

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.03.2021
CORAM
THE HON'BLE MR.JUSTICE B. PUGALENDHI
WP No.18103 of 2020
and WMP.No.22490 of 2020

1. R. Pavithra Suvana
2. C. Aswin
3. Gohulnath Ramun Ravichandran
4. R.P.Dheeraj Kumar
5. Kaveyalini Mohan
6. R. Harish
7. K. Sowndaryan
8. James Rechandh Chandraprakasam
9. Neelavenkatraman Krishnamurthy
10. Parthipan Durai
11. Nagaraj
12. E. Sheba
13. N.Nitin Daniel
14. Sandriya Josephen Golden Bell Mamallan
15. Madonna Britto John
16. Priyadharshini Ramesh
17. U. Sowmiya
18. Prithvi Ravi
19. Viknesh Natarajan
20. Brijesh Rethnaraj
21. Manikandan Sekar
22. Aishvarya Suresh
23. Hemalakshmi Koduru Babu Rao
24. S. Indhumathi
25. Niranjini Ganeshan
26. Nikitha Therasa Lawrence
27. M.Diwakar
28. P.Ramji
29. K.M.Preethi
30. K.Vanusha

... Petitioners

Vs.

1. The National Medical Commission
Rep.by its Chairman
Pocket 14, Sector - 8, Dwarka Phase -1-1,
New Delhi 110 077

WEB COPY

2. The Tamil Nadu Medical Council
Rep.by its Registrar,
No.914, Poonamallee High Road,
Amaravathi Nagar, Arumbakkam,
Chennai 600 106.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to forthwith resort to permanent registration of the petitioners as Doctors on its roll without reference to the proceedings of the second respondent dated 27.08.2020 and as per the clarification orders of the first respondent vide proceedings in MCI-203(1) (GEN.)/2020-Regn./112442 dated 30.07.2020 and MCI-203(1) (Gen.)/2020-Regn./118239 dated 02.09.2020.

For Petitioners : Mr.L.Chandra Kumar

For Respondents : M/s.Shubharanjani Ananth
Standing Counsel for R1
Mr.G.Sankaran
Standing Counsel for R2

ORDER

The Writ Petition is filed for a mandamus directing the second respondent to forthwith resort to permanent registration of the petitioners as Doctors on its roll without reference to the proceedings of the second respondent dated 27.08.2020 and as per the clarification orders of the first respondent vide proceedings in MCI-203(1) (GEN.)/2020-Regn./112442 dated 30.07.2020 and MCI-203(1) (Gen.)/2020-Regn./118239 dated 02.09.2020.

2. The petitioners have undergone a medical course in Philipphines Medical University and they claim that they have already acquired the required qualifications, including internship (52 weeks) in the form of clerkship for a period of twelve months in the Philipphines Medical University itself.

3. The Tamil Nadu Medical Council has issued a public notice on 27.08.2020 with regard to the acceptance of Internship of Foreign Medical Graduates in India in Ref.No.MCI-203(1) (Gen.)/2020-Regn./12442 dated 30.07.2020. In the said public notice the Tamil Nadu Medical Council has stated as follows:-

"General Public is hereby informed that the Internship training completed by an Indian National during his/her MBBS course in China was/is acceptable for the purpose of grant of permanent registration

under Section 13(3) of Indian Medical Council Act, 1956.

It is not mandatory for such students to do 12month internship training in India".

The Board of Governors in Supersession of Medical Council of India further stated that "it is in accordance with provisions of Indian Medical Council Act 1956 in respect of MBBS or equivalent primary qualification obtained by an Indian National from any other country also"

The matter was discussed at length by the Members of Tamil Nadu Medical Council.

The Council resolved that, that the Internship training completed by an Indian National during his/her MBBS or equivalent course in China or any other foreign country is acceptable for the purpose of grant of permanent registration under section 13(3) of Indian Medical Council Act, 1956 provided that

i) The minimum duration of the course (excluding the period of study of local language) should be 4 1/2 years

ii) Candidates should have not less than 75% attendance

iii) The duration of internship training is one year, done in the campus and not through online mode.

Candidates who had completed part of their internship training in the campus and partly through online mode, the online mode of internship training will not be accepted. Such candidates should undergo internship training in India for the online period in "any of the Government Institutions" approved by the Medical Council of India.

It is further resolved that, before accepting their Internship the passport of such candidates should be verified to ensure the minimum duration of the course and 75% attendance and it is also to be ensured that the internship training is not through video conferencing."

4. By referring to the above public notice, the Tamil Nadu Medical Council did not permit the petitioners for registration and have insisted them to undergo an internship of one year in India.

5. Mr.Chandrakumar, learned counsel for the petitioners submits that these petitioners who have completed the course in Philipines have already undergone an internship in the form of clerkship for a period of twelve months and it amounts to a

practical training and only on completion of the same the M.D., Degree has been conferred to the petitioners. He would further submit that the Medical Council of other States are registering the students studied from Philipines based on the clerkship undergone by them, but this State alone is raising objection for registration of the petitioners to practice in Tamil Nadu.

6. Mr.G.Sankaran, learned Standing Counsel for the Tamil Nadu Medical Council submitted that internship can be permitted only after the completion of the course and these petitioners said to have completed their clerkship during the course and therefore, the same cannot be treated as an internship as per the Medical Council norms.

7. The learned Standing Counsel for the National Medical Commission so produced before this Court a written instructions from the Medical Council of India, which reads as follows:-

2. It is respectfully submitted that as per Section 13(3) of the IMC Act, 1956 students obtaining primary medical qualification from foreign medical institute has to undergo practical training as may be required by norms of that country which is granting such qualification. It is also stated that if the person has not undergone such practical training in that country, then the purpose of practicing as medical practitioner in India he will be granted Provisional Registration as per Clause 2(e) of the Eligibility Requirement for taking Admission in an Undergraduate Medical Course in a Foreign Medical Institution Regulations, 2002. The relevant clause is extracted below:-

"(e) "Provisional Registration" means provisional registration in a State Medical Register or Indian Medical Register for the purpose of undergoing practical training in India as prescribed and for no other purpose by an Indian citizen possessing any primary medical qualification but has not undergone such practical training after obtaining that qualification as may be required by the rules or regulations in force in the country granting the qualification."

8. In view of the specific stand taken by the Tamil Nadu State Medical Council and the National Medical Commission, internship is permissible only after the completion of the course and these petitioners appears to have completed the internship/clerkship during the course, which cannot be treated as an internship required for registration as per the Medical Council norms. The petitioners have to undergo the internship in Tamil Nadu, as suggested by the State Medical Council and therefore, this Court is not inclined to entertain this writ

petition.

9. However, Mr.Chandrakumar, learned counsel for the petitioners submitted that on this issue alone, the petitioners have already lost one year and seeks a direction to the Tamil Nadu Medical Council to register the names of the petitioners forthwith and allow them to complete the internship at the earliest. Mr.Sankaran, learned Standing Counsel for the Tamil Nadu Medical Council has also agreed to the same and also submitted that he would suitably instruct the Tamil Nadu Medical Council to register the names of the petitioners forthwith and to permit them to continue their internship.

10. In the above circumstances, this writ petition is disposed of with a direction to the petitioners to approach the Tamil Nadu Medical Council for registration of their names as Doctors within a week from the date of receipt of a copy of this order. On receipt of such request the second respondent shall complete the process of registration within a period of two weeks therefrom and permit the petitioners to proceed with the internship. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

dpq
To

1. The Chairman
The National Medical Commission
Pocket 14, Sector - 8, Dwarka Phase -1-1,
New Delhi 110 077

2. The Registrar
The Tamil Nadu Medical Council
No.914, Poonamallee High Road,
Amaravathi Nagar, Arumbakkam,
Chennai 600 106.

+1 cc to Mr.M.Sankaran Advocate sr14659
+1 cc to Mr.L.Chandrakumar Advocate sr14744

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aa17/03/2021