



W.P.Nos.16571 and 14616 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.16571 and 14616 of 2023

and

W.M.P.Nos.15860 and 14099 of 2023

G.R.Harsha
R.Aishwarya

... Petitioner in W.P.No.16571 of 2023
... Petitioner in W.P.No.14616 of 2023
Vs.

1. The Tamil Nadu Dr.MGR Medical University,
Represented by its Registrar,
No.169, Anna Salai, Guindy,
Chennai - 600 032.

2. The Selection Committee,
Represented by its Secretary,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
Kilpauk, Chennai - 600 010.

3. Sri Muthukumaran Medical College Hospital
Research Institute,
Represented by its Managing Trustee Gomathi Ammal,
Chikkarayapuram, Near Mangadu,
Chennai - 600 069,
Tamil Nadu – 69.

... Respondents in W.P.No.16571 of 2023



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1. The Tamil Nadu Dr.MGR Medical University,
Represented by its Registrar,
No.169, Anna Salai, Guindy,
Chennai - 600 032.
2. Sri Muthukumaran Medical College Hospital
Research Institute,
Represented by its Managing Trustee Gomathi Ammal,
Chikkarayapuram, Near Mangadu,
Chennai - 600 069,
Tamil Nadu – 69.
3. State of Tamil Nadu,
Represented by its Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai – 600 009.
4. The National Medical Commission,
Rep by its Secretary,
Pocket – 14, Sector – 8, Dwarka,
New Delhi – 110 077. ... Respondents in W.P.No.14616 of 2023

Prayer in W.P.No.16571 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent Medical University to permit the petitioner to sit for the forthcoming supplementary examinations to be conducted for the 2nd year MBBS students admitted in the year 2019-2020 by accepting her application and prescribed fee thereof and by issuing hall tickets subject to



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the decision that may be rendered in W.P.Nos.28148 and 31524 of 2022 which has been reserved for orders on 23.11.2022 and 25.11.2022 and the orders is likely to be pronounced sooner or in the month of June or July, 2023.

Prayer in W.P.No.14616 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 & 2 to issue the hall tickets and permit the petitioner to sit for the M.B.B.S third year semester supplementary examinations (theory and practical) to be conducted in the 2nd respondent College and declare the results for the same.

For Petitioners in both W.P.s : Mr.S.Rajendran

For Respondents in both W.P.s : Mr.R.Imayavaramban for R1
for M/s.Ramalingam Associates
Ms.M.Sneha
Standing counsel for R2

COMMON ORDER

Since the issue involved in the present writ petitions are one and the same they are disposed of by way of this common order.

2. Mr.Imayavaramban for M/s.Ramalingam and Associates accepts notice for first respondent, Ms.M.Sneha, learned standing counsel



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accepts notice for the second respondent. In view of the consent expressed by learned counsel appearing on either side these writ petitions are taken up for final disposal.

3. When the matter is taken up for hearing learned counsel appearing for the petitioners submitted that an identical issue has come up before this Court in W.P.No.15459 of 2023 vide order dated 05.06.2023, in which this Court has held as follows:

“3. The case of the petitioners is that the petitioners are bonafide students studying MBBS Degree Course in the third respondent Medical College. On 29.08.2019, the third respondent College notified in their official website that the College Management proposed to conduct counseling on 30.08.2019 by 9.00 am at the College campus to admit students for 9 vacancies which remained unfilled. The said notification further revealed that counseling for admission to MBBS Course of their College for the academic year 2019-2020 was conducted by the second respondent Selection Committee on 27.08.2019. Out of 150 seats, 9 seats were left unfilled as



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on 29.08.2019 the last date for the selected students to join in their College and that the College Management proposed to conduct such counseling. Accordingly, the petitioners participated in the counseling conducted by the third respondent College along with other candidates. Nine students were selected on merit and admitted to the aforesaid vacancies of the MBBS Course for the academic year 2019-2020. The petitioners are five among the nine students. The petitioners dedicated everything and concentrated in their study for the first year examination scheduled to be commenced from 15.02.2021. However, the petitioners were not permitted to take part in the examination, thereby the third respondent College filed W.P.No.3234 of 2021 before this Court seeking for mandamus to direct the respondents 1 and 2 to issue Hall Ticket to the petitioners to take their examination scheduled to be commenced from 15.02.2021. But the petitioners herein were not made as parties to that Writ Petition. The said Writ Petition was dismissed on 11.02.2021 with a finding that the petitioners admissions to the vacancies of MBBS Course were without any recourse to the second respondent Selection Committee and hence, against the Regulations.



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4. *It is the further case of the petitioners is that aggrieved by the learned Single Judge order, the third respondent College preferred Writ Appeal in W.A.No.604 of 2021, in which, the petitioners herein were also not made as parties therein. The Hon'ble Division Bench while admitting the Writ Appeal on 13.02.2021, granted an order of interim directions to the respondents 1 and 2 herein to issue Hall Ticket to the petitioners herein for taking their first year examination scheduled to be commenced from 15.02.2021, however, their results are directed to be with held. Subsequently, on 26.04.2021, the Hon'ble Division Bench was pleased to direct the first respondent University to publish the result of the petitioners enabling them to appear in the supplementary examinations if necessary. Since the petitioners were allowed to write their second year examinations held in March, 2022, but, its result has been with held due to the pendency of the litigation regarding their admission to the MBBS Course, subsequently, the said W.A.No.604 of 2021 also got dismissed on 22.06.2022 after contest by the third respondent Medical College and thereby the petitioners were made to suffer in the circumstances where they were*



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not parties in the Writ Petition and the Writ Appeal and not given an opportunity of being heard. Aggrieved against the judgment in W.A.No.604 of 2021, the third respondent Medical College preferred a Special Leave Petition in SLP (C) No.12735 of 2022. There petitioners also, as aggrieved students, preferred Special Leave Petition in SLP (C) Diary No.23565 of 2022. Both SLPs came together for hearing before the Hon'ble Supreme Court on 08.08.2022. But the third respondent College withdrew its SLP (C) No.12735 of 2022 and the petitioners in SLP (C) Diary No.23565 of 2022 was also permitted to be withdrawn with liberty enabling them to pursue their remedies as available in law before this Court.

5. In the meantime, the first respondent University issued the impugned order dated 08.08.2022 directing the third respondent College to discharge the petitioners from pursuing their MBBS Course, against which, the petitioners were constrained to approach this Court in W.P.Nos.28148 and 31524 of 2022 and the Writ Petitions were heard and orders were reserved on 23.11.2022 and 25.11.2022. Taking advantage of the pendency of the litigation, the petitioners were not



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permitted to participate in the forthcoming supplementary examinations scheduled to be held for third year MBBS students on 07.06.2023. Hence, the present Writ Petition has been filed.

6. The learned Senior Counsel appearing for the petitioners would submit that in paragraph No.13 of the affidavit the petitioners had categorically stated that they are only seeking a direction to write the supplementary examination to be held for the third year MBBS Course which scheduled to be held on 07.06.2023 subject to the outcome of the Writ Petitions which is reserved for orders. If the petitioners do not succeed in the Writ Petitions, their participation in the examination also goes along with the Writ Petitions. Hence, he prays for allowing this Writ Petition and to allow the petitioners to write the ensuing examination.

7. The learned counsel appearing for the respondents 1 and 2 would submit that though the first respondent University had already issued the impugned order to the third respondent College to discharge the petitioners from MBBS Course, however the said order was challenged before this Court in W.P.Nos.28148 and 31524 of 2022 and the same was reserved for orders.



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Hence, they pray for dismissal of the Writ Petition.

8. In reply to the said contention, the learned Senior Counsel appearing for the third respondent College would submit that though the first respondent University has already issued a direction to the third respondent College to discharge the petitioners from MBBS Course, however the Hon'ble Supreme Court granted liberty to the petitioners to pursue their remedies before this Court. Hence, he prays for allowing the Writ Petition.

9. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

10. The facts in the present case are not in dispute. Admittedly, this is a second round of litigation. The third respondent College filed a Writ Petition which was dismissed, and when taken on Writ Appeal, a Division Bench of this Court granted an order of interim directions to the respondents 1 and 2 to issue Hall Ticket to the petitioners herein for taking their first year examination scheduled to be commenced from 15.02.2021, however, their results are directed to be with held. Thereafter, a further direction was issued to release the results in order to enable them to participate in the supplementary examinations. Subsequently, the Writ Appeal got dismissed



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on 22.06.2022, as against which, the third respondent Medical College preferred a Special Leave Petition in SLP (C) No.12735 of 2022 and the petitioners also, as aggrieved students, preferred Special Leave Petition in SLP (C) Diary No.23565 of 2022. Both SLPs came together for hearing before the Hon'ble Supreme Court on 08.08.2022. But the third respondent College withdrew its SLP (C) No.12735 of 2022 and the petitioners in SLP (C) Diary No.23565 of 2022 was also permitted to be withdrawn with liberty enabling them to pursue their remedies as available in law before this Court.

11. In the meanwhile, the first respondent University issued the impugned order dated 08.08.2022 directing the third respondent College to discharge the petitioners from pursuing their MBBS Course. Aggrieved by the impugned order of the first respondent University, the petitioners were constrained to approach this Court in W.P.Nos.28148 and 31524 of 2022. The Writ Petitions were heard and orders were reserved on 23.11.2022 and 25.11.2022. However, the petitioners were not permitted to participate in the forthcoming supplementary examinations to be held for third year MBBS students on 07.06.2023, subject to the Writ Petitions which were



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reserved for orders to be pronounced by this Court at any time.

12. The learned Senior Counsel appearing for the petitioners and the learned Senior Counsel appearing for the third respondent College claim that all along the petitioners were participated in the first year and second year examinations, however they were not allowed to participate in the supplementary examinations for the third year MBBS Course which scheduled to be held on 07.06.2023. Unless the petitioners participate in the examination, they would be deprived of their rights in case they succeed in W.P.Nos.28148 and 31524 of 2022.

13. In view of the affidavit filed by the petitioners in Paragraph No.13, this Court is inclined to inclined to dispose of the Writ Petition with the following directions:

(i) The petitioners are directed to participate in the examination scheduled to be commenced on 07.06.2023. However, the appearance of the petitioners in the examination on 07.06.2023 will not give any enforceable right to them and is subject to the result of the Writ Petitions in W.P.Nos.28148 and 31524 of 2022 filed by the petitioners.



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(ii) It is made clear that the petitioners cannot claim any equity for participation in the subsequent examinations and this order is confined only to the examination to be commenced on 07.06.2023.

(iii) The third respondent College is directed to collect the examination fee from the petitioners and remit to the first respondent University.

(iv) The first respondent is directed to issue Hall Ticket to the petitioners enabling them to participate in the examination scheduled to be commenced on 07.06.2023.

14. With the above directions, this Writ Petition is disposed of. Consequently, connected W.M.P.No.15011 of 2023 is closed. No costs."

4. Accordingly the learned counsel for the petitioners prayed this Court that the same benefit may be extended to these petitioners also.

5. Learned counsel appearing for the respective respondents have no objection for the said order being passed.



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6. Heard learned counsel appearing on either side and perused the materials placed before this Court.

7. In view of the issue having been settled already and the present case falls squarely within the four corners of the said decision, this Court is inclined to extend the same benefit to these petitioners also with the following directions:

(i) The petitioners are directed to participate in the supplementary examinations scheduled to be commenced on 07.06.2023. However, the appearance of the petitioners in the examination on 07.06.2023 will not give any enforceable right to them and is subject to the result of the Writ Petitions in W.P.Nos.28148 and 31524 of 2022 filed by the petitioners.

(ii) It is made clear that the petitioners cannot claim any equity for participation in the subsequent examinations and this order is confined only to the examination to be commenced on 07.06.2023.

(iii) Sri Muthukumaran Medical College Hospital and Research Institute / third respondent in W.P.No.16571



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of 2023 and second respondent in W.P.No.14616 of 2023 is directed to collect the examination fee from the petitioners and remit to the first respondent University.

(iv) The first respondent is directed to issue Hall Ticket to the petitioners enabling them to participate in the examination scheduled to be commenced on 07.06.2023.

8. With the above directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

06.06.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

(rap)

Note: Issue order copy on 06.06.2023.



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To

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The Tamil Nadu Dr.MGR Medical University,
No.169, Anna Salai, Guindy,
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The Selection Committee,
Directorate of Medical Education,
No.162, Periyar E.V.R. High Road,
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3. The Managing Trustee Gomathi Ammal,
Sri Muthukumaran Medical College Hospital
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4. The Secretary to Government,
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M.DHANDAPANI,J.

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