

HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

**MAIN CASE No. W.P.Nos.6977, 6956, 6959, 7214, 8111,
8124, 8125, 8154, 8155 and 8157 of 2023**

PROCEEDING SHEET

| Sl. No | DATE | ORDER | Office Note |
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| | 03.04.2023 | <p><u>GRKP, J</u></p> <p>Heard Sri S.Lakshminarayana Reddy, Ld. Counsel appearing for the Writ Petitioners (in W.P.Nos.8154, 8155 & 8157 of 2023), Sri G.V.S.Mehar Kumar, Ld. Counsel appearing for the Writ Petitioners (in W.P.Nos.6977, 6956, 6959, 8111, 8124 and 8125 of 2023), Sri A.Syam Sundar Reddy, Ld. Counsel appearing for the Writ Petitioner (in W.P.No.7214 of 2023), Sri Appadhara Reddy, Ld. Government Pleader for Medical & Health appearing for the Respondent No.1, Sri G.Vijaya Kumar, Ld. Counsel for Respondent Nos.2 and 3 and Ms. M.Aiswarya, Ld. Counsel appearing on behalf of Sri S.Vivek Chandra Sekhar, Ld. Counsel for the Respondent No.4.</p> <p>2. None appeared for the Un-Official Respondent No.5.</p> <p>3. Writ Petitioners in this batch of Writ Petitions are the students of Final MBBS Part-II pursuing the studies in Un-Official Respondent No.5 College.</p> <p>4. It is the case of the Writ Petitioners that</p> | <p>(P.T.O)</p> |

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| | <p>due to certain practices adopted by the External Examiners and the Internal Examiners of the Un-Official Respondent No.5 College, the practical examinations have not been conducted in accordance with the Medical Council of India Regulations, more particularly, Regulation No.13 of the Medical Council of India Regulations on Graduate Medical Education, 1997 (Amended upto May, 2018). The averments in the Affidavit filed in support of the Writ Petition and the material documents annexed thereto indicate that out of 106 students who have appeared for Final MBBS Part-II practical examination (Medicine, Surgery, Obstetrics & Gynecology and Paediatrics), nearly about 50% students have failed in the practicals in Medicine, Surgery and Paediatrics. It is also stated that when majority of the failed candidates have secured decent pass marks in the Theory Examination, it is highly improbable that nearly 50% of such candidates would have failed in practical examination.</p> <p>5. In the Counter-Affidavit of Respondent Nos.2 and 3, it is averred that such dismal result has astonished the Respondent No.2-University; that the Vice Chancellor of the Respondent No.2-University has 'ordered' to seek explanation from the Principal, HOD of concerned Departments</p> | |
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| | <p>and Internal Examiners over the failing of nearly 50% of the candidates in the subjects of General Medicine, General Surgery and Paediatrics. It is also stated in the Counter-Affidavit that the Dean, HODs and Internal Examiners of the Un-Official Respondent No.5 College have categorically stated that the examinations were conducted in a free and fair manner without any prejudice.</p> <p>6. It is further stated in the Counter-Affidavit that in view of the outcry of the parents of the unsuccessful students and also in view of the Representation submitted by them on 23.02.2023, the Vice Chancellor of the Respondent No.2-University had 'ordered' a '<i>detailed enquiry</i>' over the alleged issue of failing of several candidates and had constituted a Three Member Committee. The Committee had visited the College, interacted with the Students, Parents, the Internal Examiners, the Principal and the HODs; that the Committee has interacted with the External Examiners through telephone and has submitted a Report on 09.03.2023, which is also filed along with the Counter-Affidavit.</p> <p>7. It is also stated in the Counter-Affidavit filed by the Respondent No.2-University that the Respondent No.2-University has addressed a</p> | |
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| | <p>Letter on 28.02.2023 to the Secretary, National Medical Commission; that, the Respondent No.2 has also addressed another Letter to the Secretary, National Medical Council, New Delhi on 18.03.2023.</p> <p>8. Perhaps the Letter addressed to the Secretary, National Medical Commission, New Delhi dated 18.03.2023, which is the second Letter in the series by the Respondent No.2, is after taking into account the Report submitted by the Three Member Committee dated 09.03.2023.</p> <p>9. It is further stated in the Counter-Affidavit that by the above mentioned two Letters dated 28.02.2023 and 18.03.2023, the Respondent No.2 has sought permission from the Respondent No.4 namely National Medical Commission for the conduct of re-practical examinations for the failed candidates of the Respondent No.5 College; that unless the Respondent No.4 grants permission to conduct re-practical examinations, the Respondent No.2 cannot initiate any steps for the same on its own motion.</p> <p>10. Sri G.Vijaya Kumar, Ld. Counsel appearing for Respondent Nos.2 and 3 has drawn the attention of this Court to the Three Member Committee Report submitted by the</p> | |
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| | <p>Committee dated 09.03.2023, which is filed along with the Counter-Affidavit.</p> <p>11. This Report dated 09.03.2023 is titled as 'Confidential'. On the scrutiny of the Report dated 09.03.2023 by this Court, it appears that the Report is a cryptic Report. The whole Report is usefully re-produced hereunder:</p> <p align="center"><u>CONFIDENTIAL</u></p> <p align="right">Dt:09.03.2023</p> <p align="center">Enquiry Committee Report on U.G.Examinations at Narayana Medical College, Nellore</p> <p>As per the Reference Letter No.2609 / E1 (b) /UG/ PRL/ 2023 dated: 04.03.2023 we a team consisting of Dr. P.A.Chandrasekhar, Principal, S.V.Medical College, Tirupati, Dr. G.Chandra Sekhar, Prof. & HOD of General Surgery, SVMC, Tirupati and Dr. T.Muneeswar Reddy, Prof & HOD of General Medicine, SVMC, Tirupati visited Narayana Medical College, Nellore on 06.03.2023.</p> <p>We interacted with students, Parents, Faculty members (Internal Examiners) and Dean of Narayana Medical College, Nellore. We also interacted with External Examiners on Phone. We have gone through the case sheets and Worksheets of Marks.</p> <p>Our observations are:</p> <ol style="list-style-type: none"> 1. The exposure of the students to the clinical material is very limited and brief as per the students. 2. Marks awarded to the long case seems to be not as per the convention and guidelines. 3. In comparison to the previous years the final results of surgery were low but in many case sheets students have committed that they have written case sheets without examining the patients. 4. Worksheets are not available with the College authorities. <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <p>Dr. P.A.CHANDRASEKHARAN Principal/Prof. & HOD of OBG S.V.Medical College Tirupati</p> </div> <div style="text-align: center;"> <p>Dr. G.CHANDRA SEKHAR Prof. & HOD of General Surgery SVMC, Tirupati</p> </div> </div> <div style="text-align: center; margin-top: 20px;"> <p>Dr. T.MUNESWAR REDDY Prof & HOD of General Medicine SVMC, Tirupati</p> </div> | |
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| | | <p>Enclosures:</p> <ol style="list-style-type: none"> 1. Acknowledgment from Dean 2. Written statements from Dean and Faculty 3. Written Representation from Students <p>12. Ms.M.Aiswarya, Ld. Counsel appearing on behalf of Sri S.Vivek Chandra Sekhar, Ld. Counsel for National Medical Commission has sought time to obtain instructions and file a suitable Counter-Affidavit.</p> <p align="center"><u>ANALYSIS:</u></p> <p>13. It is particularly stated in the Counter-Affidavit by the Respondent No.2 that the examination schedule was released by the Respondent No.2-University keeping in mind the schedules for PG NEET Examinations, so that the successful candidates would have sufficient time to get themselves ready to appear in the PG Entrance Examination. It is also stated in the Counter-Affidavit that the main aim of the Regulations is to ensure that the Medical Profession, which is considered as '<i>health for all</i>', the substandard students cannot be elevated to higher classes which would degenerate the Medical Profession. The observations in the Three Member Committee Report dated 09.03.2023 are perused by this Court. The observation in Sl.No.2 states: "<i>Marks awarded to the long case seems to be not as per the convention and Guidelines</i>"; the observation in</p> | |
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| | <p>Sl.No.3 states: <i>"In comparison to the previous years the final results of surgery were low but in many case sheets students have committed that they have written case sheets without examining the patients"</i>.</p> <p>14. The averments in the Affidavit filed in support of the Writ Petition indicate that the Internal Examiners have not followed the transparent procedures inasmuch as awarding of marks by all the four externals were not simultaneously noted etc. Besides these averments, the Writ Petitioners also averred that the Internal Examiners have made certain threatening statements as regards the result in the practical examination even before the practical examinations were conducted. However, this Court opines that these allegations would only remain as allegations since it would be difficult to enquire and find out the veracity of these two statements within a short time.</p> <p>15. Be that as it may, this Court, for the time being, is called upon to look into and redress the misfortune of nearly 50% of the students, who have failed in the practical examinations of Medicine, Surgery and Paediatrics. The Letter written by the Respondent No.2 to the Secretary, National Medical Commission dated 28.02.2023 (Ex.P5)</p> | |
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| | <p>would indicate that out of 102 Students, who have failed in the practical examination from out of all colleges, nearly 50 of such failed candidates are from the Respondent No.5 College. The relevant portion of the Letter dated 28.02.2023 written by the Respondent No.2 to the Respondent No.4 (Ex.P5) is as under:</p> <p>“The date of the failed candidates in all colleges (including NMC, Nellore) and Narayana Medical College, Nellore, subject wise number of candidates failed are shown in the list.</p> <ol style="list-style-type: none"> 1. Total number of candidates failed in practicals in all colleges are 102. 2. Total number of candidates failed in three subjects in all colleges are 03. 3. Total number of candidates failed in two subjects in all colleges are 43. 4. Total number of candidates failed in single subjects in all colleges are 56. <ol style="list-style-type: none"> 1. Total number of candidates failed in practicals in NMC, Nellore are 50. 2. Total number of candidates failed in three subjects in NMC, Nellore are 03. 3. Total number of candidates failed in two subjects in NMC, Nellore are 23. 4. Total number of candidates failed in single subjects in NMC, Nellore are 24. <p>Hence, I am to request you to issue necessary orders on the request of the parents of failed students for re-conduct of practical examinations of Final MBBS Part-II subjects i.e., General Medicine, General Surgery and Paediatrics.</p> <p align="right">Yours faithfully,</p> <p align="center">CONTROLLER OF EXAMINATION</p> <p>Encl: Students/parents representation. Copy to the PS to VC/PA to Registrar, Dr. NTR UHS, VJA.”</p> | |
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| | | <p>16. The immediate and paramount consideration of this Court is to consider whether any interim relief can be provided to the unsuccessful Writ Petitioners before this Court. As regards the enquiry into the cause of this phenomenal decline in the result, it could be enquired into by this Court at a later date. Even from the averments in the Counter-Affidavit filed by the Respondent No.2-University and the correspondence rendered by the Respondent No.2-University with the Respondent No.4 requesting the said Respondent to accord permission to conduct re-practical examination by Letters dated 28.02.2023 and 18.03.2023, it is clear that the laudable intention of the Respondent No.2 is also to workout a method to immediately address this issue in favour of the students by conducting re-practical examination. The Respondent No.2-University also has in its mind the fast approaching PG NEET Examinations as well as the Notification issued by the Respondent No.2-University as regards the supplementary examination to be conducted. The intention on the part of the Respondent No.2-University to urge the Respondent No.4 to accord permission to conduct re-practical examination is also in consonance with ensuring better standards in Medical Profession, and</p> | |
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| | <p>therefore, it is only by re-examination that the standard of a student can be really tested.</p> <p>17. This Court is in complete agreement with the averments made in the Counter-Affidavit filed by the Respondent No.2-University. This Court also is of the opinion that the standard of the students cannot be reflected from the observations made in the Three Member Committee Report 09.03.2023. This Court is also of the firm opinion that the merit of a student can only be tested through the medium of an examination, but not by any enquiry or investigation. If the students can match with the required merit to secure a pass, there is no reason why, under the present circumstances, another opportunity should not be provided to them. Therefore, this Court opines that it is in tandem with the request made by the Respondent No.2-University to Respondent No.4-Indian Medical Commission as regards the conduct of re-practical examinations.</p> <p>18. Keeping the above discussion in mind, this Court is of the opinion that the Writ Petitioners should be given one more opportunity to exhibit their medical skills in the practical examination. In this view of the matter following directions are issued to the Respondent Nos.2 & 4:</p> | |
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| | | <ol style="list-style-type: none"> 1. The Respondent No.4 shall forthwith accord the approval to the request made by the Respondent No.2- University through its Letters dated 28.02.2023 and 18.03.2023; 2. The Respondent No.2 shall re-conduct the practicals in General Medicine, General Surgery and Paediatrics within two weeks from today and the result shall be declared to the students as soon as practicable thereafter, keeping in mind usual convention, and place a copy of the results on the file of this Court within a week after declaration; 3. This Court holds, keeping in mind the facts involved in the present case, that all the Examiners (100%) shall be External Examiners (since Regulation No.13 does not put embargo on the maximum External Examiners and the only condition is that at least 50% of the Examiners shall be Externals). The Respondent No.4 shall appoint all the External Examiners; 4. Preferably, all External Examiners shall be chosen from outside the State of Andhra Pradesh; | |
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| | | <p>19. Let Counter-Affidavits be filed within three weeks. One week thereafter filing Rejoinder, if any.</p> <p>20. Ld. Counsel for the Writ Petitioners are directed to take out Personal Notice in respect of the Respondent No.5 within one week from today and file proof of receipt of Notice within a week thereafter.</p> <p>21. List these matters on 03.05.2023.</p> <p align="right">GRKP, J</p> <p><u>Note:</u> Issue C.C. by today. B/o. SDP</p> | |
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