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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

W.A. No. 485 of 2021
and
C.M.P. Nos. 324 and 1056 of 2021

Dr.R.Pooja

...Appellant/Third party

Vs.

1. Sri. Manakula Vinayagar Medical College and Hospital
Rep. by its Dean
Dr. Karne R.N.
Kalitheerthalkuppam
Madagadipet
Puducherry - 605 107.
2. The Union of India
Rep. by its Secretary to Government
Department of Health and Family Welfare Services
New Delhi - 110 011.
3. The Secretary
Medical Council of India
Pocket - 14, Sector - 8
Dwarka Phase - I
New Delhi - 110 077.
4. The Chief Secretary
Government of Pondicherry
Chief Secretariat
Pondicherry.
5. The Secretary to Government (Health)
Chief Secretariat (Health)
Government of Puducherry
Puducherry - 605 001.
6. The Under Secretary to Government (Health)
Chief Secretariat (Health)
Government of Puducherry
Puducherry - 605 001.



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7. The Director
Directorate of Health and Family Welfare Services (DHFWS)
Victor Samuvel Street
Puducherry - 605 001.

8. The Convenor
Centralized Admission Committee (CENTAC)
Pondicherry Engineering College Campus
Pillaichavadi
Puducherry - 605 014.

...Respondents/Writ Petitioner
Respondents 1 to 7

Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order dated 07.10.2020 passed in W.P. No. 3259 of 2018 on the file of this Court and allow the Writ Appeal.

Prayer in W.P. 3259/2018:

Writ Petition is filed under Section 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other appropriate Writ or order or direction, in the nature of Writ, and to call for the records pertaining to the impugned order passed by the 2nd Respondent vide No. order passed by the 2nd Respondent vide No. MCI-23(1)(MC)/2017/171352 dated 31.01.2018 and quash the same, and consequently direct the Respondents 1 to 6 to approve the admission on those 10 students, who were discharged by the impugned order dated 31.01.2018, admitted in the PG Course in various speciality under the Management Quota for the academic year 2017-2018, in the Petitioner institution, enabling to peruse their course and appear for the exams in the future and pass necessary orders and render Justice.

For Appellant : Mr. AR.L.Sundaresan
Senior Counsel
For Mrs. AL.Ganthimathi

For Respondents: Mr. B.Bala Vijayan (For R1)
Mr. V.P.Raman (For R3)
Mr. C.T.Ramesh (For R4 to R8)
Additional Government Pleader
(Puducherry)
Mr. V.Chandrasekaran (For R2)

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)



The matter has been heard through "Video Conference".

2. The impugned order before the Learned Single Judge was passed by the Medical Council of India discharging 10 students from the First Respondent Institution as their admissions have been made without sponsorship of the Central Administrative Committee (hereinafter referred to as 'CENTAC' for short). After hearing all parties, the Learned Single Judge upheld the order of discharge passed by the Medical Council of India, as there was no sponsorship of the CENTAC to those students. The said order is challenged before this Court by way of this Appeal.

3. The Appellant is a student, who has been admitted in the First Respondent Institution. Candidates totalling 10 in number, were discharged by the Medical Council of India and they are covered in W.P. No. 3259 of 2018.

4. Heard Mr. AR.L.Sundaresan, Learned Senior Counsel, assisted by Mrs. AL.Ganthimathi, Learned Counsel on record for the Appellant, Mr. B.Balavijayan, Learned Counsel appearing for the First Respondent, Mr. V.Chandrasekaran, Learned Counsel appearing for the Second Respondent Mr. V.P.Raman, Learned Counsel appearing for the Medical Council of India, Mr. C.T.Ramesh, Learned Additional Government Pleader (Puducherry) appearing for the Fourth to Eighth Respondents, and perused the materials placed on record.

5. The students, who have been admitted without sponsorship of the CENTAC already wrote the final year examinations and are awaiting their results. Nevertheless, the services of the students, who have been admitted improperly, have been utilized for treating corona patients during the years 2019-20 and 2020-21. If the impugned order is allowed to be given effect, then

1. The students, who have been admitted without sponsorship of the CENTAC, would lose their degrees in PG course, which they already underwent for the past three years and wrote their final examinations and are awaiting the results;
2. Medical education imparted to those students for the past three years would be a waste and nobody would be benefitted.
3. The society would lose the services of medically trained post graduate Doctors. Even though the students have been discharged by the Medical Council of India on the ground that they have not been sponsored by the CENTAC, it is a fact that they are all NEET qualified candidates.



6. Even though Learned Counsel appearing for the Second Respondent /National Medical Commission would submit that the discharged students have been admitted in violation of the procedure, the reasons given in the above paragraph, would take care of the submission made. No doubt the students have been admitted in violation of the procedure and they cannot be found fault with for the said violation and only the institution has to be found fault with.

7. While passing this judgment, this Court also takes into consideration of the order passed by the Hon'ble Supreme Court of India in W.P. (Civil) No. 40 of 2018, wherein, while dealing with improper admission of M.B.B.S. Students in Medical Course, the Hon'ble Apex Court permitted those students to continue their education, who have already completed their 2 years course observing that nothing would be achieved by sending them out of the institution.

8. In view of the above position also, the rights of the students have to be safeguarded. Therefore, the impugned order, which discharges the students from the First Respondent Institution terming their admission as illegal or improper, is set aside for the reasons stated above. Penalty imposed by the Learned Single Judge payable in favour of Covid-19 Relief Fund, Puducherry is sustained.

9. With the above directions, this Writ Appeal is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Maya

To

1. Sri. Manakula Vinayagar Medical College and Hospital
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+1 CC to M/s.A.L. Gandhimathi, Advocate sr 36992.

W.A. No. 485 of 2021

MG(CO)
SP(06/09/2021)