

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A.Nos.604, 613, 792 and 923 of 2019

W.A.No.604 of 2019

1.R.Vaisnavi
2.R.Visveswaran ... Appellants

vs.

1.Government of Puducherry,
Rep. by Secretary to Government,
(Higher and Technical Education)
Chief Secretariat, Puducherry - 605 004.

2.Government of Puducherry,
Centralised Admission Committee (CENTAC),
Rep. by Co-ordinator (Admission), CENTAC,
Pondicherry Engineering College Campus,
Puducherry - 605 014.

3.Medical Council of India,
Rep. by Secretary,
Sector - VIII, Dwaraga Phase II,
New Delhi - 110 077.

4.Pondicherry Institute of Medical Sciences,
Rep. by its Registrar,
Kalapet, Puducherry - 605 014.

5.Aditi Susan John
6.S.Suprathi
7.James P.Sarij
8.Dasien Ika Syngkon
9.Daya Uday
10.Barepuadarash.M
11.Aysha Mohamed
12.Arfaan Hafiz
13.Jahnavi Cherukuri

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14.Priyadarshini
15.Aishwarya Lakshmi
16.Aswanth.A.J.
17.Guhan R.T.
18.Fredofahd.R
19.Banupriya.M
20.Prasannasarathy.P
21.Sharon Patric
22.Raamkaarthiskeyan

.. Respondents

(R10 to R22 are impleaded as party respondents vide Court order dated 15.03.2019 in CMP.5798/2019 in WA.No.604/2019)

Writ Appeal filed under Clause 15 of Letters Patent Act against the order dated 11.02.2019 passed in W.P.No.28266 of 2018.

W.P.No.28266 of 2018 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the press release dated 16.10.2018 having reference No.CENTAC/UG-Admin/2018-2019 issued by the second respondent and quash the same in so far as it relates to the special counselling to be conducted on 15.10.18 to fill up the 33 management quota seats by calling upon all the 330 candidates in the list sponsored by the second respondent which comprised of students who did not report for counselling on 31.08.2018 which is the last date for admission of students all over the country as per the Supreme Court Order in Writ Petition Civil No.267 of 2017 dated 09.05.2017 and consequently direct the second respondent to recall the press release in so far as it has resulted in the discontinuance of the seven petitioners from the MBBS Course and direct the second respondent to issue appropriate orders to the fourth respondent to permit the petitioners to continue their first year MBBS Course in the fourth respondent college.

W.A.No.613 of 2019

1.Pavani
2.Swetha Harikumar
3.Mohanraam .S
4.Fathima R.S.
5.Maila Venkatasiva Sandeep Reddy
6.Aparna Babu
7.Yuvasri.S.R
8.Sushma .D
9.S.Subarna
10.Nerella Sunny Supreeth
11.Mohamed Ali Akram .S.M.
12.Adarsh Menon

13.Rehana Yaasha Mena R.B
14.Gadde Edukondalu
15.Reshma Priya .C
16.Sikhakolanu Sankarrao
17.Jayapriya .K

.. Appellants

vs.

1.Government of Puducherry,
Rep. by Secretary to Government,
(Higher and Technical Education)
Chief Secretariat, Puducherry - 605 004.

2.Government of Puducherry,
Centralised Admission Committee (CENTAC),
Rep. by Co-ordinator (Admission), CENTAC,
Pondicherry Engineering College Campus,
Puducherry - 605 014.

3.Medical Council of India,
Rep. by Secretary,
Sector - VIII, Dwaraga Phase II,
New Delhi - 110 077.

4.Pondicherry Institute of Medical Sciences,
Rep. by its Registrar,
Kalapet, Puducherry - 605 014.

5.Supretha Sivakumar
6.Sayooj Sajeevan
7.Chandru (Minor)
(Rep. By his father and Natural guardian, Babu.R)
8.Barepu Adarsh .M
9.Tharini
10.Abhirami .C
11.Aravindh .P
12.Akhila S.Kumar
13.Allen Richardson Nel
14.Zeya .P
15.Aysha Mohammed
16.Gokulraj .A
17.Padmamakshmi
18.Arfaan Hafiz
19.Niharika .D(Minor Rep.by her father and Next
Guardian Dhanasekaran.D
20.Shobia .P
21.Jahnavi Cherukuri
22.Chanthini .R
23.Priyadarshini .D
24.Aishwarya Lakshmi

25.Jabez Graham Singh
26.Aadithya A.Kurup
27.Logesh .M (Minor)
(Rep. By his father and Natural guardian Murugan .V)
28.Keerthana .K
29.Aswanth .A
30.Guhan .R.T
31.Archana R.Pillai
32.Asvika .E
33.Fredo Fahad .R
34.Banupriya .M
35.Prasannasarathy .P
36.Sharon Patric
37.Byna Venkata Nagakoushik (Minor)
(Rep. By his father and Natural guardian Surendra .B)
38.Raam Kaarthikeyan
39.Sakthi Gnana Sundar ... Respondents
(RR7 to 39 impleaded as party respondents vide
Court order dated 15.03.2019 in CMP.5805/2019
in WA.No.613/2019)

Writ Appeal filed under Clause 15 of Letters Patent Act
against the order dated 11.02.2019 passed in W.P.No.28602 of
2018.

W.P.No.28602 of 2018 is filed under Article 226 of the
Constitution of India, praying for issuance of a Writ of
Certiorarified Mandamus, to call for the records relating to the
press release dated 16.10.2018 having Ref.No. CENTAC/UG-
Admin/2018-19 issued by the second respondent in so far as it
related to the special counselling conducted on 15.10.2018 to
fill up the 33 management quota seats in the fourth respondent
college by calling upon only the 330 candidates in the 1:10
stray mop-up list sponsored by the second respondent prepared
before the order of this Hon'ble Court dated 28.08.2018
sanctioning additional 33 management quota seats for the
academic year 2018-19 and quash the same and consequently direct
the second respondent to recall its decision in so far as it has
resulted in the discontinuance of the 19 petitioners from the
MBBS Course and direct the second respondent to issue
appropriate orders to the fourth respondent to permit the
petitioners to continue their first year MBBS course in the
fourth respondent college.

W.A.No.792 of 2019

P.Joseph Ryan Alex Sargunam

.. Appellant

vs.

1. Government of Puducherry,
Rep. by Secretary to Government,
(Higher and Technical Education)
Chief Secretariat, Puducherry - 605 004.

2. Government of Puducherry,
Centralised Admission Committee (CENTAC),
Rep. by Co-ordinator (Admission), CENTAC,
Pondicherry Engineering College Campus,
Puducherry - 605 014.

3. Medical Council of India,
Rep. by Secretary,
Sector - VIII, Dwaraga Phase II,
New Delhi - 110 077.

4. Pondicherry Institute of Medical Sciences,
Rep. by its Registrar,
Kalapet, Puducherry - 605 014.

5. Barepu Adarsh .M

6. Aysha Mohamed

7. Arfaan Hafiz

8. Jahanavi Cherukuri

9. Priyadarshini .D

10. Aishwarya Lakshmi

11. Aswanth .A.J

12. Guhan .R.T

13. Fredo Fahad .R

14. Banupriya .M

15. Prasannasarathy .P

16. Sharon Patric

17. RaamKaarthikeyan

.. Respondents

(RR5 to 17 are impleaded as party respondents vide

Court order dated 27.03.2019 made in

CMP.Nos.7549, 6240, 5805/2019 in WA.Nos.792, 923, 604 & 613/2019)

Writ Appeal filed under Clause 15 of Letters Patent Act
against the order dated 11.02.2019 passed in W.P.No.29406 of
2018.

W.P.No.29406 of 2018 is filed under Article 226 of the
Constitution of India, praying for issuance of a Writ of
Certiorarified Mandamus, to call for the records relating to the
impugned provisional allotment list for UG Medical (2018-2019)
Management Quota (Special Counselling) dated 15.10.2018 issued
by the second respondent and the consequential press release
dated 16.10.2018 having reference No.CENTAC/UG-Admin/2018-2019
issued by the second respondent and quash the same in so far as
it relates to the special counselling conducted on 15.10.2018 to

fill up the 33 management quota seats by calling upon all the 330 candidates in the list sponsored by the second respondent which comprised of students who did not report for counselling on 31.08.2018 which is the last date for admission of students all over the country as per the Supreme Court Order in Writ Petition Civil No.267 of 2017 dated 09.05.2017 and consequently direct the second respondent to recall the allotment order dated 15.10.2018 and consequential press release dated 16.10.2018 in so far as it has resulted in the discontinuance of the petitioner from MBBS Course and direct the second respondent to issue appropriate orders to the fourth respondent to permit the petitioner to continue MBBS Course in the fourth respondent college.

W.A.No.923 of 2019

1.S.Suprathi
2.James P.Sarij

.. Appellants

vs.

1.Government of Puducherry,
Rep. by Secretary to Government,
(Higher and Technical Education)
Chief Secretariat, Puducherry - 605 004.

2.Government of Puducherry,
Centralised Admission Committee (CENTAC),
Rep. by Co-ordinator (Admission), CENTAC,
Pondicherry Engineering College Campus,
Puducherry - 605 014.

3.Medical Council of India,
Rep. by Secretary,
Sector - VIII, Dwaraga Phase II,
New Delhi - 110 077.

4.Pondicherry Institute of Medical Sciences,
Rep. by its Registrar,
Kalapet, Puducherry - 605 014.

5.Aditi Susan John
6.R.Vaisnavi
7.R.Visveswaran
8.Dasien Ika Syngkon
9.Daya Uday

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent Act against the order dated 11.02.2019 passed in W.P.No.28266 of 2018.

W.P.No.28266 of 2018 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the press release dated 16.10.2018 having reference No.CENTAC/UG-Admin/2018-2019 issued by the second respondent and quash the same in so far as it relates to the special counselling to be conducted on 15.10.18 to fill up the 33 management quota seats by calling upon all the 330 candidates in the list sponsored by the second respondent which comprised of students who did not report for counselling on 31.08.2018 which is the last date for admission of students all over the country as per the Supreme Court Order in Writ Petition Civil No.267 of 2017 dated 09.05.2017 and consequently direct the second respondent to recall the press release in so far as it has resulted in the discontinuance of the seven petitioners from the MBBS Course and direct the second respondent to issue appropriate orders to the fourth respondent to permit the petitioners to continue their first year MBBS Course in the fourth respondent college.

For Appellants

in all W.Ps. : M/s.Nalini Chidambaram
Senior Counsel
for Mr.N.Umapathi in WA.604 & 923/19
in WA.No.613/19 for Mr.D.PrabuMukunth
Arunkumar in WA.792/19

For Respondents

in all W.Ps. :
R1 & R2 : Mr.T.P.Manoharan
Senior Counsel
for Mr.C.T.Ramesh,
Additional Government Pleader (Pondy)
R3 : Mr.V.P.Raman
R4 : Mr.Abishek Jenasanen

Mr.P.Wilson SC for

M/s.Wilson Associates: For R11 to 15
17 to 19 and 21 & 22
in WA.604 & 613/19

M/s.R.Hemalatha : For R9 to 14, 16, 17
19, 20, 22, 25 to 28, 31,
32, 37, 39 in WA.923/19

M/s.Sarvabhman
Associates

: For R6 in WA.613/19

COMMON JUDGMENT

(Judgment of this Court made by T.S.Sivagnanam,J.)

These appeals are directed against the common order in W.P.Nos.28266, 28602, 29406 and 30339 of 2018 dated 11.02.2019. The appellants before us were the petitioners in the writ petitions, wherein they prayed for issuance of writ of Certiorarified Mandamus to quash the press release issued by the Admission Committee for admission to MBBS Course in the Union Territory of Pondicherry, namely, Centralised Admission Committee (hereinafter referred to as "the CENTAC" for brevity) dated 16.10.2018 in so far as it relates to the special counselling to be conducted on 15.10.2018 to fill up the 33 management quota seats by calling upon all the 330 candidates in the list sponsored by the second respondent which comprised of students who did not report for counselling on 31.08.2018 which is the last date for admission of students all over the Country as per the orders of the Hon'ble Supreme Court in the case of Dar-us-Slam Educational Trust and others vs. Medical Council of India and others in W.P.(Civil).No.267 of 2017 dated 09.05.2017 and for a consequential direction upon the CENTAC to recall the press release in so far as it has resulted in the discontinuance of the appellants/writ petitioners from the MBBS Course and direct the second respondent to issue appropriate orders to the fourth respondent Institution, namely, Pondicherry Institute of Medical Sciences to enable the appellants/writ petitioners to continue their first year MBBS Course in the 4th respondent College.

2.The writ petitions filed by the appellants were dismissed by the common order dated 11.02.2019 which is impugned before us.

3.Before we proceed to consider the arguments advanced before us by the learned counsels on either side, we take note of the factual position as set out by the Medical Council of India (hereinafter referred to as "MCI") in their notes of submission filed in the writ petitions in December 2018. The relevant portion of the said note reads as follows:

"It is submitted that MCI is in a position to recognise only 50 additional candidates since the permission of Central Government on 30.08.2018 was only for 50 admissions. Currently there are 69 students attending classes in place of 50 admissions, i.e. 50 admitted by CENTAC plus 19 petitioners in WP.28602 who have interim order dated 30.10.2018 in their favour to continue attending classes. Further 8 more students admitted on 31.08.2018 by the college (7 petitioners in WP.28266 and 1 petitioner in WP.29406 of 2018) are

also seeking to resume attending the classes. There is no interim order in their favour. Assuming without admitting, that this Hon'ble Court exercises jurisdiction to adjudicate on merits, it is submitted that the issue on whether the exercise conducted by CENTAC was right or not is a matter between the petitioners and the CENTAC.

It is submitted that pursuant to order dated 09.10.2018 of the Hon'ble Supreme Court, MCI cannot recognise the admissions made by the college unilaterally on 31.08.2018 but only those made by CENTAC through counselling conducted on 15.10.2018."

4.We have heard M/s.Nalini Chidambaram, learned Senior Counsel appearing on behalf of Mr.N.Umapathi, learned counsel for the appellants, Mr.T.P.Manoharan, learned Senior Counsel appearing for the respondents 1 and 2/Government of Puducherry, Mr.V.P.Raman, learned counsel appearing for the 3rd respondent Medical Council of India and Mr.Abishek Jenasenar, learned counsel appearing for the 4th respondent Pondicherry Institute of Medical Sciences.

5.The following facts would be relevant to decide as to what relief the appellants are entitled to in these appeals:

The Hon'ble Supreme Court in Dar-us-Slam Educational Trust's case in W.P(Civil).No.267 of 2017 dated 09.05.2017 issued certain directions for filling up of the MBBS and Post Graduate medical seats throughout the Country. Paragraph 7 of the order of the Hon'ble Supreme Court would be relevant for the purpose of these cases which is quoted herein below:

"7.In order to ascertain the number of seats that still remain vacant after the counselling the State Government or the authority designated by the State Government shall conduct manual counselling for allotment of students. After the completion counselling, the State Government shall determine the number of seats that are still vacant and thereafter shall forward a list of students in order of merit, equaling to ten times the number of vacant seats to the medical college so that in case of any stray vacancy arising in any college the said seat may be filled up from the said list."

6.The Medical Council of India by amendment notification dated 22.01.2018 amended the Admission, Selection, Migration and Training Regulations after the introduction of the National Eligibility-cum-Entrance Test (NEET). In paragraph 7 of the said notification dated 22.01.2018, the amendment to the procedure for selection to MBBS course were stated. The

following clauses would be relevant for the purpose of these cases.

5.The reservation of seats in Medical Colleges for respective categories shall be as per applicable laws prevailing in States/Union Territories. An All India merit list as well as State/Union Territory-wise merit list of the eligible candidates shall be prepared on the basis of marks obtained in 'National Eligibility-cum-Entrance Test' and candidates shall be admitted to MBBS course from the said lists only.

7.No authority/institution shall admit any candidate to the MBBS course in contravention of the criteria/procedure as laid down by these Regulations and/ or in violation of the judgments passed by the Hon'ble Supreme Court in respect of admissions. Any candidate admitted in contravention/violation of aforesaid shall be discharged by the Council forthwith. The authority / institution which grants admission to any student in contravention / violation of the Regulations and / or the judgments passed by the Hon'ble Supreme Court, shall also be liable to face such action as may be prescribed by the Council, including surrender of seats equivalent to the extent of such admission made from its sanctioned intake capacity for the succeeding academic year/years.

8.All admission to MBBS course within the respective categories shall be based solely on the marks obtained in the 'National Eligibility-Cum-Entrance Test'."

7.In terms of the order passed by the Hon'ble Supreme Court in Dar-us-Slam Educational Trust's case, after completion of the counselling, the State Government shall determine the number of seats that are still vacant and thereafter shall forward a list of students in order of merit equaling to ten times the number of vacant seats to the Medical College so that in case of any stray vacancy arising in any college the said seat may be filled up from the said list. In this part of the Country, the counselling conducted for filling up of the stray vacancies is popularly known as "Mop-up counselling". After amendment to the Medical Council of India Regulations vide notification dated 22.01.2018, all admission to MBBS course within the respective categories shall be based solely on the marks obtained in NEET. The 4th respondent Institution had been granted approval for admitting 100 students in the First Year MBBS course. In the two stages of counselling which were conducted by CENTAC, it is admitted that 96 students were admitted in the order of merit

leaving behind four unfilled seats. These seats had to be filled up in the order of merit in terms of paragraph 7 of the order passed by the Hon'ble Supreme Court in Dar-us-Slam Educational Trust's case. Accordingly, the CENTAC published a notification on 25.08.2018 for filling up the stray vacancies by way of Mop-up counselling. In the intimation sent to the candidates whose names were found in the merit list, it was stated by the CENTAC that the interested candidates can update their choice for 1:10 in their login until 26.08.2018 5.00pm. It appears that some of the appellants/writ petitioners who had received such intimation from the CENTAC did not choose to apply as according to them the scores obtained by them in NEET were not sufficient to enable them to secure admission in the four seats which are available in the Mop-up counselling. It appears that several candidates had expressed their willingness and had logged in into the website of CENTAC through their login ID and one of the person who had done so is the first appellant in W.A.No.613 of 2019, viz. Pavani. The CENTAC drew up a list of 40 candidates on 27.08.2018 who according to them had exercised their willingness to attend the Mop-up counselling. The four seats which were available were filled up in the said Mop-up counselling.

8. Much earlier, the 4th respondent Institution had filed a writ petition in W.P.No.18058 of 2018 challenging an order passed by the Central Government dated 01.05.1998 rejecting the permission sought for by the Institution to grant additional 50 seats in the First Year MBBS Course. The said writ petition was allowed on 28.08.2018 and a positive direction was issued to the Central Government to grant renewal of permission to the 4th respondent Institution for admission of the 5th batch of MBBS students against increased intake from 100 to 150 seats during the academic year 2018-2019 and the 3rd respondent in the said writ petition was directed to do the needful. Further, the Court recorded the submission of the 4th respondent Institution and they have agreed to surrender 17 seats out of 50 seats to the Government and the CENTAC was directed to admit students under the Management Quota and Government Quota accordingly. In the meantime, the CENTAC had issued a press release fixing the counselling for the 50 additional seats on 03.09.2018 pursuant to the approval granted by the Central Government by proceedings dated 30.08.2018. The Medical Council of India had filed a Special Leave Petition before the Hon'ble Supreme Court challenging the order passed in W.P.No.18058 of 2018 dated 28.08.2018 in SLP(C).No.24064 of 2018 and an order of interim stay was granted by the Hon'ble Supreme Court on 04.09.2018. Subsequently, on 09.10.2018, the Hon'ble Supreme Court disposed of the appeal declining to interfere with the judgment and order passed by the learned Single Bench of this Court. At that juncture, it appears that the counsel for Admission Committee

submitted that the students have not been correctly admitted and therefore, direction was issued to CENTAC to scrutinize the fact and if any admissions were given wrongly, they shall be discontinued substituted by the available proper candidates as per merit and this exercise was directed to be done within seven days from the date of the order (09.10.2018). Further, the Hon'ble Supreme Court directed that in case any student is admitted wrongly, his/her fees shall be refunded by the College. Further, noting that the 4th respondent Institution has committed irregularity in admission, a cost of Rs.50 lakhs was imposed on the College which has been remitted by the 4th respondent College in terms of the direction issued the Hon'ble Supreme court. Thus, we may be fully justified in arriving at a conclusion that the 4th respondent Institution admitted that it committed a mistake in admitting 50 students, i.e. 33 students under the Management Quota as well as 17 students under the Government Quota on 31.08.2018 on the ground that the CENTAC has not forwarded the merit list.

9. After the order and direction issued by the Hon'ble Supreme Court, the CENTAC issued a notification for special counselling for MBBS course under Management Quota in the 4th respondent Institution. In the said notification, it was mentioned that the candidates whose names are included in the list of 330 candidates are eligible to participate in the counselling and the list of 330 candidates were published in the website on 31.08.2018. As we had prefaced this judgment with the note submitted by the Medical Counsel of India before the learned Writ Court as on date there are more than 50 students who have been admitted to the First Year MBBS Course for the year 2018-2019 and from the statement given by the MCI, some of the students did not have any interim order in the writ petitions. Thus the moot question would be as to whether the procedure followed by the CENTAC in permitting only 330 candidates to participate in the counselling for 33 MBBS seats under the Management Quota and 17 MBBS seats under the Government Quota is in accordance with the directions issued by the Hon'ble Supreme Court in its order dated 09.10.2018 and whether it confirms to the directions of the Hon'ble Supreme Court in Dar-us-Slam Educational Trust's case and whether it is in compliance with the amended notification issued by the Medical Council of India dated 22.01.2018. The common thread in both the orders of the Hon'ble Supreme Court as well as the amendment to the Medical Council of India Regulations is that merit alone will rule supreme and there is no substitute to merit. No candidate has got any vested right to seek for admission to the MBBS course without securing the appropriate marks in the NEET.

10. The learned Senior Counsel appearing for the appellants

would strenuously contend that the CENTAC erred in restricting the number of candidates who are eligible to participate to only 330 is illegal and all the candidates should have been informed. Further, it is the submission that before scrutinizing and coming to a conclusion that admissions were wrongly given, the candidates should have been put on notice. It is the third submission of the learned Senior Counsel for the appellants that if this Court is convinced with the first two aspects, the Court should issue direction to the respondents to admit the appellants/regularize their admission in the 4th respondent Institution.

11.The submission of the learned Senior Counsel for the CENTAC is that the list of candidates, namely, 330 candidates was the list which was placed before the Hon'ble Supreme Court in SLP(C).No.24064 of 2018 and there was no challenge to the said list and therefore, the CENTAC was fully justified in inviting the 330 candidates only.

12.In the earlier part of this order, we had commented upon the tenor of the messages sent to the candidates on 25.08.2018 for filling up of the stray vacancies (four seats) in the Mop-up counselling. In the said message, the CENTAC included the word "interested" and such interested candidates can update their choice for 1:10 in their login until 26.08.2018 5.00pm. The Medical Council of India has taken a clear stand that there is no room for calling for willingness and as per the direction issued by the Hon'ble Supreme Court in Dar-us-Slam Educational Trust's case, it does not contemplate any willingness to be obtained from the available candidates as done by the CENTAC. Thus the Medical Council of India has taken a stand that the procedure adopted by the CENTAC for Mop-up counselling, i.e. for four seats is not in accordance with the directions of the Hon'ble Supreme Court in Dar-us-Slam Educational Trust's case.

13.We find that for the Management Quota seats, i.e. 33 seats an intimation has been sent to all the candidates by the CENTAC on 03.09.2018, which reads as follows:

"1:10 list for MQ available seats (33) is published. If interested you may contact college for further action."

14.The above is a SMS message sent to the candidates to attend the counselling for Management Quota seats pursuant to the directions issued by the learned Single Bench of this Court and in terms of the approval granted by the Central Government vide order dated 30.08.2018. The counselling for 33 seats was scheduled on 03.09.2018. Once again, we note that such intimation was given to candidates and they were informed that

if they are interested they may contact the College for further action. Admittedly, this counselling was cancelled vide press release dated 01.09.2018 and while doing so, the CENTAC took note of the 50 additional seats which was made available to the 4th respondent Institution. Thus, in our prima facie view the procedure for selection to the 50 additional seats should have been conducted by CENTAC by following the normal order of merit. Assuming these 50 additional seats were available to the 4th respondent Institution as a matter of right, i.e. without any Court intervention, what would have been the procedure to be followed, the same procedure ought to have been followed for filling up 50 additional seats (33+17) in the 4th respondent College. However, the CENTAC takes a firm stand before us that the list of 330 candidates who were permitted to participate in the counselling on 15.10.2018 was placed before the Hon'ble Supreme Court along with an affidavit in SLP(C).No.24064 of 2018 and the said list was never put to challenge. However, we cannot examine the correctness of the said submission because the Hon'ble Supreme Court has passed final orders in the matter. But what we find is that the Hon'ble Supreme Court had directed the Admission Committee, namely, the CENTAC to scrutinize the facts since the CENTAC took a stand that the students have not been correctly admitted and if any admissions were given wrongly, the Hon'ble Supreme Court stated that they shall be discontinued and substituted by the available proper candidates as per merits.

15. We do not agree with the submission of the learned Senior Counsel for the appellants that the students should have been put on notice. There cannot be any equity in illegality. The Hon'ble Supreme Court having left the decision to the CENTAC, to discontinue those students and substitute them with the available proper candidates as per merit, we can render no finding on the said submission. Furthermore, we note that the Government of Puducherry as well as the CENTAC in their counter affidavit filed in W.P.Nos.28602 of 2018, the CENTAC has taken a specific stand that the names of the candidates has not been included in the merit list of willing candidates prepared by the 4th respondent Institution and consequently, they are not eligible for consideration for admission in the 50 increased seats in the said College. As submitted by the Medical Council of India, there is no room for calling willingness of any candidates because the order of merit cannot be given a go-by. Apart from this, in the instant case there is a specific direction issued by the Hon'ble Supreme Court dated 09.10.2018.

16. Thus, in the conspectus of the above factual position, we are of the considered view that no relief can be granted by us in these writ appeals and the correctness of the list prepared by the CENTAC which according to them was placed before the

Hon'ble Supreme Court and not challenged is a matter which cannot be adjudicated by us in these appeals. Apart from that, the cut-off date is over as of 31.08.2018 and but for the orders of the Hon'ble Supreme Court, the 50 seats could not have been filled up. Therefore, even assuming we are in agreement with some of the points raised by the appellants, no relief can be granted to the appellants.

17.Thus, for the reasons which we have assigned in the preceding paragraphs, we are unable to accede to the prayer sought for by the appellants and consequently, the writ appeals are dismissed. However, we make it clear that it is well open for the appellants to move the appropriate forum for necessary relief. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

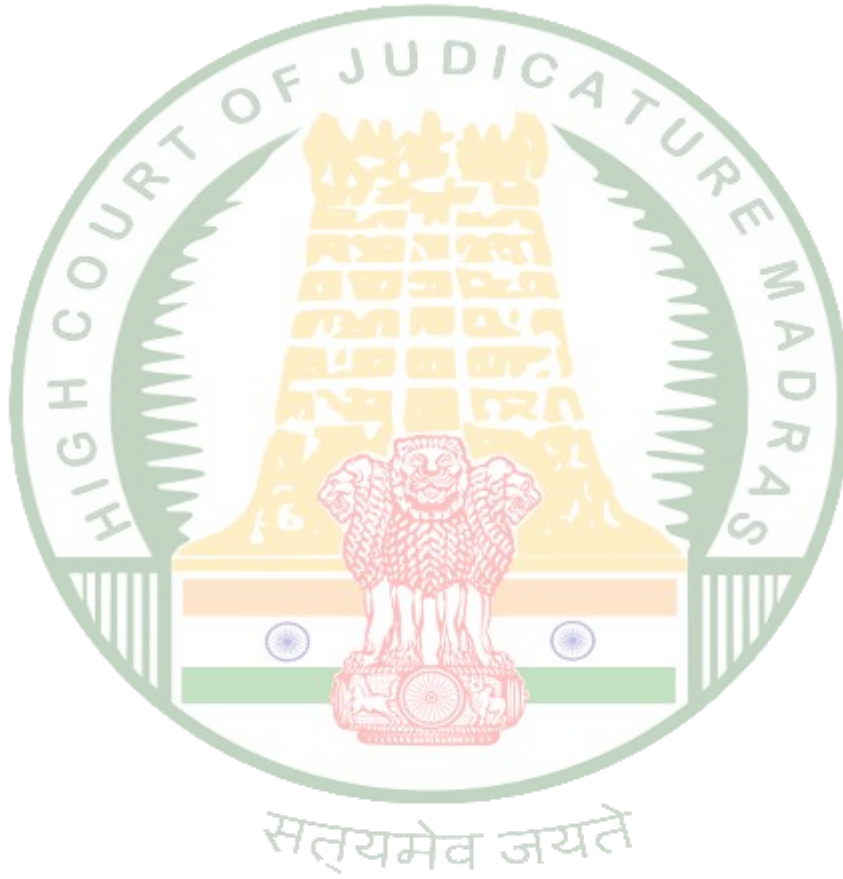
1. The Secretary to Government,
Government of Puducherry,
(Higher and Technical Education)
Chief Secretariat, Puducherry - 605 004.
2. The Co-ordinator (Admission), CENTAC,
Government of Puducherry,
Centralised Admission Committee (CENTAC),
Pondicherry Engineering College Campus,
Puducherry - 605 014.
3. The Secretary,
Medical Council of India,
Sector - VIII, Dwaraga Phase II,
New Delhi - 110 077.
4. The Registrar,
Pondicherry Institute of Medical Sciences,
Kalapet, Puducherry - 605 014.

+2cc to Mr.Abishek Jenasenar, Advocate sr.no.38428
+1cc to Mr.V.P.Raman, Advocate sr.38687
+1cc to M/s.C.Uma, Advocate sr.no.38686
+1cc to M/s.N.Umapathi, Advocate sr.38691
+1cc to M/s.Prabhu Mukunth Arunkumar, Advocate sr.39238
+1cc to Government Plader(Puducherry) sr.38913

+1cc to Mr.Richardson Wilson, Advocate sr.38689
+1cc to M/s.Hemalatha, Advocate sr.38425
+1cc to M/s.Sarvabhauman Associates sr.38684

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