

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN
AND
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.No.1728 of 2011

Tamil Nadu Homeopathy Medical Council,
Rep. by its Registrar,
Arumbakkam, Chennai-106. ... Appellant

Vs.

1. Dr.V.Kamalam
 2. The State of Tamil Nadu,
rep. by the Secretary to Government,
Department of Higher Education,
Fort St.George, Chennai-9.
 3. The Tamil Nadu Dr.M.G.R.University,
Rep. by the Registrar,
No.69, Anna Salai, Guindy, Chennai-32.
 4. The Principal,
Venkateswara Homeopathy Medical College,
6/117-A, Mount, Poonamallee,
Porur, Chennai-116.
 5. The Correspondent,
Venkateswara Homeopathy Medical College,
6/117-A, Mount, Poonamallee,
Porur, Chennai-116.
- (Respondents 2 to 5 given up)

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.04.2011 passed in W.P.No.1204 of 2011 on the file of this Court. Petition under Article 226 of the Constitution of India for issue of a writ of Mandamus to direct respondents 2 to 5 to issue the second provisional certificate to the petitioner and grant her seniority in registration of BHMS qualification with effect from the date of completion of internship on 15.7.2010.

For appellant : No appearance
For respondents: M/s.A.Arulmozhi for R-1

JUDGMENT

(The Judgment of the Court was delivered by V.DHANAPALAN,J)

This Writ Appeal is filed by the Tamil Nadu Homeopathy Medical Council (third respondent in the Writ Petition) against the order of the learned single Judge made in W.P.No.1204 of 2011, dated 06.04.2011, wherein, in respect of the prayer made by the first respondent herein (writ petitioner) for issuance of a Writ of Mandamus to direct the respondents 2 to 5 therein, to issue the second provisional certificate to the writ petitioner and grant her seniority in registration of BHMS qualification with effect from the date of completion of internship on 15.07.2010, the learned single Judge passed the following order:

"5.

In such view of the matter and taking note of the special circumstances, this Court passes the following order, which shall not be quoted as a precedent in future:

(i) the petitioner is directed to make an application to the third respondent for registration of Bachelor of Homoeopathic Medicine and Surgery qualification, based on the internship certificate issued by the fourth respondent, within a period of one week from the date of receipt of a copy of this order, of course complying with all other requirements; and

(ii) on such application being made by the petitioner, the third respondent shall register the petitioner in the third respondent/Council forthwith and such registration shall be given effect to from the date of completion of the internship, viz., 15.7.2010.

This writ petition is allowed in the above terms. No costs. Consequently, M.P.No.1 of 2011 is closed."

2. The Writ Appeal was admitted on 28.09.2011 and this Court ordered notice to be issued to the respondents and Ms.Arulmozhi, learned counsel took notice for the first respondent/caveator. Subsequently, when the appeal was listed for hearing on 03.11.2014, as there was no representation for the appellant, the matter was directed to be listed under the caption "for dismissal" on 05.11.2014. Thereafter, when it was listed on 05.11.2014, the following order was passed:

"Even though the learned counsel appearing for the appellant had stated that the respondents 2 to 5 are not necessary parties and therefore they had been given up, we find it appropriate to direct the Registry to issue notice to respondents 2 to 5 for proper adjudication of the matter.

Hence, the Registry is directed to issue notice to respondents 2 to 5, returnable in four weeks."

3. Thereafter, when the appeal was listed for hearing on 12.01.2015, learned counsel on both sides was called absent and service of notice, as ordered by this Court by the said order dated 05.11.2014, in respect of respondents 2 to 5 was yet to be completed and steps have not been taken and therefore, to given them an opportunity, this Court directed to list the matter after two weeks.

4. Thereafter, on 24.02.2015, when the matter was listed for hearing, again the learned counsel for the appellant was called absent and the learned counsel for the first respondent was ready with the matter and this Court directed to list the matter next week under the caption "for dismissal". Again on 04.03.2015, when the appeal was listed under the caption "for dismissal", learned counsel for the appellant was again called absent and hence, to give them an opportunity, it was again directed to be listed under the caption "for dismissal" today (05.03.2015).

5. Today, when the appeal is listed under the caption "for dismissal", again the learned counsel for the appellant is called absent and the learned counsel for the first respondent is present and ready to contest the matter. However, it is seen that there has been continued absence of the learned counsel for the appellant, which has resulted in the appeal being non-prosecuted. Hence, the Writ Appeal is dismissed for non-prosecution. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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Copy to

1. The Secretary to Government,
Department of Higher Education,
Fort St.George, Chennai-9.
2. The Registrar, Tamil Nadu Dr.M.G.R.University,
No.69, Anna Salai, Guindy, Chennai-32.

+1 cc to M/s. A. Arulmozhi, Advocate SR.12719

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VD(CO)
EU 18.03.15