



W.P.No.2317 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.2317 of 2023

P.M.Sukala

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Director of Medical Education,
Kilpauk,
Chennai – 600 010.

3.The Secretary,
National Medical Commission,
Pocket – 14, Sector – 8,
Dwarka Phase – 1, New Delhi – 110 077.

4.The Registrar,
The Tamil Nadu Dr.M.G.R. Medical University,
69, Anna Salai Road, Guindy,
Chennai – 600 032.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider and appoint the petitioner as Examiner to conduct Anatomy Practical and Viva voce University Examination for First Year MBBS students for the current year and for subsequent years, as Associate Professor in Anatomy, in consideration of the representation submitted by the petitioner dated 18.02.2020.

For Petitioner : Mr.G.Sankaran,
Senior Counsel for
S.Nedunchezhiyan

For Respondents : Mrs.M.Jayanthi,
Additional Government Pleader
for R1 & R2

Mr.Subaraajaai Anandh,
Standing Counsel
for R 3

Mr.S.Wilson,
Standing Counsel
for R4

ORDER

This writ petition has been filed for the issue of a Writ of Mandamus, directing the respondents to consider and appoint the petitioner as the Examiner to conduct Anatomy Practical and Viva-voce for first year



M.B.B.S., students in the University examination for the current year and the subsequent years.

2. When the writ petition came up for admission on 30.01.2023, this Court passed the following order:

Mrs.M.Jayanthi, learned Additional Government Pleader, takes notice for respondents 1 and 2.

2. Mr.Subaranjani Anand, learned Standing Counsel, takes notice for third respondent.

3. Mr.S.Wilson, learned Standing Counsel, takes notice for the fourth respondent.

4. The petitioner has done Ph.D. in Anatomy and she has obtained Doctorate as early as in the year 2013 and the petitioner also has the requisite teaching experience. The petitioner has requested the respondents to appoint her as examiner for the practical examination in the I year MBBS in Anatomy subject and to conduct Viva voce. Unfortunately, the name of the petitioner has not been considered and the practical examination is going to be conducted across Tamil Nadu between 31.01.2023 and 09.02.2023.

5. Learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 sought for sometime to take instructions in this case.



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*Post this case at the end of the motion list on
01.02.2023.*

3.Pursuant to the above order, the matter was taken up for hearing today and the fourth respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

“5. I specifically deny the averments made in paragraphs 9 to 14 of the affidavit of the deponent. I state the Dr.P.M.Sukala is currently working as Non-Medical Associate Professor of Anatomy at Government Erode Medical College, Erode as per the University records. Her name is included in the list of faculty eligible for examinership in the speciality of Anatomy.

6. I state that the relevant provision for appointment of the Examiners for MBBS as per Regulation on Graduate Medical Education (Amendment), 2019 is extracted hereunder:-

“In case of non-availability of Medical teachers, approved teachers without medical degree (engaged in the teaching of MBBS student has whole-time teachers in a recognized Medical College), may be appointed examiners in their concerned subjects provided they possess requisite doctorate qualification and four years teaching experience (as assistant professors) of MBBS student.

Provided further that the 50% of the examiners (Internal and External) are from the medical qualification stream.”



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7. I state that the petitioner is requesting for examinership for February 2023 Session for which the board of examiners has already been approved by University Authorities on 08.12.2022. Therefore, the request of the petitioner will be considered in future examination, if in case there is a non-availability of Medical teachers as per the above provision.”

4.The learned Standing counsel appearing on behalf of the 4th respondent submitted that the name of the petitioner has already been included in the list of faculty eligible for being considered for appointment as Examiner in the specialty of Anatomy. It was further submitted that the petitioner will be given this opportunity in the forthcoming examinations.

5.The learned Senior Counsel appearing on behalf of the petitioner expressed some apprehension with regard to the evasive nature of the averments made in the counter affidavit. The learned Senior Counsel submitted that the petitioner is working as an Associate Professor and Assistant Professors in the subject of Anatomy are being appointed as Examiners and therefore, the petitioner cannot be deprived or denied of being appointed as an Examiner. The learned Senior Counsel wanted this Court to make this position clear so that there is no ambiguity when considering and



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appointing the petitioner during the future examinations.

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6.In the considered view of this Court, the qualification of the petitioner has been considered and her name has already been included in the list of faculties to be considered for appointment in future examinations Obviously, the qualification of the petitioner and also the fact that she is an Associate Professor in Anatomy will be given due preference. The said exercise will be done in line with the 2019 Regulations.

7.This shall be kept in mind while choosing the Examiner for the future examinations.

8.This writ petition is disposed of in the above terms. No costs.

01.02.2023

vm/kp

Index : Yes/No

Speaking Order : Yes/No

Neutral Judgment : Yes/No



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To:

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N.ANAND VENKATESH,J.

vm/KP

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