

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2019

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Appeal No.1719 of 2019 and
C.M.P.No.11513 of 2019

1. The Registrar,
Tamil Nadu Dr.M.G.R. Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600025.
2. The Controller of Examinations,
Tamil Nadu Dr.M.G.R. Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600025.Appellants

Vs

1. P.Sethupathy
2. The Government of Tamil Nadu,
Rep. By Secretary to Government,
Health and Family Department,
Fort St. George,
Chennai - 600 009.
3. A.T.S.V.S., Sidha Medical College & Hospital
(Run by Akila Thiruvithandancode Siddha Vaidhya Sangam)
Munchirai, Pudukkudai (P.O),
Kanyakumari District - 629 171,
Rep. By its Interim Administrator,
Justice A.Ramamurthi,
S/o Anganan,
Plot No.9, HIG, TNHB Phase II,
Nolambur, Mogappair West,
Chennai - 600 037. ... Respondents

Writ Appeal filed under Clause 15 of Letter Patents Act
against the impugned interim order of this Court dated
23.04.2019 made in W.M.P.No.28939 of 2017 in W.P.No.27101 of
2017.

W.P.No.27101 of 2017:-

Writ Petitions under Article 226 of the Constitution of India, praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i) Issue a Writ or Order or Direction in the nature of Writ of Mandamus directing the 1st Respondent herein to ratify the admission of the Petitioner herein, 1st Year B.S.M.S., course in the 4th respondent - Siddha Medical College, admitted in the lapsed seat of for the academic session 2016-2017 (in WP.No.27101/2017) and

(ii) Direct the 2nd Respondent - The Registrar of University and 3rd Respondent - The Controller of Examination of University to permit the petitioner herein to appear for the remaining all the 4 papers of 1st year B.S.M.S., annual examination, scheduled to be held from 23.10.2017 in the 4th Respondent - College, (in WMP.No.28939/2017) pending disposal of the above WP.No.27101/2017 respectively.

For Appellants : Mr.D.Ravichander
For Respondents : Mr.V.Kadhirvelu,
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by C.V.Karthikeyan,J]

The scope of the writ petitioner is very narrow. The learned counsel for the writ appellant is aggrieved by the following extract in the impugned order dated 23.04.2019, passed by a learned Single Judge of this Court:-

"Pursuant to order dated 11.04.2019, the petitioner has received the examination results for the first year and has also been permitted to write the examination for the second year."

2.It is seen that the writ petition itself has been further directed to be listed on 10.06.2019 under the caption "for further hearing".

3.Mr.D.Ravichander, learned counsel for the writ appellant brought to the notice of this Court, the Regulations regarding the aspects raised. In particular to Schedule II, Rule 6 of the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Regulations, 1986 which deals with scheme of examination and to sub-clause 2(c) of the Regulation which reads as follows:-

"2(c)A student failed in not more than two subjects shall be held eligible to keep the terms for the third professional session, however he shall not be allowed to appear for third professional examination unless he passes in all the subjects of second professional examination."

4.The learned Single Judge of this Court had been aware of the said Rule and had permitted the writ petitioner to write the examination for the second year B.S.M.S., course. We are not inclined to interfere with the said order. However, a caveat is entered protecting the respondents 2 and 3 in the writ petition by stating that the results of the second year need not be declared pending disposal of the writ petition.

5.The learned counsel for the appellant brought the attention of this Court to the further observation of the learned single Judge in the order dated 11.04.2019 in W.P.No.27101 of 2017 and WMP No.28939 of 2017 with respect to declaration of results of the first year of B.S.M.S., course, in which, it had been observed as follows:-

"2.There is no dispute on the position that the present petitioner is part of the 39 students referred to by the Supreme Court at paragraph 8.

3.Despite this, Mr.Pappaiah, learned Special Government Pleader for the State submits that no formal approval of the State, has been issued, which stands in the way of the second respondent University releasing the results of the 1st year examination.

4.I am of the view that this, prima facie constitute contempt, by the State as well as the second respondent University."

6.It is made clear that the results of the first year and the second year B.S.M.S., examinations written by the petitioner shall be subject to the disposal of the writ petition to be heard by the learned Single Judge. We held that, at this stage, any interference would be inappropriate.

7.With these observations, the Writ Appeal is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jbm

To

1. The Secretary to Government,
The Government of Tamil Nadu,
Health and Family Department,
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Chennai - 600 009.
2. A.T.S.V.S., Sidha Medical College & Hospital
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+1cc to Mr.D.Ravichander, Advocate, S.R.No.43652

W.A.No.1719 of 2019

EV (CO)
CS/17/05/2019