



WEB COPY

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. 796 of 2021
and
C.M.P. No. 4333 of 2021

Pondicherry Institute of Medical Sciences
Represented by its Chairman Dr.K.Jacob
Kalapet
Puducherry - 605 014.

...Appellant/Petitioner

Vs.

1. The Government of India,
Represented by its Under Secretary
Ministry of Health and Family Welfare
Nirman Bhawan, New Delhi - 110 001.
2. The Medical Council of India
Represented by its Joint Secretary
(now superseded by the National Medical Commission)
Represented by its Secretary
Pocket - 14, Sector - 8
Dwarka, Phase - I
New Delhi - 110 077.
3. The Government of Puducherry,
Represented by the Under Secretary to
Government (Health),
Chief Secretariat, Puducherry.
4. Central Administrative Committee (CENTAC)
Represented by Chairman / Convenor
Pondicherry Engineering College Campus
Puducherry - 605 014.
5. Dr.R.Mano

...Respondents

Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order dated 07.10.2020 passed in W.P. No. 1284 of 2018 on the file of this Court and allow the Writ Appeal.



Prayer in W.P.No.1284 of 2018:- Writ petition filed under Article 226 of the constitution of India praying for issuance of a writ of certiorari, Calling for the records of the 2nd respondent in its order dated 24.7.2017 in Reference.No.MCI-23(1) (MC)/ 2017/126239 and dated 21.12.2017 in Reference.No.MCI-23(1) (MC)/ 2017/161644 and the records of the 3rd respondent in its consequential order dated 02.01.2018 in Reference 27209/H5/Health/2016-17/PF-Vol-IV/369 quash the same.

For Appellant : Mr. J.Abhishek

For Respondents : Mr. C.T.Ramesh (For R3 & R4)
Additional Government Pleader
(Puducherry)
Ms. Subharanjani (For R2)
Mr. V.B.R.Menon (For R5)
Mr. V.Chandrasekaran (For R1)

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 14 students from the Appellant 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 Fifth Respondent, who has got impleaded in the Writ Petition before the Learned Single Judge, supported the Medical Council of India. The Fifth Respondent is a student, who was denied admission in the Medical College. By denying seats to the more meritorious students, the discharged students have been admitted without sponsorship of the CENTAC.

4. Heard J.Abhishek, Learned Counsel for the Appellant, Mr. V.Chandrasekaran, Learned Counsel appearing for the First Respondent Ms. Subharanjani, Learned Counsel appearing for the Second Respondent, Mr. C.T.Ramesh, Learned Additional Government Pleader (Puducherry) appearing for the Third and Fourth Respondents and Mr. V.B.R. Menon, Learned Counsel



appearing for the Fifth Respondent, and perused the materials placed on record.

5. Mr. J.Abishek, Learned Counsel for the Appellant and Mr. V.B.R.Menon, Learned Counsel appearing for the Fifth Respondent submit that the interests of the Fifth Respondent/ student has been protected by the Appellant Institution. The Appellant Institution has agreed to pay a sum of Rs. 15,00,000/- (Rupees Fifteen Lakhs Only) to the Fifth Respondent, who also agreed to receive the same as full and final settlement towards compensation.

6. More over, 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, has 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.

7. Even though Ms. Subharanjani, Learned Counsel appearing for the Second Respondent /National Medical Commission would submit that the discharge students have been admitted in violation of the procedure, the reasons given in the above paragraph, would take care of the submission made by Ms. Subharanjani. 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.

8. 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.

9. In view of the above position also, the rights of the students have to be safeguarded. However, this Court is not going to let the institution go scot free. Therefore, the impugned order, which discharges the students from the Appellant Institution terming their admission as illegal or improper, is set aside for the reasons stated above. The penalty of Rs.5,00,000/- imposed on the institution, which adopted improper procedure for filling up the seats and admitted candidates without sponsorship of CENTAC, payable in favour of Covid-19 Relief Fund Puducherry is sustained. That apart, this Court directs the Appellant to pay a further sum of Rs.10,00,000/- to Pondicherry Advocates Welfare Fund Scheme, within a period of two weeks from the date of receipt of a copy of this judgment.

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

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Maya
To

1. The Under Secretary
Ministry of Health and Family Welfare
Nirman Bhawan, New Delhi - 110 001.
2. The Joint Secretary,
Medical Council of India
(now superseded by the National Medical Commission)
Represented by its Secretary
Pocket - 14, Sector - 8
Dwarka, Phase - I, New Delhi - 110 077.
3. The Under Secretary to Government (Health)
Chief Secretariat, Puducherry.
4. The Chairman / Convenor
Central Administrative Committee (CENTAC)
Pondicherry Engineering College Campus
Puducherry - 605 014.



Copy to

1. The Puducherry Government,
Covid-19, Relief Fund Puducherry.

2. The Pondicherry Advocate Welfare
Fund Scheme,
Pondicherry.

+2ccs to Mr.Abishek Jenasenan, Advocate, S.R.No.36491

+1cc to Mr.Shubhranjani Ananth, Standing Counsel, S.R.No.37005

W.A. No. 796 of 2021

NR[co]
NSK 15/09/2021