

**(2014) 04 MAD CK 0105**

**In the Madras High Court**

**Case No :** W.P. No. 18984 of 2013 and M.P. No. 1 of 2014

N. Manikandan

APPELLANT

Vs

Tamil Nadu Dr. M.G.R. Medical University

RESPONDENT

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**Date of Decision :** 08-04-2014

**Acts Referred:**

**Citation :** (2014) 4 MLJ 385

**Hon'ble Judges :** Satish K. Agnihotri, Acting C.J.; M.M. Sundresh, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## **Judgement**

1. The petitioner has joined M.D.S. Degree Course in the fourth respondent Institution in the academic year 2010 in the Department of Orthodontics. After completion of the first year, the petitioner appeared for Part-I subject viz., "Applied Basic Sciences". In the examination held in April, 2011 and October, 2011, the petitioner secured only 43 and 40 marks. Since as per the University norms, the candidate of Post Graduate Dental Degree has to secure a minimum pass mark of 50% in each paper in lieu of aggregate marks, the petitioner was declared as failed. Thereafter, he appeared in April 2012 and passed paper-I with 52 marks as per the University norms. In the Standing Academic Board Meeting held, it was decided that the Applied Basic Sciences Exam would be conducted at the end of first year of the M.D.S., Degree Course instead of Basic Sciences Examination. The resolution of the Standing Academic Board of the University was also approved by the Governing Council in its 201st Meeting held on 25.01.2011.

2. The first respondent-University, by letter dated 26.12.2011, sent a communication to the Dental Council of India seeking permission to implement the new pattern of examination in the forthcoming examinations. By letter dated 27.01.2012, the University was informed by the Medical Council of India, which is as follows:

The eligibility criteria and other provisions prescribing admission, examination, syllabus, curriculum etc., in course regulations framed by DCI are bare minimum if the State Government/affiliating University, however so desire to prescribe higher than that of Regulation for maintaining higher standard of dental education in their State, they are free to prescribe the same but not inconsistent with the provisions of the Dentist Act and Regulations made thereunder.

3. Accordingly, the examination was held in the month of April, 2012. The petitioner appeared and passed the Part-I subject "Applied Basic Sciences" in the said examination held in the month of April, 2012. Thereafter, based upon the request of the Post Graduate candidates, the first respondent-University has to follow the norms of the MDS decree course. Accordingly, the examination was conducted in the month of April, 2013 as per the norms of the Dental Council of India. The petitioner was also permitted to write the remaining three papers pertaining to Growth and Development Basics in Orthodontics, Diagnosis and Radiology as per the norms of the Dental Council of India. The following are the marks obtained by the petitioner in the examination conducted in April, 2013.

Accordingly, the petitioner has secured only 149 marks in the above three papers. As there was a discrepancy in the valuation between the first and second valuation with reference to the marks being more than 30% in paper-II it was evaluated by the third evaluator as per the Rules and Regulations. Accordingly, the highest mark secured in the first and second valuation was taken as marks of the petitioner. In view of the fact that the difference between first and second valuation marks was below 30% in papers III and IV, they have not been sent for third valuation. As per the Regulation of the Dental Council of India, the criterion for pass is as follows.

To pass in the University Examination, a candidate shall secure in both theory examination and in practical/clinical including viva voce independently an aggregate of 50% of total marks allotted (150 marks out of 300 allotted for theory and 150 out of 200 for clinical + 100 for viva voce together.

4. As the petitioner has secured only 149 marks for 300 marks, he was declared as failed. Similarly as the petitioner has appeared for Paper-I examination as per the university norms in April, 2012, the same could not be merged with other three papers for the examination conducted as per the norms of the Dental Council of India. In those circumstance, the petitioner has come forward to file this writ petition seeking a Declaration that he should be declared as passed as the new guidelines issued by the Dental Council of India cannot be made applicable to him. The facts narrated above speak for themselves. It is not, as if, the Regulation of the Dental Council of India has been applied retrospectively. The said Regulation has got its statutory prescription. The petitioner has also accepted the same and wrote the examination. The decision to follow Dental Council of India norms was taken as per the request made by the candidates. It is settled law that in academic matters, the jurisdiction of this Court is very limited. The petitioner has not demonstrated that the procedure adopted by the

respondents is not sustainable in law. Merely because the petitioner wrote the examination as per the University norms, he cannot claim any vested right that the same should be adopted to his case even thereafter. The petitioner has also written the subsequent examination voluntarily. He cannot plead ignorance of the Regulations of the third respondent as well as respondents 1 and 2. Therefore, we do not find any reason to allow this writ petition. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.