

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.11155 of 2014

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Date: March 26, 2015

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Between:

The Sri Venkateswara College of
Nursing, Kollipara, Guntur District,
Rep. by its Secretary & Correspondent
G. Venkata Sambhi Reddy. ... Petitioner

And

1. The Govt. of A.P.,
Rep. by its Principal Secretary,
Medical & Health,
Hyderabad & 3 others. ... Respondents

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HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.11155 of 2014

ORDER:

Heard learned counsel for the petitioner and the learned
Government Pleader.

2. The petitioner prays for a Mandamus declaring the action of the respondents in not issuing Essentiality Certificate to run Sri Venkateswara College of Nursing at Kollipara, Guntur District, is illegal and arbitrary. The petitioner also prays for a consequential direction to respondents to grant Essentiality Certificate to run College of Nursing at Kollipara.

3. The case of the petitioner is that the petitioner is an educational society, established educational institutions and running various courses in these institutions. On 27.01.2005 proposals were submitted to the Medical and Health Department to establish College of Nursing (B.Sc.). It is stated that the said application is accompanied by requisite fee. The respondents constituted High Power Committee to verify the infrastructure facilities and make appropriate recommendations for grant of Essentiality Certificate. The District Level Inspection Committee visited the college proposed by the petitioner and submitted the report on 03.02.2006. It is the case of the petitioner that the respondents made favourable recommendations for grant of Essentiality Certificate. The petitioner makes a grievance on discrimination by referring to a few Essentiality Certificates granted to other educational institutions on 29.12.2012, 08.01.2013, 03.11.2012 and 18.02.2013. The inaction is complained as arbitrary and discriminatory. Incidentally, the petitioner while asserting ability of the petitioner society to run a college of nursing, submits that the petitioner has put in place the required infrastructure and non-issuance of Essentiality Certificate is erroneous and causes prejudice.

4. The 1st and 2nd respondents filed counter-affidavit. The first objection against the consideration of petitioner's application dated 27.01.2005 is that the proposal for grant of essentiality is not submitted as against any notification issued by the Government

calling for applications for issuing Essentiality Certificate. The proposal is made against general notification issued by Indian Nursing Council. The Government of Andhra Pradesh has not issued corresponding notification calling for applications for establishment of Colleges of Nursing. The counter-affidavit admits the report dated 03.02.2006. The objection against the said report is that the district level teams have not scrutinized the proposals strictly in the light of applicable statutes, and on account of deficient scrutiny of proposals, including the proposal of the writ petitioner, recalled the reports to the High Power Committee/respondent No.2. The applications were strictly scrutinized in the light of G.O.Ms.No.145 HM & FW (K2) Department, dated 18.05.1998, under which colleges of nursing are established in the State of Andhra Pradesh. The committee proposed to the Government for rejection and accordingly the petitioner's application was rejected.

5. To add emphasis to the stand taken by the respondents it is stated that the proposal of the applicant on re-verification found that it is not in compliance with G.O.Ms.No.145 read with the statutes of Dr.N.T.R. University of Health Sciences and recommended for rejection and it was rejected by the Government.

6. The sum and substance of the objection is that once a proposal is rejected due to non-compliance with statutes and G.O.Ms.No.145 dated 18.05.1998, nothing survives in the writ petition. The laches are also pointed out in invoking the jurisdiction of this Court under Article 226 of Constitution of India. Having regard to the stand taken by the 1st and 2nd respondents, this Court finds it difficult to consider granting any relief to the petitioner.

7. The writ petition is dismissed.

8. Pending miscellaneous petitions, if any, shall stand dismissed in consequence. No order as to costs.

S.V. BHATT, J

Date: March 26, 2015.

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HON'BLE SRI JUSTICE S.V. BHATT

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