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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22909 of 2021

and

W.P.No.9429 of 2020

and

W.M.P.No.11522 of 2020

Dr.S. Karthika

... Petitioner in both W.PNo.'s

Vs.

1. National Medical Commission,
Represented by its Joint Secretary/Assistant Secretary
Pocket-14, Sector-8, Dwaraka, Phase-I
New Delhi-110077
 2. The Pondicherry University
Rep by it Registrar, Administrative Building,
R.V.Nagar, Kalapet, Puducherry 605 014
 3. The Controller of Examinations,
Pondicherry University, R.V.Nagar,
Kalapet, Puducherry 605 014
 4. Sri Venkateshwara Medical College
Hospital and Research Centre
Represented by its Chairman
B.Ramachandran,
No.13A, Pondy Villupuram Main Road,
Ariyur,
Puducherry-605 102 ... Respondents in W.P.No.22909 of 2021
-
1. The Union of India,
Represented by its Secretary,
Ministry of Health and Family Welfare
(Department of Health-DE Section)
Maulana Azad Road, New Delhi-110 011.



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2. The Medical Council of India,
Represented by its Joint Secretary/Assistant Secretary
Pocket-14, Sector-8, Dwaraka, Phase-I
New Delhi-110077.
3. The Union Territory of Puducherry,
Represented its Under Secretary to
Government (Health).
Chief Secretariat, Puducherry.
4. Central Admissions Committee, (CENTAC)
Represented by its Chairman/Convener,
Pondicherry Engineering College Campus
Puducherry-605 014.
5. Sri Venkateshwara Medical College
Hospital and Research Centre,
Represented by its Chairman
B.Ramachandran,
No.13A, Pondy Villupuram Main Road,
Ariyur, Puducherry-605 102
6. The Pondicherry University
Rep by its Registrar, Administrative Building,
R.V.Nagar, Kalapet, Puducherry 605 014
7. The Controller of Examinations (i/c)
Pondicherry University,
R.V.Nagar, Kalapet, Puducherry-605 014.
...Respondents in W.P.No.9429 of 2020

Prayer in W.P.No.22909 of 2021:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate writ order or directions in the nature of a writ directing the 1st respondent to take a decision on condoning the shortage of attendance of the petitioner and consequently direct the 2nd respondent to declare petitioner's result of the PG examination held in July 2020.

Prayer in W.P.No.9429 of 2020:

Petition filed under Article 226 of the Constitution of India to issue a Writ or Mandamus or any other appropriate writ, order or direction in the nature of the writ directing the respondents 6 and 7 to condone the shortage of attendance of the petitioner to appear for final year PG Examination commencing from 15.07.2020 onwards by issuing Hall Ticket to the petitioner.



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For Petitioner : Mr.N.Krishnakumar in both W.P.'s

For Respondent R1: Ms. Subharanjani Karthik,
Learned Standing Counsel in all W.P's

For Respondents R2, R3 : Mr. M.Ravi in all W.P's

O R D E R

The petitioner has filed the Writ Petition in W.P.No.22909 of 2021 seeking issuance of Writ of Mandamus or any other appropriate writ order or directions in the nature of a writ directing the 1st respondent to take a decision on condoning the shortage of attendance of the petitioner and consequently direct the 2nd respondent to declare petitioner's result of the PG examination held in July 2020.

2. The petitioner has filed the Writ Petition in W.P.No.9429 of 2020 seeking issuance of Writ or Mandamus or any other appropriate writ, order or direction in the nature of the writ directing the respondents 6 and 7 to condone the shortage of attendance of the petitioner to appear for final year PG Examination commencing from 15.07.2020 onwards by issuing Hall Ticket to the petitioner.

3. The case of the petitioner in is that the petitioner had completed her MBBS Degree and further she joined the PG course, MD Paeditraics in the college of the 4th respondent through CENTAC Government Quota on merit in the year 2017. Thereafter, the petitioner submitted Research Article under the title "A Study on the Role of LATCH Scoring in duration of exclusive breast feeding in rural tertiary hospital" published in International Journal and the petitioner was issued a certificate for the same. In view of the above said participations, the petitioner was affected by shortage of attendance in the said college due to which the petitioner made a representation to the 4th respondent for issuance of Hall Ticket to the petitioner on 14.07.2020 and thereafter, the 4th respondent college recommended the 2nd respondent for issuing Hall Ticket to the petitioner, which was not considered. Against the non-issuance of the Hall Ticket, the petitioner filed Writ Petition in W.P.No.9426 of 2020 and prayed for issuing directions to the respondents 6 and 7 to condone the shortage of attendance of the petitioner and to appear for final year PG Examination commencing from 15.07.2020 onwards by issuing Hall Ticket to the petitioner and an interim order was passed by this Court on 16.07.2020, directing the 2nd respondent to issue Hall Ticket to the petitioner pending the Writ Petition as a result of which the petitioner was issued the Hall Ticket and allowed



to participate in the PG final year examination. Even then the result was not published by the 2nd respondent and hence, the petitioner filed this present Writ Petition.

4. Learned counsel appearing for the petitioner submits that as per the regulations of Medical Council of India for Post Graduate Medical Education, there should be attendance of 80% of the imparted training during each academic year whereas the petitioner was affected by the shortage of attendance of only 71%. In such situation, the other mechanism available for shortage of attendance that the college can conduct extra classes so that the petitioner would be entitled to participate and compensate the shortage of attendance. However, such mechanism is not available in the Pondicherry University and in National Medical Commission. In view of the above facts, this Court may direct the first respondent to frame certain guidelines and publish the results as sought by the petitioner.

5. The learned counsel appearing for the 4th respondent submits that the request of the petitioner to issue Hall Ticket was forwarded to the 2nd respondent, and the same was not considered by the 2nd respondent, the petitioner filed Writ Petition in W.P.No.9426 of 2020 before this Court. Thereafter, this Court passed an interim order in favour of the petitioner and she was permitted to attend her final year PG examination however, the results of the same was not published and, therefore, this Court may issue direction to the 2nd respondent to publish the results and further submits that he has no objection in granting the prayer sought by the petitioner.

6. The learned counsel appearing for the 2nd respondent submit that there is a mechanism available for condoning the attendance shortage but it is up to the National Medical Commissioner, who shall take a decision for condoning the shortage of attendance.

7. Ms.Subharanjani Karthik, learned Standing Counsel appearing for the 1st respondent submits that the Regulation 13 of the Post Graduate Medical Education Regulation, 2000 as amended deals with Training Programme to be given to Post Graduate Students and Clause 13(2) prescribes that all candidates joining the training programme shall work as a full time resident and shall attend not less than 80% (minimum criteria) of the imparted training during each academic year. However, in the present case the petitioner admittedly obtained only 71% of attendance and there is no way of providing relaxation of the condition or condoning the shortage of attendance. Accordingly, she pray for dismissal of the Writ Petition.



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8. Though condonation of shortage of attendance is sought for however, the council regulation dealing with the same is Regulation 13 of the Post Graduate Medical Education, Regulation, 2000, which is extracted

"13. Training Programme

13.1 The training given with due care to the Post Graduate students in the recognised institutions for the award of various Post Graduate medical degrees/diplomas shall determine the expertise of the specialist and/or medical teachers produced as a result of the educational programme during the period of stay in the institution.

13.2 All candidates joining the Post Graduate training programme shall work as full time residents during the period of training, attending not less than 80% (Eighty percent) of the training during each calendar year, and given full time responsibility, assignments and participation in all facets of the educational process".

9. A perusal of Regulations 13, more especially Regulation 13.2, it is evident that a mandatory prescription has been imposed that all candidates joining the Post Graduate training programme ought to attend not less than 80% of the training during each calendar year and given full time responsibility, assignments and participation in all facets of the educational process. The need for mandating the requisite attendance is evident from Regulation 13.1, which prescribes that the said training to the post-graduate candidates is for the purpose of determining the expertise of the specialist and/or medical teachers produced as a result of the said educational programme.

10. From the above, it is evident that the quality of the specialist and or/medical teachers is determined by the length of the training undergone by them and the attendance in the said training programme determines the training in the specialisation undergone by them. The condition for having the requisite attendance being a mandatory prescription, shortage of attendance cannot be condoned, more especially in the absence of any provision in the Regulations.

11. Further, it has been the consistent view of this Court that the Courts shall not enter into the domain of the academic experts in the field of education, more so in relation to specialised matters and that being the case, when a mandatory prescription is made with regard to the need for having the



requisite attendance, this Court cannot step into the role of the academicians and issue a direction for condoning the shortage of attendance.

12. For the reasons aforesaid, the present prayer sought for by the petitioner cannot be granted and, accordingly, this petition is dismissed.

13. As the petitioner has been permitted to appear in the examination, but this Court having dismissed the Writ Petition seeking the relief of condoning the shortage of attendance, no affirmative order can be passed in this petition and, accordingly, W.P.No.9429 of 2020 is closed. Consequently, connected Miscellaneous Writ Petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

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Copy To

1. The Joint Secretary/Assistant Secretary
National Medical Commission,
Pocket-14, Sector-8, Dwaraka, Phase-I
New Delhi-110077
2. The Registrar,
The Pondicherry University
Administrative Building,
R.V.Nagar, Kalapet, Puducherry 605 014
3. The Controller of Examinations,
Pondicherry University, R.V.Nagar,
Kalapet, Puducherry 605 014
4. The Chairman
Sri Venkateshwara Medical College
Hospital and Research Centre
No.13A, Pondy Villupuram Main Road,
Ariyur,
Puducherry-605 102
5. The Secretary,
The Union of India,
Ministry of Health and Family Welfare
(Department of Health-DE Section)
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6. The Joint Secretary/Assistant Secretary
The Medical Council of India,
Pocket-14, Sector-8, Dwaraka, Phase-I
New Delhi-110077.

7. The Under Secretary to
Government(Health).
The Union Territory of Puducherry,
Chief Secretariat, Puducherry.

8. The Chairman/Convener,
Central Admissions Committee, (CENTAC)
Pondicherry Engineering College Campus
Puducherry-605 014.

+1cc to Mr.M.Ravi, Advocate SR.No.59531

+1cc to Mr.N.Krishnakumar, Advocate SR.No.59191

W.P.No.22909 of 2021
and
W.P.No.9429 of 2020

SVI (CO)
GMY(10/12/2021)