



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)Nos.22024 & 22027 of 2019

W.P(MD)No.22024 of 2019:

R.Vinoba Selvandurai

... Petitioner

/Vs./

1.The Secretary, Selection Committee,
Directorate of Medical Education,
#162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600010.

2.Medical Council of India,
Pocket-14, Sector -8, Dwarka Phase-1,
New Delhi-110077,
rep., by its Director.

3.The Secretary,
Department of Health and Family Welfare,
Government of Tamilnadu,
Fort St George,
Chennai-600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 07.10.2019 permitting the petitioner's son to join in Govt Medical College Theni or Govt Medical College Dharmapuri in the existing vacancies by transferring from Velammal Medical College Hospital and Research Centre, Madurai.

W.P(MD)No.22027 of 2019:

R.Yamini

... Petitioner

/Vs./

1.The Secretary, Selection Committee,
Directorate of Medical Education,
#162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600010.



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 07.10.2019 permitting the petitioner to join in Govt Medical College Theni or Govt Medical College Dharmapuri in the existing vacancies by transferring from Velammal Medical College Hospital and Research Centre, Madurai.
In both petitions

For Petitioner : Mr.U.Kasipandian

For Respondents : Mr.K.Mu.Muthu (for R1 & R3)
Additional Government Pleader

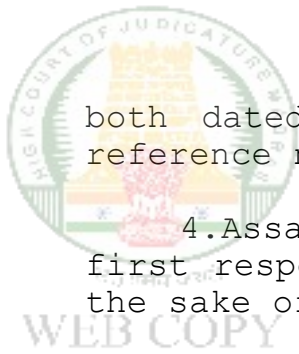
Mr.P.Mahendran (for R2)
for Mr.V.P.Raman
Standing counsel

COMMON ORDER

This common order will dispose of both these writ petitions.

2. Both these writ petitions pertain to admission of the writ petitioner in W.P(MD)No.22027 of 2019 and petitioner's son in W.P(MD)No.22024 of 2019 in Government Medical College though they have secured admission in a private medical college and though they are pursuing the course there.

3. Both writ petitioners had sent representations to the authorities concerned in this regard and had approached this Court by way of writ petitions in W.P(MD).No.19210 of 2019 and W.P(MD) No.19208 of 2019. Both these writ petitions filed by these writ petitioners were disposed of by separate orders of this Court and both these orders were on 18.09.2019 wherein this Court had directed the authority concerned to dispose of the representation of writ petitioners on merits within the time frame set out therein. Pursuant to the orders of this Court, the first respondent has now



both dated 27.09.2019. Incidentally, both orders bear the same reference namely Ref.No.3025/SCS I(II)/2019.

4.Assailing these 'two orders dated 27.09.2019 made by the first respondent' (hereinafter referred to as 'impugned orders' for the sake of brevity), instant writ petitions have been filed.

5.A perusal of the impugned orders reveal that the first respondent has held that the last date for admission to MBBS Course elapsed on 31.08.2019 for the current academic year and it has also been held that as of 31.08.2019, there were no vacancies in the Government Medical Colleges.

6.Mr.K.Mu.Muthu, learned Additional Government Pleader who accepts notice on behalf of respondents 1 and 3 and Mr.P.Mahendran, learned counsel representing Mr.V.P.Raman learned Standing Counsel for Medical Council of India who accepts notice on behalf of the second respondent are before this Court.

7.Learned State counsel and learned Standing Counsel pointed out that 31.08.2019 is the cut-off for the current academic year as far as admission to MBBS Courses are concerned.

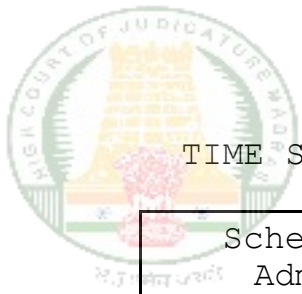
8.Responding to this, learned counsel for writ petitioners submits that a window is available till 30.09.2019.

9.The aforesaid issue is the central theme and central controversy in these two writ petitions.

10.Before dealing with the aforesaid controversy, this Court is of the considered view that two judgments of Hon'ble Supreme Court are of immense significance. Those two judgments are Mridul Dhar (Minor) and another Vs., Union of India and others reported in (2005) 2 SCC 65 and Priya Gupta Vs., State of Chhattigarh and others reported in (2012) 7SCC 433.

11.In Mridul Dhar case relevant paragraphs are Paragraph Nos.12 and 14 which read as follows:

'12.Reference may also be made to notification dated 25th February, 2004 issued by the Medical Council of India in exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956 (for short, 'the Act') with the approval of the Central Government, making the "Graduate Medical Education (Amendment) Regulations, 2004, laying down the time schedule for completion for admission process for first MBBS course. It is on same lines as the aforequoted time schedule. Time schedule (Appendix-E) to the regulation reads as under :



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APPENDIX E
TIME SCHEDULE FOR COMPLETION OF THE ADMISSION PROCESS FOR
FIRST MBBS COURSE

Schedule for Admission	Seats filled up by Central Government through All-India Entrance Examination	Seats filled up by the State Governments/ institutions
Conduct of entrance examination	Month of May	Month of May
Declaration of result of qualifying exam/entrance exam	By 5 th June	By 15 th June
First round of counselling/ admission	To be over by 30 th June	To be over by 25 th July
Last date for joining the allotted college and course	Within 15 days from the date of allotment of seats	31 st July
Second round of counselling for allotment of seats from waiting list	To be over by 8 th August	Up to 28 th August
Last date for joining for candidates allotted seats in second round of counselling from the waiting list	Within 15 days from the date of allotment of seat (seats vacant after 22 nd August will be surrendered back to the States/Colleges)	31 st August
Commencement of academic session		1 st of August
Last date up to which students can be admitted against vacancies arising due to any reason		30 th September

14.The academic session commences between 1st August and 31st August and the last date for joining MBBS/BDS courses is 30th August. However, students can be admitted against vacancies arising due to any reason by 30th September. The date 30th September is not for normal admission but is to give opportunity to grant admissions against stray



vacancies. The adherence to the time schedule by everyone is paramount for the timely grant of admissions, commencement of academic session and for closure of the admissions after 30th September each year. In fact, the timely holding of 10+2 examination and declaration of its results is also of paramount importance for the entire admission process. If the results of CBSE or other equivalent examination are not declared well before the commencement of first round of counseling/admission of All India Quota seats, i.e., 20th June, it is likely to adversely affect the candidates who may otherwise be toppers in the All India Entrance Examination. A candidate may be in the first 200 position, out of about 2,00,000 candidates in the merit ranking but if the results of his qualifying examination of CBSE or its equivalent are not available to him or to DGHS responsible for counseling, the candidate would lose chance to get admission in college of his choice despite his merit position.'

12. In Priya Gupta case, the Mridul Dhar principle was reiterated. In Priya Gupta case, relevant paragraphs are paragraph Nos.28, 30 and 78.4 which read as follows:

'28.Having noticed that there have been irregularities in maintaining the prescribed schedule and that the last few days of the declared schedule are primarily being utilized in an exploitative manner, on account of charging higher fees for securing admission and thereby defeating the principle of admission on merit, a three Judge Bench of this Court in the case of Mridul Dhar (Minor) & Anr. v. Union of India & Ors. [(2005) 2 SCC 65] applied the schedule notified by the Medical Council of India (MCI) in Appendix 'E' of the Graduate Medical Education (Amendment) Regulations, 2004 and directed its strict adherence.

29.....

30.The Court in Mridul Dhar Case noticed that the holding of 10+2 examination and declaration of results is also of importance for the entire admission process and, therefore, directed strict adherence to the Schedule in all respects and by all concerned. The date of 30th September was stated not to be the date of normal admission but is to give opportunity to grant admission against stray vacancies. The Court clarified that adherence to the time schedule by everyone was a paramount concern. In that case, the Court issued a specific direction to all the State functionaries, particularly the Chief Secretaries and heads of the concerned Ministries/Departments operating in the States/Union Territories,



adopting the time schedule and holding the State examination, to ensure declaration of results on or before 15th June, 2005. They were also required to ensure the appropriate utilization of All India quota, to fullest extent, by timely reporting to the DGHS by the Deans of various colleges or any other State authority, informing the DGHS of the acceptance or rejection of seats by the students after the first counseling of All India/State Quota.

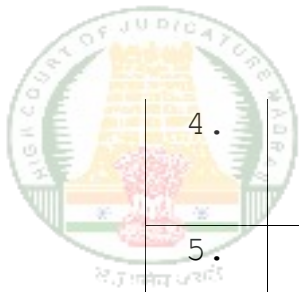
...

78.4. With all the humility at our command, we request the High Courts to ensure strict adherence to the prescribed time schedule, process of selection and to the rule of merit. We reiterate what has been stated by this Court earlier, that except in very exceptional cases, the High Court may consider it appropriate to decline interim orders and hear the main petitions finally, subject to convenience of the Court. We may refer the dictum of this Court in the case of Medical Council of India v. Rajiv Gandhi University of Health Sciences [(2004) 6 SCC 76, para 14] in this regard.'

13. Besides the aforesaid judgments, learned Additional Government Pleader placed before this Court an unreported judgment of Hon'ble Supreme Court dated 18.01.2016 in the case of Ashish Ranjan & ors Vs., Union of India & ors made in W.P(Civil)No.76 of 2015 relevant paragraph of the said judgment reads as follows:

**'TIME SCHEDULE FOR COMPLETION OF THE ADMISSION PROCESS
FOR FIRST MBBS COURSE**

Sl. No.	Schedule for Admission	Seats to be filled up by the Central Government through the All India Entrance Examination	Seats to be filled up by the State Govt./ Institution.
1.	Conduct of Entrance Examination	Between 1 st to 7 th May	Between 10 th to 17 th May
2.	Declaration of the Result of the Qualifying Exam/Entrance Exam.	By 1 st June	By 1 st June
3.	1 st round of counselling/ admission	To be over by 25 th June	Between 6 th July to 15 th July



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4.	Last date for joining the allotted college and the course	By 5 th July	By 22 nd July
5.	2 nd round of counselling/admission for vacancies	Between 23 rd July to 30 th July	Between 10 th to 22 nd August
6.	Last date of joining for the 2 nd round of counselling/admission	By 9 th August	By 28 th August
7.	Commencement of academic session/term	1 st of August	1 st of August
8.	Last date up to which students can be admitted/joined against vacancies arising due to any reason.		By 31 st August

Note: 1. All India Quota Seats remaining vacant after last date for joining, i.e. 9th August will be deemed to be converted into state quota.

2. Institute/college/courses permitted after 31st May will not be considered for admission/allotment of seats for current academic year.

3. In any circumstances, last date for admission/joining will not be extended after 31st August.'

14. In response to the above, learned counsel for writ petitioners pressed into service an order of Hon'ble Supreme Court made in the case of Medical Council of India Vs., Manas Ranjan Behera and others reported in (2010) 1 SCC 173. The short order read as follows:

'1. Leave granted. The Medical Council of India has challenged the Order passed by the Division Bench of the High Court of Orissa directing the admission of 12 students after the cut-off date of 30th September of the concerned year.

2. It may be noticed in Mridul Dhar (Minor) and Anr. v. Union of India and others, reported in 2005 (2) SCC 65, this Court directed that all the parties shall comply with the directions issued by this Court as regards admission to students in the Medical and Dental colleges. In Direction-15 of paragraph 35 of the Judgment, we had also indicated,

"Time schedule provided in the Regulations shall

<https://hcservices.ecourts.gov.in/hcservices/> strictly adhered to by all concerned failing



which the defaulting party would be liable to be personally proceeded with."

In view of these directions, the High Court should not have passed the impugned Order.

3.However, we have noticed that these 12 students were eligible and because of unprecedented situation, they could not secure admission within the prescribed time limit. We condone the delay in giving admission to them as a one time measure. However, we clarify that these time schedule prescribed by this Court should be followed strictly.

4.The appeals are disposed of accordingly.'

15.A perusal of the aforementioned short order makes it clear that the Hon'ble Supreme Court has passed the order clearly as a one time measure or in other words, Mridul Dhar principles reiterated in Priya Gupta and Ashish Ranjan case pressed into service by learned State counsel are governing the field. Moreover, Mridul Dhar case is by a Hon'ble three Judges Bench and even in Manas Ranjan case, after referring the Mridul Dhar case, Hon'ble Supreme Court has categorically held that it is a onetime measure.

16.Therefore, this Court deems it appropriate to respectfully follow the principles laid down by Hon'ble Supreme Court in Mridul Dhar case, Priya Gupta and Ashish Ranjan case pressed into service by the learned State counsel.

17.To be noted, relevant paragraphs in these three judgments of Hon'ble Supreme Court have been extracted and reproduced supra.

18.This takes this order back to the central controversy.

19.As already alluded to supra, the central controversy is whether the cut-off date would be 31.08.2019 for the current year as far as the college is concerned. In the instant case, it is made clear that as far as the college is concerned, the cut off date is 31.08.2019. Be that as it may, as of 31.08.2019 there were no vacancies in the Government Medical College owing to which, even the opportunity to use the window upto 30.09.2019 pales into insignificance. One other aspect of the matter which is in the form of an impediment for the writ petitioners is that these writ petitions have been filed on 16.10.2019 and it is in the admission board before this Court today (18.10.2019) which in any case is well past 30.09.2019. Therefore, viewed from any perspective, impugned orders in these two writ petitions do not deserve to be interfered with as they are in tune and tandem with the principles laid down by Hon'ble Supreme Court with regard to MBBS admission. In any event in the instant case, as the students are now pursuing their courses albeit in a private college it is not as if their education has hit a road block.



20.In the light of all that have been set out supra, this Court finds no ground to interfere with the impugned orders.

21.Ex-consequenti, instant Writ Petitions fail and the same are dismissed. No costs.

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Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1.The Secretary
Selection Committee,
Directorate of Medical Education,
#162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600010.

2.The Secretary,
Department of Health and Family Welfare,
Government of Tamilnadu,
Fort St George,
Chennai-600 009.

+1 CC to M/s.V.P.RAMAN, Advocate (SR-92914[F] dated 18/10/2019)

+1 CC to M/s.SPL GP (SR-93224[F] dated 21/10/2019)

Order made in
W.P(MD)Nos.22024 and 22027 of 2019
Dated: 18.10.2019

JMN(07.11.2019) 9P : 5C