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W.P.Nos.11995, 12506 & 12629 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.01.2025

PRONOUNCED ON : 21.02.2025

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.Nos.11995, 12506 & 12629 of 2018

and

W.M.P.Nos.13974, 14650 & 14754 of 2018

In W.P.No.11995 of 2018:-

Sri Venkateswara Medical College
Hospital and Research Centre
Rep. By its Chairman,
B.Ramachandhiran,
No.13-A, Pondy Villupuram Main Road,
Ariyru, Puducherry-605 102.

... Petitioner

Vs.

1. Medical Council of India
rep. By its Assistant Secretary,
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi-110 077.
2. The Union Territory Puducherry
rep. by its Under Secretary
to Government,
Health & Family Welfare Services
Department,
Puducherry-605 001.



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3.The Director,
Health & Family Welfare Services (DHFWS),
Victor Samuel Street,
Puducherry-605 001.

4.The Convener,
Centralized Admission Committee (CENTAC),
PEC Campus, ECR Road,
Pillaichavadi,
Puducherry-605 104.

5.The Pondicherry University
rep. by its Registrar,
Administrative Building,
R.V. Nagar, Kalapet,
Puducherry-605 014.

... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the files of the first respondent in impugned proceedings in No.MCI-34 (MC-UG)/2017-18/155462 dated 21.11.2017 and quash the same as invalid, illegal and unconstitutional.

For Petitioner : Mr.T.V.Lakshmanan

For Respondent-1: Ms.Shubaranjani Ananth
MCI

For Respondent : Dr.B.Ramasamy, AGP (P)
Nos.2 & 3

For Respondent-4: Mr.Mahashnath

For Respondent-5:Mr.K.Hari Shankar
for Ms.A.V.Bharathi



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In W.P.No.12629 of 2018:-

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Sri Manakula Vinayagar Medical
College and Hospital,
Rep. by its Dean,
Dr.Kagne R.N.
Kaltheerthalkuppam,
Madagadipet,
Puducherry-605 107.

... Petitioner

Vs.

- 1.The Union of India
Rep. by its Secretary to Government,
Department of Health and Family Welfare
Services,
New Delhi- 110 011.
- 2.Medical Council of India
rep. by its Secretary,
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi-110 077.
- 3.The Secretary to Government (Health),
Chief Secretariat (Health),
Government of Puducherry,
Puducherry-605 001.
- 4.The Under Secretary to Government (Health).
Chief Secretariat (Health),
Government of Puducherry,
Puducherry-605 001.
- 5.The Director,
Directorate of Health &
Family Welfare Services (DHFWS),
Victor Samuel Street,
Puducherry-605 001.



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6.The Convener,
Centralized Admission Committee (CENTAC),
PEC Campus, ECR Road,
Pillaichavadi,
Puducherry-605 104.

7.The Registrar,
Pondicherry University
Kalapet,
Puducherry-605 014.

... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining the impugned order passed by the second respondent vide No.MCI-34(MC-UG)/2017-18/155447 dated 21.11.2017 and the consequential orders passed by the fourth respondent vide No.2592/Health/115/2017-18/343, dated 06.12.2017; impugned order by the seventh respondent vide No.PU/AW-2/7/2017-18/363 dated 18.01.2018 and Ref. No.PU/Aca-7/Recog/SMVMC&H/2017-18/183 and quash the same and consequently direct the respondents 1 to 7 to approve/recognize the admission of those 41 students, who were discharged by the impugned order of the second respondent dated 21.11.2017, admitted in the first year MBBS Course under the Management Quota for the academic year 2017-18 in the petitioner institution, enabling to peruse their course and appear for the exams in future.



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For Petitioner : Mr.B.Balavijayan

For Respondent : Ms.Shubaranjani Ananth
No.1

For Respondent : Dr.B.Ramasamy, AGP (P)

Nos.2 to 5

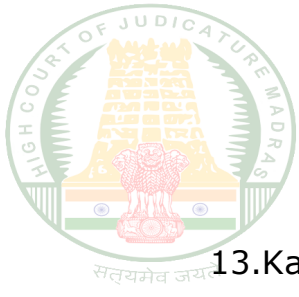
For Respondent-6: Mr.Mahashnath

For Respondent-7:Ms.A.V.Bharathi (P)

In W.P.No.12506 of 2018:-

- 1.Abarna Sree S.B.
- 2.Akshay P
- 3.Amirthasivani B
- 4.Amirthesh Roshan Ross R
- 5.Devaraj R
- 6.Gaythri Kanna R
- 7.Gnana Kirushna S
- 8.Gokul M
- 9.Hariprashanth A
- 10.Harshwanth V
- 11.Indira Gandhi G
- 12.Jannani R

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13.Kaarthik Roshan C.K.

14.Karthick Kumaravel S

15.Karthikeyan S

16.Kaviya S

17.Keerthivasan S

18.Kishore Kumar R.S.

19.Lakshaya T

20.Lavanya N

21.Malavika Mohan

22.Manju Akalya D

23.Manjulakshmi R

24.Nadar Enstein Christopher

25.Nivethiga A

26.Prabu Ponraj P

27.Preethi S

28.Raghul C

29.Snehashree T.S.

30.Srinidhi Chandra R

31.Srinithi R

32.Supriya M



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33.Suriya M

34.Swarna Padma K

35.Umanath R

36.Vadhunisha B.S.

37.Vasanth S

38.Vengatesan B

... Petitioners

Vs.

1.Medical Council of India
rep. by its Secretary,
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi-110 077.

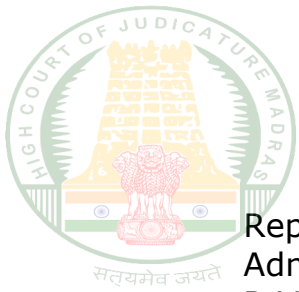
2.The Union Territory Puducherry,
Rep. by its Under Secretary to Government,
Health and Family Welfare
Services Department,
Beach Road, White Town,
Puducherry-605 001.

3.The Director,
Directorate of Health &
Family Welfare Services (DHFWS),
Victor Samuel Street,
Puducherry-605 001.

4.The Convener,
Centralized Admission Committee (CENTAC),
PEC Campus, ECR Road,
Pillaichavadi,
Puducherry-605 104.

5.The Pondicherry University.

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Rep. by its Registrar,
Administrative Building,
R.V. Nagar, Kalapet,
Puducherry-605 014.

6.Sri Venkateswara Medical College
Hospital and Research Centre
Rep. By its Chairman,
No.13-A, Pondy Villupuram Main Road,
Ariyru, Puducherry-605 102.

... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the first respondent in impugned proceedings in No.MCI-34(MC-UG)/2017-18/155462 dated 21.11.2017 and quash the same as invalid, illegal and unconstitutional.

For Petitioners : Mr.K.Raja

For Respondent-1: Ms.Shubaranjani Ananth
MCI

For Respondent : Dr.B.Ramasamy, AGP (P)

Nos.2 & 3

For Respondent-4: Mr.Mahashnath

For Respondent-5:Ms.A.V.Bharathi



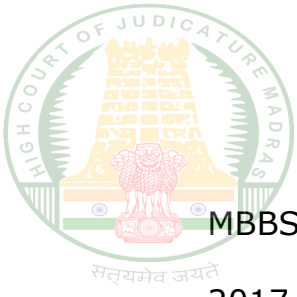
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COMMON ORDER

Assailing the impugned proceedings of the first respondent/MCI in No.MCI-34(MC-UG)/2017-18/155462 dated 21.11.2017, the petitioner/Sri Venkateswara Medical College Hospital & Research Centre, Puducherry has come forward with the present Writ Petition in W.P.No.11995 of 2018.

2. Challenging the impugned order passed by the second respondent/MCI vide No.MCI-34(MC-UG)/2017-18/155447 dated 21.11.2017 and the consequential orders passed by the fourth respondent/Government of Puducherry vide No.2592/Health/115/2017-18/343, dated 06.12.2017; impugned order by the seventh respondent/Pondicherry University vide No.PU/AW-2/7/2017-18/363 dated 18.01.2018 and Ref. No.PU/Aca-7/Recog/SMVMC&H/2017-18/183 and consequently to direct the respondents 1 to 7 herein to approve/recognize the admission of those 41 students, who were discharged by the impugned order of the second respondent/MCI dated 21.11.2017, admitted in the first year



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MBBS Course under the Management Quota for the academic year 2017-18 in the petitioner's institution, enabling to pursue their course and appear for the exams in future, the petition in W.P.No.12629 of 2018 has been preferred by the petitioner/institution/Shri Manakula Vinayagar Medical College and Hospital, Puducherry.

3. The impugned proceedings of the first respondent/MCI in No.MCI-34(MC-UG)/2017-18/155462 dated 21.11.2017, is put under challenge, in W.P.No.12506 of 2018 filed by the petitioners herein/students of the sixth respondent college/Sri Venkateswara Medical College Hospital & Research Centre, Puducherry.

4. Heard the learned counsels for the respective parties in all the Writ Petitions.

5. Since the issue involved in these Writ Petitions are one and the same, the Writ Petitions are taken up and heard together and disposed of, by way of a common order.

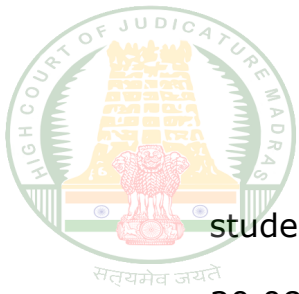


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6. Facts of the Case:-

6.1.a) The short facts which leads to the filing of the present petition as averred in the affidavit of the petitioner in **W.P.No.11995 of 2018**, is as follows:-

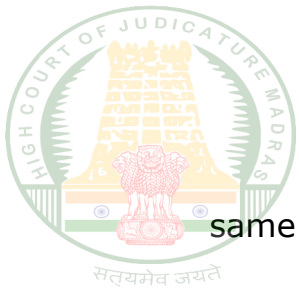
The petitioner is a linguistic minority educational institution and the present case pertains to admissions of students for MBBS for the academic year 2017-18. The fourth respondent/CENTAC conducted pre-counselling, where in the first counselling held on 18.08.2017 no candidates were allotted and in the second counselling held on 19.08.2017, 3 candidates were allotted however only one candidate joined the petitioner college. In the mop up counselling conducted on 28.08.2017, 92 candidates were allotted, out of which only 54 candidates joined the petitioner college in which 54, 2 were NRI candidates. On 24.08.2017, the petitioner requested the first respondent/MCI to permit them to fill up the vacant seats after mop-up counselling from the NEET qualified candidates. Due to which, the fourth respondent/CENTAC sent a list of students in the ratio 1:10. In this backdrop, the petitioner did not have any response from the



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students in the aforesaid ratio and hence, addressed a letter dated 30.08.2017 to the third respondent to permit them to call candidates from All India Basis, who secured NEET marks in the range of 355 to 107 to fill up the vacancies. Based on the order of the Hon'ble Supreme Court in SLP No.30336/2016 dated 28.08.2017, the petitioner also made a representation on 31.08.2017 as no candidates reported them for admission to the third respondent to fill up from the NEET qualified candidates listed in the fourth respondent/CENTAC web-site and in this respect, he also filed a petition in W.P.No.23810 of 2017 which has been closed on the ground that the list had already been released by the second respondent/Government of Puducherry. In view of it, the petitioner on 31.08.2017 admitted 38 candidates from the list of NEET 2017 qualified merit candidates, who applied through the fourth respondent/CENTAC under Management quota downloaded from the fourth respondent web-site.

6.1.b) The petitioner stated that the common counselling 2017-18 in Puducherry was not conducted as per the prescribed time schedule of the Hon'ble Supreme Court, as well as the first respondent, where the scheduled dates for the first counselling for Management seats were to be on 16.07.2017 and 24.07.2017 but the



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same was conducted only on 18.08.2017, wherein only 3 candidates came for 95 seats as the second respondent/Government of Puducherry restricted the selection to minority of Puducherry domicile. The second counselling was held on the next day itself i.e., on 19.08.2017. Due to which, only 5 seats were filled out of 95 seats. It is to be noted that neither the schedule nor the procedure for minority admission was followed which is in violation to the order of the Hon'ble Apex Court in the case of ***Dar-Us-Salam Educational Trust Vs. Medical Council of India***. In total, the mop up counselling was also not conducted in a proper manner. While that being so, the first respondent/MCI passed the impugned letter in No.MCI-34(MC-UG)/2017-18/155462 dated 21.11.2017, directing the petitioner to discharge 94 students and cancel their admissions. The second respondent/Government of Puducherry through his communication dated 06.12.2017, directed to discharge only 38 students and not 56 students from 94 admitted students. The petitioner sent a letter dated 02.12.2017 by placing all the facts to the first respondent/MCI but the same was not considered. In continuation of the same, the fifth respondent/Pondicherry University by letter in No.PU/AW-2/41/2017-18/364 dated 18.01.2018, directed the petitioner to discharge 38 students and sought for explanation on or before 31.01.2018.



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6.2. The factual matrix of the petitioner's case in

W.P.No.12629 of 2018 is as follows:

6.2.a) The subject matter in issue pertains to the admissions of MBBS students for the academic year 2017-18 which was completely done as per the procedure based on the common counselling conducted by the sixth respondent herein/CENTAC. He further submitted that the rank list was prepared by the CENTAC on NEET qualification. He added that after two rounds of counselling, mop up counselling was also conducted and the students were admitted on payment of prescribed fee. Even after mop up counselling, seats were available and in order to fill up those vacant seats, the petitioner requested the CENTAC to send the larger NEET list as per the directions of the Hon'ble Supreme Court, wherein it has held that the Directorate General of Health Services (DGHS), is at liberty to give the larger NEET list if 1:10 ratio merit list is exhausted. He also submitted that 41 students were admitted in their institution from the MBBS/BDS Courses Merit (2017-18) All India Quota (including Puducherry U.T.) furnished by the CENTAC and the same was uploaded in the portal of the MCI on 31.08.2017. In the meanwhile,



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the second respondent/MCI passed the impugned order on 21.11.2017, for which a detailed explanation was given and the petitioner requested to drop the discharge order of 41 students. In effect of the order of the second respondent dated 21.11.2017, on 18.01.2018, the seventh respondent herein/Pondicherry University had passed the impugned order to comply with the orders of the respondents 2 and 5/MCI & DHFWS and also passed the proceeding of rejection for recognition of admissions of the said 41 students.

6.2.b) It is stated that all the identified 41 students in the order impugned by the second respondent/MCI are NEET qualified and none was admitted beyond the last cut off date, as well as they had all applied with CENTAC and thus, the order passed by the second respondent is an absolute flaw, as he had passed the order stating that the names of the students identified by them, were not available in the DME's list.

6.3. The short facts which led to the filing of the petition by the petitioners herein in **W.P.No.12506 of 2018** are as follows:-

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6.3.a) The petitioners herein are the students admitted in MBBS Course for the academic year 2017-18 in the sixth respondent college herein/Sri Venkateswara Medical College Hospital and Research Centre, Puducherry. They were NEET 2017 qualified merit students and their names are found in the main merit list, as well as the additional merit list released by the fourth respondent/CENTAC. They were admitted by the sixth respondent college on 31.08.2017 from the list of NEET 2017 qualified merit candidates, who had applied with the fourth respondent/CENTAC under Management quota and that their names were downloaded from the fourth respondent web site. To their shock, the MCI passed the impugned order dated 21.11.2017, discharging the petitioners from pursuing the course.

7. Aggrieved over the impugned orders of the respondents/Medical Council of India, New Delhi; The Director of Health and Family Welfare Services, Puducherry and Centralized Admission Committee/CENTAC respectively, the present Writ Petitions have been preferred by the petitioner(s).

8. Contentions put forth by the learned counsel for the



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petitioner(s):-

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In W.P.No.11995 of 2018:-

8.1.a) The learned counsel for the petitioner submitted that the impugned order dated 21.11.2017 has been passed without application of mind and verification of facts and also that neither notice was served nor opportunity was given to the petitioner to explain their case. The first respondent/MCI in a blind fold manner passed the order to discharge 94 students, whereas the fourth respondent/CENTAC has stated that only 38 of the admitted students were not in their list as the 56 candidates were admitted under Government quota and the Puducherry Government has directed to remove their names from the discharge list. He further submitted that the first respondent/MCI had only compared the list of CENTAC with that of the list of admission list of the petitioner without enquiring the procedure adopted by CENTAC.

8.1.b) At this juncture, the learned counsel pointed out that the petitioner institution is a linguistic minority institution and seat sharing rule does not apply to it. He relied upon the order of the Hon'ble Supreme Court in ***Dar-Us-Salam Educational Trust Vs. Medical***



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Council of India in W.P. (Civil) No.267 of 2017, stating that

neither the schedule nor the procedure for minority admission was followed which is in violation of the said order. He also drew the attention of this Court that the ratio 1:10 list was sent where it contains the students from the top instead of the pattern of successive counselling i.e., from lowest rank in the last counselling which resulted in none joined the institution as they had already joined other colleges. Be that may, the petitioner filed a petition in W.P.No.23810 of 2017 which was closed on 07.02.2018 by recording the submission of the fourth respondent/CENTAC that the list had already been released. He made it clear that the admission was done only on 31.08.2017 and the said 38 candidates were admitted on NEET qualification from All India NEET list. Hence, he pleaded this Court to consider all the above aspects and to allow the Writ Petition.

In W.P.No.12629 of 2018:

8.2.a) The learned counsel for the petitioner highlighted that the admissions of 41 students, whose names have been identified by the second respondent/MCI in its impugned order to discharge are admitted from the list furnished by the CENTAC merit list, which were



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vacant as on 29.08.2017. He further contended that the institution have not admitted any student on its own. He also submitted that the impugned orders have been passed without affording any opportunity or seeking an explanation from the petitioner in regard to the said 41 students' admissions, which is in violation to the principles of natural justice.

8.2.b) Moreover, he submitted that it is pertinent to note that in all the three self financing colleges of Puducherry, the same actions have been taken and they all filed the Writ Petitions. But however, one of the college has given an undertaking to surrender their discharged 26 students' seats to the Government quota and to pay the fine, as they have admitted the students mentioned by the MCI out of the provisions and hence, their Writ Petition has been disposed of, whereas the petitioner's case lies on a different footing and would not bound by the said order as they have adopted the procedures properly in admitting the 41 students identified in the impugned order of the second respondent/MCI are admitted through the merit list obtained from the CENTAC by adhering to the guidelines.

8.2.c) The learned counsel also drew the attention of this Court to the interim order of the Hon'ble Supreme Court passed in the case



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of **Akshita Singh V. Union of India and Others dated**

28.08.2017, wherein it has observed that if vacancy persist even after exhausting 1:10 ratio, then liberty is granted to get into the larger NEET list to admit the students. He submitted that since there was vacancy after 1:10 ratio merit list as on 31.08.2017, a proceeding was issued by the Government of Puducherry to the three Self Financing Colleges to fill those seats as per the merit list drawn and to complete the admission as per the guidelines. He argued that the counselling has been conducted by the CENTAC by duly complying Clause 5 of the Regulations and hence, the admissions of the 41 identified students of the second respondent/MCI in its impugned order, cannot be said to be illegal, as the admissions were done by adhering to the clause of the Regulations.

8.2.d) The contentions of the second respondent/MCI stating that the 41 students names were not found place in the merit list, is absolutely false which can be revealed on perusal of the records itself. He would submit that MCI without proper verification has passed the order of discharge, which is unsustainable in the eye of law.

8.2.e) At this point of time, the learned counsel felt it relevant to



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bring to the notice of this Court that the students whose admissions are in question, have completed their course as the impugned order has been stayed by this Court in the year 2018; they got their degrees and enrolled themselves with the Medical Council.

8.2.f) While summing up his contentions, the learned counsel submitted that, after following due procedure and regulations, the 41 students, whose admissions were identified as illegal by the second respondent/MCI in the order impugned, have been admitted in the petitioner's institution after exhaustion of 1:10 ratio merit list and their names were found place in the list furnished by the CENTAC. Hence, he prayed this Court to take into consideration of all these aspects and allow the Writ Petition.

In W.P.No.12506 of 2018:

8.3. The learned counsel for the petitioners/Students of Sri Venkateswara Medical College Hospital and Research Centre submitted that, neither opportunities nor any notices were issued to the petitioners herein, seeking an explanation by the first respondent/MCI before passing the impugned order. He vehemently submitted that the first respondent ought to have taken into account, the relevant



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regulations by verifying that the petitioners' names were mentioned by the fourth respondent/CENTAC are within the additional merit list, including the main merit list for All India Category of candidates ,who have applied to the fourth respondent/CENTAC. He contended that without application of mind and proper verification, the first respondent/MCI had passed the impugned order to discharge 94 admitted students, out of which, 56 students were of Government quota and the remaining 38 students were admitted after exhaustion of 1:10 ratio merit list on 31.08.2017. He further contented that without application of mind had passed the discharge order of removal of 94 students, where 56 candidates were sponsored by the fourth respondent/CENTAC, which was admitted by the respondents 2, 3 & 4/Government of Puducherry and they have been admitted by the sixth respondent college from All India merit list given by the fourth respondent/CENTAC. As such, their admissions are done adhering to the norms and regulations. Thus, he prayed this Court to allow the Writ Petition.

9. Contrary to the submissions made by the learned counsel for the petitioner(s), the learned counsel appearing on behalf of the



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respondents proposed the following points supporting their stand:

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Medical Council of India:-

9.1.a) The learned counsel submitted that the role of MCI is to ensure that the admissions in all the medical courses are made in accordance with the provisions of the Indian Medical Council Act, 1956 [hereinafter referred to as "IMC Act"] and the Regulations made thereunder, dealing with the eligibility criteria, as well as the procedure, for selection of students. She further submitted that the MCI is also to ensure that all admissions in the medical colleges are made by the competent admitting authorities, within the annual intake capacity sanctioned for each medical college by the MCI. Furthermore, the learned counsel submitted that they are adhering to the directions of the Hon'ble Supreme Court and as per the provisions of Graduate Medical Education Regulation, 1997, the admissions to graduate medicine course every year shall be done through NEET under the overall supervision of the Ministry of Health and Family Welfare, Government of India.

9.1.b) She contended that the petitions were not maintainable



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as there cannot be any fundamental right available to any institution to conduct counselling. She added that the State Government or the Authority Designated by the State Government shall conduct common counselling and forward a list of students for admissions to the respective colleges. She emphasized that legality and validity of common entrance test followed by a centralized counselling to be conducted by the State for admission to medicine courses is no more res integra.

9.1.c) In support of her contentions, the learned counsel drew the attention of this Court to the following decisions:

***a)Modern Dental and Research Centre
vs. State of M.P. 2016 (7) SCC 353***

***b)T.M.A. Pai Foundation Vs. State of
Karnataka 2002 (8) SCC 481***

***c)P.A. Inamdar & Others Vs. State of
Maharastra 2005 (6) SCC 537***

***d)State of Maharastra V. D.y.Patil
Vidyapeeth and others 2016 (9) SCC 401***

***e)State of Kerala Vs. T.P. Roshna 1979
SCC 580***



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f)MCI V. State of Karnataka 1998 (6)

SCC 131

g)Dr.Preeti Srivastava V. State of M.P.

h)Dr.Narayan Sharma & Another V. Dr.

Pankaj Lehtar & Others 2000 (1) SCC 44

***i)State of Punjab V. Dayanand Medical
College [2001 (8) SCC 664]***

***j)State of M.P. & Others V. Gopal D.
Tirthani & Others [2003 (7) SCC 83***

***h)Harish Verma & Others V. Ajay
Srivastava & Another [2003 (8) SCC 69***

9.1.d) She relied upon the decision of the Hon'ble Supreme Court in the case of *Modern Dental College and Research Centre* as stated supra, wherein the Court had relied upon the case of this Court in TMA Pai and the Hon'ble Apex Court in *P.A. Inamdar's case* as cited supra, wherein it has held that holding of a Common Entrance Test for admission to MBBS/BDS course in Government, as well as Private Medical and Dental Colleges followed by a centralized counselling to be conducted by the State, does not in any manner abridge the fundamental rights of the private institution, including the minority



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institution to administer and manage their institutions. At this juncture, she made a note that prior to introduction of Regulation 5A of MCI Graduate Medical Education Regulation, 1997, the medical colleges particularly, private medical colleges used to conduct their own counselling. In order to curb the malpractices adopted by the medical colleges and ensure complete transparency in the admission process, the respondent under Section 33 of the IMC Act, 1956 and the Central Government vide Gazette notification dated 10.03.2017 had introduced Regulation 5A for admission to Graduate Medicine courses. In *Modern Dental college case supra*, the Hon'ble Supreme Court made it mandatory that admissions are to be made through a centralized counselling process, which has to be conducted by the State Government and also pleased to cancel the admissions made in furtherance of the counselling conducted by the private medical college, which decision was affirmed by the Hon'ble Apex Court in the case of ***State of Maharashtra V. D.Y.Patil Vidyapeeth and Others*** reported in **2016 (9) SCC 401**.

9.1.e) She contended that the present petitions are contrary to



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the statutory, mandatory and binding regulations framed by the MCI with prior approval of the Government of India, as well as contrary to the decisions of the Hon'ble Supreme Court.

9.1.f) She highlighted the salient features of MCI by submitting that MCI is a statutory authority created and constituted by the Central Government under an Act of Parliament, namely, IMC Act, 1956 and has been given the responsibility of discharging the duty of maintenance of highest standard of medical education. She further submitted that the crucial and significant aspects of medical education which were observed in ***MCI V. State of Karnataka*** were re-emphasized by the Constitution Bench of Hon'ble Supreme Court in the case of *Dr.Preeti Srivastava* as stated supra, wherein in paragraph 57 it has held as under:

".... 57.

"The Indian Medical Council Act, 1956 has constituted the Medical Council of India as an expert body to control the minimum standards of medical education and to regulate their observance. Obviously, this high-powered Council has power to prescribe the minimum standards of



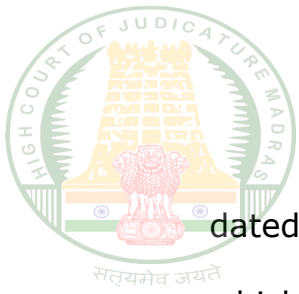
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medical education. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. Thus there is an overall invigilation by the Medical Council to prevent sub-standard entrance qualifications for medical courses". These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning"

9.1.g) Moreover, she submitted that by Section 33 of the Indian Medical Council Act, 1956 with the prior approval of the Central Government, the MCI had framed the Regulations on Graduate Medical Regulation (Amendment) 2010 and Post Graduate Medical Education Regulation (Amendment) 2010 *inter-alia* providing that admissions to MBBS and Post Graduate Medical Courses shall be on the basis of a common entrance examination i.e., NEET, which regulation was challenged by the *Christian Medical College Vellore Association vs. Medical Council of India & Another* and the same was allowed, for which, the Central Government had filed a petition to review the said order and it was allowed on 11.04.2016, setting aside the judgment



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dated 18.07.2013 in *CMC, Vellore Association case* as stated supra,
which affirms common entrance for medical courses.

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9.1.h) In furtherance, she submitted that through Indian Medical Council (Amendment) Ordinance, 2016, Section 10D was introduced in IMC Act, 1956. Section 10D of the IMC Act, 1956 reads as under:

**10D.[Uniform entrance examination
for undergraduate and postgraduate
level. [Inserted by Act No. 39 of 2016.]-**

There shall be conducted a uniform entrance examination to all medical educational institutions at the undergraduate level and post-graduate level through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner:Provided that notwithstanding any judgment or order of any court, the provisions of this section shall not apply, in relation to the uniform entrance examination at the



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undergraduate level for the academic year 2016-17 conducted in accordance with any regulations made under this Act, in respect of the State Government seats (whether in Government Medical College or in a private Medical College) where such State has not opted for such examination.]

9.1.i) Section 33(mb) of the IMC Act has been inserted vide amendment dated 04.08.2016 which provides the MCI to make regulations with previous permission of the Central Government for providing the designated authority, other languages and the manner of conducting the uniform entrance examination to all medical institutions at the Undergraduate and Postgraduate level. The relevant portion of the provision is extracted hereunder:

...

(mb)the designated authority, other languages and the manner of conducting of uniform entrance examination to all medical educational institutions at the undergraduate level and postgraduate level;



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...

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9.1.j) Regulation 4 of the Regulations on Graduate Medical Examination specifies the minimum eligibility criteria for the admission to First Bachelor of Medicine and Bachelor of Surgery (MBBS) Course and Regulation 5 provides the procedure for selection of candidates to MBBS Course and Regulation 5(5)(I) provides that there will be a single eligibility cum entrance examination namely, National Eligibility cum Entrance Test – NEET for every academic year under the Superintendence, direction and control of the Central Board of Secondary Education which will be under overall supervision of Ministry of Health & Family Welfare, Government of India.

9.1.k) She further referred that Regulation 5A of the Regulations on Graduate Medical Education, 1997 provides a common counselling for admission to MBBS course in all medical educational institutions/colleges on the basis of merit as secured by the candidates in the NEET, whereas Regulation 5A(2) provides that Director General of Health Services shall conduct the counselling for 15% All India Quota seats of the contributing States and Regulation 5A(3) provides that the State Government/Union Territory shall conduct the

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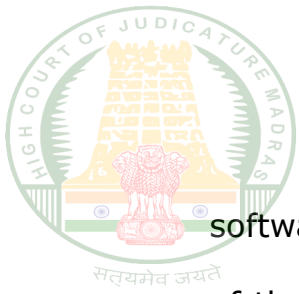
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counselling for admission to MBBS course in All Medical Educational Institutions in a State/UT ,including those established by the Central Government, State Government, Deemed University, Trust, Society or a Company / Minority institution/corporation under the control of the State/UT.

9.1.l) She relied upon the directions issued by the Hon'ble Supreme Court in *Dar Us Slam Educational Trust case* as stated supra, wherein the Court has directed that the counselling for all MBBS seats available in the country shall be conducted and in respect of the said directions, Regulation 5A has been further amended.

9.1.m) She further argued that any admission to MBBS course in contravention of the minimum requirements as stipulated in the Graduate Medical Education Regulations, 1997 is not a valid admission.

9.1.n) At this relevant point of time, the learned counsel submitted that the last date for admission to the MBBS Course for 2017-18 was 31.08.2017 and the circular dated 25.08.2017 was sent stating that the details of admitted candidates to be filled through MCI



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software till 08.08.2017. She further continued that upon verification of the petitioners' college list with the CENTAC list, some names were not found place which have been identified in the order of MCI dated 21.11.2017. Hence, the Executive committee was directed to initiate action against the violators and decided to discharge those candidates, who have not been admitted through common counselling and the petitioner's institutions were directed to file their compliance report of their order. In pursuant to that, the Director of Health Services, Puducherry and Health Secretary, Puducherry were directed to cancel those admissions. In view of the same, the Government of Puducherry vide letter dated 06.12.2017 in respect of Sri Venkateswara college submitted that out of 95 students mentioned by MCI, 55 were sponsored by them and one through Court order in W.P.No.35923 of 201 and also sent a letter dated 30.01.2018 informing that the explanation furnished by the petitioner college/Sri Venkateswara Medical College was not acceptable which is in violation to the statutory regulations. Likewise, the petitioner institution/Sri Manakula Vinayagar Medical College was also directed by by the MCI to discharge 41 students which was followed by the consequential orders/communication dated 06.12.2017, 18.01.2018 and 22.01.2018.



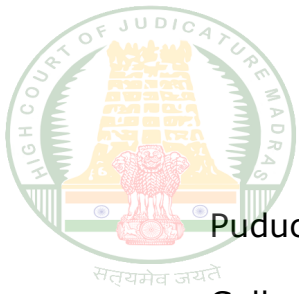
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9.1.o) She emphasized that counselling is an integral part and adjunct of the admission process and complete transparency in the counselling is to ensure that only meritorious students are admitted in medical colleges and also common counselling will benefit the students at large as they are saved from burden of applying to several medical colleges and attending several counselling. She urged that neither the vacant seats were informed to general public nor counselling was conducted, which shows flaw in the admission process. Thus, she opposed the petitions filed by the petitioner(s) to set aside the impugned order of the MCI dated 21.11.2017 and prayed this Court to dismiss the Writ Petitions.

10. The averments put forth by the respondent/Pondicherry University in the counter affidavit is as follows:

In W.P. 11995 of 2018:

10.1. The MCI has directed the petitioner to discharge MBBS students not admitted through CENTAC for the academic year 2017-18 for which the Health & Family Welfare Services Department,



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Puducherry directed the petitioner institution/Sri Venkateswara Medical College to discharge 38 students, whose admissions were in violation to the Graduate Medical Education Regulation, 1997 for the academic year 2017-18 and to submit a compliance report. The petitioner has challenged the order dated 21.11.2017 of the respondent/MCI. The respondents stated that the admission of students should be done according to the norms of the respondents/MCI, Health & Family Welfare Services Department, Puducherry and CENTAC and that any violation of these conditions would invalidate the admission of students. The petitioner college is informed that any violation of these conditions would result in other actions as specified in the Hon'ble Supreme Court's directions. The respondent instructed the petitioner college to strictly adhere to the admission and fee structure in accordance with the Government of India, Government of Puducherry, University norms and CENTAC.

10.2. The petitioner college is well aware that any violation of the conditions imposed by the respondents would invalidate the admission of students. The respondent is bound to follow the norms of the respondents namely, MCI, Health & Family Welfare Services Department, Puducherry and CENTAC for the admission of MBBS & PG



Courses.



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In W.P. 12629 of 2018:

10.3. The petitioner herein/Sri Manakula Vinayagar Medical College seeks to approve the admission of 41 students, who were discharged by the MCI/second respondent's order dated 21.11.2017 and admitted to the First Year MBBS Course under the Management Quota for the academic year 2017-18.

10.4. The learned counsel for the respondent/Pondicherry University argued that the Pondicherry University is a Central University created by an Act of Parliament (No.53 of 1985), with the President of India as the Visitor and the Vice-Chancellor as the Principal Executive and Academic officer. The University has a perpetual succession and a common seal and the Registrar is the designated authority to represent the University. The University of Pondicherry, a part of the Government of Puducherry, is responsible for regulating admission for the MBBS course. The University follows the instructions of the Medical Council of India (MCI) and follows the guidelines of the MCI, Government of Puducherry and CENTAC.

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Pondicherry University grants recognition to students based on the verification of certain documents, such as Qualified Education Certificates, NEET qualification results, CENTAC admission order and the direction of the MCI/DCI/Government of Puducherry.

10.5. The Medical Council of India (MCI) has directed Pondicherry University to discharge MBBS students, who are not admitted through CENTAC for the academic year 2017-18. The respondent/Secretary to Government (Health), Puducherry has directed the college to discharge 41 students, who have been admitted in violation of the Graduate Medical Education Regulations, 1997 for the academic year 2017-18. Their recognition will be considered only after the approval of the Medical Council of India.

10.6. The petitioner challenges the orders dated 21.11.2017, 06.12.2017, 18.01.2018 and 22.01.2018, stating that the MCI and Secretary to Government (Health)/respondents are the competent authorities to conduct counselling for admissions to MBBS and PG courses. The list of MBBS students admitted through the respondent CENTAC and approved by the respondent (MCI) could only be accepted and recognized as admissions were to be made through



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common counselling conducted by the designated authority of the respondent CENTAC as per the norms. The respondents stated that the petitioner College is affiliated with the respondent University and must adhere to the norms of the respondents viz., MIC, Secretary to Government (Health), Puducherry, CENTAC and Pondicherry University. Any violation of these conditions would invalidate the admission of students and result in other actions as specified in the Hon'ble Supreme Court directions. The respondent has instructed the petitioner College to adhere strictly to Government of India, Government of Puducherry, CENTAC and University norms.

10.7. The learned counsel also submitted that the respondent/MCI is the competent authority to conduct counselling for admissions to MBBS and PG Courses. However, admissions to the respondent/Pondicherry University can only be accepted and recognized, if the list of MBBS students admitted through CENTAC and approved and recognized by the respondent/Secretary to Government (Health), Puducherry.



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10.8. The Admission Authority for MBBS courses is the MCI, Director of Health Service, Government of Puducherry and CENTAC, with the Medical Council of India (MCI) as the apex body for regulating admission. Pondicherry University is responsible for checking eligibility criteria and following the instructions of the MCI, Government of Puducherry and CENTAC. He contended that the petitioner is aware of the fact if any violation of these conditions, would invalidate the student's admission.

In W.P.No.12506 of 2018:-

10.9. There is no direct role for Pondicherry University on the process of admission. Pondicherry University issues the recognition order to the students on verification of the following documents/Certificate for checking the eligibility criteria.

- 1)Qualified Education Certificates (12th & 10th Mark Sheets);*
- 2)NEET qualification result/Ranking;*
- 3)CENTAC Admission order and Total list; and*
- 4)Direction of MCI/DCI/Govt. of Puducherry for admission issues and thereafter on fulfillment of*



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*the eligibility criteria as stated above,
recognition is granted by this respondent to the
students accordingly.*

10.10. The learned counsel for the respondent/Pondicherry University stated that the respondent (MCI) vide order bearing No:MCI-34(MC-UG)/2017-18/155462 dated 21.11.2017, directed the respondent college/Sri Venkateswara Medical College Hospital & Research Centre to discharge MBBS students, who are not admitted through CENTAC for the academic year 2017-18. Based on the respondent/MCI order, the Health & Family Welfare Services Department, Puducherry/ respondent vide Notice dated 06.12.2017 directed the respondent college to discharge the petitioners, who have been admitted in violation of the Graduate Medical Education Regulations, 1997 for the academic year 2017-18 and to submit a compliance report on or before 11.12.2017, without fail. In respect of the above, the consequential order was issued by the respondent/Pondicherry University on 18.01.2018 to the respondent college informing that on verification of forms and original certificates submitted by the respondent college, it is found that the admission of 38 students is in violation to the Graduate Medical Education

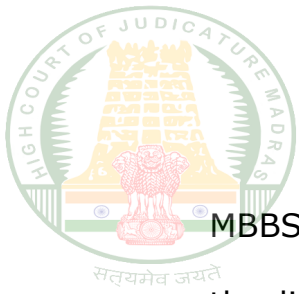


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Regulations, 1997 and the Pondicherry University/respondent's conditions of affiliation. The Pondicherry University/respondent has directed the respondent college to submit their explanation in this regard on or before 31.01.2018. The above said order dated 21.11.2017 of the MCI/ respondent, is challenged by the petitioners in this Writ Petition.

10.11. The Pondicherry University stated that the admission of the students shall be done only according to the norms of the respondents/MCI, Health & Family Welfare Services Department, Puducherry and CENTAC. The respondent college was made aware that any violation of these conditions, would invalidate the admission of students together with such other action as deemed fit and proper as specified in the directions of the Hon'ble Supreme Court. This respondent has instructed the respondent College that admission and fee structure should be strictly in accordance with Government of India, Government of Puducherry, University norms and CENTAC.

10.12. The respondent/Pondicherry University submitted that the respondent/Health & Family Welfare Services Department, Puducherry is the competent authority to conduct the counselling for admissions to



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MBBS & PG Courses. As far as the respondent University is concerned, the list of MBBS students, who were admitted through CENTAC and approved by the respondent/MIC could only be accepted and recognized, as admissions were to be made through common counselling conducted by the designated authority/CENTAC as per the MCI norms.

10.13. Since the admissions of the students in question were done without adhering to the norms and regulations of the Graduate Medical Education, the learned counsel submitted that the petitions filed by the colleges and students, are liable to be dismissed.

11. Considered the rival submissions made by the respective learned counsels on either side and also perused the entire materials available on record.

Discussions:

12. On a careful analysis of the cases reveals that the admissions of the candidates in MBBS Course in the petitioners' colleges/institutions have been done only through the merit list of



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MBBS/BDS Courses Merit (2017-18) All India Quota (including Puducherry U.T.) furnished by the CENTAC which has been substantiated by the merit list submitted by the petitioners after following due process of the norms and regulations. The cardinal aspect is to be viewed is that after completion of the admissions procedures and the students being attending their classes, that too, in a professional course, the MIC had passed the impugned order of discharge dated 21.11.2017, neither providing any opportunity nor seeking any explanation and without proper verification from the concerned institutions and students' whose admissions were in question, which is very mortal to the students, especially, rather than others.

13. In the present cases on hand, it is crystal clear that MIC had passed the impugned orders by comparing the list of CENTAC with that of the admission list of the petitioners, without enquiring about the procedure adopted by the CENTAC.

14. Apparently, it is seen that the names of the candidates identified in the impugned orders of the MIC were only admitted in the institutions as per the procedure prescribed by the Rules and



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Regulations, as well as the dictum laid by the Hon'ble Supreme Court of India. The learned counsel has rightly cited the interim order passed by the Hon'ble Supreme Court in **Akshita Singh's case** as stated supra, wherein it has been held that if vacancy persist even after exhausting 1:10 ratio, then liberty is granted to get into the larger NEET list to admit the students.

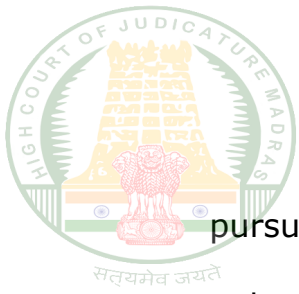
15. It is seen in the present cases, due to vacancies arises after 1:10 ratio merit list exhausted, the petitioners/institutions sought for the larger NEET Merit list from the CENTAC and all those students identified in the impugned orders of the MIC, are NEET qualified and no student has been admitted beyond the last cut off date for admission and the institutions have not admitted any student on its own, depriving the right of any meritorious student. It is predominant to note that the admissions of students in question were admitted from the list of NEET 2017 qualified merit candidates, who also had applied through the CENTAC under Management quota and the same were downloaded from the CENTAC web-site.



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16. It is relevant to point out that the impugned order passed by the MIC in W.P.No.11995 of 2018 shows that the MIC without application of mind had passed the order as it was stated that the institution has filed petition in W.P.No.23810 of 2017 seeking a direction to the respondents to forthwith release the entire NEET rank list for filling up the remaining vacancies in their college for the year 2017-18 which was closed on the ground that the entire list had already been released and thereafter on 31.08.2017, they have admitted the 38 students from the list furnished by the CENTAC. In the case of the petitioner in W.P.No.12629 of 2018 in consequence to the order dated 21.11.2017 of MIC, the Under Secretary to Government of Puducherry and Registrar, Puducherry University had also passed the impugned orders/communication dated 06.12.2017, 18.01.2018 and 22.01.2018 respectively, without affording any opportunity or seeking any explanation for their acts and not bothering about the hardships that would be caused to the affected students pursuant to the impugned orders/communication.

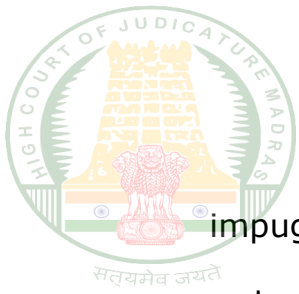
17. At this stage, this Court has to see the crucial aspect of the career of the students, that too, noble professionals and their role to mankind. Taking into account, the welfare of the students, who are



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pursuing the course, which is paramount to be considered as it would not only affect their career but also hinder them to fulfill their goal and ambition in their life. After completion of the MBBS admissions and commencement of the course, the impugned order dated 21.11.2017 was passed by the MCI in discharging the students without proper appreciation of facts. Due to this, the students are the sufferers and forced to face lots of hardships. At this point of time, it is to be noted that the petitions were filed way back in the year 2018 and this Court had granted an order of interim stay of the impugned order of MCI and the identified students in the impugned orders were permitted to continue their course and now they have completed their MBBS degree and would have enrolled them as professionals. Now, the question of discharging the students identified in the impugned orders of the MCI, is unjustifiable. Viewed in all perspective, the orders impugned by the respondents concerned in these Writ Petitions, are liable to be set aside.

18. In view of the above intricate and elaborate discussions of the matter and the foregoing reasons, this Court with a good conscience, equity, fair play and in the interest of justice, allows the Writ Petitions viz., W.P.Nos.11995 & 12629 of 2018. Consequently, the



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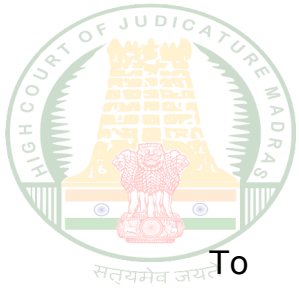
impugned orders of the MCI dated 21.11.2017 and the consequential orders/communication dated 06.12.2017, 18.01.2018 and 22.01.2018 respectively, are hereby set aside and the MBBS admissions of the candidates identified in the impugned orders dated 21.11.2017 of the MCI, is hereby confirmed.

19. In view of the order passed in W.P.Nos.11995 & 12629 of 2018, the petition filed by the petitioners/students in W.P.No.12506 of 2018 challenging the impugned order of the MCI dated 21.11.2017, is allowed. Consequently, the connected Miscellaneous Petition(s) is/are closed, if any. There shall be no orders as to costs.

21.02.2025

Index: Yes/No
Order: Speaking/Non-Speaking
NCC : Yes/No

DP

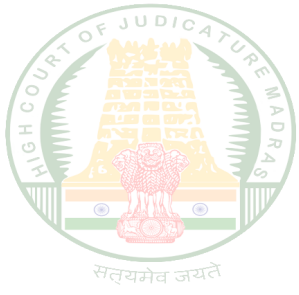


W.P.Nos.11995, 12506 & 12629 of 2018

To

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- 1.The Secretary to Government,
Union of India,
Department of Health and Family Welfare
Services,
New Delhi- 110 011.
- 2.The Secretary,
Medical Council of India
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi-110 077.
- 3.The Secretary to Government (Health),
Chief Secretariat (Health),
Government of Puducherry,
Puducherry-605 001.
- 4.The Under Secretary to Government (Health).
Chief Secretariat (Health),
Government of Puducherry,
Puducherry-605 001.
- 5.The Director,
Directorate of Health &
Family Welfare Services (DHFWS),
Victor Samuel Street,
Puducherry-605 001.
- 6.The Convener,
Centralized Admission Committee (CENTAC),
PEC Campus, ECR Road,
Pillaichavadi,
Puducherry-605 104.
- 7.The Registrar,
Pondicherry University
Kalapet,
Puducherry-605 014.



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W.P.Nos.11995, 12506 & 12629 of 2018

VIVEK KUMAR SINGH, J.

DP

ORDER MADE IN
W.P.Nos.11995, 12506 & 12629 of 2018
and
W.M.P.Nos.13974, 14650 & 14754 of 2018

21.02.2025