



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. 808 OF 2021
AND
C.M.P. NO. 4433 OF 2021

Sri Manakula Vinayagar Medical College and Hospital
Represented by its Dean
Dr. Karne R.N.
Kalitheerthalkuppam
Madagadipet
Puducherry-605107.

...Petitioner/Writ Petitioner

Vs.

1. The Union of India
Represented by its Secretary to Government
Department of Health and Family Welfare Services
New Delhi - 110 001.
2. The Secretary
Medical Council of India
Pocket - 14, Sector - 8
Dwarka, Phase - I
New Delhi - 110 077.
3. The Chief Secretary
Government of Puducherry
Chief Secretariat (Health), Pondicherry.
4. The Secretary to Government (Health)
Chief Secretariat (Health)
Government of Puducherry
Puducherry - 605 001.
5. The Under Secretary to Government (Health)
Chief Secretariat (Health)
Government of Puducherry
Puducherry - 605 001.



6. The Director

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

7. The Convenor

Central Administrative Committee (CENTAC)
Pondicherry Engineering College Campus
Pillaichavadi
Puducherry - 605 014.

5. Dr.A.Aswin

... Respondents

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

Prayer in W.P. No. 3259 of 2018:-

Writ petition filed under Article 226 of the constitution of India praying for issuance of a Writ of certiorarified mandamus, to call for the records pertaining to the impugned 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 of those 10 students, who were discharged by the impugned order dated 31.01.2018, admitted in the PG Course in various specialty under the Management Quota for the academic year 2017-18, in the petitioner institution enabling to peruse their course and appear for the exams in future.

For Appellant : Mr. B.Balavijayan

For Respondents: Mr. C.T.Ramesh (For R3 to R7)
Additional Government Pleader
(Puducherry)
Mr. V.P.Raman (For R2)
Mr. V.Chandrasekaran (For R1)
Mr. V.B.R.Menon (For R8)

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/National Medical Commission discharging 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 Eighth Respondent, who has got impleaded in the Writ Petition before the Learned Single Judge, supported the Medical Council of India. The Eighth 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 B.Balavijayan, Learned Counsel for the Appellant, Mr. V.Chandrasekaran, Learned Counsel appearing for the First Respondent Mr. V.P.Raman, Learned Counsel appearing for the Second Respondent, Mr. C.T.Ramesh, Learned Additional Government Pleader (Puducherry) appearing for the Third and Seventh Respondents and Mr. V.B.R. Menon, Learned Counsel appearing for the Eighth Respondent, and perused the materials placed on record.

5. Mr. B.Balavijayan, Learned Counsel for the Appellant and Mr. V.B.R.Menon, Learned Counsel appearing for the Eighth Respondent submit that the interests of the Eighth 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 Eighth 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 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. 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/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

Maya



To

WEB COPY

1. The Secretary to Government
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New Delhi - 110 001.
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Copy To

1. The Director
Director of Health and Family Welfare Services (DHFWS)
Victor Samuvel Street
Puducherry - 605 001.
(Covid-19 Relief Fund, Puducherry)



2. The Government Pleader,
Puducherry

3. Pondicherry Advocates Welfare Association
Pondicherry Advocates Welfare Fund Scheme
Pondicherry

+1cc to Mr.B.Balavijayan, Advocate, S.R.No.37017

+1cc to Mr.Shubharanjani, Advocate, S.R.No.37008

W.A. No. 808 of 2021

SRA (CO)
PM/14/09/2021