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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM

THE HON'BLE MR.JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.NO.3040 OF 2021
AND C.M.P.NO.20839 OF 2021

The Dental Council of India,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opposite to Mata Sundari College for Women,
New Delhi - 110 002. ...Appellant / 5th Respondent

Vs

- 1.E.Shree Devi ...1st Respondent / Petitioner
- 2.The Registrar
Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.
- 3.The Controller of Examination,
Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.
- 4.The Academic Officer,
Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.
- 5.The Principal,
Chettinad Dental College & Research Institute,
IT Highway, Kelambakkam,
Kanchipuram - 603 103.
- 6.Mahe Institute of Dental Sciences and Hospital,
Chelakkara, Palloor (PO),
Mahe - 673 310.
UT of Puducherry.
...2 to 6 Respondents / 2 to 4 & 6th Respondent



Appeal preferred under Clause 15 of Letters Patent against the order dated 02.03.2021 made in W.P.No.1183 of 2020.

Prayer in W.P.No.1183 of 2020 : Writ Petition filed under Article 226 of the Constitution of India Praying to issue a Writ of Mandamus directing the 1st and 2nd respondents to issue Hall Ticket to enable the petitioner to appear and write the second year Bachelor of Dental Surgery (BDS) Examination which is commencing from 07.02.2020.

For Appellant : Mr.S.Haja Mohideen Gisthi

For Respondents : Mr.R.Ravi
for R6

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 02 March 2021 recorded on W.P.No.1183 of 2020. This appeal is by the fifth respondent in the writ petition.

2. Learned advocate for the appellant has submitted that learned Single Judge, while granting relief to the writ petitioner (student), moulded the relief, which the writ petitioner had not even prayed for. It is further submitted that, though direction was sought against the first and second respondents to issue hall ticket to enable the petitioner to appear and write the second year B.D.S. examination commencing from 07 February 2020, no direction was sought against the fifth respondent which is a statutory body and therefore the impugned order needs to be interfered with. It is noted that learned advocate for the appellant has taken this Court through Regulation (relevant of which is at page no.23 of the paper book) and the communication of the appellant Council dated 03 January 2019 (page no.6 of the paper book) to contend that after the permission granted by the appellant Council on 03 January 2019, the writ petitioner ought to have completed 240 days in fifth respondent/ Institute which she had not and therefore she should not have been permitted to write the examination. It is submitted that the impugned order be interfered with.

3. Having heard learned advocate for the appellant and having considered the material on record, this Court finds as under:



3.1 The writ petitioner is the student of the course of Bachelor of Dental Surgery. She had joined the course in the academic year 2017-2018. Therefore, 2017-2018 is the first year. 2018-2019 is the second year and 2019-2020 is the third year. From record it transpires that, the writ petitioner had taken admission in the sixth respondent/ Institute and she requested for migration to fifth respondent/ Institute (respondent No.4 in this appeal), which the appellant Council/ original fifth respondent permitted, considering the circumstances pointed out by the writ petitioner.

3.2 The discretion exercised by the appellant Council, considering the circumstances put to its notice is not the subject matter and therefore that has attained finality. The only point for consideration before this Court in the writ petition was, when the writ petitioner had completed total study of 240 days by clubbing two Institutes, as permitted by the appellant Council, whether she could be expected to have attended 240 days in fifth respondent/ Institute only. This aspect is considered by the learned Single Judge, who has found that the writ petitioner/ student cannot be given any concession with regard to minimum attendance of 240 days but considering her actual date of joining in the fifth respondent Institute, it would not be possible also to expect her to study 240 days in one academic year. If this was the only factor which is expected to be considered, in the perception of appellant Council, the writ petitioner could not have been granted any relief. However, learned Single Judge, according to us rightly, considered that the attendance of the student in the sixth respondent Institute also needs to be counted to consider the eligibility of the student to write the examination.

3.3 We find that, granting such relief can not be said to be an error by any stretch of imagination, in the impugned order, which may call for any interference in this intra-court appeal.

4. We also noted that, learned Single Judge, while granting relief, also took note of the order of the Division Bench of this Court as referred in para 6. This is an additional ground, why no interference is required. Independently also, we find that, if the Regulation of the appellant Council is kept in view, when any student is permitted to migrate from one Institute to another Institute, in a given case it may be even possible that the student can put in 240 days (class days) in a particular Institute. Since it is not required to be gone into, we do not express any opinion, suffice it to hold that no interference is required in the impugned order.



5. For the above reasons, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous would not survive and is disposed of.

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Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

mmi/16

To

- 1.The Registrar
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- 2.The Controller of Examination,
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- 3.The Academic Officer,
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W.A.No.3040 of 2021

CA (CO)
RVM(28/01/2022)