



W.P(MD)No.27694 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27694 of 2023

and

W.M.P.(MD)Nos.23806 and 23808 of 2023

Thiyagakarthick Raja

... Petitioner

Vs.

1.Union of India,
Ministry of Health and Family Welfare,
Rep. by its Secretary,
'A' Wing, Nirman Bhavan,
New Delhi – 110 001.

2.The National Medical Commission,
Rep. by its Secretary,
Pocket – 14, Sector – 8,
Dwarka Phase – I,
New Delhi – 110 077.

3.Association of Indian Universities,
Rep. by its Secretary General,
AID House,
16, Comrade Indajit Gupta Marg,
New Delhi - 110 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,

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calling for the records relating to the impugned order passed by the 2nd respondent communicated through email dated 27.04.2023 and quash the same as illegal and arbitrary and consequently directing the 2nd respondent to issue eligibility certificate to the petitioner so as to enable him to apply for the Foreign Medical Graduate Examination (FMGE) Screening Test.

For Petitioner : Mr.B.Saravanan, Senior Counsel,
For Mr.D.Krubakaran.

For Respondents : Mr.K.Govindarajan,
Deputy Solicitor General of India for R1 & R2.

ORDER

Heard the learned counsel for the writ petitioner and the learned Deputy Solicitor General of India for the respondents 1 and 2.

2.The petitioner is an American citizen of Indian origin. He successfully completed Bachelor of Science and Doctor of Medicine in Philipines. According to the petitioner, it is equivalent to MBBS course conducted in India. The petitioner wants the second respondent to recognize the same.



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3.The petitioner's request was negatived. The impugned communication issued by the National Medical Commission reads as follows:-

“NATIONAL MEDICAL COMMISSION

Dear THIYAGAKARTHICK RAJA,

Your application R.15012/020248/2022-Regn has been rejected. Kindly refer to the NMC comments:

Dear Applicant, You have not studied biology in Class 11th (2015) and you have not studied Physics, Chemistry and Biology in Class 12th. Therefore, you do not fulfill the eligibility criteria to pursue the MBBS course as laid out in Chapter-II, Clause 4 (2) of Graduate Medical Education Regulation Act 1997 and the instant application stands closed/rejected.

Thank You !!

NMC Support Team”

4.The learned senior counsel for the petitioner draws my attention to the public notice No.U-14021/12/UGMEB-2023 dated 22.11.2023



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issued by the National Medical Commission and wants the second respondent to revisit the issue. He placed particular emphasis on paragraph No.7 of the said notification. Paragraph No.7 reads as follows:-

“7.The National Medical Commission in its meeting held on 14.06.2023 after detailed deliberations while taking into consideration the New Education Policy, which permits great extent of flexibility in the study of various subjects in Class 12th, decided that the previous approach of the erstwhile Medical Council of India needs to be revisited by permitting candidates to undertaken study of the requisite subjects (Physics, Chemistry, Biology / Biotechnology alongwith English) even as additional subjects after passing Class 12th from duly recognized boards by the concerned Govt. Such candidates shall be permitted to appear in NEET-UG Test and resultantly also be eligible for grant of Eligibility Certificate.”

5.I am not sure that the public notice dated 22.11.2023 will come to the petitioner's rescue. However, I grant liberty to the petitioner to submit a fresh representation before the second respondent. It is for the second respondent to take a call in the matter.



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6.The petitioner cannot file any contempt petition before this Court on the ground that the direction given by this Court has not been complied with. The matter is left entirely to the discretion of the second respondent.

7.With this liberty to the writ petitioner to approach the second respondent once again, this writ petition is disposed of. No costs. Consequently,connected miscellaneous petitions are closed.

13.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 18.12.2023.



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G.R.SWAMINATHAN, J.

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