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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-04-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

WP No.6331 of 2024

And

WMP Nos.7038 and 8782 of 2024

A.Mahathy

.. Petitioner

-VS-

1.National Medical Commission,
Represented by its Chairman,
Pocket-14, Sector-8, Dwaraka Phase-1,
New Delhi-110 077.

2.The Controller of Examinations,
Pondicherry University,
Pondicherry-605 014.

3.Indira Gandhi Medical College and Research
Institute, Represented by its Dean,
Kathirkanam,
Pondicherry-605 014.

.. Respondents



Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the second respondent to re-compute the petitioner's marks in the Anatomy subject bearing Code Numbers A3010 and A3011 as per the new CBME Revised Guidelines notified as F.NO.U/14021/8/2023-UGMEB dated 01.09.2023 by the first respondent herein and consequently to publish the petitioner's result as PASS for the phase 1 MBBS November 2023 Examinations conducted by the second respondent herein on 16.11.2023 and 17.11.2023.

For Petitioner : Mr.B.Ramamoorthy

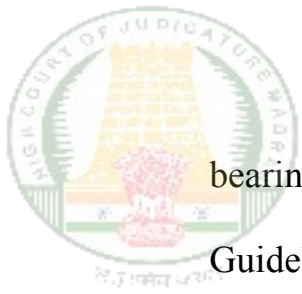
For Respondent-1 : Mr.Lokesh Khanna for
Ms.Shubaranjani Ananth

For Respondent-2 : Ms.A.V.Bharathi

For Respondent-3 : Mr.A.Tamilvanan,
Additional Government Pleader
(Puducherry).

ORDER

The Writ of Mandamus has been instituted to direct the second respondent to re-compute the petitioner's marks in the Anatomy subject



bearing Code Numbers A3010 and A3011 as per the new CBME Revised Guidelines notified as F.NO.U/14021/8/2023-UGMEB dated 01.09.2023 by the first respondent herein and consequently to publish the petitioner's result as PASS for the phase 1 MBBS November 2023 Examinations conducted by the second respondent herein on 16.11.2023 and 17.11.2023.

2. The petitioner is the bona fide student pursuing MBBS Course in the third respondent's Medical College.

3. The petitioner, admittedly, appeared for the Examination in November and December 2023. The petitioner has been declared as 'Fail' in the Anatomy subject and having aggrieved, the present writ petition came to be instituted.

4. Mr.B.Ramamoorthy, learned counsel appearing on behalf of the petitioner, would mainly contend that the petitioner has scored 41.5% marks in aggregate in respect of Paper-I and Paper-II in Anatomy subject. Further, she scored 83 marks in theory. Therefore, the calculation as per the Regulations are to be made as under:-



WEB COPY

WP No.6331 of 2



“Anatomy I - 44

Anatomy II - 39

Total - 83 - $83/200 \times 100 = 41.5$

Practical - 62

Theory + Practical = $41.5 + 62 = 103.5$ (50%) = 51.75.”

5. With reference to the above calculation, the learned counsel for the petitioner would submit that the petitioner scored 51.75% marks and therefore, she has been erroneously declared as 'Fail' by the second respondent.

6. Ms.A.V.Bharathi, learned counsel appearing on behalf of the second respondent, would strenuously oppose by stating that the calculation made by the petitioner is self-made calculation and not in consonance with the guidelines issued by the National Medical Commission. The National Medical Commission vide order dated 01.09.2023 issued Corrigendum to CBME Guidelines, which reads as under:-

Amended page 58 of CBME Guidelines
In subjects that have two papers, the learner must secure minimum 40% of marks in aggregate (both papers



Amended page 58 of CBME Guidelines

together) to pass in the said subject.

Criteria for passing in a subject : A candidate shall obtain 50% marks in aggregate and 60.40 (minimum) or 40.60 (minimum) in University conducted examination separately in Theory and in Practical (practical includes : practical / clinical and viva voce) in order to be declared as passed in that subject.

7. Relying on the Scheme, as approved by the National Medical Commission, the second respondent has submitted the following calculation of marks as applicable to the case of the petitioner:-

	Theory Mark Paper-I	Theory Mark Paper-II	Theory Total Mark (Paper-I & II)	Practical Mark	Grand Total (Theory + Practical / Clinical)
Max. Mark:	100	100	200	100	300
Passing Min. Mark:	-	-	80 (40% of 200)	40	150 (50% of 300)
Marks secured by the petitioner	44	39	83	62	145 (i.e., 48.33%)

8. Accordingly, the petitioner scored 145 marks in total, which



comes around 48.33% and therefore, the petitioner was declared as 'Fail'. As per the Guidelines, the petitioner has to secure 50% marks in aggregate. Thus, there is no infirmity in respect of the decision taken by the second respondent declaring the petitioner as 'Fail' in Anatomy subject.

9. This Court is of the considered opinion that the Scheme of Examination, as notified by the National Medical Commission, is to be scrupulously followed by the Medical Institutions. The Scheme contains two parts. In subjects that have two papers, the learner must secure minimum 40% of marks in aggregate.

10. In the present case, the petitioner scored 44 marks in Paper-I and 39 marks in Paper-II. Thus the total mark is 83. But the guidelines prescribe the criteria for passing in a subject. Subject consists of Theory and Practical [Theory Paper-I and II]. The candidate shall obtain 50% marks in aggregate, including practical, to declare 'Pass' in the subject of Anatomy as a whole.

11. Thus, in the present case, the petitioner scored 145 marks in



total and therefore, she has been declared as 'Fail'. The calculation made by the University reveals that the total mark has been calculated, taking into consideration the Anatomy Paper-I and Paper-II and practical marks and all put together, the petitioner scored 145 marks i.e., 48.33% of marks. Therefore, the petitioner has not scored 50% of marks in aggregate in consonance with the guidelines issued by the National Medical Commission. The said guidelines and procedures have been following for all the students uniformly.

12. The Scheme of Examination and declaration of 'Pass' or 'Fail', as notified by the National Medical Commission, is binding on the Medical Institution. There is no impediment for the petitioner to appear in the Supplementary Examinations as per the Notification issued by the University. Thus this Court do not find any infirmity in respect of the decision taken by the second respondent in the case of the petitioner.

13. Accordingly, the present writ petition is devoid of merits



and consequently stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

10-04-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

1. The Chairman,
National Medical Commission,
Pocket-14, Sector-8, Dwaraka Phase-1,



New Delhi-110 077.

2.The Controller of Examinations,
Pondicherry University,
Pondicherry-605 014.

3.The Dean,
Indira Gandhi Medical College and Research
Institute,
Kathirkanam,
Pondicherry-605 014.

S.M.SUBRAMANIAM, J.

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WEB COPY

WP No.6331 of 2



WP 6331 of 2024

10-04-2024