

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31/01/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION NOS.31414 OF 2002
AND WP.NOS. 31249 & 31250 OF 2002
AND
W.P.M.P.NOs.45626 and 60553 OF 2002

Vinayaka Mission's Kirupananda
Variyar Medical College,
sponsored by Thirumuruga Kirupananda
Variar Thavathiru Sundara Swamigal,
Medical Educational and Charitable Trust,
Sankari Main Road,
N.H.47 Ariyanoor, Salem 636 308.
repd. by its Registrar .. Petitioner in WP.Nos.31249 & 31250/2002

S.D. Sindhuja,
a minor aged 17 years,
repd. by her father & natural
guardian R. Damodharan .. Petitioner in WP.31414/2002

-Vs-

1. The Tamil Nadu Dr.M.G.R. Medical
University, rep. by its Registrar,
40, Anna Salai, Guindy,
Chennai 600 032. .. Respondent No.1 in all WPs

2. Medical Council of India,
repd. by its Secretary,
Temple Lane, Kotla Road,
New Delhi. .. Respondent No.2 in W.P.Nos.31249 & 31250/2002

3. The Secretary and Correspondent,
Vinayaga Mission Kirupananda Variar
Medical College, Salem. .. Respondent No.2 in W.P. No.3141 4/2002

Petitions filed under Article 226 of the Constitution of India as
stated therein.

!For Petitioner
in W.P.Nos.31249 : Mr. Mohan Parasaran,

and 31250 of 2002 Senior Counsel for
Mr. Satish Parasaran

For Petitioner in
W.P.No.31414 of 2002 : Mr.R. Selvakumar

For Respondent-1 : Mr. G. Masilamani,
in all WPs Senior Counsel for
Mr.M. Vellaisamy

:J U D G M E N T

In W.P.No.31250 of 2002, Vinayaka Mission's Kirupananda Variyar Medical College, hereinafter called the College, has prayed for a declaration that the provisions contained in the Revised (Non-Semester) Regulations for M.B.B.S. Course of Tamil Nadu Dr.M.G.R. Medical University, respondent No.1, prescribing . . . The candidates admitted from 1st July to 30th September will be eligible to undertake the first M.B.B.S. Examination in the first week of August in the subsequent year and candidates who are admitted between 1st October to 31st December will be eligible for the Examination in February after completion of the study period of one year is ultra vires and unconstitutional.

2. In W.P.No.31249 of 2002, filed by the same College, the prayer is for quashing the order dated 17.7.2002 in Lr.Rc.No.Ex.I(4)/51001/200 1 as illegal and unconstitutional in so far as it deprives the students admitted after 1.10.2002 to take up the examinations commencing from 1st August 2002 along with the candidates admitted prior to 30.9.2 002 and consequently direct the first respondent to allow 64 students admitted after 1.10.2002 during the academic year 2001-2002 to take up the First M.B.B.S. Examinations commencing from 1st August 2002 along with other students.

3. In W.P.No.312414 of 2002, filed by a student of the aforesaid college, prayer is for a direction to the first respondent University to permit her to appear in First year M.B.B.S. examinations to be held on 1.8.2002.

4. In WPMP.No.45626 of 2002 in W.P.No.31249 of 2002, by order dated 31.7.2002, 64 students admitted to the said college between 1.1.2001 and 16.10.2001 were allowed to sit for the examinations commencing from 1.8.2002, but it was further directed that result of such examinations should not be declared until further orders.

5. The facts giving rise to the present three writ petitions, which were heard together, are as follows :-
out of the total number of sanctioned seats for the College during the academic year 2001-2002, 36 students were admitted before 30.9.200 1 under the

Single Window System and many other students were admitted between 1.10.2001 and 15.10.2001.

First M.B.B.S. Course Revised (Non-Semester) Regulations framed by the first respondent University contemplate inter alia that a student of M.B.B.S. Course shall undergo a period of certified study extending over 4= academic years followed by one year of compulsory rotating internship.

Phase-I (I MBBS) shall commence from 1st July of the academic year and no student shall be permitted to join Phase-II until he has passed in Phase-I subjects. It is further indicated that each academic year shall consist of 240 working days. So far as the University examinations are concerned, what has been indicated regarding cut off dates, is extracted hereunder :-

□ The candidates who are admitted from 1st July to 30th September will be eligible for the Examination in first week of August in subsequent year.

Those candidates who are getting admitted between 1st October to 31st December will be eligible for the Examination in February after completing the study period of one year, provided they have obtained the minimum 80% attendance and a minimum of 50% of marks in Internal Assessment. There will not be any admission for that academic year after 31st December. This is applicable from 2000-2001 batch onwards.□

As already indicated, the above provision and the order passed on the basis of such provision are being impugned in these three writ petitions.

6. Learned counsels appearing for the petitioners have contended that there is no reasonable basis for depriving the students, who have taken admission after 1st October, 2001, of the opportunity of appearing at the August, 2002 Examination. Since the students were admitted during the very same academic year, they should not have been treated differently vis-a-vis the students who have taken admission before 30th September 2001 and such action of the University is arbitrary and discriminatory. It is further

contended that since the rules and regulations framed by the Medical Council of India had been complied with by the College, the University should not have prevented such students from appearing at the examination.

7. On the other hand it has been contended by the University that the intention is to the effect that the students should undergo study for one year before they are allowed to appear at their examinations and students who were admitted beyond the date cannot claim right to appear at the examination contrary to the provisions contained in the Regulations.

8. There cannot be any doubt that the University while making the provisions in the Regulations cannot make provisions which are contrary to the rules and regulations prescribed by the Medical Council of India. However, by prescribing different dates of examination for different groups of students who have taken admission on different dates, it cannot be said that the University was contravening any of the rules and regulations prescribed by the Medical Council of India. The norms prescribed by the University regarding minimum period of study cannot be said to be in derogation of the norms prescribed by the Medical Council of India.

9. It has been contended that the dates fixed by the University are arbitrary and there is no reasonable basis to discriminate between the students who have taken admission before 30th September of a particular year and the students who have taken admission after 1st October of a particular year. While considering the question of fixing any cut off date, if one has to scrutinise the matter in a pedantic manner, no doubt some amount of unreasonableness would surface almost in every case, but yet it cannot be said that no cut off date can be fixed. It has to be remembered that before the impugned cut off date was fixed, the University in its Regulations has provided that the students who are admitted between 1st July and 31st August would take up their I year examination in June of the next year and the students admitted between 1st September and 31st December would take up their I year examination in November of the next year and the students admitted after 1st January would be allowed to appear in the examination along with the subsequent year batch students. The aforesaid provision was amended and under the present impugned provision it has been prescribed that those who take admission before 30th September would be eligible for the examination in first week of the August of subsequent year and those students who are admitted between 1st October and 31 st December would be eligible for examination in February after completing the study period of one year.

10. The main intention seems to be to the effect that the students should undergo study period of about one year. The primary object of the provision under the impugned Regulations is to ensure that the students should complete about one year of study before being allowed to appear in the examinations. It is always open to the University to fix a last date for admission and even though some amount of arbitrariness may appear in fixing such date, it would not be proper to the Court to interfere with such matters on the ground of so called unreasonableness, unless arbitrariness is palpable.

11. In the present case, the University could have fixed a last date for admission with relaxation for admission at a later date. Merely because the University has also prescribed a subsequent period of admission with the stipulation that such students admitted at a later stage can appear at the subsequent examination, it cannot be said that such a provision suffers from any arbitrariness. By providing for an extended date of admission, the University has obviously given some concession to the students as well as the colleges. Even though the students are admitted during the same academic year, the intention seems to be clear that the students before being allowed to appear at the examinations should undergo a minimum period of study - roughly one year. To insist such students taking admission belatedly after a particular date should be treated at par with other students who had already taken admission before the said date is neither reasonable nor logical. In fact, if such a proposition is accepted, it may amount to treating the unequals as equals.

12. It has to be remembered that ordinarily, a student who cannot be selected on the basis of merit has to wait for admission at a belated stage against the lapsed seat category. Therefore, it would be unreasonable to expect that such students who were not found meritorious enough to claim admission at the earlier stage and would be starting their

studies belatedly can appropriately complete their studies in a lesser time. The intention of the University is to ensure proper training and knowledge.

13. For the aforesaid reasons, it cannot be said that the provisions contained in the Revised (Non-Semester) Regulations of the University, prescribing the candidates admitted from 1st July to 30th September will be eligible to undertake the first M.B.B.S. Examination in the first week of August in the subsequent year and candidates who are admitted between 1st October to 31st December will be eligible for the Examination in February after completion of the study period of one year, is in any way arbitrary or discriminatory.

14. In view of the aforesaid conclusion, the normal logical course would be to dismiss all the three writ petitions. However, as already indicated, pursuant to the interim order passed by this Court, the students have been allowed to appear at the examination even though their results have not been published by virtue of the specific order of the Court. In the peculiar facts and circumstances of the case, keeping in view the fact that the students have appeared at the examination, it would be proper and in the interest of justice to direct that the results may be published and those of the students who clear I M.B.B.S. examination shall be allowed to join Phase-II course and those students who are not able to clear the examination, shall be allowed to appear in the subsequent examination as per the rules and regulations of the University.

15. The writ petitions are accordingly disposed of subject to the aforesaid observations and directions. No costs. Consequently, connected Miscellaneous petitions are closed.

Index : Yes

Internet : Yes

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To

1. The Tamil Nadu Dr.M.G.R. Medical University, rep. by its Registrar,
40, Anna Salai, Guindy,
Chennai 600 032.

2. Medical Council of India,
repd. by its Secretary,
Temple Lane, Kotla Road,
New Delhi.

3. The Secretary and Correspondent,
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