

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :30.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.17882 of 2013

Dr.D.Muthu Kumaran

.. Petitioner

Vs.

1. The Government of Tamil Nadu
Rep. by Secretary to Govt.
Health and Family Welfare Department,
Fort St.George, Secretariat,
Chennai - 600 009.

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

3. The Registrar,
The Tamil Nadu Dr MGR Medical University,
No.69, Anna Salai, Guindy, Chennai 600 032.

4. The Secretary,
Medical Council of India,
MCI Buildings,
Pocket 14, Sectors, Dwarka, Phase-I,
New Delhi.
(R4 impleaded as per order dated 05.08.2013)

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the 2nd respondent herein to permit the petitioner to sit for the Entrance Examination for admission to three year Higher Speciality Courses in TamilNadu during the academic session, 2013-14 to be held on 7.7.2013 under Application No.10119 and select the petitioner for admission to the said course on the basis of performance in the said examination.

For Petitioner : Mr.AR.L.Sundaresan, Sr.Counsel
for M/s.AL.Ganthimathi

For Respondents: Mr.P.Raja, (for R1 & R2)
Govt. Advocate

Mr.S.Gomathi Nayagam, Sr.Counsel for R3
for M/s.G.Harihara Arun Soma sankar
Mr.V.P.Raman for R4

O R D E R

The petitioner is praying for a Writ of Mandamus for a direction to the Secretary, Selection Committee, Directorate of Medical Education, Kilpauk, Chennai, to permit the petitioner to sit for the Entrance Examination for admission to three year Higher Speciality Courses in Tamil Nadu during the academic session, 2013-14 to be held on 7.7.2013 under Application No.10119.

2. The petitioner has did his M.B.,B.S. degree course in Tamil Nadu during the academic year 2006-2007. He has been registered as a Medical Practitioner. After completing his M.B.,B.S. degree course, he went to Edinburgh (U.K) and got M.R.C.S degree from the Royal College of Surgeons, on 15.04.2013.

3. The Secretary, Selection Committee, Directorate of Medical Education, Kilpauk, Chennai, had invited applications for selection of candidates for 3 year Higher Speciality Course in Tamil Nadu for the session 2013-2014. Part-II of the application states the eligibility criteria. Clause 5 and 6 on the educational qualification are reads as under:-

"5. (a) Candidates who hold a Post Graduate Degree of the Tamil Nadu Dr. M.G.R. Medical University or of any her University recognized as equivalent to the Tamil Nadu Dr.M.G.R Medical University and included in the schedules to the Indian Medical Council Act of 1956 and who have obtained full registration either from the Medical Council of India any of the State Medical Councils are alone eligible to apply for Higher Speciality Courses.

(b). Non-service candidates who have completed their qualifying post-graduate degree in Tamil nadu Government medical colleges under State quota/AII India quota, who are bound by the two years government service bond:

I. Non Services candidates who have completed their Post Graduate degree in Tamil Nadu Government Medical Colleges under state quota and All India Quota will be allowed to appear for Higher Speciality entrance examination 2013-14 session, for two attempts only. The first attempt will be taken as immediately after passing the post graduate course (eg. April 2013) and for the next year, i.e April 2014, it will be taken as second attempt This will be irrespective of whether the candidate takes/writes the higher speciality entrance examination or not.

II. Being eligible and allowed for two attempts as above, if a candidate does not take or get admission to a higher speciality course, he or she will have to complete the bond service (2

years of Government Service) before taking subsequent attempts of Higher Speciality entrance examination.

III. There is no limit of attempts for appearing to higher speciality entrance examination once the mandatory two year bond service is completed after taking two attempts.

IV. A candidate who is the process (middle) of completing the mandatory 2 year bond service, he/ she will be allowed to take the higher speciality entrance examination. If selected for higher speciality course, he/she on completion of the higher speciality course, will have to complete the remaining period of 2 year bond service, in addition to the bond service executed for the higher speciality course.

V. A candidate who has not got any appointment in government service in order to fulfill the 2 year bond service, after passing the post-graduate (MD/MS) course in 2012, will be permitted to take the higher speciality entrance examination of this year i.e 2013. If the candidate does not take or get selected for the higher speciality course, he/she will be allowed to appear for the third attempt only after completing one year of bond service.

6. (a) Candidates who have obtained the P.G. Degree from Medical Colleges not recognized by the MCI are not eligible.

(b) Candidates should produce the additional qualification registration certificate of their Post Graduate degree from the Indian Medical Council or the respective State Medical Council at the time of applying."

4. A perusal of Clause 5 and 6 shows that the candidates who hold Post Graduate Degree of the Tamil Nadu Dr.M.G.R.Medical University or a post graduate degree recognized as equivalent to the Tamil Nadu Dr.M.G.R.Medical University and included in the schedules to the Indian Medical Council Act of 1956 and who have obtained full registration either from the Medical Council of India or any of the State Medical Councils are alone eligible to apply for Higher Speciality Courses. Clause 6(a) states that the candidates who have obtained the P.G.Degree from Medical Colleges not recognized by the MCI are not eligible.

5. The petitioner states that he downloaded the application form from the website and found that the qualification which are shown in the system was only M.S/D.N.B. It is also stated by the writ petitioner that there was no provision in the application for other equivalent recognized PG degree qualifications. He therefore, filled the application showing his qualification as M.S.(General Surgery), since the application would not be accepted otherwise. The petitioner states that, after he filled up the same, he added a note that his Post Graduate degree is M.R.C.S.(General Surgery), which he had done in U.K. is equivalent to Indian M.S. as per the Medical Council of India and since, there was no column in the online application for the

equivalent degree, he had applied as M.S. and he satisfied the eligibility criteria as per Clause 5(a) of the prospectus. He also states that, apart from filling online application, he also submitted a hard copy before the last date along with demand draft for Rs.2,250/- and other enclosures duly attested to the Secretary, Selection Committee, Directorate of Medical Education, Kilpauk, Chennai.

6. The petitioner further states that about 10.00 AM on 29.06.2013, he received a phone call from the office of the 2nd respondent herein and he was advised that he could sit for entrance examination provided he submitted a equivalent certificate before 03.07.2013 and that such equivalence certificate can be obtained from The Association of Indian Universities (AIU). The petitioner states that, despite his best efforts, he was not in a position to get the equivalence certificate from the Association of Indian Universities as advised by the 2nd respondent.

7. The petitioner states that the M.R.C.S. qualification which he obtained from Edinburgh fulfill the criteria as mentioned in Clause 5(a) of the prospectus. The petitioner had placed his reliance on notification dated 07.03.2008 in SO 459E under Section 13(4) of the Indian Medical Council Act, 1956, wherein all Post Graduate Medical qualifications awarded in U.K. are recognized for enrollment as Medical Practitioner in the concerned specialities in that country. He also states that M.R.C.S. conferred by the Royal College of Surgeons of England or Edinburgh or Glasgow or Ireland is eligible for full registration in the said country.

8. The petitioner further states that the University of Madras has considered M.R.C.S. as equivalent to M.S. in their prospectus for Doctorate of Philosophy (Ph.D.,). He states that the Medical Services Recruitment Board (MRB) of the Government of Tamil Nadu had conducted examinations for the post of Asst.Surgeon (Speciality) in May 2013 and he had participated in the said examination under application No.1012811 on the strength of M.R.C.S. qualification. He states that the University of Madras had recognized his M.C.R.S. qualification as one equivalent to M.S. The petitioner further states that the Teachers with M.R.C.S. qualification and practicing Doctors with M.R.C.S. qualification are recruited in Medical colleges as Teaching faculties and in Hospitals as General Surgeons within the country in various States.

9. The petitioner therefore filed this Writ Petition for permission to sit in the examination. This Court by an order dated 02.07.2013, issued notice. The Medical Council of India was impleaded as 4th respondent. The order dated 27.08.2013,

passed by this court directed the Medical Council of India, to consider the request made by the Tamil Nadu Dr.MGR Medical university to examine the equivalence of MRCS degree obtained from the Royal College of Surgeons, Edinburgh with an M.S. Degree obtained from a medical college recognized by the Medical Council of India. Material on record also shows that the Tamil Nadu Dr.MGR Medical university had also written letter to the Royal College of Surgeons, Edinburgh, seeking clarification on the issue of M.R.C.S. course. The petitioner was also given liberty by order dated 16.07.2013, to approach the University along with all the papers to satisfy the University that he has obtained M.R.C.S. qualification and the same is equivalent to the Post Graduate degree awarded by the Tamil Nadu Dr.MGR Medical university.

10. By an order dated 11.07.2013, this Court permitted the petitioner to appear for entrance examination which has been held on 07.07.2013, for admission to 3 year Higher Speciality Course , subject to the final disposal of the writ petition. This order was passed primarily because the petitioner was to produce the equivalence certificate during counseling.

11. On 26.09.2013, this Court passed the following orders:-

“(11) grant an order of interim direction directing, : the 2nd respondent herein to permit the “petitioner to sit for the Entrance Examination for admission to;. Three Year Higher Specialty Courses in Tamilnadu during the academic session, 2013-14 to be .held, on 7.7.2013 under application No. 1.011.9, (in MP.1/13) pending disposal of the above writ petition.17882/13.

Order: These .petitions coming on for orders upon perusing the petition and these respective affidavits filed in support thereof and upon hearing the arguments of MR.ARL.SUNDARESAN, SENIOR COUNSEL FOR, M/s.AL.GANTHIMATHI, Advocate for the petitioner in both the petitions and of .Mr.D.Krishna Kumar, Special Government Pleader on behalf of respondents 1 and 2 in both the petitions and of MR.SANJAY RAMASAMY, Advocate for the 3rd Respondent in both the petitions and of MR. V.P.RAMAN, Advocate, for the 4th respondent in both the petitions, the Court made the following order:-

The petitioner after his graduation secured admission at Royal College of Surgeons, Edinburg and obtained M.R.C.S. Degree in General Surgery. The additional qualification obtained by the petitioner was duly registered before the Tamil Nadu Medical Council.

2. The second respondent invited applications for selection of candidates for Higher Speciality Courses for the academic year 2013- 2014. Since the prospectus contained a specific provision that the candidates have obtained equivalence certificate from the Tamil Nadu Dr.MGR University, in the case the degree was not awarded by the said University, the petitioner made an application before the Association of Indian Universities. The said body declined to issue the certificate. The petitioner now wanted a direction to the second respondent to permit him to appear for the entrance examination and to select him on the basis of the written test.

3. The learned Standing Counsel for the Tamil Nadu Dr.M.GcR. University submitted that the University is not issuing equivalency certificate and the petitioner has to approach the Association of Indian Universities.

4. Since the petitioner is in possession of postgraduate: Degree in M.R.C.S, (General Surgery) and taking into account the stipulation that equivalence certificate is required, to be produced only during the time of counseling, I have directed the second respondent to permit the petitioner 'to appear for the entrance examination on 7th July 2013 (Application No.10119) for admission to three year Higher speciality course for the academic year 2013-2014. However, it was made clear that in case the University failed to issue equivalency certificate, the petitioner was bound to obtain certificate from the concerned Body. Subsequently, I have impleaded Medical Council of India as the fourth respondent in the writ petition. The Medical Council of India was directed to take instructions in the matter. Thereafter, the learned standing counsel for Medical Council of India produced a copy of the communication dated 26.08.2013 indicating that the matter pertains to equivalence of degrees obtained *from United Kingdom, and as such., the issue requires consideration by the Equivalence Committee. Accordingly, the matter was adjourned.

5. In the mean time, Tamil Nadu Dr.MGR University contacted the Royal College of Surgeons, Edinburg, seeking, details so as to enable the University to take a decision in the matter. Subsequently, the petitioner produced a communication dated 30.07.2.013. from General Medical Council, United Kingdom, indicating that the mrcs certificate issued by the Royal College of Surgeons, Edinburg, is valid and the name of the 'said' institution is found in the list of institutions eligible to issue post graduate qualification certificate and as such, the petitioner would be eligible to apply for registration in United Kingdom.

6. The notification issued by the Medical Council of India dated 07.03.2008 indicates that all postgraduate medical qualifications awarded in United Kingdom and recognized for enrollment as medical practitioners in the concerned specialties in that country would be recognized in India.

7. The clarification issued by the General Medical Council, United Kingdom, dated 30.07.2013, prima facie, gives an indication that the petitioner is eligible to practice medical profession in United Kingdom. Therefore, the petitioner prima facie satisfied the condition regarding equivalence.

8. The learned standing counsel for Medical Council of India, by placing reliance on the communication dated 17.09.2013, submitted that in view of the instructions given by the Government of India not to convene the meeting of Board of Governors, it is not possible to consider the question of issuance of equivalence certificate now.

9. The last date for admission to the Higher Specialty Course is 30.09.2013. The petitioner has produced prima facie materials to show that the MRCS degree awarded by the Royal College of Surgeons, Edinburg, is equivalent to a postgraduate degree awarded in India.

10. The petitioner has sworn to -an affidavit dated 25.09,2013, which reads thus:

"6. I respectfully submit, I may be permitted: to join the 3 year Higher Specialty Course commencing in the academic year 2013-14. pursuant to the Entrance examination and counseling. I undertake that in the event of Medical Council of India deciding that the MRCS Ratification which I have obtained, is not equivalent to a Post Graduate degree of Tamil Nadu, Dr.MGR Medical University, I will forgo the seat and will not claim any equity."

11. The third respondent is directed to forward the papers, to the Medical Council of India, forthwith so as to enable the Council to consider the MRCS certificate issued by the Royal College of surgeons, Edinburg, and to decide as to whether the same is equivalent to a postgraduate degree awarded by an Indian University. The Medical Council of India, is directed to consider and dispose of the clarification petition as expeditiously as possible and in any case, within a period of two months from the date of receipt of material documents from the third respondent.

12. The second respondent is directed to obtain an undertaking affidavit from the petitioner in the line of paragraph No.6 of the affidavit dated 25.09.2013 indicating that in case the Medical Council of India takes a decision holding that the MRCS certificate produced by the petitioner is not equivalent to graduate degree awarded by the Tamil Nadu Dr.MGR Medical University, his admission would be cancelled and there would be no equity in his favour.

13. There shall be a direction to the second respondent to process the application submitted by the petitioner, treating the MRCS degree awarded by the Royal College of Surgeons, Edinburg, as equivalent to post graduate degree awarded by the university in India and to consider his case for admission to the higher speciality course on merits.

14. It is made clear that this interim order is subject to the final orders to be passed in the writ petition, after obtaining certificate from the Medical Council of India.

Post the writ petition on 02.12.2013."

12. A perusal of the said order shows that the petitioner was permitted to pursue the course, subject to the final disposal orders passed in the writ petition. The 3rd respondent / the Tamil Nadu Dr.MGR Medical university, has filed a counter categorically stating that the M.R.C.S. course obtained by the petitioner is cannot be considered for M.S. Higher Speciality course, which reads here under:-

"9. It is further submitted that the certificate issued by the Royal College of Surgeons, Edinburgh is not the degree under Indian Medical Council Act. The petitioner is not eligible to study Super Speciality Course as there is no MS degree and hence he is not eligible to write the examination. It is submitted that the Super Speciality course i.e., M.ch. peadiatric surgery is a special course and the post graduation is the basic requirement for the said degree. It is submitted that the certificate issued by the Royal College of Surgeons, Edinburgh is clearly indicates about the necessary entry criteria determination and therefore it is not equal to MS degree. It is only a certificate for eligibility for entrance examination.

10. It is submitted that the petitioner submitted the M.ch. peadiatric surgery application before the respondent and the said application did not have any column about MRCS. The petitioner created a column by his own by inserting his qualification about MRCS. The said application will speak the conduct of the petitioner. It is always open to the petitioner to challenge the prospectus if he is really aggrieved. The attitude of the petitioner is very serious and it is a wrong signal to the other students. The petitioner is not entitled to continue his studies in view of the non-production of equivalent certificate by the petitioner. This Hon'ble Court directed the petitioner to execute an undertaking indicating that if the Medical Council of India takes a decision holding that MRCS certificate produced by the petitioner is not equivalent to the postgraduate degree awarded by the Tamil Nadu Dr.M.G.R. Medical University, his admission would be cancelled and there would be no equity in his favour. It is submitted that the petitioner is not eligible for registration and he is not qualified for M.ch.

Pediatric surgery examination. The rules and prospectus of the Tamil Nadu Dr.M.G.R Medical University clearly prescribes that the basic requirement for admission to M.ch. pediatric surgery will be MS degree. It is submitted that the prospectus for admission to Higher Speciality courses clearly indicates in 5(a) that the candidates who hold a postgraduate degree of the Tamil Nadu Dr.M.G.R. Medical University or any other university recognized as equal to the Tamil Nadu Dr.M.G.R. Medical University and included in the schedule to the Indian Medical Council Act. It also prescribed in 6(a) that the candidates who obtained postgraduate degree from medical colleges not recognized by Medical Council of India are not eligible. The above conditions clearly indicate that he should get postgraduate degree from the Tamil Nadu Dr.M.G.R. Medical University or any other university. The certificate issued by the Royal College of Surgeons is not the university and it was issued by the Royal College of Surgeons, Edinburgh."

13. Similarly the Medical Council of India has filed a counter. It is sad to note that the counter of the Medical Council of India is extremely vague. The Medical Council of India which is the authority to consider the equivalence has not stated on way or other as to whether the degree obtained by the petitioner, i.e., M.R.C.S.(General Surgeon) from the Royal College of Surgeons, Edinburgh, Scotland, is equivalent to M.S./MD degree obtained by a student in India. Paragraphs 3,4 and 5 of the counter are extracted here under:-

"3. It is submitted that the Tamil Nadu Dr.MG.R. University had written a letter to the MCI on 10.07.2013 seeking clarification on the issue of the petitioner's MRCS qualification. Thereafter this Hon'ble Court on 27.08.2013 was pleased to direct this respondent to respond to the communication of the MGR University.

4. This respondent vide letter dated 20.09.2013 to the MGR University brought to the notice of the University that vide notification dated 07.03.2008 issued by the Central Government under Section 13(4) of the Act, postgraduate qualifications in five countries namely United States, Australia, United Kingdom, Canada and New Zealand and which are recognised in the said countries for enrolment as medical practitioners in the concerned specialities in their respective countries was added to III Schedule Part II of the Indian Medical Council Act, 1956 by way of an amendment. It was further pointed out in the said communication dated 20.09.2013 that MCI Regulations are silent on the question of equivalency of the post graduate qualifications of the said country with Indian Post Graduate degrees. The same was also placed before this Hon'ble Court on 23.09.2013.

5. It is submitted that the petitioner's MRCS qualification is from United Kingdom. It is for the petitioner to satisfy this

Hon'ble Court that the said qualification is recognized for the purpose of enrolment as medical practitioner in the said country."

14. The Government of Tamil Nadu and the Selection Committee has also taken a categorical stand that the M.R.C.S.(General Surgeon) degree obtained by the petitioner from the Royal College of Surgeons, Edinburgh is not equivalent to M.S./MD degree awarded by the Medical Council of India. paragraphs 3,4,5,6,7 and 8 of the said counter reads as under:-

"3. It is submitted that the petitioner has applied for admission to Higher Speciality Course 2013-2014 Session. In his application the petitioner has stated that he has obtained MRCS (General Surgery) degree from Royal College of Surgeons, Edinburgh (U.K.) on 15.11.2011. His application was made ineligible since the MRCS is not equivalent to the M.S., (General Surgery) awarded by the Medical Council of India.

4. It is submitted that this Honourable Court in its order dated 26.09.2013 in W.P.No. 17882 of 2013 filed by the petitioner stated that since the equivalence certificate is required to be produced only at the time of counselling the petitioner may be permitted to appear for the Entrance Examination which was scheduled to be held on 07.07.2013.

Accordingly, the petitioner was permitted to write the Entrance Examination. Since the petitioner has got 54.00 marks he was placed in 13th rank in the merit list of his chosen field of Paediatric Surgery. At the time of counselling he could not produce any equivalent certificate issued either by the Medical Council of India or by the Tamil Nadu Dr.M.G.R. Medical University. In the absence of such equivalent certificate, he has submitted an Undertaking that he is ready to discontinue the Course if the Medical Council of India decides that MRCS (UK) is not equivalent to Indian M.S., He has also filed an affidavit to that effect.

5. Further it is submitted that on enquiry it is found that the MRCS Examination conducted by the Royal College of Surgeons, Edinburgh is an entry level examination and the MRCS is only a ticket/token for getting trained in a chosen field of surgery like General Surgery, Paediatric Surgery, Neuro-Surgery, etc., , atleast for a period of 5 to 7 years to obtain FRCS (U.K) degree. Hence, MRCS is only a theoretical examination and there would not be any practical hands on training in surgical procedures. It is not mandatory to obtain clinical surgical training for getting MRCS degree. Any candidate who has MBBS degree can write this MRCS examination without any surgical clinical training.

6. It is submitted that the previous Privy Council has approved the new Laws of Royal College of Surgeon of Edinburgh on 08.10.2010.

The Schedule S.No.35 and 36 clearly speaks about the entry criteria about the membership of Royal College of Surgeons of Edinburgh. The Certificate produced by the petitioner clearly comes under the category of schedule 36 and therefore the Certificate issued by the Royal College of Surgeons on 15.11.2012 in favour of the petitioner is not a degree in the eye of law. As per the said schedule, the certificate has been referred as Diploma and therefore the petitioner is not eligible to continue his study. His admission has to be cancelled in view of the above said facts.

7. It is further submitted that the MRCS certificate produced by the petitioner also states that the petitioner "has met the necessary entry criteria determined by the Council of the College". Hence, the petitioner claim for equivalence is not correct.

8. It is submitted that the statement of the petitioner that the M.R.C.S., conferred by The Royal College of Surgeons, Edinburgh (U.K.) has been included in the II Schedule under Sec. 12 of the Indian Medical Council Act, 1956 is not correct since the MRCS awarded by all other Royal College of Surgeons(U.K.) or Glasgow have been included in the II Schedule under Sec. 12 of the Indian Medical Council Act, 1956 except the MRCP awarded by Royal College of Edinburgh."

15. It is also pertinent to note that the petitioner has filed additional typed sets. In the typed set dated 13.07.2016, the petitioner has filed a RTI information sought by him and reply given by the Medical Council of India, reads here under:-

"MEDICAL COUNCIL OF INDIA

No.MCI-23(1)/2011/RTI/Med./46899

Dated 01.12.2011

Shri Muthukumaran,
41/N, Meena Clinic,
Kadambur Road,
Kayathar,
Kovilpatti - 628952, Tamil Nadu.

Sub:- Application for seeking information under RTI Act, 2005.

Sir,

With reference to your application received through the Central Govt. Ministry of Health & Family Welfare vide letter dated 17.11.2011 (received in the Council office on 22.11.2011), on the subject noted above, the point wise information of the queries asked by you is as under:-

Sr.No	Information - Sought	Reply
1.	I would like to know with MRCS (member of royal colleges of surgeons) degree will I be able to register as surgeon with MCI. Am I eligible to practice as surgeon in government hospitals. With MRCS am I eligible to appear for MCH entrance examination. Am I eligible to appear directly for DNB part 2 (final exam with MRCS).	This is to inform you that as per gazette notification dated 07.03.2008 all post graduate medical qualifications awarded in United Kingdom and recognized for enrolment as medical practitioners in the concerned specialties in that country are recognized for the purposes of IMC Act, 1956 No further details have been provided in the said notification and in the MCI Regulations. DNB is not under ambit of MCI. For DNB please refer your query to National Board of Examination, New Delhi.

Name and the address of the Appellate Authority-

Dr.Sangeeta Sharma,
Secretary, Medical Council of India,
Pocket - 14, Sector-8, Dwarka,
New Delhi - 110 077.

Yours faithfully,

[Dr.Anshu Sethi

Bajaj]

Deputy Secretary"

16. The petitioner also submitted a letter dated 26.07.2013, received by the Registrar, Tamil Nadu Dr.MGR Medical university, from the General Medical Council, stating that General Medical Council is unable to state as to whether the M.R.C.S. qualification obtained by the petitioner is equivalent to the Post Graduation degree qualification in India. The letter states that a number of doctors continue to study and gain addition qualifications after completing their Primary Medical Qualification (PMQ) such as M.R.C.S. The letter categorically states that this is not a qualification used for maintaining the medical register. In the letter it is categorically states that they are unable to answer the enquiry.

17. The petitioner also filed a report from the internet showing that the M.R.C.S. course is acceptable Post Graduate qualification in U.K. The said internet report reads as under:-
UK postgraduate qualifications

Awarding Body	Qualification
College of Emergency Medicine	Membership of the College of Emergency Medicine (MCEM)
Royal College of Anaesthetists	Primary FRCA examination
Royal College of Obstetricians and Gynaecologists	Membership of the Royal College of Obstetricians and Gynaecologists (MRCOG)
Royal College of Paediatrics and Child Health	Membership of the Royal College of Paediatrics and Child Health
Royal College of Pathologists	Fellowship of the Royal College of Pathologists (FRCPath) by examination only
Royal College of Physicians and Surgeons of Glasgow Royal College of Physicians of London Royal College of Physicians of Edinburgh Royal College of Physicians and Surgeons of Glasgow	Fellowship of the Royal College of Physicians and Surgeons of Glasgow (FRCS Glasg Ophthalmology) Membership of the Royal College of Physicians MRCP (UK)
Royal College of Psychiatrists	Membership of the Royal College of Psychiatrists (MRCPsych)
Royal College of Radiologists	Fellowship of the Royal College of Radiologists (FRCR)
Royal College of Surgeons of Edinburgh	Membership of the Royal College of Surgeons of Edinburgh (MRCS Ed Ophthalmology)
Royal College of Surgeons of England or Royal College of Surgeons of Edinburgh or Royal College of Physicians and Surgeons of Glasgow	Any of the following: Intercollegiate Membership of the Royal College of Surgeons (MRCS) - Intercollegiate Membership of the Royal College of Surgeons - MRCS (ENT) Collegiate Membership of the Royal College of Surgeons (MRCS) Fellowship of the Royal College of Surgeons (FRCS)

18. A perusal of the said chart does not show that the M.R.C.S.(General Surgeon) from the Royal College of Surgeons, Edinburgh is an acceptable Post Graduation qualification. The petitioner has filed certain emails received by him from GMC,

U.K. The said emails has not been taken into account. Even though, the content of the email received by the petitioner from one Cheryl Davies, Contact Centre Advisor, Registration and Revalidation Directorate, states that M.R.C.S.(General Surgeon) of the Royal College of Surgeons, Edinburgh is at the list of acceptable Post Graduation qualification and he would be eligible to apply for registration if he held the qualification. It cannot be taken into account for the reason that the said email is not from the letter head of the General Medical Council, U.K.

19. On 24.03.2016, this Court passed the following orders:-

"The petitioner has filed the Writ Petition for issuance of a Writ of Mandamus to direct the second respondent to permit him to sit for the Entrance Examination for admission to Three Year Higher Specialty Courses in Tamil Nadu during the academic session 2013-14, which was to be held on 07.07.2013 under Application No.10119 and select him for admission to the said Course on the basis of the performance in the said Examination.

2. By interim order, dated 04.07.2013, this Court directed the second respondent to permit the petitioner to appear for the said Examination on 07.07.2013, for admission to Three Year Higher Specialty Course for the academic year 2013-14. Subsequently, it is stated that he wrote the said Examination. Hence, the prayer sought for by the petitioner in M.P.No.1 of 2013 is fulfilled.

3. Subsequently, by order dated 19.07.2013, this Court also directed the second respondent to permit the petitioner to take part in the Counseling, however, it was observed by this Court that the admission will not be finalised without the permission of this Court. Thereafter, by order dated 26.09.2013, this Court directed the second respondent to process the application submitted by the petitioner, treating the MRCS degree awarded by the Royal College of Surgeons, Edinburg, as equivalent to post-graduate degree awarded by the University in India and to consider his case for admission to the Higher Specialty Course, on merits.

4. It is stated by the learned Senior Counsel appearing for the petitioner that the duration of the said Course is three years and the last date for submission for DM/M.Ch. Course is 31.03.2016. The written examination is to be held in August 2016. The petitioner has been admitted into the said Course based on the above said interim orders passed by this Court.

5. In this W.M.P., it is the plea of the petitioner that the third respondent may be directed to register the petitioner's name as a student in D.M./M.Ch. Course in the Institute of Child

Health, Egmore, Chennai and permit him to submit the dissertation before 31.03.2016 and also permit him to sit for the Examination for the said Course commencing from August 2016.

6. Learned Senior Counsel further submitted that unless the registration number is given by the third respondent-University, the petitioner will not be in a position to upload his dissertation and to take up the written examination and that this Court, by the above said interim order, observed that the MRCS qualification which the petitioner possesses is prima-facie equivalent to the Indian P.G. degree. Hence, he prayed that there may not be any hurdle in registering the petitioner's name and allow him to submit the dissertation and also to sit for the Examination.

7. Heard the learned counsel appearing for the respondents on the above aspects.

8. Taking into consideration the facts and circumstances of the case, the qualification of the petitioner and after hearing the learned counsel appearing on both sides, it is appropriate to pass an interim order as prayed for in this W.M.P. Accordingly, the third respondent-Tamil Nadu Dr.M.G.R. Medical University, is directed to register the petitioner's name as a student in D.M./M.Ch. Course in the Institute of Child Health, Egmore, Chennai, and thereby, permit him to submit the dissertation before 31.03.2016 and also permit him to sit for the Examination for the said course commencing from August 2016, pending disposal of the Writ Petition. This order is passed subject to the result of the Writ Petition. The above interim order is passed without prejudice to the contentions raised by the respondents. Merely because this interim order is passed, the petitioner shall not claim any equity on that ground.

9. With the above observations and directions, M.P.No.1 of 2013 and W.M.P.No.9312 of 2016 are disposed of." (emphasis supplied)

20. Subsequently, on 26.07.2016, this Court passed the following orders:-

"In continuation of interim order, dated 30.6.2016, this Court would pass the following:

2. Mr.AR.L.Sunderasan, learned senior counsel appearing for the petitioner, has drawn attention of this Court to the additional affidavit filed in support of the captioned writ petition and would submit that in the light of the interim orders passed by this Court on 30.6.2016, ejournal publication has been submitted for the purpose of writing the examination of M.Ch. (Pediatrics Surgery) Course, which is scheduled to be commenced from 1.8.2016 onwards. He has also drawn attention of this Court to the interim order, dated 24.3.2016 passed by this Court,

wherein, the petitioner was permitted to sit for the examination for the said course commencing from August, 2016, pending disposal of the writ petition.

3. Learned senior counsel appearing for the petitioner, on instructions, would submit that in the event of the writ petition being dismissed, the petitioner will not claim any equity in joining the course and appearing in the examination as it is only by way of interim orders passed by this Court and prays for appropriate orders.

4. Per contra, Mr.S.Gomathinayagam, learned Addl.Advocate General, assisted by Mr.G.Hari Hara Arun Soma Sankar, learned standing counsel, appearing for the University/3rd respondent, has drawn attention of this Court to Section 35 of the Tamil Nadu Dr.M.G.R.Medical University Chennai Act, 1987, which provides the candidates for 'admission to university courses' and would submit that as per Sub Section 3 of Section 35, the question, as to whether the eligible candidate has undergone the equivalent course of study or training shall be decided by the Standing Academic Board with reference to the syllabus, the course contents and the period of study or training and as such, the decision whether MRCS Degree (General Surgery) obtained by the petitioner from the Royal College of Surgeons, Edinburgh (U.K.) is equivalent to P.G.Degree, will be taken by the Standing Academic Board in the ensuing meeting to be held in future. He would further add that as on today, the said MRCS Degree obtained by the petitioner, cannot be considered as equivalent P.G.Degree and hence, he prays for rejection of the interim prayer sought for by the learned senior counsel.

5. Mr.V.P.Raman, learned standing counsel, appearing for the Medical Council of India/4th respondent, would submit that it is for the said Council to take a call and give its opinion as whether MRCS (General Surgery) is equivalent to P.G.Degree or not?

6. This Court has carefully considered the rival submissions and perused the entire materials available on record.

7. In the additional affidavit filed in support of the captioned writ petition, the petitioner has specifically mentioned in para 6, as under: "6. I respectfully submit, I may be permitted to join the 3 year Higher Speciality Course commencing in the academic year 2013-14 pursuant to the Entrance examination and counselling. I undertake that in the event of Medical Council of India deciding that the MRCS qualification which I have obtained, is not equivalent to a Post Graduate degree of Tamil Nadu Dr.MGR Medical University, I will forgo the seat and will not claim any equity."

8. It is pertinent to note that the petitioner, by virtue of series of interim orders passed by this Court, got the admission into M.Ch.Course in the Institute of Child Health, Egmore, Chennai and now he seeks permission to sit for the examination for the said course, which is commencing from 01.08.2016. In

fact, by order, dated 24.3.2016, this Court, while directing the 3rd respondent University to register the petitioner's name as a student in D.M./M.Ch.course, has made it clear that the said order is passed subject to the result of the writ petition and it is without prejudice to the contentions raised by the respondents and that merely because the interim order is passed, the petitioner shall not claim any equity on that ground.

9. Learned senior counsel appearing for the petitioner has also drawn attention of this Court to the letter of the 3rd respondent, dated 29.07.2013, in and by which, the Registrar of the said University has informed the petitioner that only upon receipt of the reply from MCI as to whether MRCS qualification is equivalent to MD/MS Courses in India, the University is able to issue the Eligibility Certificate. However, according to the learned standing counsel for the University, the said decision is yet to be taken.

10. In the light of the undertaking given by the petitioner as submitted by the learned senior counsel that in the event, the petitioner fails in the writ petition, he will not claim any equity and will have to forgo whatever he got by virtue of the interim orders and taking note of the fact that after getting the admission and having completed the course, now the petitioner seeks permission to sit for the M.Ch.examination, which is scheduled to be commenced from 01.08.2016, this Court is of the view that the petitioner has made out a prima facie case and as on today, the balance of convenience is also clearly in favour of the petitioner. It is to be noted that now if the petitioner is not permitted to sit for the examination, and ultimately, if the petitioner succeeds in the writ petition, he may be put to great hardship and irreparable loss and all his efforts in getting the M.Ch.Degree may end in vain; whereas, if the petitioner fails in the writ petition, in the light of the undertaking, he will forgo whatever he gained by virtue of the interim orders. In such a view of the matter, this Court is inclined to pass the following interim order, to meet the ends of justice.

11. There shall be an ad-interim direction, directing the 3rd respondent university to furnish the necessary application form to the petitioner and receive the same after being duly filled-in by the petitioner, along with requisite fee towards examination and additional fee and penalty if any thereof, payable in accordance with relevant Rules and Regulations if the application is otherwise in order, permit him to sit for M.Ch.examination, which is commencing from 01.08.2016 onwards. The result of the examination shall be kept in a sealed cover by the 3rd respondent/University and to be placed before this Court on the next hearing date. It is also made clear that this interim order is passed without prejudice to the rights of the respondents and also subject to the result of the writ petition. The petitioner shall not claim equity by virtue of this interim

order at the time of final disposal.

List the matter on 22.08.2016."

(emphasis supplied)

21. During the pendency of the writ petition, it is pertinent to mention that the writ petition was dismissed by an order dated 28.04.2017. However, the petitioner filed a Review Petition pointing out that his results have not yet been announced. The review was allowed and the writ was restored to its original number.

22. On 30.11.2018, this Court passed the following orders:-

"The petitioner has filed the instant writ petition for the issuance of Writ of Mandamus for a direction to the respondents to permit the petitioner to sit for the entrance examination for admission to three year super speciality courses in the Tamil Nadu Dr.M.G.R. Medical University during the academic session, 2013 - 2014. The petitioner has completed his MBBS degree from the State of Tamil Nadu. He then went to England and obtained M.R.C.S certificate from the Royal College of Surgeons, Edinburgh (UK).

2.By virtue of the interim order of the Court the petitioner has completed his course. He has also taken the examination and the results have not been announced due to the pending of the writ petition. The issue which arise for consideration as to whether the M.R.C.S qualification obtained by the petitioner from the Royal College of Surgeons, Edinburgh is equivalent to a MD qualification as recognized by the Medical Council of India. This clarification is needed for the reason that the Regulation 5(a) for the Post-Doctoral Fellowship Programme, 2013 - 2014 of the Tamil Nadu Dr.MGR Medical University, 69, Anna Salai, Chennai, stipulates that any candidate who holds Post Graduate degree of the Dr.MGR University or any other recognized University which is equivalent to the Tamil Nadu Dr.M.G.R. Medical University and included in the schedule of the Indian Medical Council Act, 1956 and who have obtained registration either from the Medical Council of India or any State Medical Council are eligible for higher speciality courses.

3.Mr. ARL.Sundaresan, Learned Senior Counsel for the petitioner relies on the Gazette of India:Extra Ordinary, Ministry of Health and Family Welfare, (Department of Health and Family Welfare) Notification, New Delhi, dated 07.03.2008 are reads as under:- "S.O.459(E) In exercise of the powers conferred by the sub-section (4) of the Section 13 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby makes the following further amendments in Part II of the Third schedule to the said Act, namely:- In the said schedule under the heading "Part II Recognized Medical Qualifications Granted by Medical Institutions outside India not included in the Second Schedule", after the entries relating to the qualification

Doctor of Philosophy (Ph. D.) in Medical Science (Dagastan Medical Institute), U.S.S.R* and below the explanation of the asterisk(*), the following shall be added, namely:- "All post graduate medical qualifications awarded in Australia and recognized for enrolment as medical practitioners in the concerned specialities in that country; All post graduate medical qualification awarded in New Zealand and recognized for enrolment as medical practitioners in the concerned specialities in that country; All post graduate medical qualifications awarded in United Kingdom and recognized for enrolment as medical practitioners in the concerned specialities in that country; All post graduate medical qualifications awarded in United States of America and recognized for enrolment as medical practitioners in the concerned specialities in that country. (No.V-11025/11/2007-ME-P-I(P.) DEBASISH PANDA, Jt. Secy."

4. But a perusal of the 3rd schedule framed under Section 13 of the Indian Medical Council Act, 1956 only includes the LRCS and FCRS courses from the Royal College of Surgeons, Edinburgh, but does not include the M.R.C.S course in Edinburgh.

5. The learned counsel for the Medical Council of India is directed to get specific instructions as to whether the M.R.C.S course from the Royal College of Surgeons, Edinburgh can be treated as equivalent to a Post Graduate degree in India.

6. Post the matter on 14.12.2018."

23. The Medical Council of India did not give any reply as to whether the MRCS course from the Royal College of Surgeon, Edinburgh can be treated as equivalent to a post graduate degree in India from an institute recognized by the Medical Council of India. The learned counsel for Medical Council of India, placed on record a letter dated 03.01.2019, sent by the Medical Council of India to the counsel for the petitioner, which reads here under:-

"W.P. No. 17882 of 2013 - Dr. D. Muthu Kumaran v. Government of Tamil Nadu and others
Legal <legal@mciindia.org> 3 January 2019
at 18:35

To: Seshadri Mandalam <seshadrisnv@gmail.com>, "vpr1810@gmail.com"
" <vpr1810@gmail.com> Cc: "shikharranjan1@gmail.com"
<shikharranjan1@gmail.com>
Sir,

Please refer to your E-mail dated 28.12.2018, on the subject noted above.

On perusal of Petition, it is seen that the Petitioner has averred that he has obtained MRCS qualification from the Royal College of Surgeons, Edinburgh. However, the Petitioner has not annexed with the Petition certificates issued by the said Institution.

The Council Office has vide letter dated 06.12.18 has sought information from the General Medical Council, United Kingdom and the Royal College of Surgeons, Edinburgh. Response of GMC has been received which states that MRCS of Royal College of Surgeons, Edinburgh is a postgraduate qualification, however, it does not guarantee registration with GMC. Further, the reply from Royal College of Surgeons, Edinburgh has yet not been received. Copies of communication are enclosed.

On checking the website of Royal College of Surgeons, Edinburgh, it is seen that it offers online MRCS programmes also. Online postgraduate medical education is not acceptable for registration in India. The Council requires that the complete training and examination should be in the country from which qualification has been obtained. The Petitioner has not placed any documents to that effect in the Petition. Accordingly, the Petitioner/Royal College of Surgeons, Edinburgh is required to provide (a) Documents relating to acquisition of MRCS qualification from RCS, Edinburgh; and (b) Whether the said qualification entitles the Petitioner to obtain registration with the GMC, UK. On receipt of such information the Council would be able to further proceed in the matter regarding the equivalence of MRCS of petitioner with that of MS of Indian Universities.

You are requested to seek time from the Hon'ble Court.

Shikhar Ranjan Law Officer
Medical Council of India

Pocket-14, Dwarka, New Delhi - 110077 Phone: 011-25367033/35/36/37."

24. The Medical Council of India has also written a letter to the General Medical Council by the copies of letter dated 26.12.2018 to the Advisor, General Medical Council. U.K. and to the Dean, the Royal College of Surgeons, Edinburgh. The content of the letter is identical and is being reproduced.

"BOARD OF GOVERNORS IN SUPERSESION OF MEDICAL COUNCIL OF INDIA

No.MCI-23(1)/2018/Med/156122

Date 26/12/2018

To

The Adviser,

General Medical Council,

Regents Place,

350 Huston Road,

London-NW1 3JN Email: gmc@gmc-uk.org

Subject: Recognition & Eligibility of MRCS qualification from Royal College of Surgeons, Edinburgh for enrollment in General Medical Council - Regarding

Sir,

Regarding the subject cited above, it is to inform that all Post Graduate Medical qualification awarded in United Kingdom and recognized for enrolment in General Medical Council as medical

practitioners in the concerned specialities in that country are equivalent to Post Graduate degree in the concerned speciality in India.

Kindly, intimate this office whether a person possessing MRCS qualification from Royal College of Surgeons, Edinburgh is recognized and eligible for enrolment in General Medical Council as specialist in United Kingdom, so that eligibility of such a Medical Practitioner for admission in Super-Speciality course M.Ch (Paediatric Surgery) can be decided.

Kindly also inform us of the duration of MRCS course offered by Royal College of Surgeons, Edinburgh. This may be treated as Most urgent as this Council requires above information for a Court related matter.

Thanking you in anticipations

Yours faithfully

(Dr. Rajendra Wabale)

Joint Secretary"

25. The reply received by the General Medical Council is also being reproduced as follows:-

"RE: Recognition & Eligibility of MRCS qualification from Royal College of Surgeons, Edinburgh for enrollment in General Medical Council - Regarding.

gmc@gmc-uk.org

Sat 29/12, 6:03

Inbox

Dear Sir/Madam

Thank you for your email about the post graduate qualification (PGQ) of MRCS from Royal College of Surgeons of Edinburgh.

The PGQ is acceptable for the purpose of applying for registration with the GMC but does not guarantee the application will be accepted. You would need to contact the Royal College of Surgeons of Edinburgh directly for details of the duration of the course.

If you would like to discuss this further, please call us using the number below or reply to this email.

Yours sincerely

Darren

Darren Mobey

Contact Centre Adviser

Registration and Revalidation Directorate

Telephone: 0161 923 6602 (+44 161 923 6602 from outside the UK)

Website: www.gmc-uk.org"

26. Heard the counsel for the parties.

27. Section 11 of the Indian Medical Council Act of 1956, states that The medical qualifications granted by any university or medical Institution in India which are included in the first Schedule shall be recognized medical qualifications for the

purposes of the Indian Medical Council Act. Section 12 of the Indian Medical Council Act, 1956, provides that the medical qualifications granted by medical institutions outside India which are included in the Second Schedule shall be recognized medical qualifications for the purposes of the Indian Medical Council Act. Section 13 of the Indian Medical Council Act, 1956, provides that the medical qualifications granted by medical institutions in India which are not included in the First Schedule and which are included in Part I of the Third Schedule shall also be recognized medical qualifications for the purposes of the Indian Medical Council Act. Section 13(4-A) provides that a person who is a citizen of India and obtain medical qualification granted by any medical institution in any country outside India recognized for endorsement as medical practitioner in that Country after such degree as may be specified by the Central Government shall be enrolled in any medical register only after clearing a screening test. Section 12 deals with such of those countries where there is a scheme of reciprocity and recognition of medical qualifications. Section 14 is a special provision in certain cases have granted by the medical institutions in countries where there is no scheme of reciprocity. Section 12 and Section 14, which are relevant for this case are extracted hereunder:-

"12. (1) The medical qualifications granted by medical institutions outside India which are included in the Second Schedule shall be recognized medical qualifications for the purposes of this Act.

(2) The Council may enter into negotiations with the Authority in any country outside India which by the law of such country is entrusted with the maintenance of a register of medical practitioners, for the settling of a scheme of reciprocity for the recognition of medical qualifications and in pursuance of any such scheme, the Central Government may, by notification in the official Gazette, amend the Second Schedule so as to include therein the medical qualification which the Council has decided should be recognized and any such notification may also direct that an entry shall be made in the last column of the Second Schedule against such medical qualification declaring that it shall be a recognized medical qualification only when granted after a specified date.

(3) The Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Second Schedule by directing that an entry be made therein in respect of any medical qualification declaring that it shall be recognized medical qualification only when granted before a specified date.

(4) Where the Council has refused to recommend any medical qualification which has been proposed for recognition by any Authority referred to in sub-section (2) and that Authority applies to the Central Government in this behalf, the Central

Government, after considering such application and after obtaining from the council a report, if any, as to the reasons for any such refusal, may by notification in the Official Gazette, amend the Second Schedule so as to include such qualification therein and the provisions of sub-section (2) shall apply to such notification.

14. (1) The Central Government after consultation with the Council, may, by notification in the Official Gazette, direct that medical qualifications granted by medical institutions in any country out-side India in respect of which a scheme of reciprocity for the recognition of medical qualifications is not in force, shall be recognized medical qualification for the purposes of this Act or shall be so only when granted after a specified date: Provided that medical practice by persons possessing such qualifications: -

(a) shall be permitted only if such persons are enrolled as medical practitioners in accordance with the law regulating the registration of medical practitioners for the time being in force in that country;

(b) shall be limited to the institution to which they are attached for the time being for the purposes of teaching, research or charitable work ; and (c) shall be limited to the period specified in this behalf by the Central Government by general or special order.

(2) In respect of any such medical qualification the Central Government, after consultation with the Council may, by notification in the Official Gazette direct that it shall be a recognized medical qualification only when granted before a specified date."

Section 13 is also being produced to complete the narration of the facts.

"13. (1) The medical qualifications granted by medical institutions in India which are not included in the First Schedule and which are included in Part I of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act.

(2) The medical qualifications granted to a citizen of India:-

(a) before the 15th day of August, 1947, by medical institutions in the territories now forming part of Pakistan, and,

(b) before the 1st day of April, 1937, by medical institutions in the territories now forming part of Burma, which are included in part 1 of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act.

(3) The medical qualifications granted by medical institutions outside India, before such date as the Central Government may, by notification in the Official Gazette, specify which are included in Part II of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act, but no person possessing any such qualification shall be

entitled to enrolment on any State Medical Register unless he is a citizen of India and has undergone such practical training after obtaining that qualification as may be required by the rules or regulations in force in the country granting the qualification, or if he has not undergone any practical training in that country he has undergone such practical training as may be prescribed.

(4) The Central Government, after consulting the Council, may, by notification in the Official Gazette, amend Part II of the Third Schedule so as to include therein any qualification granted by a medical institution outside India, which is not included in the Second Schedule. Provided that after the commencement of the Indian Medical Council (Amendment) Act, 2001, no such amendment shall be made in Part II of the Third Schedule to include any primary medical qualification granted by any medical institution outside India: Provided further that nothing contained in the first proviso shall apply to inclusion in Part II of the Third Schedule any primary medical qualification granted by any medical institution outside India to any person whose name is entered in the Indian Medical Register. Explanation- For the purposes of this sub-section, "primary medical qualification" means any minimum qualification sufficient for enrolment on any State Medical Register or for entering the name in the Indian Medical Register.

(4A) A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognised for enrolment as medical practitioner in that country after such date as may be specified by the Central Government under sub-section (3), shall not be entitled to be enrolled on any Medical Register maintained by a State Medical Council or to have his name entered in the Indian Medical Register unless he qualified the screening test in India prescribed for such purpose and such foreign medical qualification after such person qualifies that said screening test shall be deemed to be the recognised medical qualification for the purposes of this Act for that person.

(4B) A person who is a citizen of India shall not, after such date as may be specified by the Central Government under sub-section (3), be eligible to get admission to obtain medical qualification granted by any medical institution in any foreign country without obtaining an eligibility certificate issued to him by the Council and in case any such person obtains such qualification without obtaining such eligibility certificate, he shall not be eligible to appear in the screening test referred to in sub-section (4A): Provided that an Indian citizen who has acquired the medical qualification from foreign medical institution or has obtained admission in foreign medical institution before the commencement of the Indian Medical Council (Amendment) Act, 2001 shall not be required to obtain eligibility certificate under this subsection but, if he is

qualified for admission to any medical course for recognised medical qualification in any 7 medical institution in India, he shall be required to qualify only the screening test prescribed for enrolment on any State Medical Register or for entering his name in the Indian Medical Register.

(4C) Nothing contained in sub-sections (4A) and (4B) shall apply to the medical qualifications referred to in section 14 for the purposes of that section.

(5) Any medical institution in India which is desirous of getting a medical qualification granted by it included in Part I of the Third Schedule may apply to the Central Government to have such qualification recognised and the Central Government, after consulting the Council, may by notification in the Official Gazette, amend Part I of the Third Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the last column of Part-I of the Third Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date."

28. In the second schedule, the medical qualifications given by the Royal College of Physicians of Edinburgh and Royal College of Surgeons of Edinburgh are recognized by the Medical Council of India.

Royal College of Physicians of Edinburgh	L.R.C.P	Licentiate	R.C.P.Edin.
	M.R.C.P.	Member	
	F.R.C.P	Fellow	
Royal College of Surgeons of Edinburgh	L.R.C.S	Licentiate	R.C.S.Edin.
	F.R.C.S.	Fellow	

This does not include M.R.C.S degree conferred by the Royal College of Surgeons of Edinburgh.

29. A perusal of the second schedule also show that only M.R.C.S. degree conferred by the Royal College of Surgeons, England, is recognized medical qualification by the Medical Council of India. The petitioner has not given any material to show that a person with M.R.C.S. degree is recognized for enrollment as a medical practitioner in the concerned speciality in Scotland. In letter dated 26.07.2013, General Medical Council stated its inability to provide its advice as requested by the Tamil Nadu Dr MGR Medical University. The letter only states that a number of doctors continue to study and gain addition qualifications after completing their primary medical qualification (PMQ) such as the M.R.C.S. The letter does not state the M.R.C.S. degree from Royal College of Surgeons, Edinburgh would entitle such a person to practice

medicine/surgery.

30. This Court is not able to place any reliance on the web page filed by the petitioner, which anyway does not authenticate that the Medical Council of India recognizes MRCP degree given by the Royal College of Surgeons, Edinburgh. This Court also does not able to place any reliance on email trail filed by the petitioner to substantiate his case that the M.R.C.S. from the Royal College of Surgeons, Edinburgh is in the list of acceptable Post Graduation qualifications entitling a person having degree for registration for practicing in U.K.

31. The material on record shows that the expert committee of Tamil Nadu Dr MGR Medical University, Chennai, had a meeting for clarifying, whether the M.R.C.S.degree of the Royal College of Surgeons, Edinburgh is equivalent to M.S. Post Graduate degree course in India. On 27.07.2016, Dr.A.V.Srinivasan, Emeritus Professor of Neurology, Head of the Department, Madras Medical College (Rtd), Chennai, and Dr.Vittal, Professor of Endocrine Surgery, Emeritus Professor, the Tamil Nadu Dr.MGR Medical University, Chennai, opined that there is no structured training in M.R.C.S. and it is considered as an entry point for further training in surgery. Further they opined that in India, there is 3 year structured training in M.S.Degree and only then only candidate can appear for Super-Speciality courses. The Expert Committee opined that the M.C.R.S. is not equivalent to the M.S. degree. The relevant portion reads as under:-

"Experts opined:

1. There is no structured training in MRCS and it is considered as an entry point for further training in Surgery.
2. There is 3 year structured training in M.S.Degree. After that only they can appear for super-speciality courses.
3. Under these circumstances MRCS cannot be considered as equivalent to M.S.Degree."

32. The opinion of the Expert Committee was placed before the Standing Academic Board and the Standing Academic Board resolved as under:-

1. In the Medical Council of India regulations under the eligibility requirements for candidates to join the M.Ch Higher Speciality courses, the MRCS in U.K. has not been included.
2. MRCS is an entry point Diploma course for further training in Surgery.
3. The MRCS is a two year training whereas MD/MS are three full years training courses
4. Regarding examination in MRCS :

- there are only 270 Multiple choice questions for 4 hours.

- 10 OSCE station for 3 hours
- no dissertation / thesis
- there is no structured examinations
- In the Medical Council of India III schedule MRCS has been mentioned only as a certificate / diploma course.

Regarding examination in MD / MS :

There are 4 theory papers including practical examinations and the candidate has to pass individually both in theory and practical examinations.

The candidate shall be allowed to appear for the Theory and Practical / Clinical examination only after the acceptance of the thesis by the examiners.

5. The MRCS graduates are surgeons n training and do surgery under the supervision of Consultant at entry level . Subsequently the candidate has to undergo 4 years of training for FRCS to be registered as a Surgeon in the Medical Registry. Under these circumstances the Standing Academic Board has resolved that MRCS cannot be considered as equivalent to M S Degree

The Board has also resolved to communicate the decision of the Honb'le High Court, Chennai."

33. This Court had repeatedly directed the Medical Council of India to state as to whether the M.R.C.S. degree can be considered as equivalent to M.S. degree obtained from the institute which figures in first and third schedule under the Indian Medical Council Act, 1956. The Medical Council of India has not given any positive response as to whether the degree obtained by the petitioner can be considered as equivalent to M.S. Degree. The petitioner claims that the degree is equivalent to M.S. Degree given by the institution which is recognized by the Medical Council of India. The petitioner is not able to substantiate his case. There is no positive affirmation by the Medical Council of India also.

34. This Court is of the view that the MRCS degree from Royal College of Surgeon, Edinburgh, which the petitioner holds is not equivalent to a M.S. Degree given by an institute which is recognized by the Medical Council of India. However, in the present case, by way of interim orders, this Court permitted the petitioner to sit in the examination. The petitioner has taken the examination. He has completed the course, but he is yet to

get the degree because of the pendency of the present writ petition. The University has spent money on the petitioner. It will be a national waste if the skill and expertise acquired by the petitioner during his course is not put to use for service of people at large. Even though, the petitioner has stated in so many words that, he will not claim any equity in his favour, this Court cannot be oblivious to the fact that the petitioner has cleared the written examination, undergone the entire course and only his results have been withheld, because of the pendency of the writ petition. University has spent money on the petitioner and as stated earlier, the petitioner has got requisite expertise. Even if the degree is awarded to the petitioner, it will not be harmful to the society at large.

35. In view of the peculiar facts and circumstances of the case and without treating it as a precedent, this Court directs the 2nd respondent to declare the result of the petitioner and award M.Ch degree, if he is otherwise eligible to get the degree of M.Ch. The petitioner would not be able to rely on the M.R.C.S. (General Surgery) degree as equivalent to M.S. degree for acquiring any other qualifications, where it is necessary to possess the M.S. degree recognized under the Indian Medical Council Act, 1956.

36. Writ Petition is disposed of with the above mentioned terms. No Costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

Pkn.

To

1. The Secretary,
Government of Tamil Nadu
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai - 600 009.

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

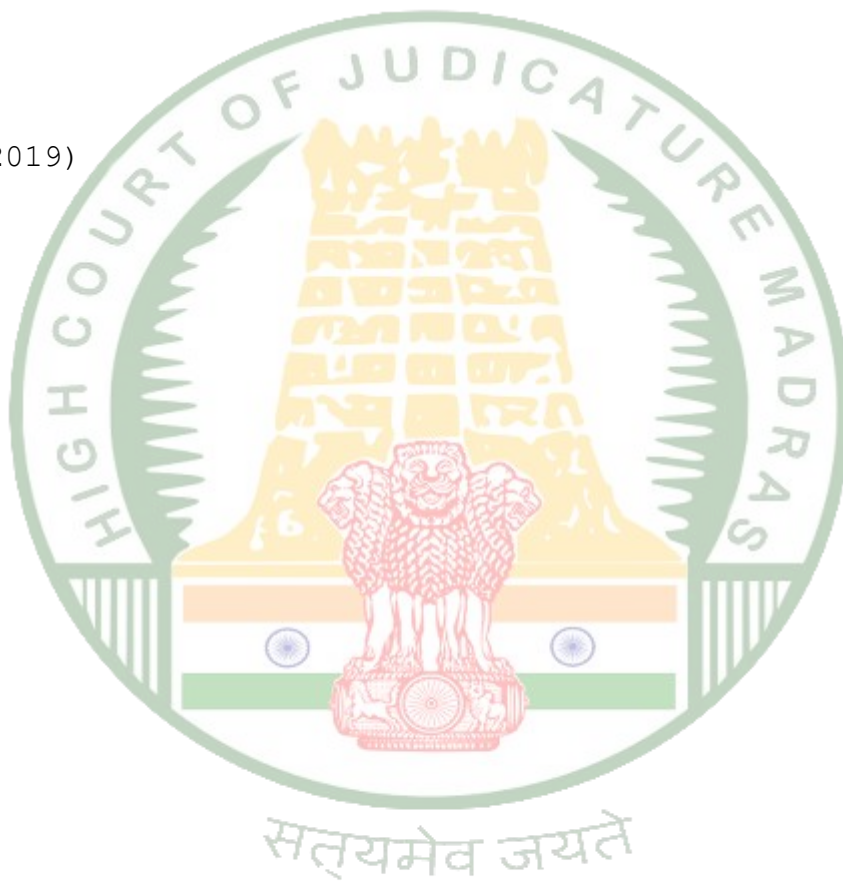
3. The Registrar,
The Tamil Nadu Dr MGR Medical University,
No.69, Anna Salai, Guindy, Chennai 600 032.

4. The Secretary,
Medical Council of India,
MCI Buildings,
Pocket 14, Sectors, Dwarka, Phase-I,
New Delhi.

+1 CC to M/s.A.L. Gandhimathi, Advocate sr 75893.
+1 CC to Mr.V.P. Raman, Advocate sr 75958.

W.P.No.17882 of 2013

SJ(CO)
SP(24/10/2019)



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