



WEB COPY



W.P.No.18646 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.18646 of 2022

Vishalini.R

...Petitioner

Vs.

1.The Controller of Examinations,
Pondicherry University,
R.Venkat Raman Nagar,
Kalapet, Puducherry.

2.Indira Gandhi Medical College
and Research Institute (IGMCRI),
Rep. by its Dean, Kadirkamam,
Puducherry.

3.Medical Council of India,
Rep. by its Secretary,
MCI Building, Pocket-14,
Sector-8, Dwarka Phase-1,
New Delhi - 110 077.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to conduct revaluation of the answer sheet for the Pediatrics theory paper of the Final Year M.B.B.S. examinations held in March-April 2022 by the first respondent and to declare passed in the said examinations.



W.P.No.18646 of 2022

For Petitioner : Mr.V.Ajayakumar
For R1 : M/s.A.V.Bharathi
For R2 : Mr.C.T.Ramesh
Additional Government Pleader
For R3 : Ms.Shubharanjani Ananth,
Standing Counsel

ORDER

The prayer sought for is for a Writ of Mandamus to direct the first respondent to conduct revaluation of the answer sheet for the Pediatrics theory paper of the Final Year M.B.B.S. examinations held in March-April, 2022 and to declare the petitioner as passed.

2. The petitioner is a M.B.B.S. student studying in the second respondent Medical College which is affiliated to the first respondent University. Insofar as the Final Year III Prof.Part-II Bachelor of Medicine and Bachelor of Surgery March 2020 Examination is concerned, there are four papers, out of which, in respect of the paper Paediatrics (including Neonatology), the petitioner was supposed to get the following marks to get through the paper, viz., Theory - 40 marks, Oral (Viva Voce) - 10 marks, Clinical - 30 marks, Internal Assessment - 20 marks.



W.P.No.18646 of 2022

3. The petitioner has to secure a minimum of 50% marks in Theory examination including Oral i.e., 25 out of 50 marks. Likewise, in Clinical and Internal Assessment, out of 50 marks, the petitioner has to secure 50% i.e., 25 marks.

4. Insofar as the Clinical and Internal Assessment papers, the petitioner secured 18 out of 30 marks in Clinical and 7 out of 20 marks in Internal Assessment, i.e., 25 marks in total. However, in Theory, she secured 14 out of 40 marks and 8 out of 10 in Oral (Viva Voce) and both put together, she scored only 22 marks. As per the University Rules, she was awarded 2 grace marks and total marks was 24 altogether. Accordingly, she fell short of one mark i.e., 24 out of 25 marks. Because of this one mark, the petitioner was declared 'fail' in the subject Paediatrics (including Neonatology). Only in such circumstances, the petitioner has moved the present writ petition seeking direction to the respondent University to revalue the answer script of the petitioner in the said subject.

5. After hearing the learned counsel on either side, I have granted an interim direction on 18.10.2022 with the following observations:



W.P.No.18646 of 2022

"5. In that view of the matter, the following directions are issued to the first respondent University.

"That there shall be a direction to the first respondent University to revalue the answer script of the petitioner in the Theory paper of Paediatrics including Neonatology in the Part-II Bachelor of Medicine and Bachelor of Surgery Examinations, March 2022 conducted by the first respondent University, by appointing one examiner of the University in the subject concerned and the results of the same shall be produced before this Court in a sealed cover during the next hearing date."

*6. Post this writ petition on **08.11.2022.**"*

6. Pursuant to the said directions issued by this Court, when this matter is taken up for hearing today, the learned counsel appearing for the first respondent University submitted that as per the orders of this Court, further evaluation has been undertaken by the respondent University and the result of the same has been put in a sealed cover, which has been produced before this Court.

7. On verification, it reveals that as per the present evaluation done by the University, as directed by this Court, the examiner has awarded 15



W.P.No.18646 of 2022

marks to the petitioner, out of 40 marks. Therefore, the petitioner has secured 15 out of 40 marks in Theory and 8 out of 10 marks in Oral (Viva Voce) and both put together, 23 marks. The University has already awarded 2 grace marks. Therefore, the petitioner has scored 25 marks totally, which is the minimum marks required to get through in the subject Paediatrics (including Neonatology).

8. In this context, it has been submitted by the learned counsel appearing for the University that if there is a difference of more than 6 marks between the first and second evaluation, it would be sent for third evaluation and among the three evaluation, the average of the two nearest valuation would be the actual marks to be taken into account.

9. If that being so, already the petitioner was awarded 14 out of 40 marks and now by the present valuation that has been done by the University, pursuant to the order of this Court, 15 marks have been awarded by the Examiner.

10. Therefore, since it is a special evaluation which has been done by the University, as normally the University will not go for the fourth



W.P.No.18646 of 2022

valuation, in view of the peculiar facts and circumstances, where the petitioner fell short of only 1 marks to reach the minimum qualifying mark in that particular subject, this Court feels that the marks awarded to the petitioner in the evaluation conducted by the University now can be taken as the mark she obtained in the Theory and accordingly, if 15 marks is taken up, the total would be 25 out of 50 marks. Therefore, the petitioner reaches the 50% goal.

11. The petitioner had already obtained the necessary marks in Clinical and if both Clinical and Theory marks are put together, the petitioner reaches the minimum marks of 50. Therefore, this Court feels that the result of the petitioner can be declared as 'pass' in the subject Paediatrics (including Neonatology) in the examination conducted by the respondent University for Final Year III Prof.Part-II Bachelor of Medicine and Bachelor of Surgery March 2020 Examination.

12. In the result, the following orders are passed:-

(a) There shall be a direction to the first respondent University to declare the petitioner as 'pass' in the subject Paediatrics (including Neonatology) in the examination conducted by the respondent University



W.P.No.18646 of 2022

for Final Year III Prof.Part-II Bachelor of Medicine and Bachelor of Surgery March 2020 Examination and accordingly, the mark statement shall be issued to the petitioner. The needful, as indicated above, shall be undertaken by the respondent University within a period of 2 weeks from the date of receipt of a copy of this order.

(b) It is made clear that the copy of the marks awarded after the evaluation conducted by the Examiner, namely Dr.Niranjan Biswal, Senior Professor, Department of Pediatrics, JIPMER, Puducherry, dated 29.10.2022, which is produced before this Court by the learned counsel appearing for the respondent University, shall form a part of this order. The learned counsel for the respondent University may be permitted to take this original and after replacing it with a photocopy, the University shall retain the original.

13. With these directions, the Writ Petition is disposed of. No costs.

08.11.2022

Index:Yes/No
Speaking order/Non-speaking order
hvk

Note: Issue order copy on 14.11.2022



WEB COPY

To

1. The Controller of Examinations,
Pondicherry University,
R. Venkat Raman Nagar,
Kalapet, Puducherry.
2. The Dean,
Indira Gandhi Medical College
and Research Institute (IGMCRI),
Puducherry.
3. The Secretary,
Medical Council of India,
MCI Building, Pocket-14,
Sector-8, Dwarka Phase-1,
New Delhi - 110 077.



W.P.No.18646 of 2022

R. SURESH KUMAR, J.

hvk

W.P.No.18646 of 2022

08.11.2022