
(1995) 09 MAD CK 0050

Madras High Court

Case No: Writ Petition No. 4021 of 1995

P. Ponnammal and
others

APPELLANT

Vs

Dr. M.G.R. Medical
University, Madras and
others

RESPONDENT

Date of Decision: Sept. 14, 1995

Acts Referred:

- Constitution of India, 1950 - Article 226
- Tamil Nadu Dr. M.G.R. Medical University Regulations - Regulation 12, 14, 21, 3, 4
- Tamil Nadu Medical University Act, 1987 - Section 44

Citation: AIR 1996 Mad 161 : (1995) 2 MLJ 532

Hon'ble Judges: Shivaraj Patil, J

Bench: Single Bench

Advocate: S. Natarajan, for the Appellant; M. Vellaichamy and Ms. Saraswathi Prasad, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Shivaraj Patil, J.

Heard learned counsel for the parties.

2. Petitioners in this writ petition have sought for a writ of certiorarified mandamus by calling for the records relating to the order of the first

respondent in R.No. Ac-1 (3)/3976/95 dated 9-3-1995 and quash the same, and further, to direct the respondents to permit the petitioners to

appear for Part I and Part II Examinations of the First Year M.B.B.S. Course in 1995 November Examination along with the regular batch of the

1994-95 First Year M.B.B.S.

3. Briefly stated, the facts leading to this writ petition are the following :--

The petitioners are the students of First Year M.B.B.S. admitted to 1994-95 Session. They contend that had the respondents followed the

reservation of 50% for reserved categories at the time of regular admission, as held by the Supreme Court in Mandal case, all the petitioners herein

could have been admitted and joined along with the other regular students. The classes for First Year M.B.B.S. started during August 1994. Since

the admissions were made on the basis of 60% reservation, the petitioners could not succeed in getting admission. Later, as per the direction of the

Supreme Court, the respondents were directed on 18-8-1994 to give admission to the petitioners. It is on account of the failure of the respondents

to follow the limit of 50% reservation, the petitioners were originally denied admission. Although the Supreme Court gave a direction to admit the

petitioners in August 1994 itself, admissions were not made. Finally, in the contempt petitions, during the third week of November 1994, the

Supreme-Court passed the final order on the basis of the list submitted by the respondents for the allotment of seats. The petitioners were

intimated to join Madurai Medical College, and all of them joined the said College on 1-12-1994.

4. The petitioners came to know that they would not be permitted to write Part I Examination of First Year M.B.B.S. Course in April 1995 and

that even for Examinations of Part II to be held in November 1995, they would not be permitted to write Part II Examination. They made

representation on 23-1-1995 seeking permission to write Part I and Part II Examinations during November 1995. Since there was no response

from the respondents, the present writ petition is filed, having no other alternative and efficacious remedy, seeking the reliefs as stated above.

5. The counter affidavit is filed on behalf of the respondents 1 to 3 contending that the petitioners have joined the M.B.B.S. Course between the

period 26-10-1994 and 2-12-1994. Having regard to their date of joining the College, they are eligible to take their Part I Examination of First

Year M.B.B.S. in October 1995 and Part II Examination of First Year M.B.B.S. in April 1996. In Regulation 6, cut off dates are prescribed, and

it is on the basis of the said Regulation, the petitioners have to take the Examinations. It is further submitted that the representations made by the

petitioners were placed before the Standing Academic Board of the University, which is the competent body to decide such matters. The said

body, after discussion at length, in the meeting held on 22-2-1995, decided not to accept the request of the petitioners. In the said decision, it is

also said that the petitioners cannot be permitted to take Part I and Part II Examinations of First Year M.B.B.S. together in November 1995 as

well. The said decision was informed to all the Deans of the Medical Colleges affiliated to the University by the letter of the University dated 9-3-

1995. It is also the case of the University that the Regulations have been framed by it taking into consideration the interest of students and also the

interest of the public at large as the students are going to become Professors and Doctors and ultimately going to deal with the precious human

lives by providing medical treatment. The students who joined the course after 30th September would be able to fulfil the conditions like required

attendance, completion of syllabus for the course, etc. only in November of the next year and thereby become eligible to write Part I Examination

of First Year M.B.B.S. Course only in November next. Any concession shown to the students in the duration of the course would ultimately dilate

the standards of medical education and affect the public at large. It is also stated that the fixation of cut-off dates by the University was neither

arbitrary nor unreasonable. The Standing Academic Board is the authority competent to make regulations. It consists of the Vice-Chancellor,

Director of Medical Education, Director of Medical Services and Family Welfare, Director of Public Health and Preventive Medicine, Director of

Indian Medicine and Homeopathy, Presidents of Faculties of the University and the Chairman of Board of Studies. The said Board, after elaborate

discussion and in depth study of the issues involved, i.e., the syllabus, the time factor, the importance of the subjects, its impact on the students for

grasping and for subsequent years of study, came to the conclusion that only students who join during 1st July to 30th September will be able to

appear for the Examination in April next. The validity of the fixing of the cut-off dates had been the subject matter of challenge in this Court, and

this Court has upheld the validity. With regard to the petitioners who filed W.P. Nos. 13089 of 1994, etc., it is said that they joined the course

before 15-11-1993. During the last year, the Standing Academic Board, considering certain special circumstances, permitted the candidates who

joined the course up to 15-11-1993 to take Parts I and II Examinations together in November 1994. This Court held that since the University had

decided to permit the candidates who had joined up to 15-11-1993 (which is the first cut-off after 30-9-1993) to write Parts I and II together in

November 1994, it may be similarly extended to the students who joined the course up to 28-2-1994, the next cut-off date; and directed the

University to permit the candidates who joined the course up to 28-2-1994 to take up Parts I and II of the First Year M.B.B.S. Course to gather

in November 1994. The University felt aggrieved by the Order passed by the learned single Judge in the said writ petitions and took up the matter

in Writ Appeal Nos. 1349 to 1352 of 1994. The said writ appeals were dismissed on the ground that the students have already appeared for the

Examinations. However, the Court upheld the stand of the University regarding the cut-off dates. It is further submitted that the facts and the

circumstances of the case on hand are entirely different from those that came up for consideration earlier, in the writ petitions aforementioned. It is

pointed out that the Supreme Court, time and again, has repeatedly held in number of decisions that the Courts should not embarrass the

academicians by taking their functions. Under these circumstances, the petitioners are not eligible to write Paris I and II Examinations of the First

Year M.B.B.S. Course together in November, 1995. It is made clear in the counter affidavit that the petitioners were aware even at the time of

admission that they will be entitled to appear for Part I Examination in November 1995 and Part II Examination in April, 1996. With these

contentions, the respondents have prayed for the dismissal of the writ petitions.

6. The learned counsel for the petitioners strongly contended for no fault of the petitioners, the petitioners should not be made to suffer. If the

petitioners claims for admission were properly considered limiting the reservation to 50%, they could have joined the First Year M.B.B.S. course

along with the regular batch of students who were selected earlier. They could join the College only on 1-12-1994 on the basis of the direction

given by the Supreme Court. Thus, their joining the College late was under the circumstances which were beyond the control of the petitioners

themselves. Further, the learned counsel submitted that the University in respect of other batch of candidates, particularly pointing out the

petitioners in W.P. Nos. 13089, 13739, 14692 and 14776 of 1994, relaxed Regulation 6 and permitted them to write the Examinations and

thereby indicating that Regulation 6 is flexible and the University has power to extend the dates, if it so desires, and the University cannot act

differently in respect of different batch of students. At any rate, the Court may take into consideration the difficulties and hardships the petitioners

will face if they are denied an opportunity to write Part I and Part II Examinations of the First Year M.B.B.S. Course together in November,

1995.

7. The learned counsel for the respondents submitted that the validity of Regulation 6 framed by the Standing Academic Board of the University is

upheld by the Division Bench of this Court in its judgment dated 14-12-1994 passed in Writ Appeals Nos. 1349 to 1352 of 1994 (Vice-

Chancellor, Tamil Nadu Dr. M.G.R. Medical University v. Vasanthi Selvaraju). No doubt, in regard to certain candidates about whom the

Division Bench was dealing in the said Writ Appeals, the University had shown some concession by permitting them to take the Examination having

regard to the fact that they had complied with the requirement of attendance. In respect of those students, the Division Bench held that when the

students were permitted to take the Examination by the University and accordingly they wrote the Examination, so it was not proper to detain them

or to prohibit the University from publishing the results. The learned counsel for the respondents submitted neither the University is at fault nor is it

in any way responsible for the late admission of the petitioners. All that the University wants is, the standard must be maintained and it must respect

its own Regulations. He added that concession once given by the University having regard to the special circumstances of a particular case cannot

be made a regular feature, and the University has taken a decision not to relax the condition any more.

8. I have carefully considered the submissions made by the learned counsel for the parties. The facts which are not in dispute are the following :--

(1) The petitioners joined the Madurai Medical College on 1-12-1994 i.e., much after the cut-off date, viz., 30-9-1994; (2) the University was not

responsible in any way for the late admission of the petitioners in the Medical College; (3) The validity of Regulation 6 governing the cut-off dates

has been upheld by a Division Bench of this Court; and (4) the petitioners did not write the Part Examination of First Year M.B.B.S. in April,

1995.

9. In the impugned communication dated 9-3-1995, it is stated that the representations have been received from some of the students of the

M.B.B.S. course of 1994-95 session who have joined the course after September, 1994, seeking permission to write First Part of the First Year

of M.B.B.S. Examination in April, 1995 or First and Second Part of First year M.B.B.S. examination together in November, 1995. The standing

Academic Board of the University, in its meeting held on 22-2-1995, decided not to accept the request of the students who have joined the course

from October, 1994 onwards. Thus, as can be seen from the decision of the Standing Academic Board, which is the competent authority, the

representations seeking permission to write the first and second Parts of the First Year Examination in November, 1995 have been rejected.

10. It is useful to refer to the questions raised, some of the observations made, and the conclusions reached in the aforementioned Division Bench

Judgment in order to appreciate the rival contentions advanced by the learned counsel for the parties. Writ Appeals Nos. 1349 to 1352 were

directed against the order of the learned single Judge dated 13-9-1994 passed in Writ Petitions Nos. 13089, 13739, 14776 and 14692 of 1994

respectively to call for the relevant proceedings dated 6-5-1994 of the third respondent and to quash the same, and further to permit the

petitioners to write the examinations after receiving the fees for Parts I and II in November, 1994 along with other students. The learned single

Judge had allowed the writ petitions and permitted the petitioners to take up Part I and Part II examinations of M.B.B.S. I year in November,

1994, provided they had been admitted between 1st October, 1993 and 28-2-1994.

11. In the said writ appeals the following three points arose for consideration :--

i. What is the scope and effect of Regulations 3, 4, 5, 6, 7, 12 and 14 of the Tamil Nadu Dr. M.G.R. Medical University, Madras?

ii. Whether it is open to this Court in exercise of jurisdiction under Article 226 of the Constitution to interfere with the academic policy of the

University?

iii. Whether it is necessary to interfere with the ultimate direction issued by the learned single Judge?

12. The Division Bench after elaborate consideration, dealing with the Regulations 3, 4, 5, 6, 7, 12 and 14 of the Tamil Nadu Dr. M.G.R. Medical

University, Madras, held that the said regulations were framed in exercise of the powers conferred by Section 44 of the Tamil Nadu Dr. M.G.R.

Medical University, Madras Act, 1987 by the Standing Academic Board of the University, which is the final authority with regard to the

determination of the course, duration of the course and studies and all other matters relating to the course of study in the University. It is observed

that all the aforementioned regulations should be read together harmoniously.

13. It is stated that Regulation 21 prescribed the conditions to permit a student to appear for Part I and Part II of M.B.B.S. together. It provides

that if candidates certified to appear for Part I Examination by the Head of the Institution do not appear for the examination although qualified to do

so, they shall alone have the option to appear for Part I and Part II Examinations together at the end of the course, and no candidate shall be

permitted to appear for Parts I and II Examinations together under any other circumstances.

14. In paragraph 19 of the said Judgment points 1 and 2 are answered thus :--

The effect of Regulations 3, 4, 5, 6, 7, 12 and 14 is that the course for I M.B.B.S. commences from 1st July of an academic year and the I

M.B.B.S. consists of Parts I and II and Part I teaching takes place first and then Part II. The terms of Part I are different from that of Part II. The

term of Part II is from 1st June to 31st October, whereas the term of Part I is from July to 31st March. The expression first year examination used

in Regulation 6 has to be read as Part I of I year examination, because the question of fixing the examination for Part II does not arise. The

examinations for Parts I and II are to be held on 1st April and 1st November. The duration of the course is 4 1/2 academic years and one year of

compulsory rotatory resident internship before the award of the Degree. The working days for the academic year are not less than 200. In the

academic policy relating to the aforesaid matter, interference by the High Court under Article 226 is not warranted.

From the entire discussion made while dealing with points 1 and 2, it is clear that the claim of the candidates who joined after the cut-off date of

30th September in a year could not be permitted to take up the Part I and Part II examinations of the First year M.B.B.S together in November of the subsequent year.

15. On point No. (iii) the Division Bench, having taken note of the facts in those cases that the University after being satisfied that those writ

petitioners had attended the course for the requisite period, had permitted them to take the examination, directed the University to publish the

results of the Part I and Part II of the First Year M.B.B.S. examinations. But it is clearly stated that the Division Bench did not agree with the

reasons given by the learned single Judge. The direction given by the learned single Judge was maintained not for the reasons stated by him, but for

the reasons stated by the learned Judges of the Division Bench.

16. As noticed above, the validity of Regulation 6 and other regulations have been upheld by the Division Bench of this Court and the stand of the

University was accepted in clear terms that the students joining the course after the cut off date in a year cannot be permitted to take Part I and

Part II examination of the First year M.B.B.S. together in the month of November of the subsequent year. Admittedly the petitioners in this writ

petition have joined the first year M.B.B.S. course in Madurai Medical College only on 1-12-1994 i.e., long after 30-9-1994 the cut off date fixed

in Regulation 6. Hence they were not eligible to write Part I of the First year M.B.B.S. course in April, 1995; so also they cannot be permitted to

write Part I and Part II examination of the First year M.B.B.S, course together in November, 1995 in view of what is held in the Division Bench

Judgment aforementioned, having regard to the regulations of the University, in particular to Regulations 6 and 21.

17. While upholding the Regulations and the stand of the University, the Division Bench directed to publish the results of the six candidates having

regard to the fact that the six candidates were permitted to take up the examinations by the University itself having regard to the requisite

attendance and attending the special coaching classes in vacation. But the facts of the case on hand are entirely different. The University has not

permitted the petitioners to take the part I of the First M.B.B.S. examinations in April, 1995 or to take up the Part I and Part II of the first year

M.B.B.S. course together in November, 1995. On the other hand such a request is negatived by the University under the impugned

communication having regard to the regulations aforementioned.

18. The contention of the learned counsel for the petitioners that the University cannot be unreasonable to deny the same concession to the

petitioners as was given to the candidates mentioned in the Division Bench Judgment, cannot be accepted. The concession granted in those cases

as a special case and subject to fulfilling the requisite attendance and attending special coaching classes cannot and does not confer any right as

such on the petitioners. Assuming that the University gave such concession against its own regulations in respect of the candidates for one year, it

cannot be said that the University should perpetuate the same for all the years to come. Further the University cannot be blamed for the late

admission of the petitioners. The regulations of the University are intended to serve some definite purpose viz., to maintain the standard of the

professional education and accordingly the University did not accept the request of the petitioners to write Part I and Part II examinations of the

first year M.B.B.S. course together in November, 1995 along with the regular batch of 1994-95 First Year M.B.B.S. course. Further it is not a

case where the petitioners are deprived of their opportunity to pursue their studies. All that is said is that the petitioners are eligible to take their

Part I of the first year M.B.B.S. examination in November, 1995 and Part II examination of the first year M.B.B.S. course in April, 1996 while

continuing their M.B.B.S. course.

19. May be some inconvenience and hardship is caused to the petitioners because of the late admission. But the Courts exercising jurisdiction

under Article 226 of the Constitution cannot issue a fiat directing the University either to disobey or act contrary to its own regulations. For issuing

of such a writ of mandamus will seriously affect the academic discipline and the standard of education in professional courses.

20. In the result, for the discussion made and reasons stated above, the writ petition being devoid of any merit is liable to be dismissed.

Accordingly it stands dismissed with no order as to costs.

21. Petition dismissed.