

(2016) 11 KAR CK 0102

In the Karnataka High Court

Case No : Writ Petition No. 55113 of 2016 (EDN-RES)

Dr. V. Mamatha

APPELLANT

Vs

Rajiv Gandhi University

RESPONDENT

Date of Decision : 02-11-2016

Acts Referred:

Postgraduate Medical Education Regulations, 2000 — Regulation 14(1)(b)

Citation : (2017) 1 KantLJ 474

Hon'ble Judges : B. Veerappa, J.

Bench : Single Bench

Advocate : Sri Nishanth A.V, Advocate, for the Petitioner; Sri N.K. Ramesh, Advocate, for the Respondent No. 1; Smt. Pramodhini Kishan, High Court Government Pleader, for the Respondent No. 2; Sri N. Khetty, Advocate, for the Respondent No. 3

Final Decision : Allowed

Judgement

B. Veerappa, J.—The petitioner, who is a student of MD Bio-Chemistry is before this Court for a writ of declaration to declare that the method adopted by the first respondent-University to evaluate the PG answer scripts of the petitioner in MD Bio-Chemistry in the final examination held in June 2016 was only by two examiners which is contrary to Regulation 14(1)(b) read with Clause 2 of Appendix-II of the Medical Council of India Post-graduate Medical Education Regulations, 2000 and prays for setting aside the declaration of results of the petitioner as "failed" in M.D. Bio-Chemistry (RS 2) in June 2016 and direct the first respondent to hold fresh evaluation of her answer scripts of MD Bio-Chemistry (RS-2) in the examination held in June 2016 with REG No. 12 MB 2 in accordance with Regulation 14(1)(b) read with Clause 2 of Appendix-II of the Post-graduate Medical Education Regulations, 2000 and recompute and declare the result afresh.

2. It is the case of the petitioner before this Court that the petitioner joined MD Bio-Chemistry in Rajarajeshwari Medical College, Bangalore in the year 2012 and

had completed the course in June 2015. She had appeared for the final examination and the result was published to the shock of the petitioner, as failed, though she was a repeater, worked hard and performed well in the examination. In Bio-Chemistry theory papers 1 and 2 she has scored less than 50% of marks, though she was expecting high marks in the said papers. The petitioner filed a representation before the respondent seeking Xerox copies of her answer scripts and the scanned copies of the Marks Sheet. When the respondent made available the marks sheets, to her dismay, her answer scripts were evaluated only by two evaluators instead of four evaluators as mandatory, prescribed by the Medical Council of India Regulations.

3. It is further contended that a perusal of the answer papers clearly indicate that the PG answer scripts of the petitioner was evaluated only by two evaluators, which is illegal and contrary to the mandatory requirements stipulated in Regulation 14(1)(b) read with Clause 2 of Appendix-II of the Post-graduate Medical Education Regulations, 2000 etc. Therefore, the petitioner is before this Court.

4. I have heard the learned Counsel appearing for the parties to the lis.

5. Sri Nishanth A.V, learned Counsel appearing for the petitioner vehemently contended that the first respondent has erred in evaluating the PG answer scripts of the petitioner only by two examiners, which is contrary to the provisions of Regulation 14(1)(b) read with Clause 2 of the Appendix-II of the Post-graduate Medical Education Regulations, 2000. Hence the entire process of the valuation made is contrary to the material on record, the same is liable to be recomputed and result of the petitioner has to be declared afresh.

6. Learned Counsel for the petitioner has also relied upon the decision of this Court in the case of Dr. Haritha Ravipati v. Rajiv Gandhi University of Health Sciences for Karnataka, Bengaluru and Others, 2017 (1) Kar. L.J. 400 in W.P. No. 49749 of 2016 and other connected matters disposed of on 27-9-2016.

7. Per contra, Sri. N.K. Ramesh, learned Counsel appearing for the first respondent-University sought to justify the impugned action by contending that, in view of the notification dated 1-7-2015 issued by the 1st respondent-Rajiv Gandhi University introducing only double evaluation of the Post-graduate answer scripts will benefit the students and in no way prejudice the students but will eliminate the erratic evaluation of the evaluations and will enable to announce the results as early.

8. Smt. Pramodini Kishan, learned High Court Government Pleader for State and Sri K.N. Khetty, learned Counsel for Medical Council of India submits that the Medical Council of India introduced PG Medical Education Regulations, 2000 and any notification issued by the first respondent-University in the contrary is invalid and the Regulations issued by the Medical Council of India is binding on Universities.

9. In view of the rival contentions urged by the learned Counsel for the parties, the points that arise for consideration in the present writ petition are:

"(i) Whether the regulation framed by the Medical Council of India for the Post-graduate Medical Education will prevail over the notification issued by the 1st respondent-University?

(ii) Whether the petitioner is entitled to the reliefs sought for in the present writ petition?"

10. I have given my anxious consideration to the arguments advanced by the learned Counsel for the respective parties and perused the materials on record carefully.

11. It is an admitted fact that the petitioner joined MD Bio-Chemistry in Rajarajeshwari Medical College, Bangalore and has completed the course in the year 2015. It is also not in dispute that when the results were declared, she came to know that she has failed in Bio-Chemistry theory paper 1 and 2 and also scored less marks. It is also not in dispute that insofar as the digital valuation slip re-totalling is done and scanned copy clearly indicates that all the answer scripts of the petitioner was evaluated only by two evaluators which is per se illegal and contrary to the mandatory requirements stipulated in Regulation 14(1)(b) read with Clause 2 of Appendix-II of the Post-graduate Medical Education Regulations, 2000.

12. It is also not in dispute as contended by both Counsel for the parties that this Court in an identical matters while considering the provisions of Regulation 14(1)(b) of the Post-graduate Medical Education Regulations, 2000, in the case of Dr. Haritha Ravipati v. Rajiv Gandhi University of Health Sciences for Karnataka, in W.P. No. 49749 of 2016, dated 27-9-2016 and other connected matters, this Court has allowed the writ petitions and quashed the notification issued by the first respondent-University dated 1-7-2015 and directed to conduct fresh evaluation of all the answer scripts of the petitioners, therein the said judgment passed by this Court is final and conclusive.

13. For the reasons stated above, the first point raised for consideration has to be answered in the affirmative holding that the Regulations framed by the Medical Council of India for the PG Medical Examinations will prevail over the notification issued by the first respondent-University and the Point No. 2 is also answered in the affirmative holding that the petitioner is entitled to the relief sought for in the writ petition.

14. In view of the aforesaid reasons the writ petition is allowed. The method adopted by the first respondent-University to evaluate the PG Answer script of the petitioner in MD Bio-Chemistry in the final examination held in June 2016 by two examiners is contrary to Regulation 14(1)(b) read with Clause 2 of Appendix-II of the Post-graduate Medical Education Regulations, 2000 and directed the first respondent to conduct fresh valuation of answer scripts of the petitioner in MD

Bio-Chemistry (RS-2), held in June 2016 examination by four evaluators in accordance with the provisions of Regulation 14(1)(b) of the Post-graduate Medical Education Regulations, 2000 on or before 30th of November, 2016 and announce results.

15. However, it is made clear that any observations made by this Court will not come in the way or shall not affect the PG students who have completed their courses on the basis of the notification dated 1-7-2015 issued by the 1st respondent-University.