

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.9079 and 9584 of 2020

Divya Mary Elias,
D/o.Aleyas M.V.

... Petitioner
in both W.Ps.

Vs.

- 1.The Government of India,
rep. by its Joint Secretary,
Health Department,
Pocket 14, Sector-VIII,
Dwaraka Phase-I,
New Delhi-110 077.
- 2.Medical Council of India,
rep. by its Secretary,
Pocket 14, Sector-VIII,
Dwaraka Phase-I,
New Delhi-110 077.
- 3.The Government of Puducherry,
Rep. by under Secretary to Government,
Chief Secretariat,
Puducherry.
- 4.Central Administrative Committee (CENTAC),
rep. by Chairman / Convenor,
Pondicherry Engineering College Campus,
Puducherry 605 014.
- 5.Pondicherry University,
rep. by its Deputy Registrar (Academic),
R.V.Nagar, Kalapet,
Puducherry-605 014.
- 6.Pondicherry Institute of Medical Science,
rep. by its Registrar,
Kalapet,
Puducherry 605 014.

7.The Controller of Examinations (i/c),
Pondicherry University,
R.V.Nagar, Kalapet,
Puducherry 605 014.

...Respondents 1-7
in both W.Ps.

8.Coordinator / Academics,
Pondicherry University,
R.V.Nagar,
Puducherry 605 014.

...8th Respondent
in W.P.No.9584 of 2020

W.P.No.9079 of 2020 Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the records relating to the order made in No.PU/Exam/Med/E5/202/84 dated 17.06.2020 passed by the 7th respondent quash the same and consequentially direct the respondents to recognise the admission of the petitioner in the post graduation course of M.D., Pulmonary Medicine in terms of PG (MD/MS) Course 2017, Admission-Reg. Dated 31.05.2017 issued by the 6th respondent and consequently permit the petitioner to complete the course by allowing her to sit for written examination as well as practical & oral examination to be held on 15.07.2020 to 22.07.2020 by the 5th respondent as scheduled in the time table annexed in the order made in No.PU/Exam/M-E5/2020 dated 11.06.2020 or reschedule by the 7th respondent for MD/MS Degree examination July 2020 post graduate course by providing hall ticket to the petitioner and pass orders.

W.P.No.9584 of 2020:Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the records relating to the order made in No.PU/ACa-7/Recognition/2020/176 dated 23.06.2020 passed by the 8th respondent quash the same and consequentially direct the respondents to recognise the admission of the petitioner in the post graduation course of M.D. Pulmonary Medicine in terms of PG (MD/MS) Course 2017, Admission-Reg. Dated 31.05.2017 issued by the 6th respondent and consequentially permit the petitioner to compete the course by allowing her to sit for written examination as well as practical & oral examination to be held on 15.07.2020 to 22.07.2020 by the 5th respondent as scheduled in the time table annexed in the order made in No.PU/Exam/M-E5/2020 dated 11.06.2020 of reschedule by the 7th respondent for MD/MS Degree examination July 2020 post graduate course by providing hall ticket to the petitioner and pass orders.

(in both W.Ps.)

For Petitioner : Mr.G.Ethirajulu.

For Respondents: Mr.Bajanai Raja, SGSC for R1

Mr.V.P.Raman, for RR2.

Mr.C.T.Ramesh, for R4.

Mr.M.Ravi, for RR5 to7 & 8.

COMMON ORDER

The issue involved in both the writ petitions are common and they are taken up together and this common order is passed.

2.The writ petitioner completed her M.B.B.S., course in the year 2016-2017. She wrote the NEET examination in the year 2017 and she was found eligible and was given a provisional allotment order by Centralised Admission Committee (CENTAC), The Government of Puducherry. She was allotted a seat in the 6th respondent College and she was allotted Anesthesiology course. Subsequently, the CENTAC through an announcement made on 30.05.2017 informed that any eligible NEET candidate can attend counselling on 31.05.2017 for 71 seats which are still available under the Government quota for PG Medical course.

3.The petitioner applied within the same college and she was allotted a different discipline viz., M.D., Pulmonary Medicine and was given admission on 31.05.2017. This was also intimated by the 6th respondent College to the Medical council of India through their letter dated 12.06.2017.

4.The petitioner underwent the course and when she was in the final year, the Pondicherry University, 5th respondent herein, did not permit the petitioner to write the examination. The petitioner approached this Court and filed WP No.7467 of 2020. This Court allowed the writ petition by an order dated 16.04.2020 by giving certain directions : The relevant portions in the order is extracted hereunder :-

7 In the instant case, there is no disputation or disagreement that two writ petitioners herein have not been visited with any discharge orders, they secured admission in aforesaid two courses in 2017-18 academic year and have been pursuing the same in PIMS for three years now. To be noted, this court is informed that this third year is the final

year.

8 Learned counsel for MCI submitted that the procedure in vogue across the board is that recognition is at two stages. One is recognition of the P.G. course itself and the other is when a candidate seeks recognition to become a practitioner after completion of the P.G. Courses. Therefore, counsel for writ petitioners abridges the prayer in two writ petitions on hand to a request to permit the writ petitioners herein to write the examinations.

9 To this, Mr.V.Balamurugan, learned counsel for Pondicherry University and Controller of Examinations, on instructions, submitted that two writ petitioners herein will be entitled to write examinations and will be issued with hall tickets as they have not been visited with discharge orders, if they satisfy all other conditions for sitting for examinations. In this regard, as can be culled out from writ 6/10 W.P.Nos.7466 and 7467 of 2020 affidavits, writ petitioners have already sent a letter dated 22.03.2020 to respondents 5 and 7. Mr.V.Balamurugan, learned counsel for Pondicherry University submitted that Deputy Registrar (Academic) of Pondicherry University will respond to this letter and communicate to writ petitioners about their hall tickets one way or the other, as writ petitioners have not visited with discharge orders.

10 It is also submitted by learned counsel for Pondicherry University that such communication will be made to writ petitioners as expeditiously as possible under due acknowledgment. When Pondicherry University communicates to two writ petitioners herein, simultaneously copies under due acknowledgment shall be served on PIMS (6 th respondent) also. In any event, it is undertaken that examinations for the aforesaid two disciplines, namely M.D. Radio-Diagnosis and M.D. Pulmonary Medicine, will only be held after 21 clear days from the date of such communication to two writ petitioners herein. This is to enable writ petitioners to seek any remedy available to them if it becomes necessary and if the communication of Pondicherry University is adverse. Obviously, if Pondicherry University issues hall tickets, 21 days time line will

become unnecessary.

5. Even after the above order was passed by this Court, the petitioner was not able to take the examination. Aggrieved by the same, the petitioner filed W.P.No.9079 of 2020.

6. The Pondicherry University thereafter proceeded to pass the impugned order dated 23.06.2020, stating that the petitioner will not be permitted to write the exam since the petitioner has been admitted in violation of the admission norms of CENTAC. In the case of the petitioner, the change of discipline by the petitioner within the same College was put against the petitioner. Aggrieved by the same, the petitioner filed W.P.No.9584 of 2020. The petitioner was also allowed to write the examination by virtue of an interim order passed by this Court. Thereby, the petitioner has completed the course and also had taken the examination.

7. Heard Mr.G.Ethirajulu, learned counsel appearing on behalf of the petitioner and Mr.M.Ravi, learned Standing counsel appearing on behalf of Pondicherry University. Mr.C.T.Ramesh appearing on behalf of CENTAC and Mr.V.P.Raman appearing on behalf of Medical Council of India.

8. On a careful perusal of the records, it is found that the petitioner got admission through CENTAC and it is clear from the provisional allotment order, dated 29.05.2017. The only ground put against the petitioner is that she has changed her discipline from Anesthesiology to Pulmonary medicine within the same college. This was informed to Medical Council of India (MCI) by the 6th respondent College and the Medical Council of India has not passed any order invalidating the admission of the petitioner in the new discipline by discharging the petitioner. At the fag end of the course, the Pondicherry University has chosen to stop the petitioner from writing the final examination on the ground that the change of discipline within the 6th respondent College goes against the admission norms of the CENTAC. It is not known as to why the University was waiting till the fag end of the course to take action against the petitioner.

9. In the considered view of this Court, the petitioner had already completed the course and written the final examination. The Medical Council of India has

not chosen to discharge the petitioner on the ground that the admission of the petitioner violates the norms of CENTAC. The time taken by the petitioner to undergo the course and efforts put in to complete the course, should not go waste. This is more so because the petitioner has completed the course and also written the final examination. This Court does not find any illegality in the admission of the petitioner, who admittedly was selected only from the list prepared by CENTAC. At the worst, the change of discipline can be seen only as an irregularity and this Court does not want to interfere with the same after the petitioner has completed the course. The issues raised in the present writ petition will be left open and it can be decided in an appropriate writ petition in future. The orders passed in this writ petition cannot be taken as a precedent in any other case and it has been passed by taking into consideration the peculiar facts and circumstances of this case.

10. In the result, both the writ petitions are allowed and the Pondicherry University is directed to permit the petitioner to complete the course and release the results of the petitioner for the examination, which the petitioner was permitted to appear by virtue of the interim orders passed by this Court. If the petitioner has successfully completed the examination, necessary certificate shall be issued by the University to the petitioner recognizing the completion of the course. No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

Rm

To

1. The Joint Secretary,
Government of India,
Health Department,
Pocket 14, Sector-VIII,
Dwaraka Phase-I,
New Delhi-110 077.

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2.The Secretary,
Medical Council of India,
Pocket 14, Sector-VIII,
Dwaraka Phase-I,
New Delhi-110 077.

3.The Under Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Puducherry.

4.The Chairman / Convenor,
Central Administrative Committee (CENTAC),
Pondicherry Engineering College Campus,
Puducherry 605 014.

5.The Deputy Registrar (Academic),
Pondicherry University,
R.V.Nagar, Kalapet,
Puducherry-605 014.

6.The Registrar,
Pondicherry Institute of Medical Science,
Kalapet,
Puducherry 605 014.

7.The Controller of Examinations (i/c),
Pondicherry University,
R.V.Nagar, Kalapet,
Puducherry 605 014.

8.The Co-ordinator / Academics,
Pondicherry University,
R.V.Nagar,
Puducherry 605 014.

9.The Public Prosecutor,
High Court, Madras.

A.SK(28/09/2020)

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