



W.P.No.12713 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.12713 of 2023

and

W.M.P.No.12510 of 2023

Suji Felicita

... Petitioner

Vs.

1.Union of India,
Represented by Secretary,
Department of Health & Family Welfare,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi – 110 011.

2.The President,
Dental Council of India,
Alwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opp Mata Sundari College for women,
New Delhi – 110 002.

3.Deputy Secretary,
Dental Council of India,
Alwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opp Mata Sundari College for women,
New Delhi – 110 002.

... Respondents



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Prayer : Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent in DCI/PDMS/MISC/FI-STE/MDSST/B (197) 2023-24 /2023/9861 dated 21.02.2023 and quash the same and consequently, direct the second respondent Council to permit the petitioner to appear in the Screening Test examination for recognition of M.D. Degree in Orthodontics from Yerevan State Medical University, Armenia.

For Petitioner : Ms.S.Suneetha

For Respondents : Mr.K.Ramanamoorthy
Central Government Standing Counsel [R1]
Mr.Subramanian Vaidyanathan [R2 & R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records of the third respondent in DCI/PDMS/MISC/FI-STE/MDSST/B (197) 2023-24 /2023/9861 dated 21.02.2023 and quash the same and consequently, to direct the second respondent Council to permit the petitioner to appear in the Screening Test examination for recognition of M.D.S. Degree in Orthodontics from Yerevan State Medical University, Armenia.



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2. The case of the petitioner is that, after completion of the Bachelor Degree of Dental Surgery in the Vinayaga Mission Research Foundation, the petitioner decided to do her M.D.S. Course in Orthodontics in abroad. She applied for the same with the Yerevan State Medical University, Armenia and she got admission to the programme in the year 2018. The duration of MDS programme is three years and it starts from the year 2018 and academically ends in October, 2021. However, due to Covid-19 situation, the petitioner came to India on 22.03.2020 and thereafter, she worked at Krishna Dental Clinic, Erode as a Post Graduate Clinical Resident in the Department of Orthodontics and as a practitioner in the department of Orthodontics at the Krishna Dental Clinic. Thereafter, she completed her course and obtained her degree in October 2021. For the purpose of recognizing the course undergone in a Foreign University, the Dental Council of India has notified Regulation which prescribed that foreign students must write a screening test conducted by the Dental Council of India for the purpose of recognition of the degree and to practice based upon the degree obtained from the University. Therefore, the petitioner applied for the screening test based on the Post Graduate Degree obtained from Yerevan State Medical



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University, Armenia. However, the third respondent rejected the same on the ground that the petitioner has not completed the three years of MDS course theoretically and practically. Challenging the same, the petitioner has filed the above Writ Petition before this Court.

3. The learned counsel for the petitioner submits that, though the petitioner completed her degree physically and subsequently, through video conferencing due to Covid-19 pandemic situation, however, she completed her practical training in the Krishna Dental Clinic, Erode, which is also permissible as per the prospects of the Yerevan State Medical University, Armenia. However, the third respondent refused to register the petitioner's certificate, which is not sustainable. In support of her contention, she relied upon the judgment of the Apex Court in the case of *National Medical Commission Vs. Pooja Thandu Naresh & Ors.* reported in *2022 SCC OnLine SC 528*.

4. The learned counsel appearing for the respondents 2 and 3 submits that, though the petitioner is entitled to register herself in the



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Dental Council of India so long as she completed three years course in the manner known to law, in the present case, the petitioner was admitted in the year 2018 and had come back to India in the year 2020 and she had only partially written her theory examination in Yerevan State Medical University, Armenia and remaining in India through video conferencing. However, the entire practical training had been done only in the private Nursing Home situated in Erode, which is impermissible. Necessarily the petitioner has to undergo the clinical training and practical examination in the institute recognized by the Dental Council of India. However, in the present case, the practice of the petitioner is not in an approved institute. Hence, the petitioner's certificate cannot be registered with the Dental Council of India. However, the clinical training alleged to have been completed by the petitioner for the requisite period in India, has to be considered only by the Executive Committee of the Dental Council of India.

5. Heard the learned counsel appearing on either side and perused the materials available on record.



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6. The Apex Court in *Pooja's case* considering similar plea has held that without clinical training and practical test it would not be in the interest of the citizens to allow persons, who had underwent medical course outside India to continue their practice. However, considering the pandemic situation, the authority was directed to frame a scheme as a one time measure for the purpose of similarly placed students to undergo clinical test and practical test so as to enable them to continue their practice upon successful completion of the test.

7. In the case on hand, the petitioner has not completed the clinical test and practical test as per the provisions of the Dental Council of India and does not have the approval of the Dental Council. However, it is admitted that the petitioner would squarely fall within the decision in *Pooja's case* and definitely the said order has to enure to the benefit of the petitioner as well.

8. Considering the factual matrix of the case in line with the decision in *Pooja's case*, though this Court cannot at this point of time



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set aside the order impugned in this writ petition, however, this Court, grants liberty to the petitioner to approach the Dental Council of India by submitting a representation highlighting the decision in *Pooja's case*, within a period of four (4) weeks from the date of receipt of a copy of this order. If such representation is received, the Executive Committee of the Dental Council of India is directed to consider the same and pass appropriate orders without in any way influenced by the order impugned in this writ petition in terms of the judgment passed by the Apex Court reported in *Pooja's case (supra)*, within a period of eight (8) weeks thereafter.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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Note: Issue order copy on 03.08.2023.



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- 1.The Secretary,
Department of Health & Family Welfare,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi – 110 011.
- 2.The President,
Dental Council of India,
Alwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opp Mata Sundari College for women,
New Delhi – 110 002.
- 3.The Deputy Secretary,
Dental Council of India,
Alwan-E-Galib Marg,
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M.DHANDAPANI, J.

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