



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.17145 of 2019

WEB COPY

1.R.Mohan

2.S.Gowtham

... Petitioners

Vs.

1.The Controller of Examinations,
Tamilnadu Dr.MGR Medical University,
Chennai.

2.The Principal
C.S.I., College of Dental Sciences and Research
129 East Veli Street, Madurai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents * (to) permit the petitioners to write upcoming theory and practical examinations, B.D.S., 3rd year exams of the Tamil Nadu Dr.MGR Medical University at the 2nd respondent examination centre.

For Petitioners :Mr.RM.Arun Swaminathan

For Respondent *(s) :Mr.C.Karthick for R1

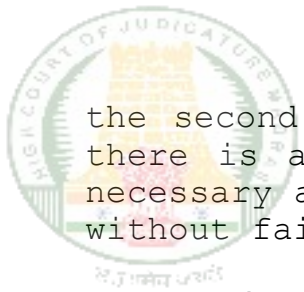
Mr.T.Antony Arul Raj for R2

ORDER

The prayer in this writ petition is for issuance of a writ of Mandamus to direct the respondents to permit the petitioners to write the theory and practical examinations, B.D.S. 3rd year exams of the Tamil Nadu Dr.MGR Medical University at the 2nd respondent examination centre.

2. Heard the learned counsel for the petitioners, the learned standing counsel for the first respondent and the learned counsel for the second respondent.

3. The petitioners are third year B.D.S., students, studying at the second respondent College and after completion of the third year, before they write their examinations, the petitioners along with one more person had not been permitted to write the examinations for the alleged reason of lack of attendance. In this regard, it is the case of the petitioners that, they have the necessary attendance and for some biased reasons, the second respondent College did not mark the necessary attendance and in this regard, a periodical quarterly attendance said to be forwarded by



the second respondent to the University has not been forwarded and there is a *mala fide* that, the second respondent did not put the necessary attendance, despite these petitioners attended the classes without fail.

4. However, the learned counsel for the second respondent Management has filed a counter affidavit, where, he has relied upon Paragraph No.4, which reads thus:

"4.I respectfully state that for the 3rd year exam, there are three subjects namely, 1.General Medicine 2.General Surgery and 3.Oral Pathology and Oral Microbiology. As per the University norms, the students must possess minimum 75% of attendance. The regulation does not permit condonation so far as medical students are concerned. Therefore, the students who are having attendance below 75% are not eligible to write the exam. In the 3rd year BDS totally 90 students are studying. Out of that only 3 students are lacking in attendance. The details are as follows:

Name	General Medicine		General Surgery		Oral Path	
	Attendance		Attendance		Attendance	
	Requir ed	Actua ls	Requir ed	Actua ls	Requir ed	Actua ls
S.Gowtham	75	33	75	40	75	77
R.Mohan	75	33	75	45	75	55
K.Jaiharini	75	34	75	78	75	77

In fact, the 2nd petitioner has sufficient attendance in oral pathology and microbiology. Therefore, as per University norms he was permitted to write that subject. This would prove the entire allegations levelled by the petitioners are false and frivolous one."

5. By relying upon the said submissions, the learned counsel for the second respondent College submits that, three students, including these petitioners, did not obtain the necessary attendance for each of the subject, for which, they were not permitted to write the examinations, which has just been concluded. The learned counsel for the second respondent would also submit that, even during last year, they already left the hostel attached with the hospital and despite the same, the students, ie., the petitioners, since have the required attendance last year, they were permitted to attend last year examinations and therefore, the present allegation made on behalf of the petitioners that, merely because, the



petitioners left the College hostel and they stayed outside and coming on day scholar, as a revenge against the petitioners, the College Management has purposely avoided to put attendance to the petitioners, cannot hold good, because of the reason that, last year itself, these petitioners left the College and stayed outside and however, since they have obtained attendance, they were permitted to write the examinations.

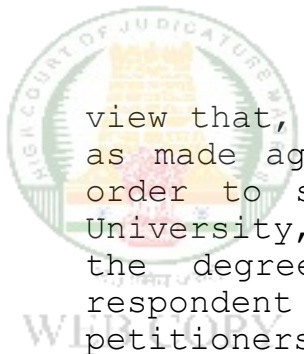
6. I have heard the learned standing counsel for the first respondent, who would submit that, as far as the minimum requirement of attendance of 75% is concerned, the statute/regulations of the University has to be scrupulously followed and without a minimum attendance, no student would be permitted to write the examinations. In this regard, it is for the College to say, what is the actual attendance of the students concerned and in this regard, if at all any specific complaint comes from the students against the College Management, that would be enquired by the first respondent University. Here, in the case in hand, according to the learned standing counsel for the first respondent University, no such complaint has been received from the petitioners.

7. I have heard the learned counsel for the parties and have perused the materials placed before this Court.

8. The only controversy is that, whether the petitioners have the necessary/required attendance for the third year to write the third year examinations, which were just concluded.

9. In this context, it is the definite case of the second respondent College that, these petitioners do not have the attendance, except, the case of one Gowtham, the second petitioner herein, in respect of oral pathology, where he had the attendance of 77%, accordingly, the second petitioner was permitted to write the said examination. With regard to the remaining two papers, the said Gowtham, second petitioner herein, does not have the required attendance. Insofar as the first petitioner, namely, Mohan is concerned, he does not have the required attendance for all the three papers. Therefore, he was not at all permitted to write any of the examinations. In this context, if at all the petitioners had got any grievance against the Management, as if, purposely, the Management had not marked the attendance, the petitioners could have made a complaint to the first respondent University and ultimately, no such complaint seems to have been made. Anyhow, the learned standing counsel appearing for the first respondent University submits that, if any complaint is received, based on which, the first respondent University can call for the Attendance Record from the College concerned and accordingly, after verifying the same, the University would satisfy whether there is any substance in the complaint given by the students concerned.

10. In view of the said stand taken by the learned standing counsel for the first respondent University, this Court is of the opinion that the petitioners are not entitled to write the examinations.



view that, to decide as to whether the allegation is right or wrong, as made against the College Management by the petitioners, and in order to satisfy all concerned, especially, the first respondent University, who is in-charge of the students as well as for awarding the degree to the satisfaction of the students, the second respondent College can forward the attendance concerned of the petitioners herein and on verification of the same, the University can have a satisfactory view and accordingly, further follow up action can be taken.

11. In view of the aforesaid facts and circumstances and discussions made above, this Court is inclined to dispose of this writ petition with the following directions:

That the second respondent College shall forward the attendance of the third year B.D.S., course of the petitioners to the first respondent University with all original records within a period of two weeks from the date of receipt of a copy of this order and on receipt of the original records/attendance from the second respondent Institution, the first respondent shall verify the same and after satisfying the marking of the attendance statement of the petitioners to that effect by the College, the University can take a satisfactory view, either in favour of the institution or in favour of the petitioners and accordingly, as per the statute of the University, necessary follow up action can be taken by the first respondent University, within a period of four weeks thereafter.

13. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

RR

To

The Controller of Examinations,
Tamilnadu Dr.MGR Medical University,
Chennai.

+1 CC to M/s.C. KARTHIK, Advocate (SR-82243[F] dated 19/08/2019)

+1 CC to M/s.T. ANTONY ARUL RAJ, Advocate (SR-82320[F] dated 20/08/2019)

+1 CC to M/s.R.M.ARUN SWAMINATHAN, Advocate (SR-82396[F] dated 20/08/2019)

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