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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 20th July, 2020
+ **W.P.(C) 4247/2020 & CM. APPLs. 15287-88/2020**

DR. VIJENDER KUMAR Petitioner

Through: Mr. Sarthak Maggon, Advocate.
versus

UNIVERSITY OF DELHI & ORS. Respondents

Through: Ms. Shefali Vohra, Advocate for
GNCTD.
Mr. Mohinder J. S. Rupal and Mr.
Hardik Rupal, Advocates for
University of Delhi.
Dr. Vikrant Narayan Vasudeva, Mr.
Parv Ahluwalia and Mr. Sarthak
Chiller, Advocates for R-3/MAIDS.
Mr. T. Singhdev and Ms. Michelle B
Das, Advocates for R-4.
Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Advocates for UGC/R-5.
Ms. Nidhi Raman, CGSC for R-
6/UOI.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. The present petition has been filed by nine students who are pursuing the Master of Dental Sciences (*hereinafter*, “MDS”) Post Graduate Programme at Respondent No.3 college i.e., the Maulana Azad Institute of Dental Sciences (*hereinafter*, “MAIDS”). As per the Petitioners, students who have passed the second year and are pursuing the third year of the MDS

programme are to submit a thesis as part of their course curriculum. The deadline for submission of the thesis, as per the amended ordinance of Delhi University (*hereinafter*, “DU”) relating to post graduate MDS courses, was 15th October, 2020, extendable up to two weeks. However, the Petitioners were recently informed of the fact that they have to submit their thesis by 30th June, 2020, extendable up to 31st July, 2020 with late fee.

3. Ld. counsel for the Petitioners submits that the applicable Ordinance was amended on 20-21st July, 2019, which amendment was notified on the website of DU on 18th October, 2019. As per the said amended Ordinance, the deadline for submission of thesis is 15th October, 2020, extendable up to two weeks. Thus, it is the case of the Petitioners that the notice for submission of thesis by 30th June 2020, extendable by one month to 31st July 2020 with late fee is completely arbitrary as students were not informed of the advancement of the date for submission in time. Further grounds have been raised that fixing such a deadline for submission of a thesis at such short notice especially during a pandemic has created panic amongst the students.

4. This matter was listed on 17th July, 2020, on which date ld. counsels for DU and MAIDS sought time to place on record certain documents. Accordingly, the matter was adjourned for today. Both counsels have placed on record compilations of documents which have been considered by this Court.

5. Mr. Mohinder Rupal, ld. counsel appearing for DU submits that DU had originally fixed the date for submission of thesis as April, 2020 which is clear from a reading of email dated 20th April, 2020 sent to all the colleges. The receipt of this email is also admitted by MAIDS. Mr. Rupal then

submits that the Executive Council had met on 20-21st July, 2019 and amended the deadline for submission of thesis to 15th October, 2020, however, the same was to be subject to the approval of the Board of Research Studies (*hereinafter*, “BRS”). Any amendment to these ordinances, especially for post-graduate studies, has to be approved by the BRS, which, according to him, is clear from a reading of Clause 15.1 of the Ordinance of the University Relating to Post Graduate (MDS) Courses as per which the stipulated time frame for the thesis would be decided by the BRS. Ld. counsel further submits that even Appendix-III to the amended Ordinance, which specifies the date for submission of the thesis as 15th October, 2020 and the date for submission of the thesis protocols as 30th October, 2020, is with the caveat that the same would be subject to change on the recommendation of the BRS.

6. Mr. Rupal further submits that after the Ordinance was amended on 20-21st July, 2019 the BRS had met on 16th September, 2019 and in the said meeting, where Professor Sabita Mishra from the Maulana Azad Medical College (*hereinafter*, “MAMC”) was also present, it was decided by the BRS that the date of thesis submission would be 30th April, 2020. Ld. counsel thus submits that the BRS had not approved of the extension of the thesis submission till 30th October, 2020 and hence, the original date of 30th April, 2020 holds good. Ld. counsel also relies upon the e-mail dated 18th April, 2020 which was sent to all colleges wherein it has been mentioned that the original deadline was 30th April, 2020, however, the same has been extended to 30th June, 2020 and 31st July, 2020 with payment of late fee. Finally, he relies upon the Bulletin of Information issued by DU to argue that as far as students are concerned, the date was always known to the

students as 30th April, 2020. Thus, the extended deadline of 30th October, 2020 was never intimated to the students as the BRS had not approved it. It is also urged that the rules which were applicable to the 2018 batch would continue to apply to them and the amendment to the ordinance in 2019 would not affect the students of the 2018 batch.

7. On behalf of MAIDS, Dr. Vikrant Narayan Vasudeva, ld. counsel submits that the two institutions, MAMC and MAIDS, are distinct and autonomous institutions. MAMC is the medical college and MAIDS is the Maulana Azad Institute of Dental Sciences. On 2nd August, 2019, MAIDS received a communication from DU that the date for submission of the thesis is 30th April, 2020. However, the Ordinance was thereafter amended and it was clearly specified that the date for submission of thesis would be 15th October, 2020. Ld. counsel further submits that more confusion was caused by an e-mail which was received on 29th June, 2020 attaching therewith the old ordinance with the submission date as 30th April, 2020. Thereafter, MAIDS has been in continuous correspondence with DU seeking a clarification as to whether the amended Ordinance would apply or not. Ld. counsel submits that it was only on 4th July, 2020 that the clarification was received pursuant to which it issued communications to the students on 4th July, 2020 and 6th July, 2020 asking them to submit the thesis by 30th June, 2020, extendable up to 31st July, 2020 with payment of late fee. These communications have been challenged in the present writ petition. Further, Mr. Vasudeva relies upon the Regulations of the Dental Council of India (*hereinafter*, “DCI”) to submit that the thesis would have to be submitted six months before the conclusion of the course and hence the 15th October, 2020 deadline is as per the DCI’s regulations.

8. Various submissions have been made by Mr. Maggon, Id. Counsel for the Petitioners, to the effect that the BRS has no power to amend the resolution of the Executive Council. It is also submitted that while the amended ordinance was notified on 18th October, 2019, the BRS minutes have not been notified on the website of DU. The Petitioners go to the extent of arguing that the BRS minutes are fabricated and that the BRS could not have been constituted without the presence of MAIDS.

9. This Court has considered the submissions of the parties i.e., MAIDS, DU and the Petitioners. There are various aspects which arise for consideration by this Court:

- (i) What is the effect of the Executive Council's decision dated 20-21st July 2019 amending the Ordinance in respect of the MDS course?
- (ii) Whether the said amendment, in respect of the timeline for submission was subject to approval of the BRS?
- (iii) What is the role of the BRS i.e., whether the BRS's role is only confined to the approval of the Thesis protocol or even the timelines?
- (iv) Whether the amendment of the Ordinance and thereafter the Minutes of Meeting of the BRS dated 16th September, 2019 were intimated by DU to MAIDS?
- (v) Whether MAIDS had notified its students of the Executive Council's amendment in the Ordinance dated 20-21st July 2019?
- (vi) Whether MAIDS had notified its students of the Minutes of Meeting of the BRS dated 16th September, 2019?

10. A perusal of the decision of the EC dated 20 - 21st July 2019 shows that the Executive Council had clearly changed the deadline for submission of the thesis - may be, to bring the same in line with the Regulations of the

DCI. The relevant extract of the said resolution and Appendix III reads:

“15.2 Thesis submission Dates:

MDS Courses – 15th Oct (during 3rd year of the course)

15.3 No extension of time shall ordinarily be granted for submitting the thesis-protocol/thesis beyond the last date stipulated for the purpose. The BRS may allow submission of the thesis-protocol/thesis beyond the last date for genuine reasons on recommendations of Head of the institution. In case of such late submissions a maximum of 2 weeks time would be granted with late submission fee of 1000/- per week.”

“*SUBMISSION OF THESIS PROTOCOL AND THESIS FOR MDS COURSES TO THE FACILITY OF MEDICAL SCIENCES

<i>Course</i>	<i>Thesis Protocols submission</i>	<i>Thesis submission</i>
<i>(a) MDS</i>	<i>(a) 30th October of the 1st year of the course</i>	<i>15th October (of the 3rd year of the course)</i>

****Subject to change on recommendation of the Board of Research Studies (BRS).***

The Protocols will be reviewed by the Head of the Departments within four weeks after receipt of the protocols by the Faculty of Medical Sciences. Any Comments/revision of protocols, if necessary should be communicated by the HOD Faculty of Medical Sciences to the candidate and the Institution within four weeks of submission of the protocols. The revised Thesis protocol should be

received not later than eight weeks from the actual date of submission (i.e. 30th October for MDS courses). The BRS should consider the protocols by 15th January and communicate the approval to the Institution and candidates.

Any request by candidate for revision in the thesis-protocol after approved by BRS should have recommendations of the institution and should be received in office of Faculty of Medical Sciences within 2 months of BRS meeting in which protocol was approved. The Chairman BRS, in consultation with concerned HOD, would take a decision in the matter. In case of dispute, the Chairman may place the matter before an emergent meeting of BRS."

11. The above resolution was notified by DU on 18th October, 2019. The same is stated to be available on the official website of DU. Thereafter, the BRS met on 16th September, 2019 and recorded the following in its Minutes of Meeting:

Item No.10	<i>The BRS considered the schedule of submission of thesis protocol and thesis for MD/MS/MDS and Super Specialty courses to the Faculty of Medical Sciences:</i>		
	<i>Course</i>	<i>Thesis Protocols submission</i>	<i>Thesis submission</i>
	<i>(a) MD/MS/MDS</i> <i>(b) The (MD/MS) Students who have already done Diploma in Same subjects</i>	<i>(a) 30th October of the 1st year of the course</i> <i>(b) 1st September of the 1st year of the course</i>	<i>(a) 30th April (at the end of 2nd year of the course)</i> <i>(b) First week of October in</i>

			the 2 nd year of the course
	Super Specialty course (where applicable)	30 th November of the first year of the course	30 th November (beginning of the 3 rd year of the course)
	<u>17.3 No extension of time shall ordinarily be granted for submitting the thesis-protocol/thesis beyond the last date stipulated for the purpose. The BRS may allow submission of the thesis-protocol/thesis beyond the last date for genuine reasons on recommendations of Head of the institution.</u> <u>Extension of thesis submission for MD/MS/MDS beyond 30th April may be granted to a maximum of one month with late submission fee for Rs. 1000/- per week. For Super speciality courses where applicable, submission of Thesis beyond 30th November may be granted to a maximum of one month with late submission fee of Rs. 1000/- per week.</u> <i>In case of such late submission, of thesis beyond one month the student shall not be allowed to appear in the final examination at the end of normal duration of the course. He/ she may be allowed to appear in supplementary or subsequent examinations at least six months after submission of the thesis, subject to approval of thesis. No relaxation will be granted in this regard.</i> <i>The Protocols will be reviewed by the Head of the Departments within four weeks after receipt of the protocols by the Faculty of Medical Sciences. Any Comments/revision of protocols, if necessary should be communicated by the</i>		

	<i>HOD Faculty of Medical Sciences to the candidate and the Institution within four weeks of submission of the protocols. The revised Thesis protocol should be received not later than eight weeks from the actual date of submission (i.e. 30th October for MD/MS/MDS and 30th November for Super specialty courses). The BRS should consider the protocols by 15th January for MD/MS/MDS courses and 15th February for Super Specialty courses and communicate the approval to the Institution and candidates.</i> <i>Any request by candidate for revision in the thesis-protocol after approved by BRS should have recommendations of the institutions and should be received in office of Faculty of Medical Sciences within 2 months of BRS meeting in which protocol was approved. The Chairman BRS, in consultation with concerned HOD, would take a decision in the matter. In case of dispute, the Chairman may place the matter before an emerging meeting of BRS.</i> <i>The BRS after examining the provisions of the PG Ordinance and discussion resolved that the existing regulations continue. The faculty must get protocol review process furnished as per existing guidelines.</i>
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This meeting is stated to have been attended by the Principal of MAMC and not MAIDS. At this stage, there is no clarity amongst either DU or MAIDS as to whether the Minutes of Meeting of the BRS were uploaded on the website or communicated to the respective colleges and students.

12. A reading of clause 15.1 along with Appendix III does not give any clarity as to whether the change of deadline to 15th October 2020 is subject to approval by the BRS. Clearly, in the hierarchy the Executive Council is above the BRS. Moreover, the use of the asterisk and the note below has

caused enormous ambiguity. Whether the BRS could have amended the timeline is itself doubtful. At this stage, a *prima facie* reading of the above documents shows that the scope of the BRS was to approve the Thesis Protocol. If the BRS did not approve of the extension till 15th October 2020, then there ought to have been a discussion on the same, which is clearly absent in its Minutes of Meeting dated 16th September, 2019. There is also no document placed on record to show that DU had communicated the Minutes of Meeting of the BRS to MAIDS for onward communication to the students.

13. The argument that the amendment in the timeline by the Executive Council is not applicable is also not a tenable argument in as much as DU itself has written an email annexing the old Ordinance and thereafter extended the time till 30th June 2020 extendable to 31st July 2020 with late fee.

14. Thus, insofar as the authorities are concerned, there is enormous confusion which has prevailed due to the amendment in the Ordinance. The question as to whether the Executive Council's decision can be changed by the BRS and as to whether the BRS's minutes are genuine or not cannot be adjudicated at this stage without the pleadings of the parties. Mr. Rupal submits that there is also no allegation in the writ petition that the BRS's minutes are fabricated. The allegation that the BRS's minutes are fabricated is a very serious allegation which cannot be gone into at this stage by the Court.

15. Insofar as this Court is concerned, the three authorities which prescribe the requirements for completion of the MDS course would be DCI, DU and MAIDS. A perusal of the documents which have been placed on

record shows that:

- i. There is no clarity as to whether the original Bulletin of Information was amended by MAIDS or any circular was issued to students notifying the amended date as 15th October, 2020 extendable by two weeks;
 - ii. There is also no clarity as to whether the Executive Council's decision to extend the time limit for submission of the thesis could have been changed by the BRS and if so whether the Minutes of Meeting dated 16th September 2019 have been notified to MAIDS;
 - iii. There is no doubt that MAIDS and MAMC are two separate institutions and MAIDS did not participate in the meeting of the BRS.
 - iv. MAIDS has not placed on record any circular where the students have been notified of the original date, the subsequent change in the ordinance and the extension of time till 30th June, 2020 extendable up to 31st July, 2020 with late fees.
16. Mr. Mohinder Rupal, submits that there is no amendment to the Bulletin of Information and students have to abide by the same. But the issue is not so simple as the Ordinance of DU was amended. If the said amendment was to apply to prospective batches only, the same ought to have been made clear to the institutions and to students.
17. MAIDS has not placed any document to show -
- a) that the students were informed that the original date for submission i.e., 30th April, 2020 was changed to 15th October, 2020;
 - b) that the students were informed that the date of 15th October, 2020 was again changed to 30th April, 2020; and

c) that the date of 30th April, 2019 was once again changed to 30th June, 2020 extendable up to 31st July, 2020 with payment of late fee.

18. Neither DU nor MAIDS have been able to place on record proper documents to establish as to when the colleges and students were notified of the various changes in deadlines for submission of thesis. Thus, one thing is clear that the last date for submission of thesis has been muddled up and confusion has been created in the minds of students. Mr. Mohinder Rupal submits that MAIDS is a non-COVID hospital. Ld. counsel for the Petitioner - Mr. Sarthak Maggon submits that four out of the nine Petitioners are on COVID duty. Insofar as the students who have approached this Court are concerned, considering the lockdown and the stress on all medical colleges and institutions and also considering that the original Executive Council's amendment had extended the time till 15th October, 2020, this Court is inclined to grant extension of time for submission of thesis till 30th September, 2020. The same shall however be subject to payment of late fee of Rs.5,000/-. Those Petitioners who are capable of submitting their thesis by 31st July, 2020 would be permitted to do so without any late fee payment. The payment of late fee shall be subject to further orders of this Court.

19. The above order is being passed in the interest of third year MAIDS students who have approached this Court for relief. Considering that there is enormous mis-communication between the authorities and the circulars were not adequately circulated amongst the students, this relief is being granted at the *prima facie* stage. The same shall not be considered as an opinion on merits either regarding the powers of the Executive Council and the BRS or as to the genuinity and validity of the BRS minutes, which issues shall be considered at the stage of final adjudication of the writ petition.

20. Let the counter affidavit be filled within four weeks. Reply to the counter affidavit be filed within two weeks thereafter.
21. List on 9th September, 2020.

PRATHIBA M. SINGH
JUDGE

JULY 20, 2020
dj/T

