



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.7.2021

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.16559 of 2020
and
W.M.P.No.20540 of 2020

Priyanka Venkatesh

...Petitioner

Vs.

- 1 The Registrar
The Tamil Nadu Dr.M.G.R.Medical University,
No.69 Anna Salai, Mount Road,
Guindy, Chennai 32
- 2 The Controller of Examinations,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69 Anna Salai Mount Road,
Guindy Chennai 32.
- 3 The Dean
Government Villupuram Medical College,
Villupuram.

...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to permit the petitioner to sit for the second year MBBS Examinations which is scheduled to be held from 23.11.2020 both in theory and practical and publish the results for the same.

For Petitioner	:	Mr.A.R.L.Sundaresan, Sr.Counsel for Mrs.A.L.Gandhimathi
For Respondent No. 1 & 2	:	Mr.P.Dinesh Kumar
For Respondent No.3	:	Mr.M.R.Gokulkrishnan Govt.Advocate



O R D E R

According to the petitioner, petitioner had participated in the NEET Examinations in the year 2017 and was admitted in M.B.B.S. Degree Course in Villupuram Govt. Medical College, Villupuram for the academic year 2017-18. The petitioner appeared in supplementary examinations viz., Anatomy Paper I & II and Bio-Chemistry Paper I & II and the petitioner was declared failed in the aforesaid papers and therefore, filed W.P.No.34154 of 2018 seeking re-valuation of the aforesaid papers and the same was allowed by this Court on 11.7.2019 based on the report of the Expert Committee. The respondent University has issued revised mark sheet to the petitioner on 1.10.2019. After the revised mark sheet published by the respondent University, the petitioner was permitted to attend II Year M.B.B.S. Class from 1.8.2019 thereafter, the petitioner had continuously attend the classes for the remaining period. It is further submitted that the petitioner having sufficient attendance of 75% as per the University Regulation, even by taking calculation of the entire 18 months period. Therefore, according to the learned Senior counsel appearing for the petitioner, it is not the case of the respondent that the petitioner was not having sufficient attendance to appear for the University examinations.

2. Counter affidavit has been filed by the respondents 1 and 2 wherein the aforesaid fact has not been disputed by the respondents and further stated that pursuant to the order passed by this Court in W.P.No.34154 of 2018 on 31.7.2019 revised result was published on 1.10.2019. Thereafter, the third respondent has sought clarification from the first respondent vide letter, dated 10.10.2019 and the petitioner was permitted to attend classes from 3.10.2019. Therefore, according to the respondents, the petitioner has not completed his training period of 18 months which is part of the duration of the course. The relevant portion of the Regulation 7(7) of Graduate Medical Education Regulations, 1997 reads as follows:

"7(7) The supplementary examination for 1st Professional MBBS examination may be conducted within 6 months so that the students who pass can join the main batch and the failed students will have to appear in the subsequent year provided that the students who pass the supplementary examination shall be allowed to appear in the second professional MBBS examination only after he/she completes the full course of study of three semesters (i.e. 18 months) for the second professional



MBBS examination irrespective of the examination of the main batch."

Further, it is contended by the respondent that there is no dispute with regard to any shortage of attendance in the counter affidavit. Therefore, the petitioner has to complete the training period of 18 months which is part of the duration of the Course before taking second year M.B.B.S. Examinations.

3. Heard the learned Senior counsel appearing for the petitioner, learned counsel appearing for the respondents 1 & 2, counsel appearing for the third respondent and perused the materials available on record.

4. The petitioner appeared in supplementary examinations viz., Anatomy Paper I & II and Bio-Chemistry Paper I & II and the results of the petitioner were published by the respondent University on 31.7.2019 and she was declared failed in all the four papers viz., Anatomy Paper I & II and Bio Chemistry Paper I & II. Thereafter, he filed W.P.No.34154 of 2018 seeking revaluation of the aforesaid papers and the same was allowed by this Court on 31.7.2019. The respondent University has issued mark sheet to the petitioner on 1.10.2019 and thereafter, he attended classes. The petitioner could not attend the classes during the period from 29.11.2018 to 3.10.2019, for the reason that he agitated the issue before this Court and subsequently he was declared as pass.

5. Pursuant to the order passed by this court on 31.7.2019, the respondent University has preferred an appeal in W.A.No.2829 of 2019 as against the final order passed by this Court in W.P.No. 34154 of 2018 and thereafter, the appeal was withdrawn by the respondent. Therefore, the order passed by this Court in W.P.No. 34154 of 2018 on 31.7.2019 has become final. At every stage, there is delay on the part of the respondent University by refused to publish mark sheet of the petitioner and there is no delay on the part of the petitioner. Therefore, the petitioner was unable to undergo training during the aforesaid period.

6. Considering the factual background of the case, this Court has come to a conclusion that there is delay on the part of the respondent University by evaluating the mark sheet, revaluation and publishing the mark sheet for which the petitioner cannot be penalised by denying permission to the petitioner to appear for second year M.B.B.S. examination. Pursuant to the interim order passed by this Court, the petitioner had appeared for the examination. Therefore, the contention of the learned Senior counsel appearing for the petitioner is sustained and considering the peculiar circumstance of the case, this Court is inclined to grant relief



to the petitioner.

7. Accordingly, the writ petition stands allowed and consequently, this Court directs the respondent University to publish the result for II Year M.B.B.S. Course within two weeks from the date of receipt of a copy of this order. However, this order will not be a precedent to any other case. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

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To

1.The Registrar

The Tamil Nadu Dr.M.G.R.Medical University,
No.69 Anna Salai, Mount Road,
Guindy, Chennai 32

2.The Controller of Examinations,

The Tamil Nadu Dr.M.G.R.Medical University,
No.69 Anna Salai Mount Road,
Guindy Chennai 32.

3.The Dean,

Government Villupuram Medical College,
Villupuram.

+1CC TO Mrs.A.L.Ganthimathi, Advocate, S.R.No.35525

W.P.No.16559 of 2020
and W.M.P.No.20540 of 2020

PL (CO)
SU (17/08/2021)