

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.34141 of 2015
and M.P.No.1 of 2015

Hahnemann Homoeopathic Medical Trust,
rep by its Managing Trustee,
Mr.A.Sivasubramani, B.E.,
Managing Trustee,
6/177-A, Mount Poonamallee Road,
Karambakkam, Porur, Chennai - 600 116. ... Petitioner
-Vs-

1. The Government of India
rep by its Secretary,
Ministry of Health and Family Welfare,
Department of Ayurveda, Yoga & Naturopathy,
Unani, Siddha & Homoeopathy (AYUSH),
IRCS Annex Building, 1, Red Cross Road,
New Delhi - 110 001.
2. The Central Council of Homoeopathy (CCH)
rep by its Secretary,
Jawaharlal Nehru Bhartiya Chikitsa Avum,
Homoeopathy Anusandhan Bhawan,
No.61-65, Institutional Area,
Opp to "D" Block, Janakpuri,
New Delhi - 110 058.
3. The Commissioner,
Directorate of Indian Medicines & Homoeopathy,
Arumbakkam, Chennai - 600 106.
4. Tamil Nadu Dr.M.G.R.Medical University
rep by its Registrar,
69, Anna Salai, Guindy, Chennai - 600 032. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 4th respondent University to rectify the website correctly showing the intake/sanctioned strength as 100 instead of 50 in so far as the petitioner college (Venkateswara Homoeopathic Medical College & Hospital, Porur, Chennai-116) and pay damages.

For Petitioner : Mr.R.Muthukumarasamy, Senior Counsel
for Mr.D.Prabhu Mukunth Arunkumar
For Respondents: Mr.K.Raju, ACGSC (R1 & R2)
Mrs.P.Rajalakshmi, Government Advocate (R3)
Mr.Anand David (R4)

O R D E R

The petitioner was given permission earlier by the respondents for intake of 50 students for the course of Homoeopathy Medicine. It was increased to 100. The said decision was made with effect from the year 2002 onwards. As there was a move to reduce the intake once again to 50, the order passed to that effect was challenged in the Writ Petition in W.P.No.2749 of 2014 wherein the order impugned was set aside by taking into account the order passed in W.P.No.12662 of 2013 dated 23.07.2013 wherein it was held as follows:

"Result:

14. In the result, the impugned orders are quashed. The University is directed to pass a consequential order restoring the original intake of 100 students with effect from the academic year 2002-2003."

The said order has been given effect to by the respondents by maintaining the intake of students at the sanctioned strength of 100 for the academic year 2014-2015. However, since for the year 2015-2016 the respondent University has not given permission for the intake of 100 students despite the requisite permission obtained from the other respondents, the present Writ Petition has been filed.

2.While the facts as narrated are not in dispute, the learned counsel appearing for the respondent no.4 submitted that a clarification has been sought for from the respondent no.1 about the intake pertaining to the petitioner College for the academic year 2015-2016 by letter dated 21.09.2015. The respondent no.1 replied on 21.10.2015 stating that the seat matrix as prevailing in 2014-2015 would continue and steps have been taken to file Writ Appeals as against the order of the learned Single Judge of this Court. Construing the said letter as one to restrict the seats to 50, the respondent no.4 has shown the same in website as such. A perusal of the letter dated 21.10.2015 clearly indicates that the seat matrix as prevailed in 2014-2015 would continue and it is not as if, pursuant to the order passed by this Court, the seats sanctioned to the petitioner in 2014-2015 were 100. Thus, even as per the letter, the petitioner is entitled to fill up 100 seats. The said letter cannot overwrite the order passed by this Court. As on today,

there is no order granted by the Division Bench staying the operative portion of the order passed by the learned Single Judge. The order has been given effect to in the earlier year and the order cited supra does not restrict the intake only to one academic year.

3.Thus, looking at from any angle, the petitioner cannot be prevented from filling up the remaining 50 seats, especially, when the respondent no.4 has complied with the order passed by this Court for the academic year 2014-2015 and also in the light of the documents pertaining to the other respondents indicating the sanctioned strength at 100.

4.Accordingly, the Writ Petition is allowed. The respondent no.4 is directed to rectify the website showing the sanctioned strength for the Homoeopathy course in the petitioner College as 100 instead of 50, forthwith. The respondents 3 & 4 are directed to fill up the seats by including them in the counselling. No costs. Consequently, the connected miscellaneous petition is closed.

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-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Secretary, Government of India,
Ministry of Health and Family Welfare,
Department of Ayurveda, Yoga & Naturopathy,
Unani, Siddha & Homoeopathy (AYUSH),
IRCS Annex Building, 1, Red Cross Road,
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Arumbakkam, Chennai - 600 106.
4. The Registrar,
Tamil Nadu Dr.M.G.R.Medical University,
69, Anna Salai, Guindy, Chennai - 600 032.

+ 1 cc to Mr.D.Prabhu Mukunth Arunkumar, Advocate SR 57971

+ 1 cc to Mr.K.Raju, Advocate SR 58146

+ 1 cc to Mr.Anand David, Advocate SR 58216

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