

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.03.2021
CORAM

THE HON'BLE MR.JUSTICE B. PUGALENDHI

WP No.1183 of 2020

E. Shree Devi ... Petitioner
Vs.

1. The Registrar
The Tamil Nadu Dr.MGR Medical University
No.69, Anna Salai,
Guindy, Chennai 600 032.
 2. The Controller of Examination
The Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai 600 032.
 3. The Academic Officer
The Tamil Nadu Dr.MGR Medical University
No.69, Anna Salai,
Guindy, Chennai 600 032.
 4. The Principal,
Chettinad Dental College and Research Institute,
IT Highway, Kelambakkam,
Kanchipuram 603 103.
 5. The Dental Council of India,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opp.Mata Sundari College for Women,
New Delhi 110 002.
 6. Mahe Institute of Dental Sciences and
Hospital, Chelakkara, Palloor (P.O),
Mahe 673 310
U.T. Of Puducherry.
- ...Respondents

R6 impleaded as per order dated
27.01.2020 made in WMP.No.2001/2020 in
WP.No.1183 of 2020

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first and second respondents to issue Hall Ticket to enable the petitioner to appear and write the second year Bachelor of Dental Surgery (BDS) Examination which is commencing from 07.02.2020.

For Petitioner : Mr.R.Manickavel
For Respondents : Mr.D.Ravichander for R1 to R3
Mr.T.Balaji for R4
Mr.S.Haja Mohideen Gisthi
Standing Counsel for
Dental Council of India for R5

ORDER

The prayer in the Writ Petition is for the issuance of a Writ of Mandamus directing the first and second respondents to issue Hall Ticket to enable the petitioner to appear and write the second year Bachelor of Dental Surgery (BDS) Examination which is commencing from 07.02.2020.

2. The petitioner was admitted to the BDS course at Mahe Institute of Dental Sciences and Hospital, Mahe during the academic year 2017-2018, through Puducherry Centac Counseling under Government quota. Due to irritable bowel syndrome, she sought for migration from Mahe Institute of Dental Sciences and Hospital affiliated to Pondichery University to Chettinad Dental College and Research Institute, affiliated to Tamil Nadu Dr.M.G.R.Medical University and also got admitted to the IInd year BDS in the fourth respondent college.

3. The Dental Council is followed by a statutory regulation and Regulation IV, deals with the migration of student from one college to another college. As per the said regulation, migration from one college to another college is not a matter of right and can be permitted in the exceptional cases on extreme compassionate ground. The fifth respondent Dental Council of India considered the request of the

petitioner in the light of the above said regulation and has also permitted for the migration by order dated 03.01.2019.

4. Even after passing of the order of the Dental Council of India, Dr.M.G.R Medical University has taken some time to process the request of approving the migration and permitting the petitioner to join in the Chettinad Dental College and Research Institute, Kanchipuram/fourth respondent and therefore, the petitioner joined the course only on 24.05.2019. During the interim period, she continued her studies in the Mahe Institute of Dental Sciences and Hospital, Chelakkara, Palloor (P.O.), Mahe and those interim period of 92 days have not been taken into consideration by the third respondent for permitting the petitioner to appear in the examination.

5. Mr. D.Ravichander, learned counsel for the Dr.M.G.R Medical University submits that the required attendance for a student in an academic year is 240 days, whereas the petitioner is having only 180 days attendance and therefore the petitioner is not entitled to write the examination.

6. The learned counsel for the petitioner has relied upon the order of a Division Bench of this Court in the case of *The Tamil Nadu Dr.MGR Medical University Vs T.R.Shalini Priya and others* in W.A.No.945 of 2017 dated 09.08.2017 wherein, this Court has held as follows:-

"13. The question, in these circumstances, arises as to how does one compute 240 days. If a student was attending the previous Dental college up to the point of sanction of the no objection certificate by the appellant/university, the period of such attendance in the transferor college is not liable to be ignored. Obviously, the appellant/university would not have raised any such objection, if the writ petitioner has attended to the sixth respondent/college from

05.09.2016 upto 29.03.2017. Surely, the appellant/university would have added the attendance in the sixth respondent/college to the attendance, which the petitioner, would have put in, in the fifth respondent/college from 30.03.2017. In such an event, the writ petitioner would not have fallen behind the requirement of 240 days attendance and consequently the appellant/university would not have prevented the writ petitioner from appearing for the second year BDS course examination, which was slated to commence on 07.08.2017.

14. However, in the instant case, because of distressful conditions, in which, the writ petitioner found herself, she started attending the college of the fifth respondent from 19.09.2016 in anticipation of securing permission being granted from both the Dental Council of India and the appellant/university. The attendance put in by the writ petitioner from 19.09.2016 up to 29.03.2017 is now objected to be reckoned by the appellant/university on the ground that the fifth respondent/college could not have allowed the student to migrate, without, first of all, the Dental Council of India granting any such permission for migration and also without prior approval of the appellant/university, to which, the said college is affiliated. Both these contentions canvassed on behalf of the appellant/university are based on technicalities. If a student, who is in distressful condition, is desirous of prosecuting her education further in slightly favourable conditions nearer of her home, the public institutions such as the Dental Council of India and the appellant/university must come to the rescue of such a student.

19. Because of moving this writ appeal by way of lunch motion before us, the appellant/university has not permitted the writ petitioner to attend the examination held on 07.08.2017 at 9:30 a.m. We have taken up the motion on out of order basis at 12'0' clock itself and then, we have indicated our mind that the student is not at fault, as is opined by the learned Single Judge also. Hence, the appellant/University has allowed the writ petitioner to appear for subsequent examinations (yesterday). In so far as the examination, that was not attended by the writ petitioner on 07.08.2017 is concerned the appellant/university shall conduct a special examination for the petitioner in that subject, before the other examinations, including the practical examination, get completed. We modify the direction issued by the learned Single Judge by directing the appellant/university not only to evaluate the performance of the writ petitioner, but also, to declare her results and permit her to prosecute further education, if she clears the said examination".

7. Mr.Haja Mohideen Gisthi, learned Standing Counsel for the Dental Council of India submitted that there is no exclusive provision available under the Dental Council Act for calculating the attendance in the previous college and the attendance of the present college.

8. Considering the fact that the petitioner has suffered with certain illness, on account of which she made a request for migration and the same has also been considered by the Dental Council of India, on extreme compassionate ground and the migration has also been effected and that the petitioner is also having 180 days of attendance and in the light of the order of the Division Bench of this Court in W.A.No.945 of 2017, this Court is of the view that if the attendance of the petitioner in the previous institute, namely Mahe

Institute of Dental Sciences and Hospital, Chelakkara, Palloor (P.O.), Mahe, is calculated she will be having the required attendance for writing the examination. Accordingly this writ petition is allowed holding that the petitioner is entitled to write the examination for this academic year 2020-2021. It is need to be stated that this Court by an earlier order dated 02.02.2021, permitted the petitioner to write the examination pending this writ petition, the results of which are directed to be withheld and accordingly the petitioner has also written the examination. Since the writ petition is allowed the respondents shall publish the result of the petitioner which has been withheld to pursue her III year studies.

9. With the above observation the writ petition is allowed. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

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Mahe 673 310
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+1cc to Mr.R.Manickavel, Advocate SR.NO.13012

AKM/04.03.21/ 7P- 8C/

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