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W.A.No.333 of 2024 etc., b



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos. 333 & 2169 of 2024, W.P.Nos. 4181 & 3544 of 2024

and

C.M.P.Nos. 2067 & 15345 of 2024, W.M.P.Nos. 3807 & 4490 of 2024

W.A.No. 333 of 2024

The Controller of Examinations,
Pondicherry University,
Pondicherry.

...Appellant

Vs.

1.Megha Maria Joe

2.Diya Lakshmi Santhosh

3.Praveen Kumar M

4.The National Medical Commission
Represented by its Chairman
Pocket-14, Sector - 8, Dwarka Phase-1
New Delhi - 110077.

5. The Indira Gandhi Medical College and Research Institute
Represented by its Chairman
Kathirkanam,
Puducherry - 605009.

...Respondents



W.A.No.333 of 2024 etc., b:

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 24.11.2023 made in W.P.No.28674 of 2023.

For Appellant : Mrs.A.V.Bharathi
For Respondents : MR.N.Murali Kumaran, Senior Counsel
for Mr.S.N.Ravichandran for R1 to R3
Mrs.Shubaranjani Ananth for R4
Mr.S.Raveekumar
Government Pleader (Pondicherry) for R5

W.A.No. 2169 of 2024

1.The National Medical Commission
Represented by its Chairman
Pocket-14, Sector - 8, Dwarka Phase-1
New Delhi - 110077.

...Appellant

Vs.

1.Megha Maria Joe

2.Diya Lakshmi Santhosh

3.Praveen Kumar M

4.The Controller of Examinations,
Pondicherry University,
Pondicherry.

5. The Indira Gandhi Medical College and Research Institute
Represented by its Chairman
Kathirkanam,
Puducherry ? 605009.

...Respondents



W.A.No.333 of 2024 etc., b:

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 24.11.2023 made in W.P.No.28674 of 2023.

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For Appellant : Mrs.Shubaranjani Ananth
For Respondents : MR.N.Murali Kumaran, Senior Counsel
for Mr.S.N.Ravichandran for R1 to R3
Mrs.A.V.Bharathi for R4
Mr.S.Raveekumar
Government Pleader (Pondicherry) for R5

W.P.Nos. 3544 & 4181 of 2024

V.Aruna ...Petitioner in W.P.No. 3544 of 2024
Pradhi Usha. R ...Petitioner in W.P.No. 4181 of 2024

Vs.

- 1.The National Medical Commission
Represented by its Chairman
Pocket-14, Sector - 8, Dwarka Phase-1
New Delhi - 110077.
- 2.The Controller of Examinations,
Pondicherry University,
Pondicherry.
3. The Indira Gandhi Medical College and Research Institute
Represented by its Chairman
Kathirkanam,
Puducherry - 605009. ...Respondents in both petitions



Common Prayer: Writ Petitions filed under 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to declare the petitioner bearing Registration No. 20770622 as 'pass' in the 1st year "Anatomy" subject and the petitioner bearing Registration No. 20770715 as 'pass' in the 1st year "Anatomy" and "Physiology" subjects by applying new Competency Based Medical Education (CBME) Guideline No.U.14021/8/2023-UGMED, released by the 1st respondent dated 01.08.2023, in the light of the order passed by this Hon'ble Court in W.P.No.28674 of 2023, dated 24.11.2023, and the order passed by the Hon'ble High Court of Kerala in W.P. (c) No. 34075 of 2023 in the case of *Antony P.Alappat Vs Kerala University of Health Sciences and 3 others* and thereby direct the respondents to allow the petitioner to write her 2nd year MBBS examinations, commencing from 5th March 2024 onwards.

For Petitioners : MR.N.Murali Kumaran, Senior Counsel
for Mr.S.N.Ravichandran in both petitions
For Respondents : Mrs.Shubaranjani Ananth for R1
in both petitions : Mrs.A.V.Bharathi for R2
: Mr.S.Raveekumar
Government Pleader (Pondicherry) for R3

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The challenge in these writ appeals by the University as well as the National Medical Commission is to the orders of the writ Court made in W.P.No.28674 of 2023. W.P.Nos.3544 & 4181 of 2024, which also relate to

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the same issue has been tagged along these writ appeals, pursuant to the orders of the Hon'ble Acting Chief Justice dated 15.07.2024.

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2.The issue involved lies in a very narrow campus namely, as to the date from which, the new Central Board Medical Education guidelines / CBME guidelines framed by the National Medical Commission would become effective in respect of the passing criteria. All the students namely, respondents 1 to 3 in the writ appeals and the petitioners in W.P.Nos.3544 & 4181 of 2024 are pursuing MBBS in Indira Gandhi Medical College and Research Institute, Kathirkamam, Pondicherry, which is affiliated to the Pondicherry University.

3. The regulations framed by the National Medical Commission from time to time govern the curriculum and other academic requirements of these students. The respondents 1 to 3 in the writ appeals belongs to 2021 – 2022 batch and the petitioner in both the writ petitions belongs to 2020 – 2021 batch. The grievance of the students is that the University ought to have declared them pass in the relevant subjects, since they had obtained the minimum passing criteria, as per the CBME guidelines issued by the National Medical Commission on 01.08.2023.



4. The claim was resisted by the National Medical Commission and the Pondicherry University contending that since the examinations had commenced prior to 01.08.2023, the new guidelines cannot be applied and the students would be governed by the old guidelines. Yet another contention that was projected was that the examinations being supplemental examinations, what applied to the main examination should be applied to the supplemental examinations also. The facts are not very much in dispute. All these students took the main examination and since they did not pass in the main examination, they had undertaken the supplemental examination which was held in July and August, 2023. The schedule for the examination was as follows:-

"First Professional (From 2019-20 Batch onwards) Time 10 to 01.00 p.m.

<i>Date</i>	<i>Day</i>	<i>Session</i>	<i>Time</i>	<i>Subject</i>	<i>Q.P.Code</i>
07.07.2023	Friday	F.N.	10.00 to 1.00	Anatomy-I	6540101
10.07.2023	Monday	F.N.	10.00 to 1.00	Anatomy - II	6540102
12.07.2023	Wednesday	F.N.	10.00 to 1.00	Physiology - I	6540103
14.07.2023	Friday	F.N.	10.00 to 1.00	Physiology -II	6540104
17.07.2023	Monday	F.N.	10.00 to 1.00	Biochemistry - I	6540105
19.07.2023	Wednesday	F.N.	10.00 to 1.00	Biochemistry - II	6540106

Practical Schedule (Tentative): MBBS: 31.07.2023 to 03.08.2023."



5. While the students would contend that by that time the examinations were over, new regulations had kicked in and therefore, their results should be only under the new regulations and not under the old regulations. As per the old regulations, a candidate, in order to be declared as pass, should have 50% in aggregate in both the papers in subjects where the examination is held for more than one paper. In other words, the student must obtain a minimum of 50% separately in theory and in practicals.

6. As per the new set of guidelines which were issued on 01.08.2023, a student must obtain a minimum of 40% aggregate in the theory papers and wherever there is a practical paper, the student must obtain an aggregate of 50% in all the three papers, put together. The examination is for 300 marks, which consists of two theory papers, each for 100 marks and, one practical paper for 100 marks. Under the old guidelines the student must obtain not less than 100 marks in the two theory papers put together and, not less than 50 marks in the practical paper.

7. As per the new guidelines, it is enough, if a student obtains 80 marks in the two theory papers and 150 marks, out of 300, after adding the



practical marks. Therefore, the minimum marks required for a pass in the theory papers was reduced from 50 to 40, even though, the total aggregate including the practicals was maintained at 50, the University applied the old guidelines and declared the students as failed in one subject or the other, since they had not obtained 50% aggregate in theory papers alone. The mark sheets of the students show that they had obtained more than 50% in the practical examinations and the total aggregate i.e., Theory + Practical is also above to 50%, the mark prescribed by the new guidelines. Therefore, it is clear, if the new regulations are applied, all the students would be entitled to be declared as pass. Therefore, the only question that arose is as to whether the new guidelines could be applied to the cases on hand.

8. The regulations that have been framed by the National Medical Commission state that they would come into effect from 01.08.2023. They do not make any distinction on the basis of the date of examination. The fact that the results of these examinations were also published only after the new regulations had kicked in is not in dispute.

9. We have heard Mr.N.Murali Kumaran, learned Senior Counsel for Mr.S.N.Ravichandran, learned counsel for the students, Mrs.A.V.Bharathi,



learned counsel appearing for the Pondicherry University, Mrs. Shubaranjani Ananth, learned counsel appearing for the National Medical Commission and Mr.S.Raveekumar, learned counsel appearing for the Indira Gandhi Medical College and Research Institute.

10. The appellants in the writ appeals would vehemently contend that since the examinations had commenced prior to publications of the new regulations, the students should be governed only by the old regulations and the new regulations cannot be applied to them.

11. Contending contra, Mr.N.Murali Kumaran, learned Senior Counsel appearing for the students would submit that once the new regulations had kicked in before the publication of the results, the new regulations should be applied. He would also rely upon the judgment of the Kerala High Court *dated 01.12.2023 made in W.P.(C).No. 34075 of 2023* wherein, the same question was considered by the Kerala High Court and the learned single Judge had come to the conclusion that the amendment / the new regulations should be applied to all the cases where, the examinations are held after the amendment and the pass board meets to decide on the results.



12. Of course, in the cases on hand, the examination for the theory papers were conducted before the new guidelines were published and only the practical examination was conducted after the new regulations had been published. The results were published sometime in September, 2023, after the new guidelines. The regulations themselves do not prescribe whether they would apply for the examinations conducted prior or not.

13. There are two interpretations possible. One is to take a strict view and to conclude that since the examinations had commenced before the new regulations had kicked in, the old regulations would apply and sustain the results published by the University. The other is to take a pragmatic view and conclude that since the new regulations had kicked in when the examinations were under process and results were declared after the new regulations, the new regulations would alone apply.

14. The second interpretation would be more beneficial to the students. Though it is described by Mrs.Shubaranjani Ananth, learned counsel for the National Medical Commission that it would be incentivising failures, we find it difficult to accept the contentions of the learned counsel



for the appellant. The National Medical Commission is a body, consisting of academicians and professionals of very high qualifications and more clarity on the effective date of the regulations would not have resulted in eruption of this controversy.

15. We find that almost all the High Courts are grappling with this controversy because of the absence of clarity on the effective date. When two interpretations are possible, Courts are expected to lean in favour of weaker section and here, the weaker section is the students. We are therefore, convinced that the interpretation adopted by the learned single Judge in the order under appeal and the interpretation of the Kerala High Court should be accepted and these new guidelines should be applied to the present set of students, who had taken the examinations in July and August, 2023. To state with more clarity, the new regulations would apply to the students, whose results have not been published by 01.08.2023.

16. In the cases on hand, the results were published only some time in September, 2023 and therefore, the new regulations should have to be applied. If the new regulations are applied, it is not in dispute, all the



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students namely, the respondents 1 to 3 in the writ appeals as well as the petitioners in two writ petitions would be entitled to be declared as having passed in the examinations as they had obtained the minimum passing criteria required under the new regulations.

17. Hence, these Writ Appeals are **dismissed** and the Writ Petitions will stand **allowed** and the mandamus is issued to the respondents in the writ petitions to declare the petitioner in W.P.No.3544 of 2024 as pass in the first year "Anatomy" subject and to declare the petitioner in W.P.No.4181 of 2024 as pass in the first year "Anatomy" and "Physiology" subjects, applying the new regulations. No costs. Consequently, connected miscellaneous petitions are closed.

18. The University will publish the results in time to enable the students to take the next examination which is to be held in February.

(R.S.M., J.) (C.K., J.)
23.01.2025

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To:-

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Represented by its Chairman
Pocket-14, Sector - 8, Dwarka Phase-1
New Delhi - 110077.
2. The Controller of Examinations,
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R.SUBRAMANIAN, J.
and
C.KUMARAPPAN, J.

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W.A.Nos. 333 & 2169 of 2024, W.P.Nos. 4181 & 3544 of 2024
and
Connected miscellaneous petitions

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