

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

*** HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND**

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

**+ Writ Petition Nos.28325, 28540, 31869 of 2011, 39532, 39534 of
2012, 211, 1975, 13394, 13521, 16586, 33811, 35742, 35895 and
36850 of 2013, 31129 of 2014, 13163, 10879 and 10914, of 2015,
8986, 45046, 45210, 45214 of 2016, 6494, 40996, 41557, 41773,
44490 and 44940 of 2017 and 20666 of 2018 & W.A.Nos.506 of
2015 and 1160 of 2016**

% 29-08-2018

W.P.No.28325 of 2011

Aluri Sneha, D/o A.V. Krishna Prasad,
Aged 23 years, Hindu, Female, Student,
R/o Narkatpally, Nalgonda District

... Petitioner

Vs.

Dr. N.T.R. University of Health Sciences,
Represented by its Registrar, Vijayawada,
and others

... Respondents

! Counsel for the Petitioners : Mr. N (P) Anjanadevi,
Mr. B. Sarvotham Reddy,
Mr. K. Gangi Reddy,
Mr. K. Udayasri
Mr. Kiran Tirumalasetti
Mr. Marella Radha
Mr. M.V. Hanumantha Rao
Mr. G. Venkat Reddy
Mr. N. Ashok Kumar
Mr. A. Jagan
Mr. S. Venkata Rajasekhar,
Mr. B. Ravindranath Tagore
Mr. Azim Parbatani
Mr. K. Chaitanya
Mr. K. Krishan Kishore

^ Counsel for Respondents : Mr. K. Lakshman, A.S.G.
G.P. for Medical & Health
Mr. Taddi Nageswara Rao, S.C.
Mr. A. Prabhakara Rao, SC
Mr. P. Vishnuvardhan Reddy
Mr. P. Dharmesh
Mr. B. Subramanyam,

< Gist:

> Head Note:

? Cases referred:



**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
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Writ Petition Nos.28325, 28540, 31869 of 2011, 39532, 39534 of 2012, 211, 1975, 13394, 13521, 16586, 33811, 35742, 35895 and 36850 of 2013, 31129 of 2014, 13163, 10879 and 10914, of 2015, 8986, 45046, 45210, 45214 of 2016, 6494, 40996, 41557, 41773, 44490 and 44940 of 2017 and 20666 of 2018 & W.A.Nos.506 of 2015 and 1160 of 2016

COMMON ORDER: *(per V. Ramasubramanian, J)*

Candidates, who got admission to the B.D.S. course during various academic years starting from 2008-09 and who were discharged from the course due to their failure to pass the first year examinations within 3 years of their admission, have come up with the above writ petitions, either challenging the orders of discharge or challenging the prescription contained in the Regulations.

2. We have heard Mrs. Anjana Devid Satyanarayana, Mr. B. Sarvotham Reddy, Mr. K. Gangi Reddy, Mrs. K. Udayasri, Mr. Kiran Tirumalasetti, Mr. Marella Radha, Mr. M. V. Hanumantha Rao, Mr. G. Venkata Reddy, N. Ashok Kumar, Mr. A. Jagan, Mr. S. Venkata Rajasekhar, Mr. B. Ravindranath Tagore, Mr. Azim Parbatani, Mr. K. Chaitanya and Mr. K. Krishna Kishore, learned counsel for the petitioners/appellants, and Mr. K. Lakshman, learned Assistant Solicitor General, learned Government Pleader for Medical and Health and Family Welfare (AP), learned Government Pleader for Higher Education, Mr. Taddi Nageswara Rao, learned Standing Counsel for Dr. N.T.R. University of Health Sciences, Mr. A.

Prabhakara Rao, learned Standing counsel for Kaloji Narayana Rao University, Mr. P. Vishnuvardhan Reddy, learned Counsel for the Dental Council of India, Mr. P. Dharmesh and Mr. B. Subramanyam, learned counsel for the respondents.

Brief prelude and Regulations 2007

3. In exercise of the powers conferred by Section 20 of the Dentists Act, 1948, the Dental Council of India, with the previous sanction of the Central Government, issued a set of Regulations known as “Revised BDS Regulations, 2007”.

4. The Regulations were divided into several Chapters, the first dealing with Admission, Selection and Migration, the second dealing with Examinations, the third dealing with Practical and Clinical Examination, the fourth dealing with Marks Distribution in each subject, the fifth dealing with Qualifications and Experience to be eligible for Examinership for BDS Examination, the sixth dealing with Goals and Objectives, seventh dealing with Recommendations, and so on and so forth.

5. The Chapter dealing with Examinations contains Regulations dealing with (1) Preface; (2) Methods of evaluation; (3) Internal assessment examination; (4) Scheme of examination for 1st year, 2nd year, 3rd year, 4th year and 5th year BDS; (5) Written examinations; (6) Practical and Clinical examinations; (7) Marks distribution in each subject; and (8) Revaluation and re-totalling.

6. Under Regulation IV of the Chapter-II dealing with the Scheme of Examination, it was stipulated as follows:-

“Any student, who does not clear the 1st BDS University examination in all three subjects within three years from the date of admission, shall be discharged from the course. Any candidate who fails in one subject in an examination is permitted to go to the next higher class and appear for the subject and complete it successfully before he is permitted to appear for the next higher examination.”

7. It is further stipulated in the same Regulation that a candidate who has not successfully completed the 1st year BDS examination cannot appear in the 2nd year examination and that a candidate who has successfully completed the 2nd year BDS examination can appear for the 3rd year BDS examination.

8. A group of students, who were admitted to the 1st year of the BDS course in the academic year 2008-09 and who did not clear the 1st year BDS examination by June 2011, within three years of their admission, were discharged from the course, by the orders of the Controller of Examinations of the Dr. N.T.R. University of Health Sciences, dated 19-09-2011. By one order dated 19-09-2011, three students by name Nussy G. Thomas, Sneha. A and Vinil Maddali were discharged. By another order of the same date, viz., 19-09-2011, two more students by name Gudimetla Deepthi Reddy and Hussain Khambati were discharged.

9. Out of those five candidates, Sneha came up with a writ petition in W.P.No.28325 of 2011, Nussy G. Thomas came up with W.P.No.28540 of 2011 and Deepthi Reddy came up with W.P.No. 31869 of 2011. Hussain Khambati came up with a writ petition in W.P.No.1975 of 2013, seeking only a declaration that the relevant Regulation is illegal, but not challenging his order of discharge. The

prayer with which the other three candidates came up with the three writ petitions of the year 2011, was to set aside the order of discharge dated 19.09.2011 and for a consequential direction to permit them to attend classes of the II year BDS course. But the petitioner in W.P.No.28325 of 2011 got her prayer amended subsequently, so as to include a prayer for a declaration that the Regulation under which she was discharged, is illegal. Similarly, Nessi G. Thomas, who was the petitioner in W.P.No.28540 of 2011 came up with a separate writ petition in W.P.No.13521 of 2013 challenging the Regulations of the year 2007 alone.

10. Another candidate by name Mohd. Imran, who was also discharged by a similar order dated 19.09.2011, came up with a writ petition in W.P.No.31317 of 2011 and obtained interim orders to continue in the second year. But the writ petition was dismissed on 13.12.2012. However, the same candidate filed another writ petition in W.P.No.4514 of 2012, seeking a direction to declare the results of the 1st year examination. When the said writ petition was pending, he had come up with another writ petition in W.P.No.39534 of 2012, challenging the relevant Regulations of the year 2007.

11. A candidate by name Manasa Chintala, who was discharged from the course by an order dated 06.11.2012 on the ground that she did not complete the 1st year BDS examinations within three years of her admission to the course in the year 2009-10, joined hands with another candidate by name Mohd. Ahsan Ahmed and came up with a writ petition in W.P.No.39532 of 2012.

Interestingly, the only prayer made in W.P.no.39532 of 2012 is to declare the relevant BDS Regulations 2007 as illegal. The order of discharge dated 06.11.2012 is not even challenged.

12. By a separate order dated 06-11-2012, five more candidates, who joined the course during the academic year 2009-10 and who did not clear the 1st year BDS examinations by June, 2012 were also discharged. Among those five candidates, one candidate by name Sai Kiran has come up; with W.P.No.211 of 2013. He has also prayed only for declaring the relevant Regulations as illegal, without seeking to set aside the order of discharge dated 06.11.2012.

13. By an order dated 26.11.2012, a candidate by name Sana Fatima, who joined the course in the year 2009-10 was discharged and she came up with W.P.No.13394 of 2013. Like many cases, this petitioner also did not challenge the order of discharge, but has challenged only the 2007 Regulations.

14. We do not think it is necessary to dwell in detail, the facts relating to the petitioners in each of the writ petitions on hand, as the theme of the song in all the writ petitions is one and the same, though the chronology alone is different. Suffice it to place on record the fact that we have 29 writ petitions and two writ appeals on hand. The writ petitions are of the years 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018. The reason as to why the students who failed in the 1st year BDS examinations belonging to different batches were emboldened to come up with the writ petitions is that in the earliest

set of writ petitions, interim orders came to be passed, either permitting the writ petitioners therein to move over to the 2nd year or permitting them to write the examinations.

Regulations, 2015 and the attempt to give retrospective effect

15. Apart from encouragement that these students got from this Court, the Dental Council of India also came up with a set of novel Regulations in the year 2015, solely with a view to help failed candidates. As per the new set of Regulations known as “Revised BDS Course (Seventh Amendment) Regulations, 2015”, notified on 27-04-2015, any student who does not clear the BDS course in all the subjects within a period of 9 years including the one year Compulsory Rotatory paid Internship, from the date of admission shall be discharged from the course.

16. These Seventh Amendment Regulations of the year 2015 were placed in the Executive Committee of the Dental Council of India in its meeting held on 26-04-2016, for its consideration and decision as to whether these Regulations can be made applicable to students admitted at any Dental Institution prior to the commencement of these Regulations. But the Executive Committee refused to take a call on the ground that it is only the General Body that should take a decision in this regard.

17. In a meeting held on 11/12-06-2016, the general body of the Dental Council of India took a decision to seek the approval of the Central Government under Section 20 of the Dentists Act, 1948,

for a partial modification of the 2015 Regulations. In essence, the general body wanted to insert a proviso, which reads as follows:

“Provided these Regulations shall also be applicable to the students admitted in BDS course in any Dental Institutions from the academic session 2008-09 onwards, but has not cleared their 1st year BDS course within a period of 3 years from the date of admission.”

18. The recommendation of the general body of the Dental Council of India was forwarded to the Central Government vide letter No.DE-87(1)-2016/3782, dated 6-7-2016. After 14 months, the Government of India, vide Letter No.V.12012/4/2003-DE9P, dated 11-09-2007 conveyed its decision not to accept the proposal for retrospective implementation of the 2015 Regulations.

19. Therefore, by a communication bearing No.DE-87(1)(7)-M2-2017/9897, dated 13-09-2017, the Dental Council of India informed the Directors of Medical Education of all the States, the Registrars of all the Universities, the Principals of all Dental Colleges in the country and the Registrars of all States Dental Councils that the Revised BDS course (Seventh Amendment) Regulations, 2015 will be applicable only to the students admitted after the date of notification of the amended Regulations in the official gazette, namely 23-05-2015. It was further clarified that students admitted from 10-09-2007 to 23-05-2015 under the Regulations of the year 2007 will be governed only by the Regulations of the year 2007. Keeping these developments in mind, let us take a look at the cases on hand.

Reliefs sought in the writ petitions

20. As we have stated above, the 29 writ petitions on hand, are of the years 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018. In other words, some of them were filed before the Amended Regulations of the year 2015 and some thereafter. For easy appreciation, the writ petition number and the relief sought therein, are presented in a tabular column as follows:

S.No.	W.P.No.	Relief sought
1.	28325/2011	Challenging the discharge order dated 19-09-2011
2.	28450/2011	Same prayer
3.	31869/2011	Same prayer
4.	39532/2011	Challenging Regulation, 2007
5.	39534/2012	Same prayer
6.	211/2013	Same prayer
7.	1975/2013	Same prayer
8.	13394/2013	Same prayer
9.	13521/2013	Same prayer
10.	16586/2013	Same prayer
11.	33811/2013	Challenging the refusal of respondents to permit her to write 1 st year arrears and 2 nd year internal
12.	35742/2013	Challenging the discharge order dated 29-11-2013
13.	35895/2013	Regulation 2007
14.	36850/2013	Permission to write 1 st year external
15.	31129/2014	Regulation 2007
16.	13163/2015	Permission to write 1 st year arrears
17.	10914/2015	Permission to write 2 nd year
18.	10879/2015	Permission for 2 nd year Exam
19.	8986/2016	Challenging the order of discharge dated 27-11-2015 for not clearing 1st year paper within 3 years- Admission 2012-13.
20.	45046/2016	Challenging Regulations 2007 & Discharge order dated 03-12-2016

21.	45210/2016	Challenging Regulations 2007 and discharge order dated 03-12-2016
22.	45214/2016	Same prayer
23.	6494/2016	Same prayer
24.	40996/2017	Challenging the discharge order dated 23-11-2017
25.	41557/2017	Challenging the discharge order dated 24-11-2017
26.	41773/2017	Challenging Regulations 2007 and discharge order dated 20-11-2017
27.	44490/2017	Same prayer
28.	44940/2017	Same prayer
29.	20666/2018	Challenging the order of discharge dated 20-11-2017

21. The tabular column given above would show that some of the writ petitioners have challenged only the orders of discharge, some others have challenged only the Regulations of the year 2007 and only very few have challenged both the Regulations of the year 2007 as well as the orders of discharge.

22. Technically speaking, the writ petitions where the challenge is confined only to the orders of discharge, are liable to be dismissed outright, as the impugned orders of discharge are in tune with the Regulations of the year 2007. It is only in pursuance of these Regulations that the batches of students from 2007-08 up to 2014-15 were admitted.

23. Similarly, persons who have merely challenged the Regulations of the year 2007 alone, are also bound to fail, as they have not sought the consequential relief of setting aside the orders of discharge. ***But on these technical grounds, we do not want to fail even in the court room, these students who have already failed in the class room. Therefore, we decided to look at the***

merits of the cases of these students, whose merit in academics already stand exposed.

Challenge to 2007 Regulations

24. At the outset, the petitioners in the batch of writ petitions on hand, who were admitted to the 1st year of the BDS course during the academic years 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15, have no locus to question the relevant Regulation of the year 2007. We have extracted in paragraph 4 above, the relevant Regulation namely Regulation 4 of Chapter-II, which is impugned in some of these writ petitions. As per this Regulation, a student who does not clear the 1st year BDS course in all the three subjects within 3 years from the date of admission shall be discharged from the course. This Regulation was in force when the candidates belonging to the batches of the years 2008-09 to 2014-15 were admitted. ***After having got admission into the BDS course under the very same set of Regulations and after having appeared for the examinations under the very same Regulations three times and failed, it is not open to the petitioners to maintain a challenge to the Regulations of the year 2007.*** We do not think that it is necessary to cite any case law on the point that candidates, who are admitted to a course under a set of Regulations, cannot challenge the Regulations, after they find that the Regulations pose a hazard to demerit. Therefore, the challenge to the Regulations of the year 2007 made by persons who joined the course during the academic years 2008-09 to 2014-15 is

bound to fail. As a corollary, the orders of discharge passed against them, in tune with the impugned Regulations are liable to be upheld.

25. In fact, the Supreme Court had an occasion to consider an exactly identical issue more than 50 years ago (when education had not yet become wholly commercial and people had respect for standards), in **University of Mysore v. Gopal Gowda**¹. What was in question before the Supreme Court in that case was Regulation 3 (c) of the Regulations for the grant of degree of Bachelor of Veterinary Sciences issued by the Academic Council of the Mysore University in exercise of the powers conferred by the Mysore University Act 23 of 1956. Under the said Regulation, a candidate, who failed four times, shall not be permitted to continue the course. Two students, who failed in four successive attempts, were denied permission to continue their studies on the basis of the said Regulation. The High Court of Mysore held that Regulation 3(c) cannot be said to subserve the purpose of maintaining the standards mentioned in Section 22. With that view, the High Court of Mysore allowed the writ petitions. While allowing the Civil Appeal filed by the University of Mysore, a three member Bench of the Supreme Court held as follows:

"The Academic Council is invested with the power of controlling and generally regulating teaching, courses of studies to be pursued and maintenance of the standards thereof and for those purposes the Academic Council is competent to make regulations amongst others, relating to the courses, schemes of examination and conditions on which students shall be admitted to the examinations, degrees, diplomas, certificates and other academic distinctions. The Academic Council is thereby invested with power to control the entire academic life of the student from

¹ AIR 1965 SC 1932

the stage of admission to a course of study to the ultimate conferment of a degree or academic distinction. Admission to a course or branch of study depending upon possession of the minimum qualifications prescribed does not divest the Academic Council of its control over the academic career of the student, for the Council has for maintaining standards the power to prescribe schemes of examinations, and also to prescribe conditions on which students shall be admitted to the examinations. Power to prescribe conditions on which, a student may be admitted to the examinations, in our opinion, necessarily implies the power to refuse to admit a student in certain contingencies, for the power to admit to an examination implies the power to weed out students who have on the application of a reasonable test proved themselves to be unfit to continue the course or prosecute training in that course. If on account of general inaptitude for being trained in a course or on account of supervening disability to prosecute a course of study, a student admitted to that course is found by the Academic Council to be unfit to prosecute his training, it would, in our judgment, be within the power of the Academic Council, in exercise of its authority to control and maintain standards, and also of its authority to prescribe conditions on which students may be admitted to examinations, to direct that the student shall discontinue training in that course, and **failure by a student to qualify for promotion or degree in four examinations, is certainly a reasonable test of such inaptitude or supervening disability. If after securing admission to an institution imparting training for professional courses, a student may be entitled to continue indefinitely to attend the institution without adequate application and to continue to offer himself for successive examinations, a lowering of academic standards would inevitably result....."**

Therefore, the issue is no longer *res integra* and the challenge to the Regulations of the year 2007 made by persons who joined the course during the academic years 2008-09 to 2014-15 is bound to fail.

26. But the story on hand has different connotations. As we have recorded above, the Regulations of the year 2007 were amended with effect from 27-04-2015 by the Seventh Amendment Regulations, 2015. Therefore, there is a possibility of 3 different categories of students, caught in between. They are,-

(1) those who got admitted during the years 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12. These students would have already

completed 3 years of course by the time the 2015 Regulations were notified on 23-05-2015 with effect from 27-04-2015;

(2) those, who were admitted in the academic year 2015-16 and thereafter, to whom the Regulations of the year 2007 are not at all applicable; and

(3) those who were admitted during the academic years 2012-13, 2013-14, and 2014-15, but who would not have completed the period of 3 years from the date of admission, at the time when the 2015 Regulations came into effect on 27-04-2015.

27. The reason as to why we have divided the students into the above three categories is on account of an interesting argument that was sought to be advanced on behalf of the students. It was contended by one of the learned counsel for the petitioners that what was sought to be done by the 2015 Regulations was to substitute the existing Regulations. According to the learned counsel, it was not a case of amendment, but a case of substitution. If it is a case of amendment, it cannot take retrospective effect under certain contingencies. If it is a case of substitution, it is to be read as though it was there at all times.

28. But we think that the above argument is an argument of convenience. Let us take a hypothetical situation where the 2015 Regulations had been made more disadvantageous than the 2007 Regulations. If this had been done, none of the learned counsel for the petitioners would make such a contention even with regard to the word "substitution". In fact, the Executive Committee of the

Dental Council of India attempted to give retrospective effect to these Regulations, but the general body became wary and referred the matter to the Central Government. The Central Government refused to approve the proposal to give retrospective effect. The decision of the Central Government dated 11-09-2017 is not challenged. Therefore, students who belonged to the batches of the years 2007-08 to 2011-12 will be governed only by the 2007 Regulations and if they have not passed the 1st year examinations within 3 years of admission, their fate was already sealed by the time the new amended regulations of 2015 came into force. Hence their cases are liable to be dismissed. They cannot be granted the benefit of the 2015 amendment.

29. It is only the cases of those who were admitted during the academic years 2012-13 to 2014-15, that constitute a hybrid variety. At the time when they joined the 1st year BDS course, they were governed by the 2007 Regulations. But before they became liable to be discharged for their failure to pass the 1st year examinations within 3 years of admission, the new set of Regulations came into force. It is the cases of these persons that may, at the most, deserve some sympathy.

30. But even in these cases, we are bound to exercise care and caution. The reason is that ***it is only in the province of the expert bodies to regulate the affairs of the profession and to determine and maintain the standards in institutions of Higher Education. As a corollary, it lies only in the province of such***

expert bodies like Dental Council of India to dilute standards.

Courts dare not dilute standards. In fact, the attempt made by the Executive Committee of the Dental Council of India to give retrospective effect to the 2015 Regulations was an attempt at dilution of standards. The reasons are too obvious. Expert bodies like Dental Council of India, Medical Council of India etc., are governed and administered by an elected body of representatives. Since failed candidates have the potential to form a vote bank in future, the attempts by elected representatives to dilute standards become a routine affair. But fortunately, the Central Government turned down the proposal for giving retrospective effect. Since the decision of the Central Government accepted by the Dental Council of India is not under challenge, we are bound to dismiss the cases of the students, who belonged to the batches from 2007-08 to 2011-12.

31. Coming to the batches of students who were admitted during the years 2012-13 to 2014-15, it appears that they had the benefit of the interim orders passed by this Court. But the results had not been declared. In order to see whether any of them had passed, by taking advantage of the interim orders, we requested Mr. Taddi Nageswara Rao, learned standing counsel for the University to furnish information. He furnished information in a sealed cover, which discloses that a few of them have passed but the others failed.

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32. Interestingly, the learned standing counsel for the University also produced a chart containing the details about the academic achievements (?) of the writ petitioners. The same is presented as follows:

Sl.No	W.P.No	Name(s) of the petitioner(s)	Year of joining	Failed attempts	Date of discharge	Interim orders
1	28325/2011	Aluri Sneha	2008-2009	June/July 2009 March 2010 June/July 2010 March 2011 June/July 2011	19.09.2011	<u>19.10.2011:</u> Respondents were directed to permit the petitioner to write the backlog subject and also to allow her to attend the classes of Second year BDS Course.
2	28540/2011	Nessy G Thomas	2008-2009	June/July 2009 March 2010 June/July 2010 March 2011 June/July 2011	19.09.2011	<u>27.6.2012:</u> Respondents were directed to allow the petitioner to write the backlog exams of 1 st year BDS examination.
3	31869/2011	G. Deepthi Reddy	2008-2009	June/July 2009 March 2010 June/July 2010 March 2011 June/July 2011	19.09.2011	<u>2.12.2011:</u> An Interim order was passed directing the respondents to permit the petitioners to write the 1st year BDS Program. <u>2.5.2012:</u> An Interim Order was passed directing respondents to publish results of the 1st year supplementary examinations.
4	39532/2012	Manasa Chinta and Mohd. Ahsan Ahmed	2009-2010	June/July 2010 March 2011 June/July 2011 March 2012 June/July 2012	06.11.2012	None
5	39534/2012	Mohd Imran	2008-2009	June/July 2009 March 2010 June/July	19.09.2011	None

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				2010 March 2011 June/July 2011		
6	211/2013	E. Sai Kiran	2009-2010	June/July 2010 March 2011 June/July 2011 March 2012 June/July 2012	06.11.2012	None
7	1975/2013	Hussain S Khambati	2008-2009	June/July 2009 March 2010 June/July 2010 March 2011 June/July 2011	19.09.2011	None
8	13394/2013	Sana Fathima	2009-2010	June/July 2010 March 2011 June/July 2011 March 2012 June/July 2012	06.11.2012	None
9	13521/2013	Nessy G Thomas	2008-2009	June/July 2009 March 2010 June/July 2010 March 2011 June/July 2011	19.09.2011	None
10	16586/2013	Matta Kusuma	2008-2009	June/July 2009 March 2010 June/July 2010 March 2011 June/July 2011	19.09.2011	None
11	33811/2013	Ambati Sukanya	2010-2011	June/July 2011 March 2012 June/July 2012 March 2013 June/July 2013	29.11.2013	<u>3.12.2013</u> : IO passed directing the respondents to permit the petitioner to appear the first year BDS backlog exams of General Anatomy and internal exams of 2 nd year BDS. <u>17.6. 2104</u> : IO passed directing the respondents to permit the petitioner to appear the first year BDS backlog exams of General Anatomy and internal exams of 2 nd year BDS. However the court held that the declaration of results will be subject to regulations made by the University.

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12	35742/2013	Sana Naaz	2010-2011	June/July 2011 March 2012 June/July 2012 March 2013 June/July 2013	29.11.2013	<u>5.12.2013:</u> Interim order was passed permitting the petitioner to appear for first year external exams for Anatomy in Dec,2013 and Jan, 2014 and appear for internal exams in 2 nd year. <u>24.04.2014:</u> The respondents were directed to declare the result of the petitioner which shall be subject to the regulations of the second respondent University.
13	35895/2013	T Jyothi Tejaswini; M.L. Prasanna Kumar; B.Prashanthi; and G. Rajesh	2010-2011		29.11.2013	None
14	36850/2013	N. Harshit	2010-2011	June/July 2011 March 2012 June/July 2013 March 2013 June/July 2013	29.11.2013	<u>2.1.2014:</u> IO passed directing the respondents to permit the petitioner to appear the first year BDS backlog exams of Anatomy and Physiology. <u>24.4.2014:</u> The respondents were directed to declare the result of the petitioner which shall be subject to the regulations of the second respondent University.
15	31129/2014	Kadam Ankush Marot Rao	2010-2011	June/July 2011 March 2012 June/July 2012 March 2013 June/July 2013	29.11.2013	None
16	13163/2015	Sana Naaz	2010-2011	June/July 2011 March 2012 June/July 2012 March 2013 June/July 2013	29.11.2013- Communicati on made by the University.	<u>01.05.2015:</u> There was an interim direction permitting the petitioner to attend 2 nd year BDS exam which was to be held in June 2015 after collecting exam fees. <u>28.03.2016:</u> Having regard to the amendment to the BDS Course Regulations, 2007 made vide notification dated 27.04.2015 by the 3rd respondent - Dental Council of India, an interim order was passed allowing the petitioner to clear all the subjects of the BDS Course within 9 years.

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17	10879/2015	N. Harshith	2010-2011	June/July 2011 March 2012 June/July 2013 March 2013 June/July 2013	29.11.2013	<u>27.4.2015:</u> There was an interim direction permitting the petitioner to attend 2 nd year BDS exam which was to be held in June 2015 after collecting exam fees. <u>28.3.2016:</u> An interim order was passed in view of the new BDS regulations which allowed the BDS students to pass the course within nine years.
18	10914/2015	A. Sukanya	2010-2011	June/July 2011 March 2012 June/July 2012 March 2013 June/July 2013	29.11.2013	<u>27.4.2015:</u> There was an interim direction permitting the petitioner to attend 2 nd year BDS exam which was to be held in June 2015 after collecting exam fees. <u>9.2.2016:</u> An interim order was passed in view of the new BDS regulations which allowed the BDS students to pass the course within nine years
19	8986/2016	M.Vinod Kumar	2012-2013	June/July 2013 March 2014 June/July 2014 March 2015 June/July 2015	27.11.2015	None
20	45046/2016	N. Mary Rupa	2013-2014	June/July 2014 March 2015 June/July 2015 March 2016 June/July 2016	3.12.2016	<u>26.12.2016:</u> The petitioner shall be permitted to attend second year BDS course as they have failed only one subject in first year. However they shall not be entitled to appear for second year exam without passing all subjects of first year BDS course. <u>4.1.2018:</u> There was an interim order that in case the petitioners have passed the first year exams and fulfilled the attendance requirement of second year their exam fee shall be received and they shall be permitted to

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						write the exam. However the results shall not be declared until further orders.
21	45210/2016	M. Sricharan	2013-2014	June/July 2014 March 2015 June/July 2015 March 2016 June/July 2016	3.12.2016	<u>26.12.2016:</u> The petitioner shall be permitted to appear for first year exams in both the remaining papers. He shall be promoted to second year on passing atleast one of those two remaining papers. <u>4.1.2018:</u> There was an interim order that in case the petitioners have passed the first year exams and fulfilled the attendance requirement of second year their exam fee shall be received and they shall be permitted to write the exam. However the results shall not be declared until further orders
22	45214/2016	D. Premlal	2013-2014	June/July 2014 March 2015 June/July 2015 March 2016 June/July 2016	3.12.2016	<u>26.12.2016:</u> The petitioner shall be permitted to attend the second year BDS course as they have failed only one subject in first year. However they shall not be entitled to appear for second year exam without passing all the subjects of first year BDS course <u>4.1.2018:</u> There was an interim order that in case the petitioners have passed the first year exams and fulfilled the attendance requirement of second year their exam fee shall be received and they shall be permitted to write the exam. However the results shall not be declared until further orders
23	6494/2017	Rehmath Begum	2013-2014	June/July 2014 March 2015 June/July 2015 March 2016	3.12.2016	<u>04.07.2017:</u> As an interim order was passed in WPMP 55737 of 2016 in WP 45210 dated 2016 dated 26.12.2016 (The petitioner shall be

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				June/July 2016		permitted to appear for first year exams in both the remaining papers. He shall be promoted to second year on passing atleast one of those two remaining papers) and as the petitioner joined BDS course in academic year 2013-14 and the period of nine years would expire in 2022-23, the petitioner shall be allowed to appear for both the remaining papers. She shall be promoted to second year only on passing atleast one of the two papers.
24	40996/2017	Jalla Sneha	2014-2015	June/July 2015 March 2015 June/July 2016 March 2017 June/July 2017	20.11.2017	<u>05.12.2017:</u> Interim order was passed directing the respondents to receive the fees for first year supplementary examination and also to allow the petitioner to appear for the examinations. however, the respondents are directed to not declare the result in the meantime.
25	41557/2017	Yasmeen Fatima	2014-2015	June/July 2015 March 2016 June/July 2016 March 2017 June/July 2017	20.11.2017	<u>07.12.2017:</u> Interim order was passed directing the respondents to receive the fees for first year supplementary examination and also to allow the petitioner to appear for the examinations. however, the respondents are directed to not declare the result in the meantime.
26	41773/2017	Teetla Ravi Kiran	2014-2015	June/July 2015 March 2016 June/July 2016 March 2017 June/July 2017	20.11.2017	<u>13.12.2017:</u> In light of the fact that the petitioner joined the BDS Course only in the year 2014-15 and also because of the fact that the petitioner would be governed by the 2015 Regulations, the order of the respondents in not receiving the petitioners application for to appear in the first year BDS

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						examinations, has been suspended for the interim period.
27	44490/2017	Uppala Sai Gopanth	2014-2015	June/July 2015 March 2016 June/July 2016 March 2017 June/July 2017	20.11.2017	<u>27.12.2017:</u> In light of the fact that the petitioner joined the BDS Course only in the year 2014-15 and also because of the fact that the petitioner would be governed by the 2015 Regulations, the order of the respondents in not receiving the petitioners application for to appear in the first year BDS examinations, has been suspended for the interim period.
28	44940/2017	Kaila Bhavana	2014-2015	June/July 2015 March 2016 June/July 2016 March 2017 June/July 2017	20.11.2017	<u>29.12.2017:</u> Respondents were directed to permit the petitioner to take the examination scheduled to be held from 04.01.2018. It was also made clear in the interim order that the petitioner cannot claim any equity. <u>28.06.2018:</u> Respondents were directed to declare the results of the petitioner.
29	20666/2018	Shahana Hakeem	2014-2015	June/July 2015 March 2016 June/July 2016 March 2017 June/July 2017	20.11.2017	None

33. As seen from the above table, the petitioners in W.P.Nos.28325 of 2011, 28540 of 2011, 31869 of 2011, 39534 of 2012, 1975 of 2013, 13521 of 2013 and 16586 of 2013 are all candidates, who joined the BDS course in the academic year 2008-09. The three year period prescribed under the Regulations of the year 2007, for passing the 1st year BDS examination, had expired by

July, 2011. Therefore, their writ petitions are liable to be dismissed, as they have no right to challenge the Regulations and as a consequence they cannot challenge the orders of discharge.

34. The petitioners in W.P.Nos.39532 of 2012, 211 of 2013 and 13394 of 2013 are all candidates, who joined the course in the academic year 2009-10. They have also failed to pass the 1st year BDS examinations within three years of their date of admission. Therefore, their challenge either to the Regulations or to the orders of discharge should fail.

35. The petitioners in W.P.Nos.33811 of 2013, 35742 of 2013, 35895 of 2013, 36850 of 2013, 31129 of 2014, 13163 of 2014, 10879 of 2015 and 10914 of 2015 are all candidates, who joined the course in the academic year 2010-11. Their fate is also the same as that of the candidates, who joined in the academic years 2008-09 and 2009-10.

36. The petitioner in W.P.No.8986 of 2016 joined the course in the academic year 2012-13. The petitioners in W.P.Nos.45046 of 2016, 45210 of 2016, 45214 of 2016 and 6494 of 2017 are all candidates, who joined the course in the academic year 2013-14. Similarly, the petitioners in W.P.Nos.40996 of 2017, 41557 of 2017, 41773 of 2017, 44490 of 2017, 44940 of 2017 and 20666 of 2018 are all candidates, who joined the course in the academic year 2014-15.

37. As stated earlier, candidates, who joined the course in the academic year 2012-13 or in the subsequent academic years, were

governed by the Regulations of the year 2007, up to the date of issue of the Regulations of the year 2015, which came into force on 27.04.2015. By that time these candidates had not completed three years from the date of their admission. But by a communication bearing No.DE-87(1)(7)-M2-2017/9897 dated 13-09-2017, the Dental Council of India informed the Directors of Medical Education of all the States, the Registrars of all the Universities, the Principals of all Dental Colleges in the country and the Registrars of all States Dental Councils that the Revised BDS course (Seventh Amendment) Regulations, 2015 will be applicable only to the students admitted after the date of notification of the amended Regulations in the official gazette, namely 23-05-2015. It was further clarified that students admitted from 10-09-2007 to 23-05-2015 under the Regulations of the year 2007 will be governed only by the Regulations of the year 2007. In other words, the fate of the students admitted before 23-05-2015 is already sealed by the Dental Council. Neither the decision of the Central Government not to give retrospective effect nor the decision of the Dental Council dated 13-09-2017 is under challenge. Hence strictly speaking, even candidates admitted during the academic years 2012-13 to 2014-15 cannot be granted any relief despite being in the twilight zone.

38. But there is a small hitch. Though the petitioners in the entire batch of cases, belonging to all batches of the years 2008-09 to 2014-15 had the benefit of interim orders permitting them to write the examination or move over to the next academic year, the

candidates belonging to the batches of the years 2012-13 to 2014-15 cannot be treated on par with the candidates belonging to the batches of the years 2008-09 to 2011-12. The prospects of these candidates belonging to the batches of the years 2012-13 and thereafter, suddenly lit up with advent of the 2015 Regulations and some confusion prevailed till the Government of India turned down the request of the Dental Council. Therefore, the only benefit that could be conferred upon the students belonging to the batches of the years 2012-13 to 2014-15, is to allow them to continue in the course, provided 2 conditions are satisfied, namely (i) that they had passed the examinations which they were permitted to write as per the interim orders of this Court and (ii) that there is still a possibility for these candidates to complete the entire course within a total period of 9 years as prescribed in 2015 Regulations.

39. In simple terms (1) all the writ petitions filed by candidates, who joined the course in the academic years 2008-09 to 2011-12 are liable to be dismissed; and (2) the writ petitions filed by candidates, who joined the course in and after the academic year 2012-13 may be allowed to a limited extent by permitting them to complete the course, provided (i) they have passed the exams that they were permitted to write, by the interim orders of this Court and (ii) there is still a possibility for these candidates to complete the entire course within a total period of 9 years as prescribed in 2015 Regulations.

40. The University has furnished information about the candidates who joined the course in the year 2012 and in the subsequent years and their present status, in a tabular column. It reads as follows:

S. No	W.P. No	Year of joining the course	Present status
1.	8986 of 2016	2012	Not continuing the course
2.	45046 of 2016	2013	Continuing the course in II year
3.	45210 of 2016	2013	Continuing the course in II year
4.	45214 of 2016	2013	Continuing the course in II year
5.	6494 of 2017	2013	Continuing the course in I year
6.	40996 of 2017	2014	Continuing the course in I year
7.	41557 of 2017	2014	Continuing the course in I year
8.	41773 of 2017	2014	Continuing the course in I year
9.	44940 of 2017	2014	Continuing the course in I year
10.	44490 of 2017	2014	Continuing the course in I year
11.	20666 of 2018	2014	Continuing the course in I year

41. It may be seen from the above table that the petitioner in the writ petition at S.No.1 joined the course in the year 2012 and he is not now continuing in the course. Therefore, he cannot be granted any benefit. The petitioners in the writ petitions at S.Nos.2, 3, 4 and 5 joined the course in the year 2013. Therefore, even if the benefit of the 2015 Regulations are granted to them, they should complete the course by the year 2022. But the petitioners in the writ petitions at

S.Nos.2, 3, and 4 are in the II year and the petitioner in the writ petition at S.No.5 is still in the I year. If these writ petitioners are still in the I year or II year after 5 years of their admission, we do not know how it will be possible for them to complete the remaining curriculum before 2022. Even if they pass all examinations hereafter in the first attempt, they will require 4 more years, by which time the dead line fixed by the 2015 Regulations would have expired.

42. The petitioners in the writ petitions at S.Nos.6 to 11 in the table given above, joined the course in the year 2014 and they are still in the I year. Even as per the 2015 Regulations, they must complete the entire course before 2023. There are only five more academic years left and even if these candidates pass all future examinations in the first attempt, they will require five more years. Therefore, we do not know whether the grant of any concession to the petitioners, who joined the courses from the academic year 2012-13 onwards, will bear any fruit at all. This is why we have prescribed two provisions for extending the benefit of the 2015 Regulations to candidates admitted during the academic year 2012-13 and in the subsequent academic years and it is up to the University now to take a call.

43. Having dealt with the 29 writ petitions on hand, we shall now take up the two writ appeals W.A.Nos.506 of 2015 and 1160 of 2016. Both these writ appeals are filed by Dr. N.T.R. University of Health Sciences, as against the interim orders granted by the learned Judge. The writ appeal W.A.No.506 of 2015 arises out of an

interim direction issued by the learned Judge permitting the writ petitioners to appear for the 2nd year BDS examination, to be held in the month of June, 2015. Similarly, W.A.No.1160 of 2016 also arises out of an interim direction directing the university to declare the results of the 2nd year BDS course of the writ petitioner and to allow her to continue in the third year.

44. The candidates involved in these two writ appeals are by name Sana Naaz and Ambati Sukanya. They are the writ petitioners respectively in W.P.Nos.35742 and 33811 of 2013. They are also the petitioners respectively in W.P.Nos.13163 of 2015 and 10914 of 2015. But these two candidates joined the BDS course, in the academic year 2010-11. Therefore, the Regulations of the year 2007 would govern them. They must have passed the 1st year BDS examinations within three years of joining the BDS course. This three year period expired much before the advent of the Regulations of the year 2015. Therefore, their writ petitions themselves were liable to be dismissed and we have indicated the same in the preceding paragraph. In view of the dismissal of their main writ petitions, the writ appeals arising out of the interim orders will have to be closed, as no further orders are necessary.

45. In the light of the above –

- a) Writ appeals W.A.Nos.506 of 2015 and 1160 of 2016 are closed as no further orders are necessary.
- b) The impugned clause of the Revised BDS Regulations, 2007 stipulating that a candidate, who did not clear the 1st year BDS

examination in all the three subjects within three years from the date of admission shall be discharged from the course, is perfectly valid and we see no reason to declare the same as illegal or *ultra vires*.

- c) All the writ petitions filed by the candidates, who joined the BDS course during the academic years 2008-09, 2009-10, 2010-11 and 2011-12, are dismissed.
- d) All candidates, who joined the course in the academic year 2012-13 and thereafter, who had the benefit of interim orders, may be allowed the benefit of the Revised BDS Course (7th Amendment) Regulations, 2015, (i) if they had passed the examinations after availing the benefit of interim orders of this Court and (ii) if there is still a possibility for these candidates to complete the entire course within a total period of 9 years from the date of their admission, as prescribed in the 2015 Regulations. In other words, candidates belonging to the batches of the years 2012-13 and thereafter, who came up with writ petitions, secured interim orders, appeared for the examinations and failed, are not entitled to the benefit of the amended Regulations of the year 2015. Similarly, candidates belonging to the batches of the years 2012-13 and thereafter, who do not stand a chance, because of their present status, of completing the course within a total period of 9 years from the date of their admission, will also not have the benefit of this order, as they will not even satisfy the 2015 Regulations. The

University may pass orders in respect of each individual falling under this category, either allowing them to prosecute the course or to discontinue them depending upon the satisfaction of the 2 conditions we have stipulated above.

- e) There shall be no order as to costs. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

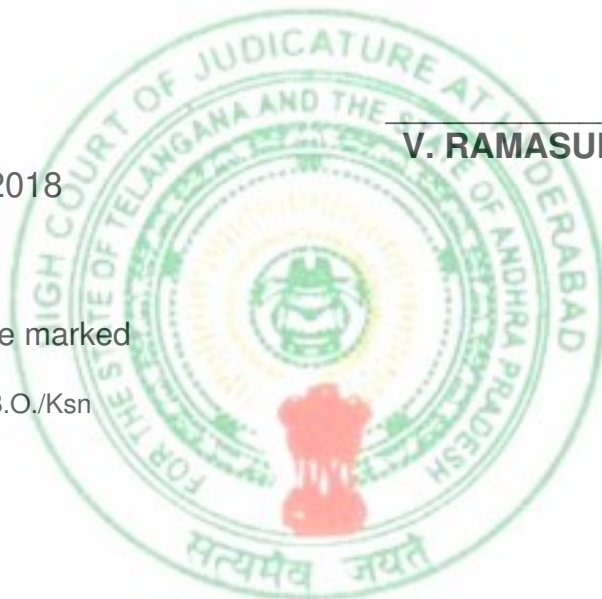
V. RAMASUBRAMANIAN, J

Date: 29-08-2018

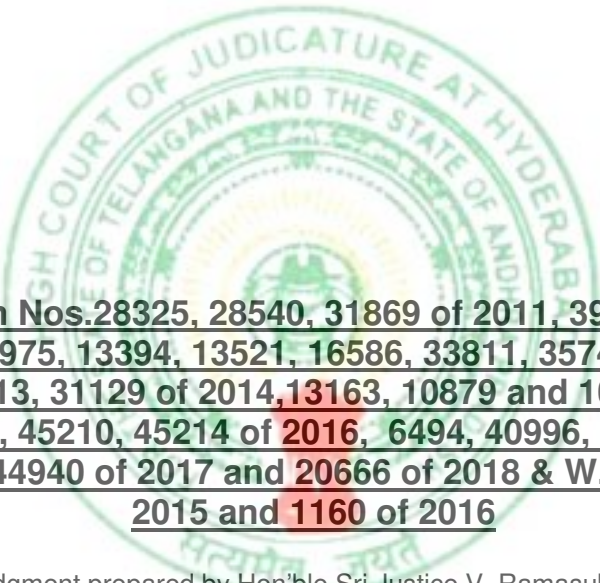
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*** HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN**



Writ Petition Nos.28325, 28540, 31869 of 2011, 39532, 39534 of 2012, 211, 1975, 13394, 13521, 16586, 33811, 35742, 35895 and 36850 of 2013, 31129 of 2014, 13163, 10879 and 10914, of 2015, 8986, 45046, 45210, 45214 of 2016, 6494, 40996, 41557, 41773, 44490 and 44940 of 2017 and 20666 of 2018 & W.A.Nos.506 of 2015 and 1160 of 2016

(P.D. Judgment prepared by Hon'ble Sri Justice V. Ramasubramanian)

29th August, 2018

Ksn