



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **C.V. KARTHIKEYAN**

W.P.No.8236 of 2025

And

W.M.P.Nos.9239 & 9241 of 2025

Dr.R.Manoj Praveen Daniel

... Petitioner

Vs.

1. The Additional Chief Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.

2. The Member Secretary,
Medical Services Recruitment Board,
DMS Building, 359, Anna Salai,
Teynampet, Chennai – 600 006.

3. The Director,
Public Health and Preventive Medicine,
DMS Building, 359, Anna Salai,
Teynampet, Chennai – 600 006.

... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records in the file of the second respondent Notification PSL No.01/MRB/2024, dated 20.02.2025 and quash the same as being illegal invalid and against the law and violated the equal rights of the petitioner



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for the eligibility for the post of Assistant Surgeon (General) and direct the second respondent included his name in the provisional list.

For Petitioners : Mr.D.Vijayakumar

For Respondent 1 : Mr.M.Bindran,
Additional Advocate General

For Respondent 2 : Mr.J.Ravindran,
Additional Advocate General
Assisted by
Mr.L.Murugavelu

For Respondent 3 : Mr.R.Bharanidharan,
Standing Counsel

ORDER

The Writ Petitioner had applied for the post of Assistant Surgeon (General).

2. The writ petition has been filed seeking records relating to the provisional selection list issued consequent to Notification No.01/MRB/2024, dated 15.03.2024 with specific reference to Clause 6B(III) modified by Notification dated 14.05.2024 and to quash the same so far as the non-inclusion of the writ petitioner is concerned.



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3. The writ petitioner was duly qualified to apply for the post of Assistant Surgeon (General). He had completed his Bachelor of Medicine and Bachelor of Surgery (M.B.B.S.) degree. Thereafter, he was issued with provisional certificate. Thereafter, he also completed his one year internship programme. On completion of internship, he was issued with provisional certificate-II. After receiving that particular certificate, he had applied with the third respondent for registration as registered Medical Practitioner.

4. This Court had occasion to examine similar batch of writ petitions in ***W.P.No. 6533 of 2025 etc batch [Dr.M.Sai Ghanesh Vs. Government of Tamil Nadu, represented by its Secretary, Medical Services Recruitment Board, Chennai and others]***, wherein this Court had passed the following common order:-

“9. The uniform arguments that have been advanced by the learned counsel in all the three Writ Petitions is that the Provisional Certificate -II, which was issued by Dr.M.G.R.Medical University, was issued only on 11.07.2024. It had been contended that these



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three writ petitioners had completed the course in the College, which runs for about five years in the year 2023 and had been issued with what is called as Provisional Certificate - I. But that is not sufficient. They have to undergo the Internship for a period of one year, which they have successfully completed. The learned counsels pointed out that thereafter, the Provisional Certificate-II had been issued by the University, which was the certificate certifying that they have undergone the course in the College and also successfully completed their Internship as required for a further period of one year. It is uniformly contended that this particular certificate/Provisional Certificate-II was issued only on 11.07.2024. The learned counsels pointed out that all the three writ petitioners had applied for the post of Assistant Surgeon (General) and they were also permitted to write the examinations and that therefore, they had a legitimate expectation that there could be no further hurdles while considering their selection or on examining their credentials vis-a-vis the applications, which they had submitted. But, however, it is also stated that the Notification under which they had so applied for the said post, contained a further requirement that the candidates should not only have completed their course and also their Internship Course and that they had so



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completed should be recognised by the Medical University and the University should have issued a Provisional Certificate - II. They cannot rest with such certificate but, must further register themselves, to enable them to be called as Registered Medical Practitioner, with the Tamil Nadu Medical Council. This registration by the Tamil Nadu Medical Council is an independent process and it required the writ petitioners to apply online through the portal of the Tamil Nadu Medical Council. The Tamil Nadu Medical Council would independently verify the certificates and credentials and after verifying the same, they would issue their certificate approving that the petitioners are qualified to practice as Medical Professionals.

10. The learned counsels pointed out that after receiving the Provisional Certificate -II, only on 11.07.2024, the petitioner had applied immediately in the portal of the Tamil Nadu Medical Council. There was a congestion in the said portal and they were not allotted slots within the date which they expected and therefore, they were able to get their certificates only on a later date i.e after 15.07.2024. Therefore, they were well behind the cut-off date of 15.07.2024. The learned counsel stated that there was a plausible reason as to why the petitioners could not register themselves with



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the Tamil Nadu Medical Council, since it was not their fault, but, only owing to the reason that the Provisional Certificate-II had been issued only on 11.07.2024 and thereafter, when they had opened up the portal of the Tamil Nadu Medical Council, owing to the congestion, they were granted slots beyond the date of 15.07.2024. It had been stated that irrespective of the fact that they had registered themselves with the Tamil Nadu Medical Council after 15.07.2024, it cannot be denied or disputed that they had actually registered themselves and therefore, they were otherwise eligible to be considered for selection to the post of Assistant Surgeon (General) as called for in the Notification issued by the respondents. It is therefore contended that rejection of their applications was with the mala-fide intention.

13. The learned Additional Advocate General appearing on behalf of the Medical Recruitment Board, which was the Agency which conducted the selection process and issued the Notification, at the very outset, contested the arguments advanced that there could be a possibility that the petitioner had been singled out to be ousted. The learned Additional Advocate General pointed out that the total number of posts initially was 2553 which had been later increased to 2644, which were the vacancies. He stated that 23,917 applicants



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had applied and out of the same, 17,701 candidates have actually written the examination. He further stated that out of them 14,981 had been selected and written in Tamil and an equal number had been selected, who had written in the various subjects and finally, the respondents had narrowed down to 4,885 candidates and had given a ratio as 1:8 for the selection process. The learned Additional Advocate General pointed out the very impossibility when so many applicants have applied to single out one particular candidate from the thousands of applications and exercise mala-fide against him and ensure that he stood ousted from being considered for the selection process.

14. The learned Additional Advocate General was therefore emphatic in his submission that all the applicants had been treated on an equal footing and those who had submitted their registration certificate with the Tamil Nadu Medical Council on or before 15.07.2024, had been considered for selection and those who had not had been uniformly barred from such selection. It had been emphasised that there was no favour shown to any candidate and that the selection was transparent and it was conducted based only on the examinations conducted and on the basis of the marks which the candidates had obtained and more importantly, on the basis that they had satisfied all the



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criteria as required in the Notification.

15. While addressing the above particular argument, it is also required to have an examination of the Notification, which had been issued by the Tamil Nadu Medical Services Recruitment Board. The Notification was initially issued on 15.03.2024 for 2553 vacancies in the posts of Assistant Surgeon (General). The dates were already given in that particular Notification. The date of the Notification was 15.03.2024. It was further stated that the commencement of submission of application through Online mode would be from 24.04.2024 and the last date for submission of application, which is online registration and online payment, was initially 15.05.2024. By a subsequent corrigendum, this particular date of 15.05.2024 was extended to 15.07.2024. It was not extended to favour any single candidate or any one candidate, but, it was applied as a uniform principle for all the candidates who had chosen to apply for the said post.

16. It has also been very specifically stated in the said Notification that this particular date, namely, initially 15.05.2024 and subsequently extended to 15.07.2024, was a pre-requisite for consideration of the



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candidates for selection.

17. The criteria was categorized under the sub-heading "Educational Qualification". The criteria is as follows:-

i. Candidates should possess the following or its equivalent qualification awarded by a University or Institution recognised by the University Grants Commission for the purpose of its grants. The courses must have been approved by the Medical Council of India.

*For Assistant Surgeon (General)- MBBS Degree
In addition to the above, the candidates,*

i. Must be a registered practitioner within the meaning of the Madras Medical Registration Act, 1914.

ii. Must have served as House Surgeon (CRRI) for a period of not less than twelve months.

iii. Candidates should have registered their name in the Tamil Nadu Medical Council on or before the late date of this Notification. (Last date for submission of application i.e. 15.05.2024)

iv. If a candidate claims that the educational qualification possessed by him/her is equivalent though not the same as those prescribed for the appointment, the onus of proof rests with the candidate.

18. The third criteria, quite apart from the M.B.B.S. Degree was that a candidate should have registered his/her name in the Tamil Nadu Medical Council on or before the last



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date of the Notification, which was 15.05.2024, subsequently extended to 15.07.2024. The writ petitioners herein admittedly had not registered themselves on or before the last date of the Notification i.e. 15.07.2024. They had registered themselves after 15.07.2024. They had given reasons as to why they could not possibly get themselves registered before 15.07.2024. The reasons have been stated even earlier and broadly, they have complained that there was a rush in the Tamil Nadu Medical Council portal when they had opened it up and therefore, they were given slots only subsequent to 15.07.2024 and therefore, it was not possible for them to get themselves registered on or before 15.07.2024.

19. In this connection, a reference can be straight away made to a judgment, which has not been cited across the Bar, but since it had been delivered by the Hon'ble Supreme Court, it is binding on this Court and is binding on everybody who approaches this Court. The judgment was reported in **(2013) 11 SCC 58, Rakesh Kumar Sharma Vs. State (NLT of Delhi) and Others**, taken up along with **Santhosh Kumar Meena and Othes. Vs. State (NCT of Delhi) and Others**. The Hon'ble Supreme Court had examined the recruitment process and particularly the eligibility criteria and conditions which had been stipulated and also examined the relevant date which had been determined in the Notification issued for the recruitment, in this case, for the selection or recruitment for



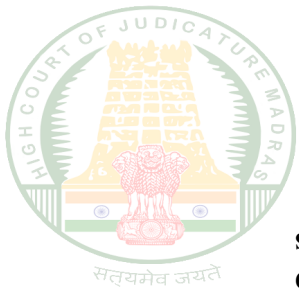
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the post of Assistant Surgeon (General). It had also been held very categorically that the eligibility conditions should be examined as on the last date for receipt of applications. It had also been further held that those candidates who had fulfilled the requisite qualification on the last date of receipt of the applications alone had a right to be considered for appointment. In converse, it could also be inferred that the Hon'ble Supreme Court had placed a bar for considering candidates who had fulfilled the requisite qualification after the last date of receipt of applications. The Hon'ble Supreme Court further stated that the result of the examination does not relate back to the date of examination. It had been stated that when the Delhi High Court had found that the appellants in that case had not possessed the requisite eligibility on the prescribed date after Notification, the finding of the Delhi High Court that the appellants were ineligible for appointment, could not be called for interference by the Hon'ble Supreme Court. The reasons of the Hon'ble Supreme Court were as follows:-

11. There can be no dispute to the settled legal proposition that the selection process commences on the date when applications are invited. Any person eligible on the last date of submission of the application has a right to be considered against the said vacancy provided he fulfils the requisite qualification.

12. In U.P. Public Service Commission, U.P., Allahabad & Anr. v. Alpna, (1994) 2 SCC 723, this Court, after considering a large number of its earlier judgments, held that eligibility conditions should be examined as on last date for receipt of applications by the Commission. That too was a case where the result of a candidate was declared subsequent to the last date of



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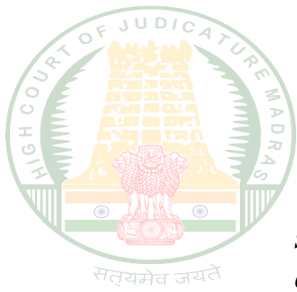
submission of the applications. This Court held that as the result does not relate back to the date of examination and eligibility of the candidate is to be considered on the last date of submission of applications, therefore, a candidate, whose result has not been declared upto the last date of submission of applications, would not be eligible.

13. A three Judge Bench of this Court, in *Dr. M.V. Nair v. Union of India & Ors.*, (1993) 2 SCC 429, held as under:- "It is well settled that suitability and eligibility have to be considered with reference to the last date for receiving the applications, unless, of course, the notification calling for applications itself specifies such a date." (Emphasis added)

14. In *Harpal Kaur Chahal v. Director, Punjab Instructions, Punjab & Anr.*, 1995 (Suppl) 4 SCC 706, this Court held: "It is to be seen that when the recruitment is sought to be made, the last date has been fixed for receipt of the applications, such of those candidates, who possessed of all the qualifications as on that date, alone are eligible to apply for and to be considered for recruitment according to Rules." (Emphasis added)

15. This Court in *Rekha Chaturvedi v. University of Rajasthan*, 1993 Supp (3) SCC 168 held:

"10. The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are qualified for the posts in question or not, if they are yet to acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain



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some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/ notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. Reference in this connection may also be made to two recent decisions of this Court in A.P. Public Service Commission v. B. Sarat Chandra(1990) 2 SCC 669; and District Collector and Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi (1990) 3 SCC 655." (Emphasis added)

16. In **Ashok Kumar Sharma v. Chander Shekhar**, 1993 Supp (2) SCC 611 [hereinafter referred to as **Ashok Kumar (1993)**], the majority view was as under:

"15. The fact is that the appellants did pass the examination and were fully qualified for being selected prior to the date of interview. By allowing the appellants to sit for the interview and by their selection on the basis of their comparative merits, the recruiting authority was able to get the best talents available. It was certainly in the public interest that the interview was made as broad based as was possible on the basis of qualification. The reasoning of the learned Single Judge was thus based on sound principle with reference to comparatively superior merits. It was in the public interest that better candidates who were fully qualified on the dates of selection were not rejected, notwithstanding that the results of the examination in which they had appeared had been delayed for no fault of theirs. The appellants were fully qualified on the dates of the interview and taking into account the generally followed principle of Rule 37 in the State of Jammu & Kashmir, we are of opinion that the technical view adopted by the learned Judges of the Division Bench was incorrect". (Emphasis added)

However, the opinion of Justice R.M. Sahai had been that these 33 persons could not have been allowed to appear for the interview as they did not possess the requisite eligibility/qualification on the last date of submission of applications.

17. A three-Judge Bench of this Court in **Ashok Kumar Sharma v. Chander Shekhar** (1997) 4 SCC 18 reconsidered and explained the judgment of **Ashok Kumar Sharma (1993)** (supra) observing:

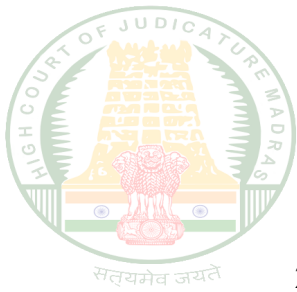


"6. The proposition that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is a well-established one. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it. One reason behind this proposition is that if it were known that persons who obtained the qualifications after the prescribed date but before the date of interview would be allowed to appear for the interview, other similarly placed persons could also have applied. Just because some of the persons had applied notwithstanding that they had not acquired the prescribed qualifications by the prescribed date, they could not have been treated on a preferential basis. Their applications ought to have been rejected at the inception itself. This proposition is indisputable and in fact was not doubted or disputed in the majority judgment." (Emphasis added)

The Court further explained that the majority view in Ashok Kumar Sharma (1993)(supra) was not correct, rather the dissenting view by Justice R.M. Sahai was correct as the Court held as under:

"6. The reasoning in the majority opinion that by allowing the 33 respondents to appear for the interview, the recruiting authority was able to get the best talent available and that such course was in furtherance of public interest is, with respect, an impermissible justification. It is, in our considered opinion, a clear error of law and an error apparent on the face of the record. In our opinion, R.M. Sahai, J. (and the Division Bench of the High Court) was right in holding that the 33 respondents could not have been allowed to appear for the interview." (Emphasis added).

18. It may also be pertinent to mention here that in the aforesaid case reference to Rekha Chaturvedi (supra) appears to have been made by a typographical error as the said judgment is by a two-Judge Bench of this Court. In fact the court wanted to make a reference to the case of Ashok Kumar Sharma (1993) (supra).



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19. In **Bhupinderpal Singh v. State of Punjab**, AIR 2000 SC 2011, this Court placing reliance on various earlier judgments of this Court held:

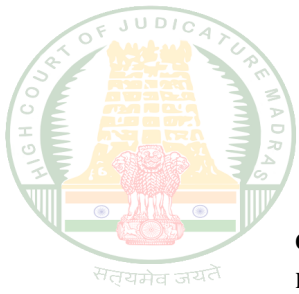
"13....The High Court has held (i) that the cut-off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules and if there be no cut-off date appointed by the rules then such date as may be appointed for the purpose in the advertisement calling for applications; (ii) that if there be no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications have to be received by the competent authority. The view taken by the High Court is supported by several decisions of this Court and is therefore well settled and hence cannot be found fault with." (Emphasis added)

20. This Court lately in **State of Gujarat v. Arvindkumar T. Tiwari**, AIR 2012 SC 3281 held:

*"14. A person who does not possess the requisite qualification cannot even apply for recruitment for the reason that his appointment would be contrary to the statutory rules, and would therefore, be void in law. Lacking eligibility for the post cannot be cured at any stage and appointing such a person would amount to serious illegality and not mere irregularity. Such a person cannot approach the court for any relief for the reason that he does not have a right which can be enforced through court. (See **Prit Singh v. S.K. Mangal** 1993 Supp (1) SCC 714 and **Pramod Kumar v. U.P. Secondary Education Services Commission** (2008) 7 SCC 153.)" (Emphasis added)*

A similar view has been re-iterated by this Court in **Pramod Kumar v. U.P. Secondary Education Services Commission**, (2008) 7 SCC 153; and **State of Orissa v. Mamta Mohanty** (2011) 3 SCC 436.

21. In the instant case, the appellant did not possess the requisite qualification on the last date of submission of the application though he applied representing that he possessed the same. The letter of offer of appointment was issued to him which was provisional and conditional subject to the verification of educational qualification, i.e., eligibility, character verification etc. Clause 11 of the letter of offer of appointment dated 23.2.2009 made it clear that in case character is not certified or he did not possess the qualification, the services will be terminated. The legal proposition that emerges from the settled position of law as



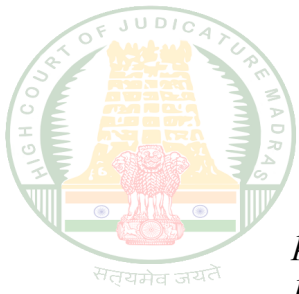
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enumerated above is that the result of the examination does not relate back to the date of examination. A person would possess qualification only on the date of declaration of the result. Thus, in view of the above, no exception can be taken to the judgment of the High Court."

20. In that particular case, the advertisement issued by the Delhi Subordinate Services Selection Board for the post of Trained Graduate Teachers was called in question. In that particular Notification, the last date for submission of the application in entirety including all the requisite certificates, was determined as 29.10.2007. The appellant therein, had appeared for the B.Ed examination prior to the submission of the application, but, the result was subsequently declared only on 28.01.2008, which was after the last date of submission of the application i.e. 29.10.2007. He however, participated in the selection process and was also issued with an appointment letter on 19.06.2009. The appointment was temporary and on provisional basis for two years. He also joined the service on 26.06.2009. Thereafter, the Deputy Director of Education, New Delhi, had re-visited the selection process and had issued a show cause notice to the appellant therein as to why his selection should not be interfered with, as his B.Ed degree was obtained only on 28.01.2008 i.e. much after the cut-off date of 29.10.2007.

21. In paragraph No.9, the Hon'ble Supreme Court has reduced the dates and had noted that the facts are not dispute. While examining the stand of the appellant therein that the application form has been processed, that thereafter he had actually obtained the requisite qualification namely, B.Ed degree, which was the basic degree to be obtained for consideration for selection for Trained Graduate Teacher and that he had actually been issued with an appointment order and that he had also joined the service and therefore, issuance of the show cause notice after such process had been completed was extremely prejudicial, the Hon'ble Supreme Court as aforementioned, had very categorically stated that there cannot be any dispute over the legal proposition that the selection



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process commences on the date when the applications are invited and every individual or candidate eligible on the last date of submission of the application alone has a right to be considered against the vacancies, provided he fulfils the requisite qualifications. In this connection, as extracted above, the Hon'ble Supreme Court had examined what they termed as a settled legal provision and had placed reliance on the judgments as stated in paragraph Nos. 12, 13, 14, 16, 17, 19 and 20. Thus, a catena of judgments as pointed above, have been referred to by the Hon'ble Supreme Court for holding that unless a candidate is qualified on the last date of submission of application, he or she cannot claim a right to be considered for selection. Thereafter, in paragraph No.21 which had been extracted above, the Hon'ble Supreme Court had further reiterated that the legal proposition which emerged from the settled position of law was that the result of the examination does not relate back to the date of examination but rather to the last date of submission of the application form.

22. The learned counsel for the petitioners had however called upon the Court to exercise what could be termed as sympathy to understand their position that they had obtained their certificate only on 11.07.2024 and had immediately attempted to apply for registration with the Tamil Nadu Medical Council, but could not do so on or before 15.07.2024. It had been contented that this was an issue beyond their control and therefore, this Court should exercise some benevolence to the petitioners herein and also hold that they should be selected for the post of Assistant Surgeon (General).

*23. However, the learned Additional Advocate General in this context, had referred to a judgment of the Hon'ble Supreme Court reported in (2018) 2 SCC 357, **Ran Vijay Singh and Others Vs. State of Uttar Pradesh**, wherein the Hon'ble Supreme Court had examined the scope of judicial review with respect to a recruitment process. Though that particular judgment was with respect to examination of correctness of an answer key as projected by the respondents therein, the Hon'ble Supreme Court had also touched upon the*



arguments advanced in the instant case for extension of benevolence by this Court in favour of the petitioners herein. The reasoning of the Hon'ble Supreme Court was as follows:-

31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination – whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in



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confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.

24. The Hon'ble Supreme Court in the extracted portion referred supra, had very categorically stated that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet while examining the plight of a candidate. It had also been stated that despite several decisions of the Hon'ble Supreme Court, there was interference by the Court which would obliquely imply that the High Court suspected the results of the examination. It had also been stated that this places the examination authorities in an unenviable position where they are under scrutiny and not the candidates, who alone should be under scrutiny. It had also been stated that this unsatisfactory situation of exercising right of judicial review, would not work to anybody's advantage and would only lead to a state of uncertainty and confusion which is worse, when compounded. It had also been stated that over all, the larger impact of all this exercise is that public interest suffers.

25. In the instant case, this Court had taken up for discussion the stand taken by three candidates, but, as pointed out, the total number of vacancies even in the Notification was 2553, which had been subsequently increased and the total number of candidates, who had applied was well above 20,000 and this Court can never a



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cherry pick three candidates and direct that others should be examined on a different platform and that these three petitioners should be given a higher pedestal and should be viewed accordingly.

*26. There is yet another judgment of the Hon'ble Supreme Court, which is a Constitution Bench judgment and I must also state that it was also not cited in the Bar. It is the judgment of the Constitution Bench in **Civil Appeal No.2634 of 2013, Tey Prakash Pathak and Others Vs. Rajasthan High Court and Others**. Five Judges of the Hon'ble Supreme Court had examined the correctness of the ratio held by a three Judges Bench in **K.Manjusree Vs. State of Kerala**. The Constitution Bench had an occasion to examine what they termed as "Rules of the Game". They had very specifically stated that when once the recruitment process had commenced, there cannot be any tinkering with the Rules of the Game, so far as the prescription of the eligibility criteria is concerned. Though this particular judgment was rendered on the facts that there was a change in the Notification criteria during the recruitment process but, the principle examined that there cannot be any visitation of a Notification once issued, had been upheld and reiterated by the Constitution Bench. The findings of the Constitution Bench had been summarised in paragraph No.42 which was as follows:-*



42. We, therefore, answer the reference in the following terms:

(1) Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

(2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of [Article 14](#) of the Constitution and satisfy the test of non-arbitrariness;

(3) The decision in [K. Manjusree](#) (supra) lays down good law and is not in conflict with the decision in [Subash Chander Marwaha](#) (supra). [Subash Chander Marwaha](#) (supra) deals with the right to be appointed from the Select List whereas [K. Manjusree](#) (supra) deals with the right to be placed in the Select List. The two cases therefore deal with altogether different issues;

(4) Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/ non- arbitrary and has a rational nexus to the object sought to be achieved.

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;

(6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies.

27. This judgment of the Constitution Bench has been rendered very recently on 07.11.2024 just about three to four months back and the principles laid down therein are binding



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not only on this Court, but also on the writ petitioners and also on the respondents.

28. A careful perusal of the aforementioned principles would show that the Hon'ble Supreme Court had stated that the recruitment process commences from the date of issuance of the advertisement calling for applications and ends up with the filling of the vacancies. It had also been stated that the eligibility criteria for being placed in the Select List as notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process, unless the Rules so permit.

29. In the instant case, the Notification was straightforward. The Notification was clear. There cannot be any other interpretation of the wordings in the Notification, which stipulated that the last date for registration with the Tamil Nadu Medical Council was 15.07.2024. There was no provision provided in the Notification that for individual candidates, on a pick and choose method, this particular process could be extended according to the whims and fancies of either the respondents or to put it also quite widely by this Court. The date has been prescribed and the date cannot be changed midway through the recruitment process. The result which would only flow from opening up the gates



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further would be catastrophic. There would not only be just these three petitioners but hundreds and hundreds of other candidates, who would have also similarly registered themselves with the Tamil Nadu Medical Council after 15.07.2024 and who would have written the examination and who would now seek a right to be considered for selection. This would throw the Notification into the dustbin and this Court cannot permit it to do so. The Hon'ble Supreme Court has held that the Notification as issued is sacrosanct and any selection process should be done only in accordance with the guidelines given in the said Notification. The Notification cannot be tampered with and cannot be altered and cannot be modified and the date given therein cannot be extended either by the Court or by the respondents, unless the Rules permit.

30. In the instant case, the initial date was 15.05.2024 and thereafter, the respondent had uniformly extended the date to 15.07.2024. It is also to be noted that so far as these writ petitioners are concerned, they had applied for the post of Assistant Surgeon (General) only on the basis of the said Notification. They had subjected themselves to be qualified as required under the terms of the Notification. They had projected that they would be eligible to be selected and they would abide by the terms and conditions in the Notification.



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After the process commenced and after it had nearly concluded, now they cannot claim that the date in the Notification should be changed and they must be permitted and must also be considered to be recruited for the said post. This would only lead to extreme arbitrariness. One of the petitioners was able to get the certificate registered on 22.07.2024, another one was able to get it registered on 16.07.2024. The moot question which this Court will have to put to itself is to the date to which the Court should extend the cut-off date. Should it be extended to 22.07.2024 to accommodate one of the writ petitioners or should it be extended to 16.07.2024 to accommodate one writ petitioner and exclude the other writ petitioners. This would only lead to extreme prejudice caused by the judicial process and that is impermissible. The respondents had determined the cut-off date on 15.07.2024 and the petitioners had taken a conscious decision to apply for the post with the intention that they would be comply with the requisite qualification on or before 15.07.2024. If they had failed to do so, then they cannot call upon this Court to extend the date to any other arbitrary date. This Court is not the Selection Board. This Court cannot take on the role of a supervisor over and above the Recruitment Board and issue directions extending the cut-off date. That would only lead to extreme arbitrariness and open up the flood gates for hundreds and hundreds of other candidates. It would also prejudice the right of those



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candidates, who had diligently obtained the certificate on or before 15.07.2024. As a matter of fact, it is also seen that there were also candidates, who had obtained the certificate only on 11.07.2024 and had applied online and had obtained the slots had physically gone over to the Tamil Nadu Medical Council and were able to get their certificates verified and received the certificates on or before 15.07.2024 and found themselves eligible. If the petitioners had any interest, they could have adopted the same procedure.

31. It is poor argument to state that merely because a candidate had applied online, he would sit in front of the computer at home 24 hours a day and not move a little finger to ensure that the registration is done within the stipulated time. If the petitioners had been diligent enough like others were, they could have gone over physically to the office of the Tamil Nadu Medical Council and could have sought verification of their certificates then and there and could have found themselves eligible for being selected.

32. A list has been given on behalf of the learned Standing Counsel for the Tamil Nadu Medical Council and this list runs to pages and pages. In the Status Report, it had also been stated that the officials of the Tamil Nadu Medical Council had worked over time even on holidays to ensure that all the pending applications which were applied through online were cleared and slots were given. This Court, cannot



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at this stage when the selection process had been completed, set the clock back.

33. One more argument which had been advanced was that after the selection list had been issued on 20.02.2024, it had been put up by the respondents that those who had any grievances should raise their grievance within a 10 day slot. The learned counsels raised an issue that the counselling however, commenced immediately on 22.02.2025 and that the respondents themselves had given a 10 days window to examine grievances raised.

34. But however, the learned Additional Advocate General countered this point and stated that those who could reasonably object were those who had been rejected in the qualifying examination. The petitioners' marks have been declared and therefore, they cannot raise a grievance as against the list put up. Their only grievance is that the date 15.07.2024 should be extended by one day in one case, by seven days in another case, for all we know by 30 days in yet another case to accommodate candidates only because they were not able to get themselves registered with the Tamil Nadu Medical Council within the stipulated time. But this claim has to be balanced with the fact that there were numerous candidates, whose details have been given to this Court and which is part of the Court records who had physically gone over, as stated earlier, to the office of the



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Tamil Nadu Medical Council and ensured that their certificates were verified and registration as qualified Medical Professionals were issued. They stood eligible to be considered. It is a different issue whether they were recruited or not, but, they took upon themselves the responsibility of going over physically to the office, which only shows that they had intention while applying for the post.

35. In view of the reasons stated, I am afraid this Court is not in a position to exercise discretion on the grounds raised by the writ petitioners. The writ petitioners will have to fail and accordingly, they are dismissed.

5. The reasons stated therein would directly apply to this case also.

6. In the result, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

21.03.2025

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Index : Yes /No
Internet : Yes/No
Speaking Order : Yes / No



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1. The Additional Chief Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. The Member Secretary,
Medical Services Recruitment Board,
DMS Building, 359, Anna Salai,
Teynampet, Chennai – 600 006.
3. The Director,
Public Health and Preventive Medicine,
DMS Building, 359, Anna Salai,
Teynampet, Chennai – 600 006.



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C.V.KARTHIKEYAN, J.

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W.P.No.8236 of 2025
And
W.M.P.Nos.9239 & 9241 of 2025

21.03.2025