

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

Writ Petition No.21512 of 2015 and
M.P.Nos.1 to 3 of 2015

Ragas Dental College and Hospital,
Represented by its Secretary,
2/102, East Coast Road,
Uthandi, Chennai - 119.

Petitioner

Vs

1.The Government of India,
Represented by its Under Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi - 110 011.

2.The Dental Council of India,
Represented by its Secretary,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
New Delhi - 110 002.

3.The Tamil Nadu Dr.MGR Medical
University,
Represented by its Registrar,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

4.The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in the order dated 10.07.2015 in Ref.No.V.12025/44/2015-DE, quash the same and consequently direct the respondents to permit the petitioner to admit students in the BDS course offered by the petitioner for the academic year 2015-16.

For petitioner Mr.R.Muthukumaraswamy, SC
 for Mr.A.Jenasenan

For R.1 Mr.Su.Srinivasan,
 Assistant Solicitor General

For R.2 Dr.S.Seethalakshmi

For R.4 Mr.A.Kumar,
 Special Government Pleader

O R D E R

Heard Mr.R.Muthukumaraswamy, learned Senior Counsel for the petitioner; Mr.Su.Srinivasan, learned counsel who took notice for the first respondent; Dr.S.Seethalakshmi, learned counsel who took notice for the second respondent; Mr.A.Kumar, learned Special Government Pleader who took notice for the fourth respondent and with their consent, the main writ petition is taken up for disposal at the admission stage itself.

2.This writ petition has been filed by Ragas Dental College and Hospital, Represented by its Secretary, to quash the order passed by the first respondent dated 10.07.2015 in Ref.No.V.12025/44/2015-DE, and consequently direct the respondents to permit the petitioner to admit students in the BDS course offered by the petitioner for the academic year 2015-16.

3.The petitioner college is a self-financing Dental College established in the year 1989 with the permission of the Central Government and the Dental Council of India (hereinafter referred to as the "DCI") under the provisions of the Dentists Act and is affiliated to the third respondent University and is offering B.D.S., degree with an intake of 100 students as well as Post Graduate courses leading to M.D.S., degree with a total intake of 49 students. Out of the said 100 seats in the M.D.S., course, the petitioner college surrenders 50 seats to the fourth respondent to be filled through Government counselling.

4.Mr.R.Muthukumaraswamy, learned Senior Counsel appearing for the petitioner would submit that after obtaining approval from the respondents 1 and 2, the petitioner has been continuously offering B.D.S., course for the past 25 years. While so, the second respondent/Council appointed two Inspectors to inspect the petitioner college on 02.08.2013 and on 03.08.2013 and report on the standard and actual physical facilities available for teaching B.D.S., course. Based on the Inspection report, the DCI issued communication dated 12.12.2013, calling upon the petitioner to fulfil the deficiencies pointed out therein and submit its compliance report. The

deficiencies are that the distance between the College and the private hospital is more than the prescribed distance ; clinical material and equipment is not adequate and there is deficiency in teaching staff etc. In this regard, the petitioner has submitted a detailed compliance report dated 20.01.2014 to the DCI after rectifying all the defects pointed out. Thereafter, the respondents 1 and 2 granted recognition to the petitioner college to admit students into the B.D.S., course for the academic year 2013-14.

5. Thereafter, the DCI appointed two Inspectors to inspect the petitioner college on 21.04.2014 and on 22.04.2014 and to submit a report. Based on the report of the Inspection Committee, the DCI again issued a communication dated 27.06.2014, calling upon the petitioner to fulfil the deficiencies pointed out therein. While recognizing that some of the deficiencies pointed out in the earlier communication dated 12.12.2013 were rectified, the DCI called upon the petitioner college to rectify those deficiencies that remained unfulfilled with other certain additional deficiencies. Again, the petitioner college submitted a detailed Compliance Report on 28.11.2014 along with relevant documents to prove the fact that all the deficiencies pointed out by the DCI were fulfilled. Thereafter, the respondents 1 and 2 granted permission to the petitioner college to admit students into the B.D.S., course for the academic year 2014-15.

6. While so, the DCI again appointed Inspectors to inspect the petitioner college on 15.05.2015 to verify the compliance report submitted by the petitioner. The Inspectors also inspected the petitioner college. Thereafter, the first respondent sent a communication dated 19.06.2015 to the petitioner college stating that the DCI has sent a letter dated 15.06.2015 to the first respondent giving negative recommendation with respect to the petitioner's application for B.D.S course for the year 2015-16. Therefore, the petitioner was called upon as per Section 10-A(4) of the Dentists Act, 1949 to appear before the Hearing Committee constituted by the first respondent on 24.06.2015 and submit a detailed Compliance Report of the deficiencies pointed out by the DCI.

7. In the letter dated 15.06.2015 sent by the DCI to the first respondent, the following deficiencies were pointed out about the petitioner college:-

"(i) The College is attached to the Voluntary Health Service Hospital which is located at a distance of 13 kms from the college.

(ii) Several of the staff members appointed to various posts have not submitted TDS certificates, relieving orders, appointment letters etc.,

(iii) Some of the teaching staff numbering 17 were absent on the date of inspection and some marked their attendance late.

(iv) There is a deficiency of various equipments including e-journals and 89 dental chairs."

8. As directed by the first respondent, the petitioner college submitted a Compliance Report evidencing the rectification of all the deficiencies pointed out by the DCI on 24.06.2015. Once again, the petitioner sent a detailed compliance letter dated 02.07.2015 along with all supporting documents to show that the deficiencies pointed out by the DCI have been rectified. In particular, the petitioner has stated that:-

(i) The students are provided with travel facilities between the hospital and the college and the distance between the hospital and the college was within the stipulated distance ; but however, due to the construction of highways and due to the deviation in traffic, the distance is now slightly exceeding the stipulated distance.

(ii) The copies of the TRS certificates, appointment orders, relieving letters etc., of the various staff were enclosed.

(iii) The explanation and leave letters for those staff who were not present/arrived late on the date of inspection were enclosed.

(iv) The purchase order, proforma invoice, copy of payment made through demand draft and receipts for purchase of all the equipment listed by DCI were furnished.

9. In spite of curing all the defects pointed out by the respondents, the first respondent conveyed its decision on 10.07.2015 to stop admission in the B.D.S., course in the petitioner college for the academic year 2015-16 and directed the petitioner not to admit any students in the said course, therefore, such an approach adopted by the respondents has caused huge prejudice to the petitioner college, hence, the impugned order is liable to be set aside, Mr. R. Muthukumaraswamy, learned Senior Counsel for the petitioner pleaded.

10. In reply, refuting the above submissions, learned counsel for the first respondent heavily contended that the first respondent, after considering the communication received from the DCI, has rightly come to the conclusion to stop the admission to the B.D.S., course for the academic year 2015-16 in the petitioner college. Since the DCI has followed the Rules as framed under the Act, the impugned order passed by the first respondent does not require any interference at the hands of this Court.

11. I have considered the above submissions made by the learned counsel for both parties.

12.A perusal of the impugned order passed by the first respondent dated 10.07.2015, in my view, is bereft of any merits. The reason is that it does not appear to have been passed based on any findings or conclusions. When the first respondent had pointed out certain deficiencies in the petitioner college for the admission of students for the B.D.S., course for the academic year 2015-16, the petitioner submitted its compliance report on 24.06.2015. Besides, the petitioner college has also submitted a detailed compliance report on 02.07.2015. This apart, the petitioner has raised all contentious issues with regard to the deficiencies pointed out by the second respondent therefore, the deficiencies have been fulfilled or not are to be gone into only by the appellate authority. Whereas, the first respondent has not even considered the said compliance report dated 24.06.2015 and the subsequent detailed compliance report dated 02.07.2015 submitted by the petitioner. Hence, the impugned order cannot be sustained.

13.Further, while rejecting the request of the petitioner to admit the students in B.D.S., course for the academic year 2015-16, it is not known why the first respondent has not even averted to compliance of the petitioner college at least for one or two deficiencies pointed out by the DCI. Therefore, when the impugned order does not speak about either the deficiencies or the reply given by the petitioner, I am of the view that the first respondent being a quasi judicial authority has miserably failed to apply its judicial mind therefore, the impugned order is liable to be set aside by this Court.

14.In the result, the writ petition is allowed and the impugned order passed by the first respondent in Ref.No.V.12025/44/2015-DE dated 10.07.2015, is set aside by this Court with a direction to the first respondent to re-consider the case of the petitioner on merits and in accordance with law, on the basis of the Compliance Report and the further Compliance Report given by the petitioner dated 24.06.2015 and 02.07.2015, respectively along with the voluminous documents enclosed, after providing personal hearing of the petitioner, within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

jbm

To

1.The Under Secretary,
The Government of India,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi - 110 011.

2.The Secretary,
The Dental Council of India,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
New Delhi - 110 002.

3.The Registrar,
Tamil Nadu Dr.MGR Medical
University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

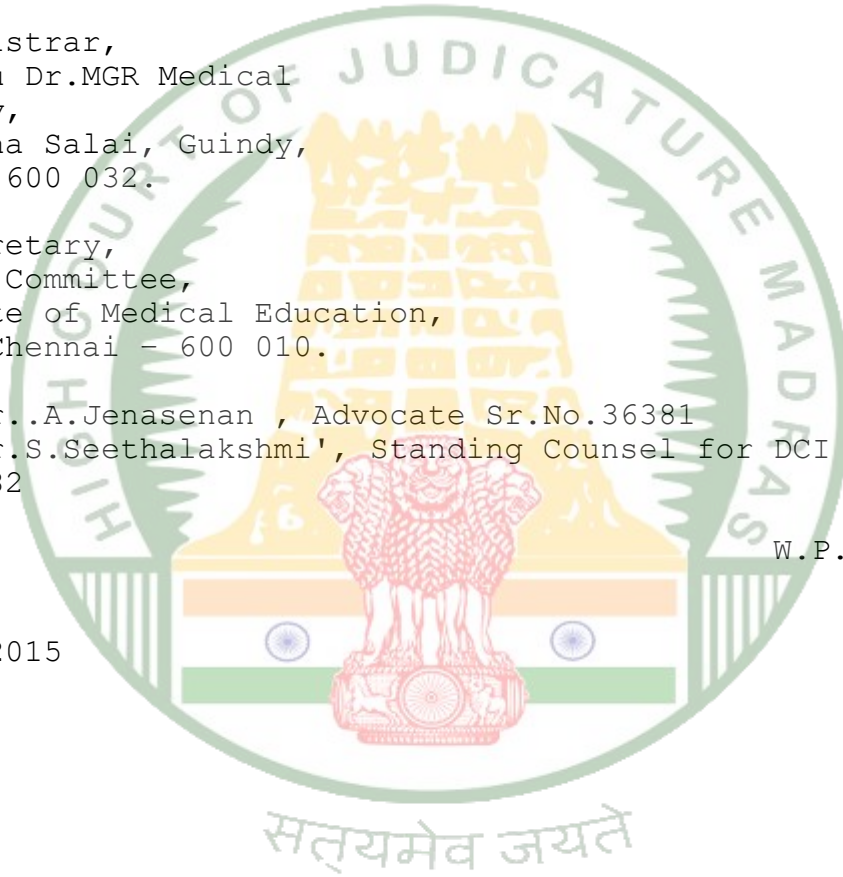
4.The Secretary,
Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

1 cc to Mr..A.Jenasenan , Advocate Sr.No.36381

1 cc to Dr.S.Seethalakshmi', Standing Counsel for DCI , Advocate
Sr.No.36382

W.P.No.21512 of 2015

pmk.20.7.2015



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