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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.05.2022

CORAM :

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.NO.1336 OF 2022
AND
C.M.P.NO.8505 OF 2022

S.K.Raj Kumar
S/o.V.Senthil Kumar

...Appellant / Petitioner

Vs.

1.The Director of Medical Education,
No.162, Kilpauk,
Poonamallee High Road,
Chennai - 600 010.

2.The Dean,
Government Dharmapuri Medical College,
Dharmapuri.

...Respondents

Prayer : Writ appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 24.01.2022 made in W.P.No.534 of 2022 and to allow the above writ appeal.

Prayer in W.P.No.534 of 2022 : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to Call for the records relating to the impugned order dated 06.12.2021 made in reference No.9367/ME1/2021 and the consequential order of extension dated 11.12.2021 made in the Reference No.10025/ME1/2021 passed by the second respondent and to quash the same consequently direct the second respondent permit the petitioner to attend the class and to pursue the study of 3rd year MBBS course.

For Appellant : Mr.C.Prabakaran

For Respondents : Mr.D.Ravichandran
Special Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by G.R.SWAMINATHAN ,J.)

Heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents.



2. The petitioner was undergoing M.B.B.S course in the second respondent College. He was accused of having committed the act of ragging, therefore, punitive action was taken. Challenging the same, the petitioner filed W.P.No.534 of 2022, and the said writ petition was dismissed, vide order dated 24.01.2022. Aggrieved by the same, this appeal has been filed. It has been brought to our notice that similarly placed students filed W.P.No.3720 of 2022 and the same was disposed of on 14.03.2022 in the following terms:

'3. That apart, learned counsel for the petitioner, Mr.Ravichander, learned Special Government Pleader and Mr.Jayaprakash, learned Government Advocate fairly brings to the notice of the Court that the Notification issued by the National Medical Commission dated 18.11.2021, at clause 24 dealing with the Institutional Administrative and Penal Actions, sets out a slew of punitive actions that may be imposed by the College, that read as follows:~

-(5). The nature of punitive actions that may be decided shall include the following, but shall not be limited to one or more of these actions that may be imposed, as deemed fit, namely:~

(i) Suspension from attending classes and academic privileges.

(ii) Withholding or withdrawing scholarship or fellowship and other benefits.

(iii) Debarring from appearing in any test or examination or other evaluation processes.

(iv) Withholding results.

(v) Debarring from attending conferences, and other academic programmes.

(vi) Debarring from representing the institution in any regional, national or international meet, tournament, youth festival, etc.

(vii) Suspension or expulsion from the hostel.

(viii) Imposition of a fine ranging from twenty~five thousand rupees to one lakh rupees.

(ix) Cancellation of admission.

(x) Rustication from the medical college or institution for a period ranging from one to four semesters.

(xi) Expulsion from the medical colleges or institutions and consequent debarring from admission to any other institution for a specific period.-

4. They would thus have no objection to the petitioners making a representation before the college and, in such an event, for the authorities considering the same and exercising discretion, if they believe it is appropriate, for reduction of the punishment of suspension to any other punishment that would not



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attract the rigor of Rule 7. I concur with the suggestion made. The students are permitted to make such representation/application and the authorities are at discretion to consider the same on the merits.

5. If they believe that the punishment is to be reduced to any other punishment barring suspension, let them do so, by way of a speaking order passed in that regard. All safeguards shall be put in place in the event that the college is inclined to adopt this course of action including that, the students stay off campus and commute as day scholars.

6. This order is passed solely with a view to ensure that there is no disruption to the education of the students. Even assuming that the college is inclined to accept the representations, if any, filed, the criminal case will proceed as per Law and the only benefit obtained by the students under this order is an exemption from the rigor of Rule

7. This writ petition is disposed in the above terms. Consequently, connected writ miscellaneous petitions are also closed. There shall be no order as to costs.'

3. The learned counsel appearing for the appellant wants this Court to pass the very same directions.

4. We notice that the National Medical Commission Regulations were not brought to the notice of the learned single Judge while passing the order in the writ petition. Therefore, the impugned order is set aside and the Writ Appeal is disposed of by permitting the appellant to make a representation before the second respondent. The second respondent shall pass appropriate orders thereon within a period of two weeks, after receipt of the representation from the appellant.

5. The Writ Appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

ms/mk

To

1. The Director of Medical Education,
No.162, Kilpauk,
Poonamallee High Road,
Chennai - 600 010.



2.The Dean,
Government Dharmapuri Medical College,
Dharmapuri.

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+1cc to the Government Pleader Sr.No.31537

W.A.No.1336 of 2022
and
C.M.P.No.8505 of 2022

VG-II (CO)
RVM(17/05/2022)