



WEB COPY

W.P.No.28218



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.11.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.28218 of 2023
& WMP.No.27741 of 2023

Sri Janaki

... Petitioner

Vs.

- 1.The Dental Council of India,
Represented by its Secretary,
Aiwan-E-Galib Marg, Kotla Road,
Temple Lane, New Delhi – 110 002.
- 2.The Tamil Nadu Dr.MGR Medical University,
Represented by its Registrar,
69, Anna Salai,
Chennai – 600 0
- 3.The Principal,
SRM Kattankulathur Dental College and Hospital,
SRM Nagar, Potheri, Chengalpattu District – 603203.
- 4.The Principal,
Vinayaka Mission Sankarachariyar Dental College,
Ariyanur, Salem.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent in his proceedings dated



05.09.2023 in No.DC/PDMS/Misc/NOC/Mgrin/114/2023-24/2023/3837 and quash the same and consequently direct the 1st respondent to approve forthwith the petitioner's mother application dated 23.08.2023 seeking migration from the 3rd respondent college to the 4th respondent college.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.Subramanian Vaidyanathan (for R1)

Mr.Imayavaramban (for R2)
for M/s.Ramalingam Associates

Dr.V.Venkatesan (for R3)

No Appearance (for R4)

ORDER

The petitioner had appeared for the National Eligibility-cum-Entrance Test and enrolled for the Dental Course in R3 college, which is located in Potheri, Chengalpattu District in academic year 2020-21. She states that after completion of the first year of the course, she was afflicted with severe Lumbo sacral pain and peptic ulcer leading to stomach ache. She claims to be under treatment for the same.

2.A request was made before the Principal of the Dental College, Salem/R4 to accommodate her in that college from the second year onwards and her request has been accepted by R4. Transfer from R3 to R4 college necessitated a migration



as well as transfer certificate to be issued by R3 college and hence an application was made on 23.08.2023 before R1 being the Dental Council of India for grant of permission to continue dental studies with R4 college.

3.The above request came to be rejected by way of the impugned order dated 05.09.2023 to the effect that the migration of request cannot be acceded to since it is contrary to the Regulations in question.

4.Mr.R.Nalliyappan, learned counsel appearing for the petitioner would assail the impugned order stating that R1 has not taken note of the realities of the situation and has passed an order in a mechanical fashion.

5.The concerned Regulation is itself one which is seen to be myopic in its approach insofar as migration is permitted only on two criteria (i) death of supporting guardian and (ii) disturbed conditions as declared by the Government in the area, in which the concerned Dental College is located.

6.In this regard, the First Bench of this Court in *Dental Council of India vs. PSR Lakhmi Bhuvaneshwari Preethi* reported in [2021 (1) CWC 62] considered a request made by a student who wished to migrate, from one college to another citing exorbitant fees charged by the college to which she had been admitted.

7.While rejecting that request stating that the quantum of fees would not justify a request for migration, the Bench incidentally notes that the Regulations



on migration must be re-visited by the Dental Council, such that a wider range of situations are taken note of. In *J.Drusillin Joomy v. The Dental Council of India and Others* in WP.No.16893 of 2020 dated 04.02.2021 and *V.M.Akila v. Dental Council of India* in WP(MD)No.15000 of 2021 dated 11.11.2021, the petitioners had also sought migration on medical grounds, in the former from Polycystic Ovaries, and in the second Microadenoma.

8. Microadenoma is a small non-cancerous tumor in the Pituitary gland that had caused in that petitioner severe symptoms of head ache, dizziness and fatigue as well as unnatural menstrual periods. In both the cases, learned single Judges have referred to the observations of the First Bench in the case of *PSR Lakhmi Bhuvaneshwari Preethi* (supra) to buttress their conclusion that severe medical conditions that debilitate a student must also be a factor that could be considered for request of migration.

9. In fine, the impugned orders were set aside and those petitioners were asked to approach the colleges yet again with fresh applications and material in support of their medical conditions. Undoubtedly the limited scope of intervention provided for migration under the BDS Course Regulations, 2007, call for expansion. The phrase 'Compassionate ground' would have to be given a wider meaning and cannot be understood to encompass only the death of a supporting



guardian or unrest in the locality. Severe medical conditions that impinge upon the daily life of a student and his/her productivity, must be included for consideration as well. If a student needs daily support from family members and medical personnel, continuance in a college located far from home or medical facilities is difficult and this will be a factor in considering a request for migration.

10. Having said so, I do not believe that, the petitioner before me has made out a case warranting intervention. While not wishing to comment on the extent of her disability or discomfort, I will only state that, the standards/threshold of deliberation that would have to be met by a student citing medical disability to seek migration, are far in excess of what has been established now. For these reasons, I see no reason to intervene in the impugned order and dismiss this writ petition. No costs. Connected miscellaneous petition is closed.

21.11.2023

vs

Index : Yes / No

Speaking Order

Neutral Citation: Yes



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DR.ANITA SUMANTH, J.

VS

To

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