



WEB COPY

W.P.No.991 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.991 of 2024
and
W.M.P.No.1035 of 2024

M.N.Sathyasheela

.. Petitioner

VS

1.The Registrar

The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.

2.The Controller of Examination,

The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.

3.The Dean

Panimalar Medical College Hospital and Research
Institute, Varadarajapuram,
Poonamalle, Chennai-600123

4.National Medical Commission,

Pocket-14, Sector 8, Dwarka Phase01,
New Delhi, Delhi
PIN: 110077.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the 1st and 2nd respondent to issue hall ticket to the Petitioner (Reg.No.520020509110) and permit the petitioner to write the ensuing second professional M.B.B.S Examination Schedule on from 01.02.2024, in 3rd respondent College and publish the result of the same.



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For Petitioner : Mr.G.Sankaran, Senior Counsel
for Mr.R.K.Ramaiah

For Respondents : Mr.Imayavaramban (for R1 & R2)
for M/s.Ramalingam Associates

Mr.M.S.Soundararajan (for R3)

Mr.Lokesh Khanna (for R4)
for Ms.Shubaranjani Ananth

ORDER

This matter has a chequered history. The petitioner is a student in the Panimalar Medical College Hospital and Research Institute / R3. There had been litigation *inter se* the petitioner and the respondents in regard to the first year examinations.

2. This petitioner along with another student approached this Court in W.P.No.1321 of 2023 seeking a mandamus directing the University to permit her to write the examinations both written and practical for the first year.

3. An interim order was passed on 27.03.2023, wherein this Court, noticing that the University had itself condoned the break in study, and had permitted the petitioner to re-join the course, permitted her to write the supplementary examination that commenced on 27.03.2023, '*at least from 28.03.2023*'. The caveat was on account of the fact that the interim order had itself been passed only on 27.03.2023.



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4. The University taking advantage of the order, thus denied the opportunity of writing the examination that was scheduled on 27.03.2023 to the petitioner. A contempt petition had been filed in Cont.P.No.1368 of 2023 and on 11.07.2023.

5. The defence of Tamil Nadu Dr.MGR University (University) all along had been that it was the Regulations of the National Medical Commission (NMC) that stood in the way of permitting the petitioner write the examination.

6. However, NMC, who was impleaded therein had stated that they would have no objection to the petitioner writing the solitary paper seeing as this Court had, on 27.03.2023, permitted the petitioner to write all examinations. It is only thereafter, that the petitioner was permitted to write the last examination on 11.07.2023.

7. Ultimately, it had taken four months for the petitioner to obtain relief. In the interim, she had not been permitted to attend the second year classes.

8. The above litigation has had a cascading effect insofar as the University has now taken the stand that the petitioner will not be permitted to write the second year examination and has withheld her name from the exam gallery. According to them, a candidate should have attendance of 240 days whereas the



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petitioner has been regular in attendance only after 11.07.2023, when she wrote the last paper for the first year.

9. Hence this writ petition, wherein the prayer of the petitioner is for a mandamus directing the University to issue the hall ticket for the second year professional MBBS examinations scheduled from 01.02.2024 in R3 college and consequential relief.

10. Learned counsel for the College would confirm that she has attendance in the region of around 80%. The Regulations of the University require minimum attendance of 85%. Hence, the stand of the University in not permitting the petitioner to write the second year examination is not justified seeing as the shortfall is clearly attributable to the petitioner not being permitted to attend classes from May, 2023 when the classes commenced, till 11.07.2023.

11. It is also relevant to refer to the email sent by the legal consultant of NMC to its Standing Counsel, which reads as follows:-

"As per the instructions received from President, UGMEB, it is informed that, though as per the regulations of NMC, there is no provision for conduct of separate supplementary examination however taking into consideration the fact that the students were not at fault and the Hon'ble Court has already passed order dated 27.04.2023 in favour of the petitioner students hence NMC will have no objection for conduct of separate / special supplementary examination specifically for the petitioners involved.



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2. However, it is relevant to note that above relaxation has been granted as a special case and the same should not be treated as a precedent.

3. It is further felt that the concern of the commission needs to be conveyed to the Hon'ble Court regarding the negligent act of the Universities, if any, owing to which the student suffers as well as the regulations of NMC also gets violated. In such events, some penalty may be imposed upon the Universities or colleges for not repeating the same in future."

12. This Court, shares the concern of NMC as above, and agrees that the University has been negligent in this matter resulting in prejudice being caused to the student and violation of the NMC Regulations.

13. A memo has been filed today by NMC, wherein they state that NMC has no part to play and pose no hurdle in this matter. The dispute is a continuing one only between the University and the petitioner, they say. It is unfortunate that the University, by its acts of omission & commission, is seen to be forcing students to engage more with the Courts rather than the class room.

14. Mandamus as sought for is issued and R2, the Controller of Examinations, will do the needful to permit the petitioner to write the examinations commencing on 01.02.2024 forthwith.

15. This writ petition stands allowed. No costs. Connected miscellaneous petition is closed.



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Index:Yes/No
Neutral Citation:Yes
ssm

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DR. ANITA SUMANTH,J.

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