

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.26858 of 2018
and
W.M.P.No.31204 of 2018

A.T.S.V.S.Siddha Medical College & Hospital,
(Run by Akila Thiruvithancode Siddha Vaidhya Sangam)
Munchirai, Pudukkudai (P.O.),
Kanyakumari District - 629 171,
Rep. by its Interim Administrator,
Justice A.Ramamurthi, (Retired),
S/o Anganan, Plot No.9,
HIG, TNHB Phase - II,
Nolambur, Mogappair West,
Chennai - 600 037. ... Petitioner

... Vs ...

1. The Vice-Chancellor,
The Tamil Nadu Dr.M.G.R.Medical University,
Chennai - 32.
2. The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.
3. The Controller of Examination,
Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents herein to implement The Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations 2016 (MSE 2016) i.e., Regulation 6: Scheme of Examination (1)(c), (2)(c) and (3)(c) which came into force on 07.11.2016 in letter and spirit.

For Petitioner : Mr.A.Ravindran
For Respondents : Mr.D.Ravichander
Standing Counsel
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ORDER

A.T.S.V.S.Siddha Medical College & Hospital, represented by its Interim Administrator has come to this Court seeking a writ of Mandamus directing the respondents to implement the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations 2016 (MSE 2016) i.e., Regulation 6 of the Scheme of Examination (1)(c), 2(c) and (3)(c), which came into force on 07.11.2016 and pass further orders.

2. Learned counsel appearing for the petitioner submitted that the Government of India had notified Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations 2016 (hereinafter referred to as "MSE 2016"), amending the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Regulations 1986, which ultimately came into force from 07.11.2016. The learned counsel appearing for the petitioner further submitted that prior to the said amendment, as per Regulation 6(1)(c), a student, who failed in not more than two subjects, shall be held eligible to keep the terms for the second professional sessions, however he shall not be allowed to appear for second professional examination unless he passes in all the subjects of the first professional examination.

3. Again, the learned counsel submitted that Regulation 6(2)(c) says that a student, who failed in not more than two subjects, shall be held eligible to keep the terms of the third professional session, however he shall not be allowed to appear for third professional examination unless he passes in all the subjects of second professional examination.

4. Similarly, Regulation 6(3)(C) also says that a student, who failed in not more than two subjects, shall be held eligible to keep the terms for the final professional examination, however he shall not be allowed to appear for final professional examination unless he passes in all the subjects of third professional examination."

5. But, the aforesaid Regulation 6 of the Scheme of Examination (1)(c), 2(c) and (3)(c) has been amended as follows:

"6(1)(c) The failed student of first professional shall be allowed to appear in second professional examination, but the student shall not be allowed to appear in third professional

examination unless the student passes all the subjects of first professional examination and maximum four chances shall be given to pass first professional examination within a period of maximum three years.

6(2)(c) The failed student of second professional who have passed all the subjects of first professional examination shall be allowed to appear in third professional examination, but the student shall not be allowed to appear in final professional examination unless the student passes all the subjects of second professional examination and maximum four chances shall be given to pass second professional examination within a period of maximum three years.

6(3)(c) The failed student of third professional who have passed all the subjects of first and second professional examinations shall be allowed to appear in final professional examination and maximum four chances shall be given to pass third professional examination within a period of maximum three years."

6. Now, as per the above Amendment, which came into force from 07.11.2016, even the students, who were admitted under Single Window Counselling held between 21.11.2016 and 25.11.2016 and who participated in the final counselling held on 14.12.2016, are entitled to get the benefit of the said Regulation. Therefore, the amendment "MSE 2016", which came into effect from 07.11.2016, should be made applicable to the students, who were admitted from the Academic year 2016-2017, as the cut off date for admission of 1st year BSMS Course for the Academic year 2016-2017 was 31.12.2016, whereas, the respondents-University refuses to implement the same from July 2016-2017. On the other hand, they sought to implement it only from November 2017-2018. The denial of the benefit given by the Amendment "MSE 2016" to the students, who have got into the Academic year 2016-2017, is unfair and unjustifiable. Therefore, the learned counsel for the petitioner submitted that a mandamus be issued directing the respondents to implement the Regulation 6 of the Scheme of Examination (1)(c), 2(c) and (3)(c) of the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations 2016 (MSE 2016) from 07.11.2016.

7. A detailed counter affidavit has been filed by the Tamil Nadu Dr.M.G.R. Medical University.

8. Mr.D.Ravichander, learned Standing Counsel appearing for the Dr.M.G.R. Medical University submitted that though the Amendment Regulations 2016 was notified on 07.11.2016, the same would take effect and shall be operative from July 2017 alone, as the Academic Sessions commences only from July. Therefore, the amended Regulations shall be operative and implemented for the students admitted from the Academic Year 2017-2018 alone. Hence, the plea of the petitioner College seeking extension of benefits under Amendment Regulations, 2016 for the students admitted during the Academic year 2016-2017, does not merit any acceptance.

9. I also agree with the stand taken by the learned Standing Counsel appearing for the respondent that since the Academic year for the petitioner College commences only from July, the amended Regulations notified on 07.11.2016 will be given effect to only from the ensuing Academic year 2017-2018.

With this clarification, the Writ petition stands disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

kkn/Jrl

Sub Assistant Registrar

To

1. The Vice-Chancellor,
The Tamil Nadu Dr.M.G.R.Medical University,
Chennai - 32.
2. The Registrar,
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+1 cc to Mr.K.A.Ravindran, Advocate, S.R.No.7069

W.P.No.26858 of 2018

SJ(CO)
SSM(26/02/2019) .