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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.13592 of 2023
and WMP.No.13270 of 2023

Dr.Namrata Mathew

... petitioner

-Vs-

1. The TamilNadu Dr.M.G.R.Medical University,
Represented by its Registrar,
No 69, Anna Salai, Guindy chennai 600 032.

2. The Academic officer,
Tamil Nadu Dr. M.G.R. Medical University,
No 69 Anna Salai, Guindy, chennai 600 032.

3. The Principal,
Chgristian Medical college, Vellore 632 002.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus Calling for the records pertaining to the issuance of the proceeding in Rc. No AC - I (4) / 00712 / 2023 dated 20.01.2023 on the file of the 2nd Respondent and quash the same and direct the Respondents to permit the petitioner to join in the second year MD (General Medicine) at Christian Medical college, Vellore.

For petitioner : Mr. M.Vijaya Mehanth
for AAV Partners

For Respondents : Mr.Vadiraj Anirudh
For M/s.Rama-Subramaniam Associates R3



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ORDER

The writ petition has been filed challenging the proceeding in Rc. No AC - I (4) / 00712 / 2023 dated 20.01.2023 on the file of the 2nd Respondent and direct the Respondents to permit the petitioner to join in the second year MD (General Medicine) at Christian Medical college, Vellore.

2. It is the case of the petitioner that she was allotted MD (General Medicine) at the third respondent college on 28.02.2022. She got pregnant during her study and delivered a child on 12.08.2022. Therefore, she took leave from 09.08.2022 and she joined the college on 02.01.2023. The College directed the petitioner to seek condonation of the break of study from the first respondent as per the regulations. On 02.01.2023, an application was submitted by the petitioner to the second respondent seeking for condonation of the break of study along with medical fitness certificate. The second respondent, vide proceedings dated 20.01.2023, condoned the break of study from 09.08.2022 to the date of passing of the order and further, directed the petitioner to re-join the course from the beginning of the course. Aggrieved over the same, the petitioner has filed the present case seeking to quash the said impugned order.



3. The learned counsel for the petitioner submitted that as per Regulation No.5, there shall be no condonation for any kind of leave. However, in the present case, the second respondent had condoned the leave period, which the petitioner took for 'child birth', but had imposed unreasonable condition, which is *per se* illegal and not as per the regulations. That apart, as per Regulation 10, it is evident that a candidate has to satisfy the attendance as contemplated in Regulation 3 and as per Regulation 9, at the end of the final year, the candidate should have 85% attendance in respect of that academic year. The petitioner has taken only 7 days leave in 5 months and 10 days as on 09.08.2022. There are two years left for the petitioner to secure the necessary attendance at the end of the final year. Under such circumstances, the second respondent has passed the impugned order by forcing the petitioner to rejoin the course from the first year once again, which would be a loss of one year of her study. Therefore, the learned counsel prays this Court to allow the writ petition by quashing the impugned order.

4. The first respondent has filed counter affidavit and the relevant paragraphs therein are extracted hereunder:-

"3. I state that the impugned proceedings under challenge was issued pursuant to Rule 8 of Break of Study Regulations. The



relevant portion is extracted hereunder;

"If the candidate after acquiring less than 50% of attendance in an academic year, goes on break, he/she has to undergo the course from the beginning of the year of study after obtaining the condonation order from the University"

4. I state that the Petitioner has joined Post Graduate in M.D. (General Medicine) degree course during the academic year 2021-2022 at Christian medical College, Vellore on 28.02.2022. The First year of the said Course runs from the said 28.02.2022 to 27.02.2023 time period. But the Petitioner attended the first year classes as mentioned below

*FIRST YEAR CLASSES ATTENDED FROM
28.02.2022 to 08.08.2022*

<i>February</i>	<i>01 Day</i>
<i>March</i>	<i>31 Days</i>
<i>April</i>	<i>30 Days</i>
<i>May</i>	<i>31 Days</i>
<i>June</i>	<i>30 Days</i>
<i>July</i>	<i>31 Days</i>
<i>August</i>	<i>08 Days</i>



5. I state that the Petitioner took break from 09.08.2022 to 20.01.2023 (5 months 12 days) which is less than 50% hence Rule 8 of Break of study regulations was applied to the Petitioner. The Break of study regulations was framed in 2003 - 2004 and shall be followed to the students admitted upto the academic year 2010 - 2011. Subsequent the said Regulations were modified in June 21, 2010 and in July 1, 2012. The Regulations modified on July 1, 2012 is being followed till now for the students admitted from the academic year 2012-2013. "

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

6. The facts in the case are not in dispute. Admittedly, the petitioner has secured PG admission and joined the course on 28.02.2022 and she attended the class upto 08.08.2022. Due to pregnancy, she has taken medical leave from 09.08.2022 and re-joined the course only on 02.01.2023. As directed by the third respondent, the petitioner made an application on 02.01.2023 for condonation of break of study by referring the Clauses 7 and 8. For better clarity, the respective clauses are extracted hereunder:

"7. The candidates can carry over the unavailed period of leave i.e. 10% of total working days to the next year of study and so on and



can be permitted to avail the leave in the subsequent year of study either on medical grounds or on maternity leave, but the total leave period should not exceed to the extent to which the candidate is eligible for leave.

8. *In case of post graduate students posted for training in any other departments or institutions for a period of one or two months as the case may be, the candidate should get the attendance from that institution/departments and submit the attendance to the Head of the Departments in which, the candidate is undergoing the course who will forward the attendance to the University."*

7. On perusal of the above said clauses, which makes it clear that if the candidates acquired more than 50% of attendance in an academic year, they have to be secured remaining attendance in future. In the present case, the total number of working day is 270 days in terms of the attendance regulation. Out of which, the petitioner secured 160 days, it is more than 50%. The petitioner attended the class for 5 months 9 days, however, the respondents have calculated five months 12 days, there are three days shortage. Therefore, the petitioner is entitled to take medical leave as per the regulations. In order to confer the said benefit to the petitioner, this Court is inclined to interfere with the impugned order passed by the second respondent and the same is set aside.



8. In such view of the matter, the respondents are directed to allow the petitioner to join the course in terms of Clause 7 of the Regulations and she is allowed to continue the balance period.

9. With the above observations, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

20.06.2023

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To

1. The TamilNadu Dr.M.G.R.Medical University,
Represented by its Registrar,
No 69, Anna Salai, Guindy chennai 600 032.

2. The Academic officer,
Tamil Nadu Dr. M.G.R. Medical University,
No 69 Anna Salai, Guindy, chennai 600 032.

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M.DHANDAPANI, J.

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