

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34143 of 2018 and
WMP.Nos.39673 and 39674 of 2018

Anusree

.. Petitioner

-VS-

1. Indira Gandhi Medical College and Research Institute
rep. by its Director- Principal,
Kathirkamam, Puducherry-605 009.
 2. The Controller of Examinations,
Pondicherry University,
Kalapet, Pondicherry-605 014.
 3. The Medical Council of India
rep. by its Secretary,
MCI Building, Pocket-14,
Sector 8, Dwarka Phase-I,
New Delhi-110 077.
- .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in PU/CE/E5/2017-18/171 dated 24.05.2017 and to quash the same so far as it denies the opportunity of the petitioner to claim grace mark, as arbitrary, illegal, unconstitutional and without jurisdiction, further to direct the 2nd respondent to award grace mark of 2 marks in Biochemistry Examination conducted in November, 2018 and declare her as pass and further direct the 1st and 2nd respondents to allow her to write the II Professional Examinations.

For Petitioner :: Mr.M.Muruganantham

For Respondent :: Mr.V.P.Raman,
Standing Counsel for R3
Mrs.A.V.Bharathi for R2

ORDER

Questioning the correctness of the order of the 2nd respondent dated 24.5.2017 and to quash the same so far as it denies the opportunity of the petitioner to claim grace mark, as arbitrary, illegal, unconstitutional and without jurisdiction and for further direction, directing the 2nd respondent to award grace mark of 2 marks in Biochemistry Examination conducted in November, 2018 and declare her as pass and for one another direction, directing the 1st and 2nd respondents to allow her to write the II Professional Examinations.

2. Learned Counsel appearing for the petitioner submitted that the petitioner joined Indira Gandhi Medical College and Research Institute, Puducherry through All India Pre Medical Test 2016-2017. Thereafter, when the Professional Examinations were held in May, 2018, the petitioner wrote Anatomy, Physiology and Biochemistry and got pass marks only in Anatomy subject. Therefore, she had to rewrite the Physiology and Biochemistry Examinations in November, 2018. Again, she was unable to score pass marks in Biochemistry. She passed only the Physiology.

3. The learned Counsel for the petitioner further submitted that since the 2nd respondent University has got unlimited power to award grace marks as per Regulation 13 (10) of the Medical Council of India Regulations on Graduate Medical Examination, 1997, the petitioner is also entitled for the said benefit.

4. Learned Standing Counsel appearing for the 2nd respondent submitted that in any event, the petitioner is not entitled to get the grace marks as per Regulation 13(10) of the Medical Council of India Regulations on Graduate Medical Examination, 1997.

5. It is pertinent to extract Regulation 13(10) of the Medical Council of India Regulations on Graduate Medical Examination, 1997 here under :

'13(10). The grace marks up to a maximum of five marks may be awarded at the discretion of the University to a student who has failed only in one subject but has passed in all other subjects.'

A perusal of the same clearly shows that a student who is taking up all the subjects, failed in only one subject while clearing all the subjects with pass marks alone is entitled to get grace marks up to 5. The issue in dispute has already been decided by this Court in W.P.No.21392/2018 dated 22.10.2018 making it clear that no marks can be awarded by the University, if a candidate takes up the University Examination in compartmental manner. The reason

being, if a candidate is given grace marks for every subject, that will certainly affect the standard in Medical Examination. Since the petitioner herein has cleared the subjects in compartmental manner, she is not entitled for any grace mark.

6. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Director- Principal,
Indira Gandhi Medical College and
Research Institute,
Kathirkamam, Puducherry-605 009.
2. The Controller of Examinations,
Pondicherry University,
Kalapet, Pondicherry-605 014.
3. The Secretary,
Medical Council of India,
MCI Building, Pocket-14,
Sector 8, Dwarka Phase-I,
New Delhi-110 077.

+1cc to Mr.M.Muruganantham, Advocate SR.No. 89573

+1cc to Mrs.A.V.Bharathi , Advocate SR.No. 89651

A.SK(24/01/2019)

सत्यमेव जयते

W.P.No.34143 of 2018

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