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W.P.No.29654 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2024

CORAM

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

W.P.No.29654 of 2023

A.Arunakiri Raja  
S/o.Dr.K.Arul  
No.7, Saliyar Street  
Kariyamanikkam  
Puducherry 605 106

... Petitioner

Vs.

1.The Controller of Examinations  
Pondicherry University  
R.V.Nagar, Kalapet  
Puducherry 605 014

2.The Director  
Manakula Vinayagar Medical College & Hospital  
Kalitheerthalkuppam, Madagadipet  
Puducherry 605 107

3.The Dean  
Manakula Vinayagar Medical College & Hospital  
Kalitheerthalkuppam, Madagadipet  
Puducherry 605 107

4.The Head of the Department  
Department of Pathology  
Manakula Vinayagar Medical College & Hospital  
Kalitheerthalkuppam, Madagadipet  
Puducherry 605 107

... Respondents



W.P.No.29654 of 2023

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order No.PU/Med/BAMS/E4/2023/1415 dated 14.09.2023 passed by the 1<sup>st</sup> Respondent and quash the same and consequently direct the respondents the order for re-valuation of the theory papers of the Petitioner on the basis of the Petitioner's representation dated 04.09.2023.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.A.V.Bharathi (for R1)

Mr.B.Balavijayan (for R2 to R4)

### ORDER

This Writ Petition has been filed to quash the order No.PU/Med/BAMS/E4/2023/1415 dated 14.09.2023 passed by the 1<sup>st</sup> Respondent and consequently direct the respondents the order for re-valuation of the theory papers of the Petitioner on the basis of the Petitioner's representation dated 04.09.2023.

2. It is the case of the petitioner that he has joined Sri Manakula Vinayagar Medical College and Hospital, Puducherry in August-2020 in the Department of Pathology and completed 3 years Examination for MD



W.P.No.29654 of 2023

Pathology was held in July-2023. The subjects considered of paper-I, II, III & IV and practical for two days. As per the regulations of Pondicherry University.

The examinations shall be organised on the basis of marketing system to evaluate and certify candidate's level of knowledge, skill and competence at the end of the training and obtaining a minimum of 50% marks in theory as well as practical separately shall be mandatory of passing the whole examination. The examination for M.S., MD., DM., M.Ch. Shall be held at the end of three academic years and for diploma at the end of two academic year. The academic terms shall mean six month training period.

The criteria for evaluations of M.S., MD., DM., M.Ch. Courses is as below:

| S.No. | Description                  | M.S./MD./DM./M.Ch.<br>Courses       |
|-------|------------------------------|-------------------------------------|
| 1     | Theory                       |                                     |
|       | No. of theory papers         | 4                                   |
|       | Marks for each theory paper  | 100                                 |
|       | Total Marks for theory paper | 400                                 |
|       | Passing minimum for theory   | 200/400 (40% minimum in each paper) |
| 2     | Practical/Clinical           | 300                                 |
| 3     | Oral                         | 100                                 |



W.P.No.29654 of 2023

WEB COPY

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| Passing minimum for practical/clinical including oral                                                                                                                                                                                                                                                                                                                                                                                                                                    | 200/400 |
| <p style="text-align: center;"><b>Passing Minimum</b></p> <p>The candidate shall secure not less than 50% marks in each head of passing which shall include.</p> <p><i>1. Theory aggregate 50% (In addition, in each theory paper candidate has to secure minimum of 40%)</i></p> <p><i>2. Practical/Clinical/Viva – aggregate 50%</i></p> <p><i>3. If any candidate fails even under one head, he/she has to re-appear for both theory and practical/clinical/viva examination.</i></p> |         |

The petitioner has participated in the examination and results were published on 29.08.2023 and secured the following marks:

| S.No | Subject   | Marks   |
|------|-----------|---------|
| 1    | Paper I   | 47      |
| 2    | Paper II  | 52      |
| 3    | Paper III | 51      |
| 4    | Paper IV  | 49      |
|      | Total     | 199     |
|      | Practical | 230/400 |

3. The petitioner has been awarded 199 only out of 400 though the passing minimum for each paper is 40. The required aggregate was 50% in toto



W.P.No.29654 of 2023

which is required to have 200/400 for passing theory papers. Since the petitioner was short of one mark in theory, he was considered as failed though he has secured more than the passing minimum of 40% in each paper. Hence, he made a representation before the respondents for revaluation. Since the first respondent rejected the request of the petitioner for re-valuation and passed the impugned order. Challenging the said order, the present writ petition has been filed.

4. The learned counsel for the petitioner submitted that usually, for assessing the theory papers, two internal examiners appointed from Pondicherry jurisdiction and the other two external examiners appointed from outside Pondicherry. However, in the present case, all the assessors have come within the same jurisdiction, which is impermissible one in view of the regulation. Hence, this Court may appoint an external assessor afresh and pass appropriate orders.

5. Per contra, the learned counsel appearing for the respondents submitted that as per the regulation regarding revaluation, it can be considered



W.P.No.29654 of 2023

where there is a single valuation. Since the PG medical examination are evaluated by four examiners, no re-valuation is applicable. Hence, the impugned order passed by the respondent is perfectly in order and therefore, the present petition is liable to be set aside.

6. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

7. The facts of the case are not in dispute. The petitioner has joined in the MD (Pathology) in the second respondent college in August 2020. The course MD consists of four subject. The petitioner has appeared for the July 2023 examination session and result were published in August 2023. The petitioner has obtained 199 out of 400 in theory papers. The petitioner has required 200 out of 400 for the passing the theory papers and required an aggregate of 50% inclusive of all papers. The petitioner was on short fall of one mark in theory. Hence he was declared as fail. Hence, the petitioner sent a representation on 04.09.2023 to the respondents for revaluation as well as for providing one mark



W.P.No.29654 of 2023

as grace mark.

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8. On perusal of the counter affidavit, it is clear that as per the MD & MS Regulations, theory papers have been evaluated by four examiners (two external and two internal examiners) and there is no provision for revaluation as well as re-totalling for PG papers. Further the University has got all the powers and authority to implement its own regulation. Therefore, awarding grace marks and revaluation is not permissible as per the Regulations of Pondicherry University. The action of the University not granting grace marks and allowing re-valuation is legal, valid and is in accordance with Rules and Regulations of the University. Hence, the first respondent has rightly passed the impugned order, which needs no interference.

9. In the result, the Writ Petition is dismissed. No costs.

30.08.2024

Index : Yes/No  
Neutral citation : Yes/No  
Speaking Order/Non-Speaking Order

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W.P.No.29654 of 2023

**M.DHANDAPANI.J,**

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To

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