

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17-08-2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

W.P.No.22882 of 2015 and M.P.No.1 of 2015

- 1 CSI College of Dental Science & Research
rep. by its Principal
129, East Veli Street, Madurai 625 001

...Petitioner

Vs

- 1.Union of India
rep. by its Secretary to Government
Ministry of Health & Family Welfare
Department of Health Moulana Azaad Road
Nirman Bhavan New Delhi-110 011
- 2.The Secretary
Dental Council of India
Alwaan E-Ghalib Marg
Kotra Road, New Delhi 110 002
- 3.The Registrar
Tamilnadu Dr.MGR Medical University
No.60, Anna Salai Road
Guindy, Chennai-32

...Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the 1st respondent issued in proceedings No.V.12025/44/2015-DE dated 10.7.2015 and quash the same and consequently direct the respondents 1 and 2 to grant approval to the petitioner college for the increase in intake from 50 to 100 from the academic session 2015-16

For petitioner :Mr. R. Muthukumarasamy, Senior Counsel
for M/s. R. Saraswathi, C.Ramachandran

For respondents :Mr. Su. Srinivasan, ASG for R1
Mrs. Seethalakshmi, Standing Counsel
for R2
Mr. D. Saravanan for R3

ORDER

The petitioner made an application seeking permission to increase in the intake of seats for BDS Course from 50 to 100 for the academic year 2015-2016. By the impugned order dated 10th July 2015, the petitioner's request was rejected placing reliance upon the recommendation made by the second respondent on 29-05-2015. Challenging the same, the present writ petition has been filed.

2. It appears that originally in the year 2006, the third respondent issued a letter of consent of affiliation for 100 seats. However, the Ministry of Health and Family Welfare, the first respondent herein, granted permission for only 50 seats. An application dated 28-09-2006, was made thereafter by the petitioner seeking permission for 100 seats for the academic year, 2015-2016. Admittedly, the petitioner could not get the letter of consent of affiliation from the third respondent and the said letter of consent was only obtained on 25-05-2015 from the third respondent, which in turn was sent to the second respondent on 26-05-2015. The second respondent has rejected the request of the petitioner on the ground of non-production of letter of consent of affiliation from the third respondent on 29-05-2015. The petitioner was issued with the notice by the first respondent on the recommendation made by the second respondent on 19-05-2015. The petitioner has given a reply stating that the letter of consent of affiliation having been obtained from the third respondent on 25-05-2015 which is the basis for the recommendation against increase of intake, has lost its relevancy, by then. However, the order impugned rejecting the request of the petitioner, has been passed on the basis of the recommendation made by the second respondent. Challenging the same, the petitioner is before this Court.

3. It is seen from the communication sent by the first respondent dated 19-06-2015, that the application filed by the petitioner was not processed for want of letter of consent of affiliation from the third respondent. In the earlier communication dated 29-05-2015 sent by the second respondent also, the same was reiterated. It has been specifically stated therein that the entire process would require six months including inspection, consideration, communication of the deficiencies, receiving compliance, verification and making appropriate recommendations and since the petitioner has furnished the letter of consent belatedly, that too, much after the application made, the request cannot be considered. Thus, this Court does not find any illegality in the order passed.

4. Admittedly, as on today, the process of considering the application on merit has not taken place. However, this Court is of the view that, since the recommendation was negated, followed by the order impugned, accepting the same on the sole ground of non-production of letter of consent of affiliation from the third respondent, the application made already by the petitioner can be considered for the year 2016-2017. In other words, neither the

recommendation nor the order impugned have been passed on merits, but only on the sole ground of non-production of the letter of consent of affiliation which has been complied with, subsequently. Thus, a direction is issued to the second respondent to complete the process of inspection, consideration and thereafter, make appropriate recommendation for increase in intake of BDS seats for the academic year 2016-2017, as sought for by the petitioner from 50 to 100 within a period of six weeks from the date of receipt of a copy of this order to the first respondent. On receipt of the same, the first respondent shall decide the application of the petitioner for the aforesaid prayer, within a period of four weeks, thereafter.

5. With the above observations, the writ petition is disposed of. No costs. The connected M.P.No.1 of 2015 is closed.

- Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

glp

To

- 1 The Secretary to Government
Ministry of Health & Family Welfare
Department of Health Moulana Azaad Road
Nirman Bhavan New Delhi
- 2 The Secretary
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- 3 The Registrar
Tamilnadu Dr.MGR Medical University
No.60, Anna Salai Road
Guindy, Chennai-32

+1cc to Dr.S.Seethalakshmi, Advocate (Sr.43407)
+1 cc to Mr.R.Saraswathi, Advocate (Sr.43336)
+1cc to Mrs.Pass Associates Chennai.

W.P.No.22882 of 2015

TEJ (co)