

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.A.Nos. 2692, 2787, 2794 & 2795 of 2018
&
C.M.P.Nos.21926, 23040, 23113, 23119 of 2018

W.A.No.2692 of 2018

1. The Dean (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Dhanwantri Nagar, Puducherry - 605 006.
2. The Director,
JIPMER, Dhanwantri Nagar,
Puducherry.

...Appellants

1. K.Vishnu
Rep by his Natural Guardian,
S.S.Kalyanasundaram
2. The Medical Council of India
Rep by its Head Secretary,
Pocket 14, Sector 8, Dwaraka, Phase-I,
New Delhi - 110 077.
3. The Secretary to Govt of India,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi - 110 011.

4. Mages.S.

...Respondents

W.A.No.2787 of 2018

1. Jawaharlal Nehru Institute of Post Graduate
Medical Education & Research (JIPMER),
Rep by its Director, JIPMER Academic Centre,
Dhanvantri Nagar P.O., Puducheery - 605 006.

2. The Dean (Academic)
Central Assistant Public Information Officer,
JIPMER, III Floor,
Academic Centre, Dhanvantri Nagar P.O.,
Puducherry - 605 006.

...Appellants

Vs.

1. S.Aravindhan
2. Union of India,
Rep by its Secretary to Government,
Ministry of Health and Family Welfare,
Govt of India, New Delhi

...Respondents

W.A.No.2794 of 2018

1. Jawaharlal Nehru Institute of Post Graduate
Medical Education & Research (JIPMER),
Rep by its Director, JIPMER Academic Centre,
Dhanvantri Nagar P.O., Puducherry - 605 006.
2. The Dean (Academic)
JIPMER, III Floor,
Academic Centre, Dhanvantri Nagar P.O.,
Puducherry - 605 006.

...Appellants

Vs.

1. S.Aravindhan
2. Union of India,
Rep by its Secretary to Government,
Ministry of Health and Family Welfare,
Govt of India, New Delhi
3. The Medical Council of India,
Rep by its Chairman,
Pocket-14, Sector-8, Dwaraka Phase-I,
New Delhi - 110 077.

...Respondents

W.A.No.2725 of 2018

1. The Dean (Academic),
Jawaharlal Institute of Post Graduate
Medical Education & Research (JIPMER),
Dhanwantri Nagar, Puducherry - 605 006.
2. The Director,
JIPMER, Dhanwantri Nagar,
Puducherry.

...Appellants

Vs.

1. S.Shamseer
2. The Medical Council of India
Rep by its Head Secretary,
Pocket 14, Sector 8, Dwaraka, Phase-I,
New Delhi - 110 077.
3. The Secretary to Govt of India,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi - 110 011.
4. Mages.S.

...Respondents

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent, against the Orders dated 04.04.2018 in W.P.No.21132 of 2016, dated 04.04.2018 in W.P.No.22721 of 2016, dated 04.04.2018 in W.P.No.22820 of 2016, dated 04.04.2018 in W.P.No.21133 of 2016.

WP.No.22820/2016: Issue a writ of certiorarified mandamus (or) any other appropriate writ Direction (or) order, calling for the records relating to the Online Entrance Examination conducted by the 2nd respondent Institute by issuing the Addendum Document to the JIPMER MBBS Entrance Examination 2016 Prospectus dated 10.3.2016 in 2 Shifts on 5.6.2016 by giving 2 different Sets of 200 Questions to the candidates in each shift for admission to the MBBS Degree Course for the Academic Year 2016-2017 and quash the same and consequently direct the 2nd respondent Institute to prepare only one Set of 200 Questions conduct the said Online Entrance Examination in one Shift in accordance with the Notification bearing Ref.No.JIP/ Dean(A)/ EE-Schedule-1/2016 dated 15.10.2015 and the Prospectus dated 27.2.2016 select the meritorious candidates in each category and admit them to the 1st year MBBS Degree Course in the 2nd Respondent Institute for the Academic Year 2016-2017.

WP.Nos.21132/16 and 21133/16:Pleased to issue a writ of Certiorarified mandamus to call for the records of the 2nd and 3rd respondent relating to MBBS Entrance Examination 2016 and quash the lists of candidates eligible for 1st round of counselling dated 14.06.2016 published pursuant to JIPMER Entrance Examination 2016 held on 05.06.2016 and consequently direct the 2nd and 3rd respondent to conduct fresh MBBS Entrance Examination 2016 based on the single shift method and single common question paper covering both State Board and CBSE syllabuses in an equal manner.

WP.No.22721/2016:Pleased to issue a writ in the nature of a writ of mandamus (or) any other appropriate writ, Direction (or) order, Directing the 2 & 3 Respondent to furnish

(i) Scanned copy or print-out copy of my Answer Sheet bearing Roll No.156030146 to-gether with Tabulation Sheet (For evaluating petitioner's answer) for the JIPMER MBBS Entrance Examination held on 05.06.2016

(ii) Answer Key issued by JIPMER for the JIPMER MBBS Entrance Examination held on 05.06.2016 within the time that may be fixed by this Honourable Court and to pass such further (or) other order.

For Appellants : Mr.G.Rajagopalan
Additional Solicitor General
assisted by Mr.M.T.Arunan
(in all the cases)

For Respondents : Mr.R.Rajesh Vivekanandan
(for R.2,3)
Mr.M.S.Seshadri
for Mr.V.P.Raman
(for Medical Council of India)

COMMON JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J.)

These Writ Appeals by the Dean (Academic), Jawaharlal Institute of Post-Graduate Medical Education & Research (JIPMER) represented by its Director are directed against the common order dated 04.04.2018 in W.P.No.21132 of 2016, dated 04.04.2018 in W.P.No.22721 of 2016, dated 04.04.2018 in W.P.No.22820 of 2016, dated 04.04.2018 in W.P.No.21133 of 2016.

2. Heard Mr.G.Rajagopalan, Additional Solicitor General assisted by Mr.M.T.Arunan, learned counsel for the appellants in all cases and Mr.R.Rajesh Vivekanandan (for R.2,3), Mr.M.S.Seshadri for Mr.V.P.Raman (for Medical Council of India) in all cases.

3. The said writ petitions were filed by the respondents herein praying for issuance of writ of certiorarified mandamus to quash the online examination conducted by the second appellant by giving two different sets of 200 questions to the candidates in each shift for admission to MBBS degree course for academic session 2016-17 and consequently, direct the second appellant to conduct online entrance examination in one shift, to select the meritorious candidates in each shift and admit them to the first year MBBS degree course.

4. The writ petition in W.P.No.21132 of 2016 was dismissed

by order dated 14.09.2017. However, while doing so, the learned single bench directed the appellant to find out more cities with technical capacity for conducting the computer based test and administrative infrastructure in each State before 2017 and notify centers in those cities for conducting entrance examination in single session, by making use of single question paper, in the interest of the students, and by doing so, they can avoid any sort of allegation against them with regard to conduct of examination.

5. The matter was heard on various dates. Ultimately the following directions were issued by the learned Writ Court:

"10. Though the matters have been listed today under the caption "for Reporting Compliance", on considering the rival submissions, this Court is inclined to issue the following directions by way of clarification, in W.P.Nos.21132, 21123 & 22820 of 2016:

(i) The respondent JIPMER is permitted to conduct the online entrance examination for admission to MBBS course, scheduled to be held on 03.06.2018, for the current year, in the two sessions;

(ii) However, from 2019 onwards, JIPMER shall conduct online entrance examination in a single session on a single day with the same set of question paper;

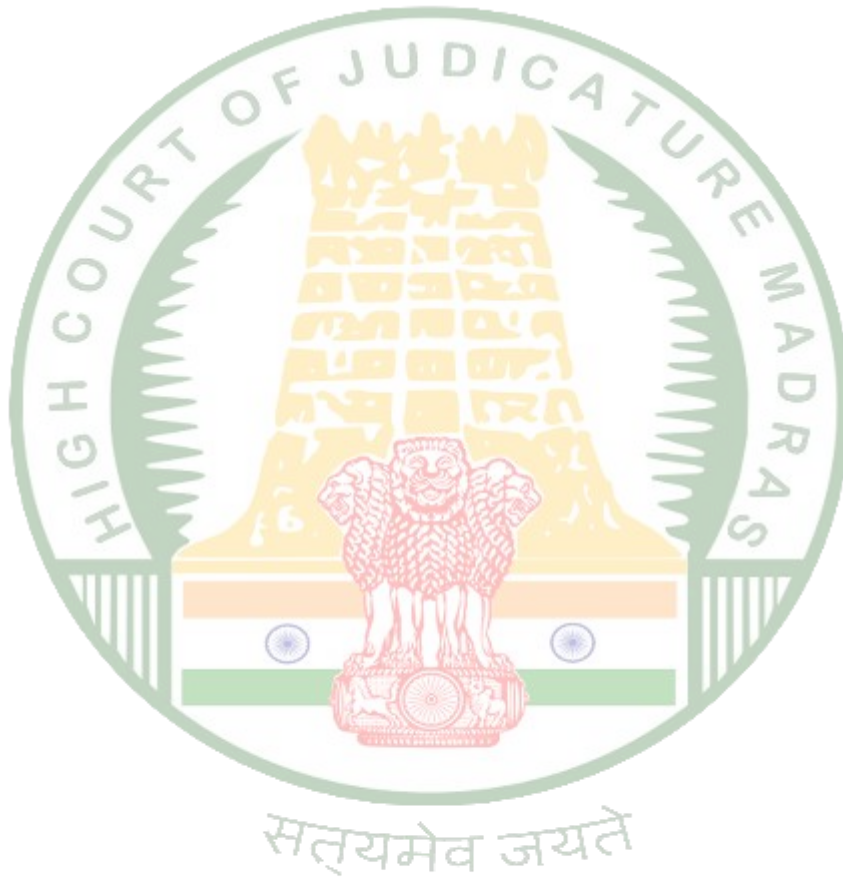
(iii) If it is not possible to handle more applicants, in case, more number of applications are received, then it is open to JIPMER to go for offline examination;

(iv) JIPMER is directed to find out suitable Service Provider, which is capable of handling more number of students, at the earliest."

6. The appellants are aggrieved by such directions, firstly on the ground that the directions issued are beyond the scope of the writ petition and therefore, calls for interference. The second contention is that online examination is conducted by Tata Consultancy Services and the technical feasibility of the same has to be gone into and the Court should not interfere in such matters especially when nothing has been brought on record to establish that the candidates who appeared for the examination were put to prejudice.

7. Mr.G.Rajagopalan, Additional Solicitor General assisted by Mr.M.T.Arunan, learned counsel for the appellant, while reiterating the above contentions submitted that the suggestions given by the learned writ Court were taken up for active consideration and the Dean (Academics) of the appellant had taken up the matter with Tata Consultancy Services and they have filed their response dated 31.12.2018, which has been incorporated in the affidavit filed by the dean academics of the

appellant. For better appreciation, the entire letter titled as an affidavit dated 31.12.2018 is quoted herein.



WEB COPY

237

The details of number of Cities with technical capacity is as follows:-

Total # of States covered	27	As per Jipmer Requirement
Total # of cities covered	124	Jipmer had publish a list of 75 cities for conducting exam, Additional neighbouring cities were added to this list based on nodes availability and Candidates requirements, resulting in a total of 124 cities where the JIPMER exam was conducted
Total # of nodes (Excluding buffer)	1, 54, 000	Another 10% (15400) nodes are buffer nodes

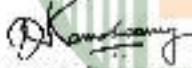
In addition to that, JIPMER is conducting the entrance examination through Computer Based test mode from the year 2014 and the details of no. of registration year by year is as follows:

Sl.No	Name of the year	No. of registration count	Percentage Increase
1	2014	90500	N/A
2	2015	137442	34%
3	2016	155197	13%
4	2017	189567	22%

By considering the previous year registration count, this year the no. of count would be around 245000. Hence it is acceptable to conduct exams in multiple sessions.

The above information is true to the best of our knowledge and records.

For Tata Consultancy Services Limited


Meguswamy Ramaswamy

Global Head—TCS IOW

Dated: 19th March, 2018

सत्यमेव जयते

WEB COPY

8. On a perusal of the above, it is seen that there are several logistic issues which are involved in the process and the said agency has stated that considering the candidates count for the previous year, it is predicted that about 2,33,300 candidates would take Entrance Examination for this year (2019) and hence it is acceptable to conduct exams in multiple sessions. As noted by us, earlier the candidates who came forward with a prayer to conduct a single examination in one session were unsuccessful and the writ Court agreed with the appellants on the ground that they have not made out a case for interference.

9. If such is the situation, then the question would be as to whether the Courts could proceed to issue directions which are general in nature and may assume the character of Public Interest Litigation. It is a different matter, if the candidate or any other person representing the candidate or any other Public Interest Litigant who has approached the Court for such a relief and in such circumstances, the matter has to be heard by the Division Bench as presided over by the Hon'ble Chief Justice or any other Division Bench as designated by the Hon'ble Chief Justice. Such a situation does not arise in our case.

10. Thus, when a plea of discrimination as canvassed by the appellant is filed before the Hon'ble Supreme Court, we feel that directions issued has traversed beyond the scope of writ petitioner. That apart, we find that appellants had genuinely considered the matter, discussed the same with the Tata Consultancy Services and they also given their response, which is technical in nature. Thus, we are of the considered view that no positive direction can be issued to the appellants to conduct a single examination with a single question paper throughout the Country especially when the total number of cities which has to be covered are more than 124 over 1,54,000 nodes.

11. Thus, for the above reasons, the affidavit filed by the Dean(Academics) of the appellant dated 07.02.2019 which reiterated the stand taken by the Tata Consultancy Services is taken on record and the Writ Appeal is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

mrm/ssb

To

1. The Chairman/Head Secretary,
The Medical Council of India
Pocket 14, Sector 8, Dwaraka, Phase-I,
New Delhi - 110 077.
2. The Secretary to Govt of India,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi - 110 011.
3. Union of India,
Rep by its Secretary to Government,
Ministry of Health and Family Welfare,
Govt of India, New Delhi
4. The Dean(Academic),
Jawaharlal Indstitute of Post Graduate
Medical Education & Research (JIPMER),
Dhanwantri Nagar, Puducherry - 605 006.
5. The Director,
JIPMER, Dhanwantri Nagar,
Puducherry.

+8 Ccs to M/s.M.T.Arunan, advocate sr 12762, 12763, 12764,
12765.

W.A.Nos. 2692, 2787, 2794 & 2795 of 2018
&
C.M.P.Nos.21926, 23040, 23113, 23119 of 2018

KAN(CO)
SP(19/03/2019)

सत्यमेव जयते

WEB COPY