be permitted to apply or write MBBS exam from May'17 onwards.

As such no 1st year student whose last chance of four attempts (or) three years and final year student who has completed eight year from the year of admission be allowed to register for Ist /Final year exam after the last chance was over.

This may be strictly adhered to by the colleges & the students may be informed accordingly immediately."

3.The said proceedings are under challenge in W.P.No.29061 of 2017 and by virtue of an interim order granted by this Court dated 13.11.2017, the writ petitioners were permitted to write the examinations. Thus, the right of the writ petitioners in respect of appearing in the examinations itself is decided by this Court in W.P.No.29061 of 2017 dated 13.11.2017.

4.The learned counsel for the writ petitioners made a submission that the petitioners were permitted to write the examination pursuant to the orders passed by this Court on 13.11.2017 in W.P.No.29061 of 2017. The said order is enclosed in page No.15 of the typed set of papers filed along with this writ petition. The order reads as under:

"2.Relying upon(U.G.Medical Courses) MBBS - Syllabus and Regulations issued by the Pondicherry University from the year 2008-2009 onwards, the Pondicherry University prohibits the petitioner from writing the examination, as he could not complete the MBBS course successfully within 8 years. However, the learned counsel appearing on behalf of the petitioner would submit that there is no such restriction as per the MCI regulations and if there is any restriction, it will take away his right to write the examination and complete the MBBS course.

3.Taking into consideration that the petitioner had already undergone the Course and he has not successfully cleared three papers in the third professional, it would be appropriate to direct the respondent/Pondicherry University to permit the petitioner to write the examination and value the answer sheets. However, the results of the petitioner shall not be published until further orders from this Court.

4.Mr.V.P.Raman, learned counsel appearing on behalf of the Medical Council of India seek time to get instructions regarding the prohibition imposed by the Pondicherry University. Mr.Stalin Abhimanyu, learned counsel appearing on behalf of Pondicherry University also seek time to file counter.

Hence, call the matter after four weeks."

5.The growing practice in this regard is that one writ petition is filed, challenging the order passed by the respondents herein. If an interim order is obtained for writing the examination, then during the pendency of the same writ petition, another writ petition is filed seeking publication of the results. Such a practice of filing repeated writ petitions in respect of the same cause of action cannot be encouraged by the Courts. Once a writ petition is filed, challenging the decision of the authorities not permitting the students to write the examination, the publication of results will depend on the decision to be taken in the first writ petition. Thus, by filing repeated writ petitions, the petitioners cannot be permitted to achieve their goal of completing the course and receiving the certificates. Such an attitude is to be deprecated by this Court. Once, the writ petition is entertained and the proceedings are challenged, then all consequential rights in

respect of the same issue to be decided in the first writ petition and thereafter only the petitioner would be entitled to get all the benefits including publication of results and the certificates.

6.This being the legal principles to be followed, this Court is of an opinion that the 2nd writ petition now filed is only for the purpose of publishing the results, cannot be entertained at all.

7.It is left open to the writ petitioner to pursue the earlier writ petition filed in W.P.No.29061 of 2017 dated 13.11.2017 for appropriate relief.

8.Accordingly, these writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kak/sk

To

+2ccs to Ms.A.V.Bharathi, Advocate, S.R.No.33459, 33458

+2ccs to Mr.K.Mohana murali, Advocate, S.R.No.33460, 33442

W.P.Nos.12153 to 12155 & 12163 of 2018

CNR(CO)

CS/08/06/18

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