



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.22549 of 2019
& W.M.P.No.21976 of 2019

R.Krishnan Kumar,
S/o.M.Ruthirapthy,
being represented by his father,
M.Ruthirapathy,
Temporarily residing at,
No.15/19, 2nd Main road,
United India Nagar,
Aynavaram, Chennai - 600 023. Petitioner

/verus/

1. The Secretary,
Medical Council of India,
Pocket - 14, Sector, Dwarka,
Phase - 1, New Delhi - 110 077.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Academic Officer,
Dr.M.G.R.Medical University,
Guindy, Chennai - 600 032.
4. The Registrar,
PSG Institute of Medical Sciences & Research,
Off. Avinashi Road, Kalluri Nagar,
Peelamedu, Coimbatore - 641 004. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the 3rd respondent to issue eligibility certificate to the petitioner for admission to M.B.B.S course for the academic year 2018-2019 thereby enabling petitioner to pursue the M.B.B.S course in the 4th respondent College and pass order.

For Petitioner : Mr.A.Palaniappan

For R1 : Mr.V.P.Raman,
For R2 : Mr.Abdul Saleem,
For R3 : Mr.P.Elaya Rajkumar,
for Ramalingam Associates.
For R4 : Mr.Abishek Jenasen

O R D E R

Heard the Learned counsel for the petitioner and the learned Counsel appearing for the respondents.

2. The Petitioner herein has completed his 12th grade at Australia, which is equivalent to 10+2 in State Board. Thereafter, he has perused his bachelor degree in Biomedical Science at Deakin University in Australia, wherein, he has taken up the major subject as Chemistry, Physics and Biology and cleared his 1st year examination. In order to get admitted in Medical College at India, he has participated in the National Eligibility-cum-Entrance Test commonly known as "NEET" for the year 2018. He was allotted seat in the PSG Institute of Medical Science and Research in Coimbatore on 25.08.2018. The College has written to M.G.R. Medical University which is the affiliating University for Medical Colleges in Tamil Nadu to issue Eligibility Certificate for the petitioner. The Tamil Nadu Dr.M.G.R Medical University, Chennai, vide its letter dated 12.10.2018, declined to issue Eligibility Certificate to the petitioner for the following reasons:-

"On Scrutiny of the application and the marks statements of Mr.Krishna Kumar Ruthrapathy, it is found that the last two years of study has not comprised of Physics subject and hence he has not fulfilled the eligibility criteria for admission into M.B.B.S degree course as prescribed by the Medical Council of India.

Hence your request for issue of Eligibility certificate for M.B.B.S degree course for the academic year 2018-2019 in respect of the candidate is not feasible for compliance and the same may be informed to the candidate. The original certificate of the candidate are returned herewith."

3. Subsequently, the representation has been made by the petitioner to the Tamil Nadu Dr.M.G.R. Medical University, Chennai, to reconsider the decision for which the University reiterating the earlier decision dated 12.10.2018, advised the petitioner herein that their request will be considered, if the petitioner could produce concurrence letter for eligibility from Medical Council of India, New Delhi. Pursuant to that, the

petitioner has ordered the request to the Medical Council of India, through the Tamil Nadu Dr.M.G.R. Medical University, along with the enclosures. In response to his representation, the Medical Council of India through e-mail has sent the following reply.

Kindly refer to your letter No.VC/013/MCI/2019 dated 24.05.2019 forwarding herewith the enclosures in respect of Mr.Krishna Kumar Ruthrapathy, who has been admitted under NRI quota at PSG Institute of Medical Sciences & Research, Coimbatore.

After verifying the documents, it has been noted that the study period of Physics from DEAKIN University, Australia cannot be considered for the study of subject of Physics at +2 level (12th)

Hence, the candidate is not eligible as per 4(2) amended on 23.01.2018) of Graduate Medical Education Regulations, 1997.

4. This reply by e-mail has been forwarded to the petitioner. On receipt of this e-mail, present Writ Petition is filed seeking Mandamus, directing the 3rd respondent to issue Eligibility Certificate to the petitioner for admission in M.B.B.S course for the academic year 2018-2019.

5. The learned Counsel appearing for the respondents have raised objections regarding the prayer sought in this Writ Petition. Primarily, it is contended by the respondents that the 3rd respondent is the Officer of the Tamil Nadu Dr.M.G.R. Medical University, Chennai, who has to abide by the Medical Council of India Regulation. The request of the petitioner has been declined by Medical Council of India, a specific communication dated 26.07.2019, which is not been challenged in this Writ Petition but a Mandamus to the 3rd respondent is sought for which is not maintainable.

6. As far as the learned counsel appearing for the 1st respondent/Medical Council of India, would submit that the petitioner has produced the Office Note emanated from Medical Council of India, stating out the reasons for not considering the request of the petitioner to give Eligibility Certificate. It is suffice to extract the operative portion of the Medical Council of India, Regulation and the communication which after extracting the Medical Council of India regulation has concluded that as per the understanding of Medical Council of India, in order to be eligible for admission in B.Sc., course as stipulated under Clause 4(2)(d), the candidates must have studied Physics, Chemistry and Biology/Bio-Technology, taken

together at 10+2 level. The candidate is therefore ineligible for perusing M.B.B.S course. This is presumably due to the misunderstanding of the Medical Council of India, the way in which they have interpreted the Regulation regarding eligible criteria for admission under Medical course in India.

7. Under Chapter-II, of Medical Council of India Regulations relates to Admission, Selection, Counselling, Migration and training are regulated. Clause 4 deals with the Admission to the Medical Course- Eligibility Criteria.

(i). The candidates should have obtained a minimum of marks in the National Eligibility-cum-Entrance test as prescribed in Clause 5 of Chapter-II, which the petitioner herein has satisfied.

(ii). The petitioner has undergone his studies in Australia and for such candidates, Regulation of Medical Council of India in clause 4(2)(d) is applicable, which reads as below:-

Clause 4(2):- He/She has passed qualifying examination as under:-

(a).....

(b).....

(c).....

(d). The First year of the three years degree course of a recognized university, with physics, Chemistry and Biology/Bio-Technology including a practical test in three subjects provided the examination is a "University Examination" and candidate has passed 10+2 with English at a level not less than a core course;

8. Nowhere in clause 4(2)(d) pass in Physics, Chemistry, Biology/Bio-technology at 10+2 level is stated. Medical Council of India impression or understanding that the candidate should have studied Physics, Chemistry, Biology taken together at 10+2 level to get himself Eligible under Clause 4(2)(d) is unfound. Further, from the communication between the Tamil Nadu Dr.M.G.R. Medical University and Medical Council of India, it appears that the University ready to consider the candidature of the petitioner, if the Medical Council of India, issues Eligibility Certificate.

9. As far as the Medical Council of India is concerned from their Office Note and Regulation, when a foreign candidate has undergone his one year course in the degree from the recognised Institute with Physics, Chemistry, Biology/Bio-technology will be eligible for admission in M.B.B.S course. Hence, though the petitioner has sought for Mandamus, directing the 3rd respondent to issue Eligible Certificate and as rightly

pointed by the Learned Counsel for the 3rd respondent, 3rd respondent is not the competent person to give Eligible Certificate, however, from the records, the Medical Council of India, which has to give eligible certificate has not properly interpreted the Regulation Clause 4(2)(d). Therefore, the Medical Council of India, directed to revisit the representation of the University forwarded on behalf of the petitioner herein and pass appropriate order in the light of the interpretation given to the Medical Council of India Regulation clause 4(2)(d), within a period of * **6(Six) Weeks from today.**

10. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

***Modified vide order dated 30/008/2019**

made in WMP.NO.25591/19

in WP.NO.22549/19

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Secretary,
Medical Council of India,
Pocket - 14, Sector, Dwarka,
Phase - 1, New Delhi - 110 077.

To be Substituted to
the order already
despatched on 29/08/2019

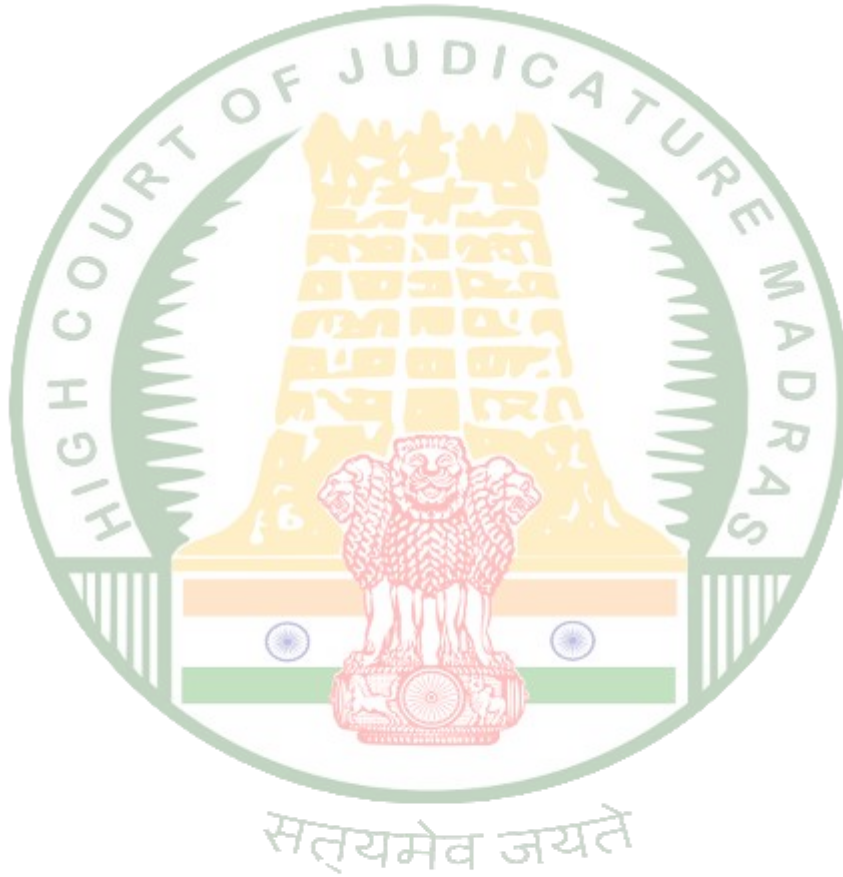
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

3. The Academic Officer,
Dr.M.G.R.Medical University,
Guindy, Chennai - 600 032.

+1cc to Mr.V.P.Raman, Advocate, S.R.No. 69051
+2cc to M/s.Ramalingam, Advocate, S.R.No. 70326
+2cc to Mr.Palaniappan, Advocate, S.R.No. ***75451, 75723**
+1cc to Mr.Abdul Saleem, Advocate, S.R.No. 70294

W.P.No.22549 of 2019

MG(CO)
GN(27/08/2019)
nr 30/08/2019



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