

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2015

CORAM

THE HON'BLE Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.A.No. 115 of 2003

The Principal
Edayathangudy G.S., Pillai College of Pharmacy,
Nagar Road, Nagapattinam - 611 601.

...Appellant

Vs.

1. The Registrar,
Pharmacy Council of India Kotla Road,
Awan-E Khatif Marg,
New Delhi -2.
2. The Registrar,
Tamil Nadu Pharmacy Council,
Block-E, 1st Floor, Bhartiyar Complex,
Chennai - 26.
3. The Director, Directorate of Medical Edn.,
162, Periyar EVR High Road,
Kilpauk, Chennai - 10.
4. The Registrar,
Tamilnadu Dr.M.G.R., Medical University
Guindy, Chennai.
5. The Correspondent,
Fathima College of Pharmacy,
103, Main Road,
Krishnapuram,
Kadayanalur,
Tirunelveli District.

6. Unemployed Pharmacist Association,
Rep., by its Coordinatore, A Palanivelswamy,
13-2-25, Pilliar Koil Street,
Poolankudiyiruppu 627818,
Shankottai Taluk,
Tirunelveli District.

...Respondents

Prayer:-Writ Appeals filed under Section 15 of the Letters patent against the order of this court dated 12.12.2002 passed by learned single Judge in W.P. No.13945 of 2002 praying for the issue of Writ of Mandamus directing the first respondent to grant permission to the 5th respondent on complying with the Rules and Regulations of the Pharmacy Act 1948 and further directing the 5th respondent to obtain recognition for the 5th respondent college from the first respondent retrospectively from the academic year 1993 to 1994 to upto date on or before the end of the month of May 2002.

For Appellant : No Appearance

For Respondents : Mr.S.T.S.,Murthy G.P., for R3

Mr.Anand David for R4

No Appearance for RR 1,2 & 5

JUDGMENT

(Judgment of the Court was delivered by Hon'ble Mr.Justice
T.S.SIVAGNANAM)

This Appeal is directed against the order dated 12.12.2002 made in W.P.No.13945 of 2002.

2. The petitioner is an Educational Institution established during 2001-02 offering B-Pharmacy course after obtaining approval from the Government of Tamil Nadu and affiliated to the Tamil Nadu Dr.Ambedkar Medical University. The appellant applied to the Pharmacy Council of India on 23.09.2002, for approval of the course to register the candidates as Pharmacist and such application was pending. While so, a batch of Writ Petitions in W.P.No.37141 of 2002, etc., filed by students of other colleges offering B-Pharmacy course sought for a direction to transfer them to colleges which were approved by the Pharmacy Council of India to enable them to continue and complete the course and on completion to facilitate them to register as Pharmacist under the Pharmacy Council of Tamil Nadu/India. In the said Writ Petition suo-moto notice was issued by

the learned Single Judge to various Pharmacy colleges and one among them was the appellant. The reason for issuing suo-moto notices was that the batch of Writ Petitions in W.P.No.37141 of 2002 etc., were allowed by the learned Single Judge by order dated 08.11.2002, issuing several directions, the sum and substance of which was transferring the students who were studying in the pharmacy colleges, who were respondents in the batch of cases to other Institutions. As a consequence of the order dated 08.11.2002, notices were issued to several colleges including the appellant for being dealt with on similar lines. Insofar as the appellant Institution, an order was passed by the learned Single Judge on 12.12.2002, directing the appellant to secure permission of the Pharmacy Council of India as well as affiliation from Dr.M.G.R. Medical University within a period of four weeks and if the same is not complied with, a direction was issued to the Medical University to shift 24 students who were under going the course in the appellant Institution to any other approved institution. Further direction was issued to the Pharmacy Council of India as well as the Medical University to consider the appellant's applications expeditiously without delay taking into consideration the interest of the students. One of the Institutions which were covered in the batch of cases in W.P.No.37141 of 2002, dated 08.11.2002, namely, Fathima College of Pharmacy filed an appeal before the Division Bench in W.A.No.3691 of 2002, challenging the order dated 08.11.2002 and the Division Bench granted an order of interim stay by order dated 04.12.2002.

3. The appellant Institution being aggrieved by the direction issued in the suo-moto notice dated 12.12.2002, has filed the present appeal challenging the said order. The main grievance of the appellant is that none of the petitioners in the batch of Writ Petitions in W.P.No.37141 of 2002, etc., had sought for any relief against the appellant Institution and there being no cause of action, the learned Single Judge erred in issuing suo-moto notice to the appellant. The appellant would further contend that they were not heard in the matter and merely because the earlier batch of cases were allowed, notices were issued to them and there was a threat to transfer its students. The appellant would contend that the approval from the Pharmacy Council of India is not mandatory in terms of Section 12 of the Pharmacy Council of India Act, 1948, and such approval is necessary only after the first batch of four year students pass out. Further, the appellant would contend that their Institution was established after obtaining due permission from the State Government, approval from The All India Council for Technical Education and affiliation from the Medical University to conduct the B-Pharmacy course and the institution has been functioning, since academic year 2001-2002.

4. At the time when this appeal was entertained, an order of interim stay was granted by order dated 09.01.2003, which continues to remain in force till date.

5. The learned Counsel appearing for Medical University would contend that the Institution is still functioning with necessary affiliation from the University and as on date, the impediments which were put against the appellant in 2002 do not any longer survive and the institution is functioning.

6. Thus by efflux of time, the necessity to adjudicate the correctness of the impugned order dated 12.12.2002 does not arise, as the Institution has been functioning all these years with affiliation from the Medical University. Thus, the impugned order has worked itself out and as a consequence of which the directions issued no longer hold good and accordingly, they are not required to be enforced.

With these observations, the Writ Appeal stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

pbn

To

1. The Registrar,
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162, Periyar EVR High Road,
Kilpauk, Chennai - 10.

4. The Registrar,
Tamilnadu Dr.M.G.R., Medical University
Guindy, Chennai.

1 CC to Mr.Anand David, Advocate SR.No. 28285

1 CC to the Government Pleader, SR.No. 28234

W.A.No. 115 of 2003

EV (CO)
PSI (24.06.2015)



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