

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.08.2020

PRONOUNCED ON : 31.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.11097 of 2020
and W.M.P.Nos.13540 & 13545 of 2020

Pondicherry Institute of Medical Sciences,
Represented by its Chairman Mr. M.M. Phillip,
Kalapet, Puducherry - 605014. ...Petitioner

-Vs-

1. The Medical Council of India,
Represented by its Joint Secretary,
Pocket- 14, Sector - 8,
Dwarka, Phase I, New Delhi 11077.
2. The Government of Puducherry,
Represented by the Under Secretary to Government (Health),
Chief Secretariat, Puducherry.
3. Central Admissions Committee (CENTAC),
Represented by Chairman/Convener,
Pondicherry Engineering College Campus,
Puducherry, 605 014 ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 3 rd Respondent in its press release dated 29.07.2020 in ref. no. CENTAC/PG-Medical/2020-21 and the consequential 'PG Medical Admissions - 1:10 List (2020 - 2021)' Government Quota and Management Quota dated 29.07.2020 issued by the 3 rd Respondent, quash the same and consequentially direct the 3 rd Respondent to prepare the 1:10 list strictly in accordance with the directions issued by the Hon'ble Supreme Court.

For Petitioner : Mr.Abhishek Jenasenan

For Respondents: Mr.V.P.Raman - for R1
Mr.C.T.Rammesh - for RR 2 and 3

O R D E R

This Writ Petition has been filed challenging the press release issued by the third respondent on 29.07.2020 and the list published by the third respondent for filling up the Government quota and Management quota in the Post Graduate Medical admissions.

2. The third respondent conducted the first round, second round and 'mop-up' round of counselling to fill up the seats for post graduate courses and the seats were also allotted to the petitioner institution. Ultimately, six seats fell vacant under Government quota and four seats fell vacant under Management quota insofar as the petitioner institution is concerned. Overall twenty seats are yet to be filled up under the Government quota and 15 seats are yet to be filled under the Management quota. All the courses for which the vacancies are arising in the petitioner institution and which requires to be filled up are non-clinical courses.

3. The claim made by the petitioner is that the Honourable Supreme Court in the judgment in "Dar-Us-Slam Educational Trust and Others" case has directed that the 'mop-up' counselling will be conducted by the State to fill up the seats and thereafter if there are stray vacancies left, the State should forward a list of students in the order of merit equalling ten times the number of vacant seats to the medical institution to enable the institution to fill up these vacancies.

4. The first grievance of the petitioner is that the third respondent has asked the students to express their willingness to include their names in the list and only thereafter the list is going to be prepared separately for the Government quota and the Management quota seats. The second grievance of the petitioner that this list is going to be prepared separately for the Government quota and the Management quota seats.

5. Learned counsel for the petitioner Mr. Abhishek Jenasenan submitted that the directions given by the third respondent goes beyond the guidelines given by the Honourable Supreme Court in Dar-Us-Slam Educational Trust case for filling up of the stray vacancies. Learned counsel submitted that the list that has been prepared by the third respondent contains only the names of 17 students under the Government quota and 77 students under the Management quota and this does not satisfy the 1:10 ratio prescribed by the Honourable Supreme Court. The learned counsel submitted that towards 35 vacancies, names of 350 candidates must be given and this has not been given by the third respondent.

6. The second and third respondents have filed their written submissions. The third respondent has justified obtaining willingness from the students on the ground that it will ensure that the seats do not go waste and the merit is not compromised and obtaining willingness is more in the nature of re-registration of the students, who failed to get a seat in the first round, second round and the 'mop-up' round.

7. Insofar as the preparation of separate list is concerned, the third respondent has relied upon Clause 9(4) of the Regulations, 2018 and has stated that two separate lists from the overall India Merit List has to be prepared and consequently, the All India Merit List for the Management quota and the State-wise Merit List for the Government quota must be prepared separately.

8. Heard Mr.V.P.Raman, for the first respondent and Mr.C.T.Rammesh for the second and third respondents.

9. This Court has carefully considered the submissions made by the learned counsel on either side and the materials placed on record.

10. The issue involved in the present writ petition is with regard to the directions issued by the third respondent for filling up the stray vacancies for various Post Graduate Medical Courses. Insofar as the preparation of a separate list for the Government quota and Management quota is concerned, this Court does not find anything wrong in this method being adopted by the third respondent since the stray vacancies are filled both under the Government quota as well as the Management quota and therefore logically separate lists must be prepared and there cannot be a conjoint list. This Court does not really understand as to how the petitioner institution can be aggrieved by the preparation of two separate lists since under both the lists, the petitioner institution has been allotted seats. Therefore, there is absolutely no ground to sustain the objections raised by the petitioner institution.

11. Insofar as obtaining willingness from the students are concerned, this Court has repeatedly held that the preparation of 1:10 list should be as per the order of merit. Even on an earlier occasion during the academic year 2018-19, such a concept of willingness from the students was adopted and it was also discussed by this Court in W.P.No.28266 of 2018. For proper understanding, paragraph 14 of the judgment is extracted hereunder.

"14. However, during the previous academic year, many non-selected candidates in the panel of merit list of all the applied candidates prepared for the said year had not shown interest in the stray vacancies and the same led to complications. In view of the said experience, the CENTAC has requested the non-selected candidates in the overall merit list of all the applied candidates prepared for the academic year 2018-19 including the petitioners in the above writ petitions to express their willingness for consideration for admission to the vacancies including stray vacancies that arose in the fourth respondent college and based on the willingness given by the candidates, in accordance with the directions issued by the Supreme Court in Dar-Us-Slam case, the CENTAC has forwarded the list of 40 candidates from those willing candidates for consideration for admission to the four stray vacancies arose in the fourth respondent college. Again after increase of 50 seats in the fourth respondent college on 31.8.2018, they prepared a merit list of willing candidates containing 330 candidates from those willing candidates in accordance with their merit score in the NEET to the 33 college seats for consideration in the said 50 increased seats and published the same in the website. So far as the petitioners in the above writ petitions are concerned, they have not recorded their willingness for consideration in the vacancies including stray vacancies. In view thereof, the CENTAC has not included their names in the merit list of willing candidates prepared for the fourth respondent college, therefore, they became ineligible for consideration for admission in the 50 increased seats in the said college."

12. One of the main reasons as to why such a willingness is insisted from the candidates is that only those students who are interested in the admission will give such a willingness. Of course this is done without compromising on the merits. Once this is done, the seats at least will not go waste. Or else, inspite of undertaking the exercise of preparing the list, it was brought to the notice of this Court that many students do not participate and ultimately the seats go unfilled. Therefore, this Court does not find anything wrong in the third respondent insisting for the willingness from the candidates. This is done only to ensure that the exercise to fill up the seats in the stray vacancies does not go waste and there is a certainty in the students joining the course at the time of

conducting the counselling to fill up the stray vacancies.

13. In the present case, the list has been prepared only based on the willingness submitted by the candidates and thereby a total of 17 candidates have given their willingness under the Government quota and 77 candidates have given their willingness under the Management quota. It is true that the Honourable Supreme Court directed the list to be prepared in the 1:10 ratio. However, this list can be prepared only from the merit list and just to satisfy the ratio, the names of new candidates cannot be added to the list. Therefore, it cannot be mechanically stated that for 35 vacancies there must be 350 names. The availability of the candidates will depend upon the merit list already prepared and the willingness given by the candidates. Ultimately, the Honourable Supreme Court had made it clear that merit should not be compromised under any circumstances. Till this is assured, there is no ground to interfere with the list that has been prepared by the third respondent.

14. This Court does not find any ground to interfere with the separate list prepared by the third respondent and calling for willingness from the candidates and at any rate, the petitioner institution cannot have any grievance in the method adopted by the third respondent.

15. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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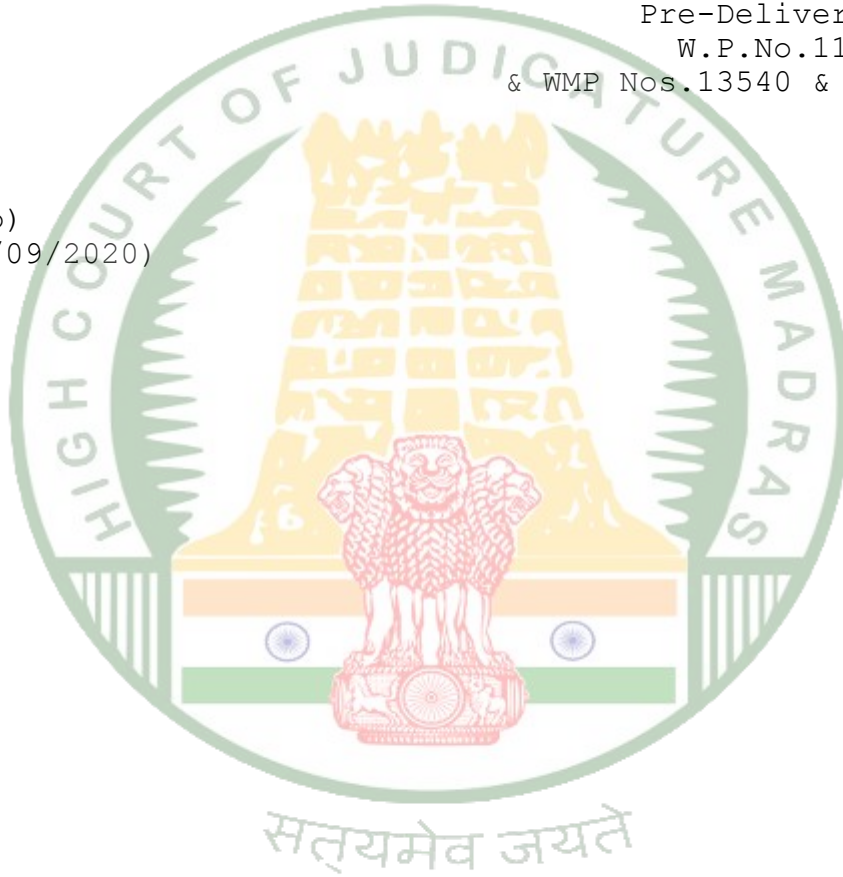
1. The Medical Council of India,
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Pocket- 14, Sector - 8,
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2. The Under Secretary to Government (Health),
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Chief Secretariat, Puducherry.

3. The Chairman/Convener,
Central Admissions Committee (CENTAC),
Pondicherry Engineering College Campus,
Puducherry, 605 014.

+1cc to M/s.V.P.Raman, Advocate, Sr.No.28441
+2cc to M/s.Abishek Jenasenan, Advocate, Sr.No.28381
+1cc to the Government Pleader, Sr.No.28312

Pre-Delivery Order in
W.P.No.11097 of 2020
& WMP Nos.13540 & 13545 /2020

vsn ii (co)
rr ii (16/09/2020)



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