

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

**WP/21631/2023; WP/6838/2023; WP/17406/2023; WP/18405/2023;
WP/21659/2023; WP/22491/2023; WP/22562/2023; WP/23128/2023;
WP/23258/2023; WP/23848/2023; WP/25151/2023; WP/28503/2023;
WP/29248/2022; WP/31372/2022; WP/33278/2022; WP/33412/2022;
WP/33733/2022; WP/33894/2022 and WP/35248/2022**

The Court made the following COMMON ORDER:

Heard Sri Shaik Mohammed Ismail, learned Counsel for Writ Petitioners (in W.P.No.21631 of 2023; W.P.No.35248 of 2022; W.P.No.22562 of 2023; W.P.No.23128 of 2023; W.P.No.23258 of 2023 and W.P.No.23848 of 2023) and Sri V.R. Reddy Kovvuri, learned Counsel for the Writ Petitioners (in W.P.No.29248 of 2022; W.P.No.31372 of 2022; W.P.No.33278 of 2022; W.P.No.33412 of 2022; W.P.No.33733 of 2022; W.P.No.33894 of 2022; W.P.No.6838 of 2023; W.P.No.17406 of 2023; W.P.No.21659 of 2023; W.P.No.25151 of 2023 and W.P.No.28503 of 2023); Sri Madhu Sudana Sai Ram Asadi, learned Counsel for the Writ Petitioner in W.P.No.22491 of 2023 ; Sri V. Ramesh, learned Government Pleader for Services-IV and Ms. Shagufta Jahan Noor; Sri Viswanath Challa, learned Counsel appearing on behalf of Sri S. Vivek Chandra Sekhar, learned Standing Counsel for National Medical Commission.

2. All these Writ Petitions involve a substantive common issue, while the other factual details do vary from Writ Petition to Writ Petition. In this view of the matter, the facts emanating from the W.P.No.21631 of 2023 are referred to herein. The prayer, as such in W.P.No.21631 of 2023 is as under:

““It is therefore prayed that this Hon'ble Court may be pleased to issue an order or orders or direction or a writ one in the nature of Writ of Mandamus declaring the action of the respondents more particularly respondent No.2 and 3 in declaring the petitioners as ineligible candidate's for the post of Assistant Professor of Anatomy and Physiology under the Notification No.02/2023, dated 14.07.2023 for recruitment for the posts of Assistant Professors through Direct Recruitment and Lateral Entry (Regular and Limited Recruitment) on

the ground that "Senior Residency (SR) Not Completed/Enclosed", even though the Senior Residency (SR) is not required to be submitted for the post of Assistant Professor of Anatomy and Physiology and further in not selecting/appointing the petitioners for the post of Assistant Professor of Anatomy and Physiology under the Notification No.02/2023, dated 14.07.2023 and Order vide Rc.No.02 (WP.21631)/APMSRB/Notification No.2/2023-1, dated 27.10.2023 issued by the respondent No.3 herein is illegal, arbitrary, unconstitutional and contrary to regulations of Andhra Pradesh Medical Education Service Rules (G.O.Ms.No.154, Health, Medical & Family Welfare (A2), 4th May, 2002), Minimum Qualification for Teachers in Medical Institutions Regulations, 1998 (Amended upto 8th June, 2017) & Public Notice vide proceedings Lr.Rc.No.999-2/E11B/2022, dated 29.08.2022 issued by the respondent No.2 and consequently direct the respondents to appoint/select the petitioners for the post of Assistant Professor of Anatomy and Physiology under Notification No.02/2023, dated 14.07.2023 without insisting/seeking the production of Senior Residency Certificates and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. This batch of Writ Petitions were listed from time to time before this Court. My Predecessors have issued several Interim Orders from time to time directing the Respondent Authorities not proceed further and in some cases, a direction was given to keep the required number of posts unfilled. The common challenge in all these Writ Petitions revolved around a Notification issued by the Directorate of Medical Education, Government of Andhra Pradesh *vide* Notification No.2 of 2023 dated 14.07.2023 (Ex.P.3). This Notification is issued for recruitment of posts of Assistant Professors through Direct Recruitment and Lateral Entry relating to clinical and non-clinical posts in the Government Medical Colleges and Teaching Hospitals, which are under the Directorate of Medical Education. The said Notification No.2 of 2023 would state that the recruitment shall be as per the Service Rules issued in G.O.Ms.No.154, HM&FW (A2) dated 04.05.2002 (Ex.P.4). The present controversy relates to the filling-up of non-clinical posts of Assistant Professors relating to the Departments of Anatomy, Bio-chemistry, Micro Biology, Pharmacology and Physiology. Notification No.2 of 2023 dated 14.07.2023 (Ex.P.3) had made it mandatory for the Applicants for the post of Assistant Professor for non-clinical posts to submit a Senior Residency

Completion Certificate. Maximum age prescribed for the Applicants for OC candidates is 42 years, 47 years for the EWS/SC/ST/BC candidates, 52 years for Physically Handicapped persons and 50 years for the Ex-servicemen as on the date of Notification. It is also stated that the Rule of Reservation will apply as per the provisions of A.P State and Subordinate Service Rules, 1996 and also as per the G.O.Ms.No.857 & 858, HM & FW Department dated 14.11.2022. Selection procedure is based on marks/grade obtained in the qualifying degree and as per the criteria evolved in Section-II of Para No.7 of the Notification No.2 of 2023.

4. It is submitted that, insofar as non-clinical posts are concerned, one must possess M.Sc (Medical) in the related subject for the post of Tutor and M.Sc (Medical) and P.hD (Medical) for the posts above the Tutor, which includes posts of Assistant Professor as well.

5. In Para No.4 of Section-IV of the said Notification, documents which are required to be submitted are mentioned. Sub-para(1) of Para(4) of Section-IV indicates that the Senior Residency Completion Certificate is also required to be submitted for everyone except the Applicants in Super Specialties, Dental Specialties and candidates applying through Lateral Entry.

6. The Writ Petitioners would submit that the requirement for submission of Senior Residency Completion Certificate was mandatory requirement for all clinical posts in the previous Notifications also, issued in the year 2022 and backwards. By adopting the earlier practice, the Writ Petitioners who have applied for posts of non-clinical subjects, did not enclose the Senior Residency Completion Certificate, because as such, there is no Senior Residency training for the candidates who pursue their M.Sc degrees, which is a well known fact.

7. It is submitted that the Writ Petitioners were surprised to see that the Provisional Merit List published by the Official Respondents on 09.08.2023, had declared the Writ Petitioners as not eligible and the reason indicated

therein is that they did not submit the Senior Residency Completion Certificate. Having been aggrieved by the said sudden dis-qualification of the Writ Petitioners, they have challenged the action of the Official Respondents in declaring the Writ Petitioners as not being eligible for consideration for the non-clinical posts of Assistant Professors.

8. Learned Counsel for the Writ Petitioners have drawn the attention of this Court to the status of the Writ Petitioners, as indicated in the Merit List declaring them as not eligible on the ground that the Writ Petitioners have not submitted the Senior Residency Completion Certificate. Learned Counsel for the Writ Petitioners has also drawn the attention of this Court to the various e-mails sent by the Writ Petitioners to the Official Respondents between 11th August to 16th August that for P.hD candidates, Senior Residency Completion Certificate is not required as per the guidelines issued by the National Medical Commission (for short the 'NMC') on 14.02.2022. It is the submission that Table-1A of the Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022 (issued on 14.02.2022) would indicate that the Senior Resident "is one who is doing his residency in the concerned department after obtaining Medical Postgraduate Degree (MD/MS/DNB)". Nextly, Table-1B of the said Regulations, 2022 would clearly state that M.Sc, Ph.D in separate Table did not include Senior Resident (SR) for M.Sc, Ph.D candidates.

9. Learned Counsel for the Writ Petitioners has drawn the attention of this Court to the various Regulations of the Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022, issued on 14.02.2022 by the Postgraduate Medical Education Board of the National Medical Commission. He had also drawn the attention of this Court to Table-1A of Regulation No.6, which clearly states that the academic qualification of Assistant Professor is MD/MS/DNB in the concerned subject, for which one year as Senior Resident in the concerned subject in a recognized/permitted Medical College after clearing MD/MS Degree. Insofar as Tutors are concerned relating to non-medical postgraduates, it has been clearly stated that non-medical

postgraduates with M.Sc (Medical) degree shall be called Tutors in whichever departments they are working. In Table-1B of Regulation No.6, titled as “Index of Broad Specialties in which Persons with non-Medical Qualifications may be appointed as Faculty (Assistant Professor and beyond)”, for the subject of Anatomy, Biochemistry and Physiology, academic qualification that is required is M.sc (Medical Anatomy) with Ph.D in Medical Anatomy, M.Sc (Medical Biochemistry) with Ph.D in Medical Biochemistry and M.Sc (Medical Physiology) with Ph.D in Medical Physiology.

10. Learned Counsel for the Writ Petitioners would submit that the Regulations did not ask for submission of Senior Residency Completion Certificate, insofar as the non-medical qualifications are concerned. It is further submitted that in Table-1C of the Regulation No.6, Senior Resident (Medical Postgraduate) is defined as one who is doing his residency in the concerned department after obtaining Medical Postgraduate degree (MD/MS/DNB).

11. Learned Counsel for the Writ Petitioners have submitted that after the Regulations, 2022 were brought into effect by the NMC on 14.02.2022, the earlier Regulation titled as “Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998” had been repealed vide Regulation No.16; that vide Regulation No.14 (Saving Clause), the appointments made under the old Regulations, 1998 have been saved.

12. Learned Counsel for the Writ Petitioners would submit that in the Notification No.2 of 2023 making it mandatory that the Applicants who possess non-clinical postgraduate degrees in medical subjects and also stipulates that the non-clinical postgraduates possess non-clinical postgraduate certification will be considered only, if the vacancies are unfilled by the candidates possessing medical degrees. Learned Counsel for the Writ Petitioners would contend that the Regulations titled as “Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022” were brought into effect by the NMC in exercise of the powers conferred on the said NMC by the

Section 57 of the NMC Act, 2019. The said Regulations were framed by the Postgraduate Medical Education Board and were brought into effect on 14.02.2022. It is contended that the Government of Andhra Pradesh ought not to have laid down any condition which is contrary to the Regulations, 2022. It is contended that the two conditions in the Notification No.2 of 2023 namely that only in the case of non-availability of candidates with qualifications MD/MS/DNB/DM, the candidates with qualifications of M.Sc (Medical Anatomy) on regular mode with P.hD (Medical Anatomy) will be considered and the other condition making it mandatory for non-clinical postgraduate and P.hD holders to submit the Senior Residency Completion Certificate are contrary to the Regulations, 2022 of the NMC.

13. In furtherance of their submissions, learned Counsel for the Writ Petitioners have submitted as under:

- i. That all the Writ Petitioners are having M.Sc (Medical) qualification with Ph.D degrees and all of them have been working in various capacities (as Tutors, Assistant Professors and Associate Professors) in various institutions from various lengths of time.
- ii. That the Writ Petitioners have assumed that the requirement of submission of Senior Residency Complete Certificate was only meant for clinical posts, since there was mandatory requirement of submission of such Certificates for non-clinical posts, for which the Writ Petitioners have applied.
- iii. That one year Senior Residency is not applicable to M.Sc (Medical) and P.hD (Medical) and is only applicable to candidates who are pursuing MD/MS medical degrees and in that regard, Directorate of Medical Education had also issued notice vide Proceeding bearing Lr.Rc.No.999-2/E11B/2022 dated 29.08.2022 stating that as per the NMC Regulations dated 14.02.2022 (Teachers Eligibility Qualifications in Medical

Institutions Regulations, 2022) in Table-1B of Regulation No.6 would indicate that Senior Residency for non-medical post graduates in Anatomy, Biochemistry and Physiology is not mandatory.

- iv. That at no point of time the Directorate of Medical Education (Respondent No.2) had ever issued any Notification making it mandatory for M.Sc (Medical) with Ph.D (Medical) candidates apply for Senior Residency. In fact, Senior Residency is not offered for the candidates who came from the stream of M.Sc (Medical) and Ph.D (Medical) in non-clinical subjects. It is therefore submitted that if the Official Respondents so desire to make Senior Residency Completion Certificate mandatory, the Government should firstly create facilities, by making amendments to the Rules and create new courses, to enable the M.Sc (Medical) to join and complete the Senior Residency Programme.
- v. That only with regard to clinical subjects, Senior Residency at postgraduate level is offered.
- vi. That the A.P Medical Education Service Rules, (G.O.Ms.No.154, HM&FW (A2) dated 04.05.2002) and the earlier Regulations, 1998 issued by the then Medical Council of India have never made the submission of Senior Residency Completion Certificate mandatory by the Applicants of M.Sc (Medical) with Ph.D (Medical) for the posts of Assistant Professors in Anatomy and Physiology and Biochemistry.
- vii. That the minimum qualification specified in the Teachers Eligibility Qualifications in Medical Institutions Regulations, 1998 (Amended upto 08.06.2017) and the Government of India, Ministry of Health & Family Welfare, dated 27.05.2019 is that the Medical M.Sc with Medical Ph.D Applicants can be appointed in

the Departments of Anatomy, Physiology, Biochemistry, Pharmacology and Microbiology.

- viii. That the Medical Council of India was dissolved and the National Medical Commission came into existence from 25.09.2020. The State Government has never prescribed or demanded the submission of Senior Residency Completion Certificate insofar as non-clinical posts are concerned.
- ix. That the Public Notice issued vide Proceeding Lr.Rc.No.999-2/E11B/2022 dated 29.08.2022 would also clarify that the Senior Residency Completion Certificate is not mandatory for non-clinical posts.
- x. That it is most pertinent to state that the Directorate of Medical Education (Respondent No.2) had issued Notification No.1 of 2023 dated 04.08.2023 for the posts of Senior Residents and in the said Notification No.1 of 2023 also the Respondent No.2 has asked only for candidates who possess medical postgraduate degrees such as DM/MCH/MD/MS/DNB to apply for Senior Resident, which clearly shows that Senior Residency is not applicable to the M.Sc (Medical) with Ph.D (Medical) Applicants for the posts of Anatomy, Biochemistry, Pharmacology, Microbiology and Physiology.
- xi. That the Directorate of Medical Education (Respondent No.2) had filed the Counter Affidavit in W.P.No.14467 of 2020 stating that :

“24. It is submitted that the respondent No.2 has filed a counter in W.P.No.14467 of 2020 by stating at para No. 16 that "there is no rule in Medical Council of India regulations as pointed out by the petitioner, that first only MD/MS candidates are to be appointed as Assistant Professors and if no MD/MS candidates are available then only the M.Sc with Ph.D candidates are to be considered for appointment to the post of Assistant Professor".
- xii. That the Master of Science Medicine Association has submitted a Representation to the Respondent No.2 on 18.07.2023 raising

objections about making the submission of Senior Residency Completion Certificate to the non-clinical posts as mandatory (Ex.P.13)

Submissions of the Official Respondents

14. The Official Respondents have filed Counter Affidavit in W.P.No.21659 of 2023. Sri Y.B. Ramesh, learned Government Pleader has drawn the attention of this Court to the Notification No.2 of 2023 (Ex.P.3) and would submit that Para No.7 of Section-I of the Notification would stipulate that only in the case of non-availability of candidates having the qualification of MD/MS in Anatomy, Biochemistry and Physiology from the college recognized by the MCI/NMC, the candidates with M.Sc (Medical) with Ph.D (Medical) in Anatomy, Biochemistry and Physiology will be considered on regular mode. For the candidates who are applying under direct recruitment mode, it was made compulsory for everyone including the candidates applying for non-clinical posts to submit the Senior Residency Complete Certificate. He would submit that only in the case of paucity of the teachers in non-clinical departments, relaxation upto the Head of the Department may be given by the appointing authority to the non-medical persons, if the suitable medical teacher in the particular non-clinical specialty is not available for the required post. It is also stated that such relaxation will be made only with the prior approval of the NMC and that a non-medical person cannot be appointed as Director or Principal or Dean or Medical Superintendent.

15. In the light of the above submission, the following are the issues that fall for consideration :

- I. *Whether the condition laid down by the Directorate of Medical Education (Respondent No.2) making it mandatory for the Applicants holding non-clinical degrees (M.Sc (Medical) with Ph.D (Medical)) to submit the Senior Residency Complete Certificate in*

derogation to the Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022 ?

- II. *Whether the condition laid down by the Directorate of Medical Education (Respondent No.2) that the case of the Applicants holding non-clinical degree (M.Sc (Medical) with Ph.D (Medical)) will be considered in the case of non-availability of candidates with qualifications of MD/MS/DNB/DM is in consonance with the Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022 ?*

Issue Nos. I & II.

16. Submissions of the Writ Petitioners as well as the Respondents had been noted by this Court hereinabove. It is noticed that the previous Notifications issued by the Respondent No.2 had never contained the two conditions which are mentioned hereinabove and it was for the first time the Respondent No.2 has chosen to lay down these conditions. These conditions were neither imposed by the earlier Regulations of the Medical Council of India/NMC (Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998) nor the current Regulations, 2022, which came into effect from 14.02.2022 titled as "Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022" issued by the Postgraduate Medical Education Board of the NMC. This Court has also noticed that all the Writ Petitioners possess non-clinical postgraduate degrees and non-clinical P.hD degrees in their respective medical subjects and that they have been working in various academic/teaching capacities for nearly about a decade in various institutions in different capacities such as Tutors/Lecturers/Assistant Professors and that they have been waiting for considerable period with legitimate expectation that they would have an opportunity to apply for direct recruitment for the post of Assistant Professors in the same terms and conditions which existed until the Notification No.2 of 2023 came to be issued on 14.07.2023. It is also noticed that the Senior Residency Programme is made available only to the medical

postgraduates pursuing their postgraduate degrees in certain subjects which are not categorized as non-clinical subjects. It is also noticed that, insofar as the non-clinical postgraduates are concerned, like the holders of M.Sc (Medical) with Ph.D (Medical), their avenues in Government service are restricted, inasmuch as there is an embargo of being promoted to the posts of Dean of the Faculty or Head of the Department or Director of the Institute etc. Services of such Assistant Professors are confined to limited operations without having any involvement in the treatment of patients. It is also noticed that at one point of time when there was shortage of medical graduates holding degrees of MD/MS/DNB/DM, the Government has opened avenues for the holders of M.Sc (Medical) degrees relating to non-clinical subjects to be appointed as Assistant Professors.

17. It is also noticed that in the Table-1C of Regulation No.6 of Regulations, 2022, a Senior Resident is described as 'one who is doing his residency in the concerned Department after obtaining Medical Post graduation degree (MD/MS/DNB)'. This makes it clear that there is no scope for a non-medical post graduates to ever seek an admission into Senior Residency programme because admission into Senior Residency is only open to Medical Postgraduate degrees holders such as MS/MD/DNB. This apart, it is pertinent to observe that in Table-1B of Regulation No.6 of Regulations, 2022 relating to subjects of Anatomy, Biochemistry and Physiology, the academic qualifications which are prescribed relate to M.Sc with the concerned medical subject along with P.hD in the concerned medical subject. The said Table-1B is usefully extracted hereunder:

Table 1B: Index of Broad Specialties in which Persons with non-Medical Qualifications may be appointed as Faculty (Assistant Professor and beyond)

S.No.	Name of the Specialty	Academic Qualification
1.	Anatomy	M.Sc (Medical Anatomy with Ph.D Medical Anatomy
2.	Biochemistry	M.Sc (Medical Biochemistry with Ph.D Medical Biochemistry

3.	Physiology	M.Sc (Medical Physiology with Ph.D Medical Physiology
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18. When the existing statute as promulgated by the NMC (Regulations, 2022) has very clearly stipulated the difference between the Medical Post Graduate Degrees and its requirement of possessing of one year Senior Residency Complete Certificate as compared to that of non-medical post graduates with M.Sc (Medical) with Ph.D (Medical), the Respondent No.2 has not been able to justify with reason as to why this definition had been obliterated by it. When the statute does not permit non-medical post graduate with M.Sc (Medical) with Ph.D (Medical) to ever take an admission into Senior Residency Programme, this Court is unable to countenance as to how such candidates could at all produce Senior Residency Completion Certificate. Imposing a requirement which is just an impossibility and which is not even contemplated under the statute is an antithesis to the rule of law, inasmuch as such deviations by the State can never be permitted and this approach by the Government cannot stand to the test of rationality and reasonableness under Article 14 of the Constitution of India. In respect of the Corrigendum dated 06.04.2022, which is a clarification to the Public Notice dated 29.03.2022.

19. In the present batch of Writ Petitions, as indicated earlier, that in the Notification No.2 of 2023 for non-medical post graduates with M.Sc (Medical) with Ph.D (Medical) will be considered, only if MD/MS/DNB/DM are unavailable, is contrary to the Regulations, 2022. Similarly, imposing a requirement on the non-medical post graduates with M.Sc (Medical) with Ph.D (Medical) to produce Senior Residency Completion Certificate is also contrary to the Regulations, 2022.

20. In this view of the matter, such conditions in the Notification No.2 of 2023 which are contrary to the Regulations, 2022 are unsustainable in law, and are hereby quashed. Consequently, the Provisional Merit List published by the Official Respondents on 09.08.2023 shall also stand quashed with a further direction to the Respondents to prepare a fresh Provisional Merit List in

accordance with the Order of this Court and publish the same within eight weeks from the date of uploading of this Order in the Website of this Court. It is clarified that in respect of other contentions raised by the Writ Petitioners such as adjustment of the post meant for the disabled person (hearing impairment) or conversion of reserved posts into general category so on so forth, shall be considered by the Respondents in accordance with law inasmuch as the Rules in respect of these issues are already in place.

21. With these observations and directions, the Writ Petitions are allowed. No Order as to Costs.

22. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 17.06.2025

JKS