

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
11.10.2018	30.10.2018

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) Nos.13693, 13703 & 7090 of 2017

and

W.M.P.(MD) Nos.10690, 10694, 5606 of 2017, 15404, 9949, 10044,
15241, 18192, 9954, 18190, 9948, 15243 & 18191 of 2018

1.A.Balaji
2.P.Pavithran
3.S.Karthik

... Petitioners 2 to 4 in
W.P.(MD) No.13693 of 2017

1.H.Sakubar Sathik
2.K.Arthika
3.P.Bhagyamani
4.P.Keerthika
5.M.P.Saranya

... Petitioners in W.P.(MD)
No.13703 of 2017

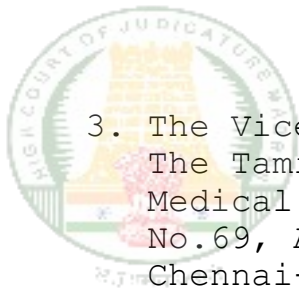
1.A.Ayyappan
2.M.L.Aadithya Lakshmi
3.Anshiya Alex
4.I.Febina
5.M.T.Surya
6.Priyadharsini
7.B.Archana
8.R.Anitha

... Petitioners in W.P.(MD)
No.7090 of 2017

vs .

1. The Secretary
Central Council of Indian Medicine (CCIM)
Jawahar Lal Nehru Bharatiya Chikitsa Avam
Homoeopathy Anusandhan Bhawan
No.61-65, Institutional Area
Janakpuri "D" Block
New Delhi-110058

2. The Directorate of Indian Medicine
and Homeopathy
Arumbakkam, Chennai-600 106



3. The Vice Chancellor
The TamilNadu Dr.M.G.R.
Medical University
No.69, Anna Salai, Guindy
Chennai-600 032

4. The Principal
Government Ayurveda Medical
College and Hospital
Kottar, Nagercoil-629 001
Kanyakumari District

... Respondents in all W.Ps.

PRAYER (in all W.Ps.): Writ Petitions filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents particularly the 1st respondent to extend the amendments made in Indian Medicine Central Council (Minimum Standards of Educations in Indian Medicine) (Amendment) Regulations, 2016, dated 07.11.2016 to the petitioners within a time frame fixed by this Court.

For Petitioners : Mr.Thiagarajan, Senior Counsel
(in all W.Ps) for Mr.R.Senthil Kumar
For Respondents : Mr.P.Karthik for R1
(in all W.Ps) Mr.A.Muthu Karuppan
Additional Government Pleader for R2
Mr.C.Karthik for R3

COMMON ORDER

All these three writ petitions raise common issues and grounds and the cause of action is also identical and therefore, a common order is being passed as under.

2. The petitioners herein were all students in the fourth respondent - College and pursuing the course in Bachelor of Ayurvedic Medicine and Surgery (BAMS). The petitioners in respective writ petitions joined the course during 2013-2014, 2014-2015 and 2015-2016 respectively. At the time, when they were students of the said course, they were governed by the Indian Medicine Central Council (Minimum Standards of Educations in Indian Medicine) (Amendment) Regulations, 2012, dated 25.04.2012 (hereinafter, referred to as "the Regulation"). As per the Regulation, a break system was introduced for the students during their entire course of study and by application of such Regulation, the students, who satisfy the Regulation as it was prevailing then, were permitted to participate in the examination.

3. While so, an amendment was brought out during 2016, vide notification dated 07.11.2016, wherein a relaxed standard was prescribed in respect of the break system, which was originally



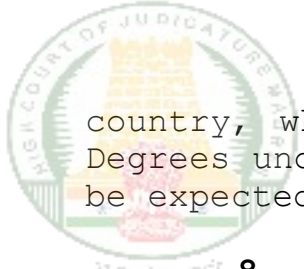
introduced vide Regulation, dated 25.04.2012. Such a relaxed standard, which was introduced on 07.11.2016, was made applicable prospectively to the students, who admitted subsequent to the said notification. On the other hand, the students, who were admitted earlier to the amended notification, dated 07.11.2016, were governed by the 2012 Regulation.

4. The grievance of all the petitioners herein cumulatively is that they are entitled to the relaxed standard in terms of the new notification, dated 07.11.2016, as they have not completed the course as yet and not 2012 Regulation, which provided for a rigorous break system in their course of study.

5. Mr.Thiagarajan, learned Senior Counsel appearing for the petitioners in all the writ petitions, would contend that the petitioners herein are all entitled to be given the benefit of the new notification, dated 07.11.2016, since they were yet to complete the course. Once the new notification has been put to effect from 2016, the petitioners herein cannot be governed by the old Regulation.

6. On the other hand, the learned counsels appearing for the respondents would submit that the notification, dated 07.11.2016, which relaxed the break system prospectively, cannot be applied to the retrospective students, who were admitted earlier to the amended notification. When the petitioners herein in the respective writ petitions joined the course in 2013-2014, 2014-2015 and 2015-2016 respectively, they were governed by the 2012 Regulation and they were permitted to participate in the examination only as per the said notification. The learned counsels for the respondents would further emphasize the fact that all other Institutions in the entire country had applied the said break system for the similarly placed students only in terms of the 2012 Regulation. When such is the factual position, how could the petitioners herein alone can seek for application of new Regulation. If such a relief is granted, it would only result in discrimination and the same would be violative of Article 14 of the Constitution of India.

7. This Court is in agreement with the submission made on behalf of the respondents that once the petitioners herein were governed by the old Regulation and they having completed the course during the time, when the old Regulation was in force, they cannot be allowed to take the benefit of the new Regulation, although they were yet to obtain the Degree. Moreover, the fact remains that all other similarly placed students in the entire country were governed only by the old Regulation and therefore, the petitioners herein alone cannot be treated differently. When the Government has taken a policy decision by bringing amendment with prospective effect, this Court cannot tinker the policy and give effect to the policy retrospectively. If any relief is granted to the petitioners herein, that would only lead to miscarriage of justice to all identically placed students in various other Institutions of the



country, who were governed by the old Regulation and had obtained Degrees under the break system. Thus, the petitioners herein cannot be expected to treat them differently in such situation.

8. For all the above reasons, this Court finds no merits in the writ petitions and the same are, therefore, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-II)

To:

The Directorate of Indian
Medicine and Homeopathy,
Arumbakkam, Chennai-600 106.

+ 3 CC TO Mr.R.SENTHILKUMAR, ADVOCATE IN SR No. 93711 to 93713
+ 3 CC TO Mr.M.C.KARTHIK, ADVOCATE IN SR No. 92932, 92933 & 92931

KRK

TE/RSK/SAR-2 : 27/11/2018 : 4P/8C

COMMON ORDER IN
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