

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.A.No.1508 of 2016
and
C.M.P.No.18626 of 2016

The Tamilnadu Dr.M.G.R. Medical University
rep. by its Registrar
No.69 Anna Salai Guindy,
Chennai-32. ... Appellant

Versus

- 1 S.V.S.Educational and Social Service Trust
rep. by its Chairman cum Managing Director
No.74 Gandhi Road Kallakurichi 606 202
Vizhupuram District
- 2 The Secretary to Government
Health and Family Welfare Department
Fort St. George Secretariat
Chennai-600 009
- 3 The Special Commissioner
Director of Indian Medicine and
Homeopathy
Arignar Anna Hospital Complex
Arumbakkam Chennai-106
- 4 The Central Council for Research in
Yoga and Naturopathy
Government of India
Ministry of Health and Family
Welfare Department
No.61-65 Pankha Road
Janakpuri
New Delhi 110 058 ... Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 16.11.2016 passed in M.P.No.33176 of 2016 in W.P.No.38721/2016 on the file of this court.

Wherein it was prayed that the High Court will be pleased to to direct the Registrar Tamillnadu Dr.M.G.R. Medical University No.69 Anna Salai Guindy Chennai 600 032 the 3rd respondent herein to send the seat matrix to the Special Commissioner Director of Indian Medicine and Homoeopathy Arignar Anna Hospital Complex Arumbakkam Chennai 600 106 the 2nd respondents for counselling on 7.11.2016 onwards and further direct the 2nd respondent to include the name of the petitioner S.V.S.Medical College of Yoga and Naturopathy and Research Institute Salem Main Road Bangaram Kallakurichi in the counselling Scheduled on 5.11.2016 onwards to admit the students in the Bachelor of Naturopathy and Yoga Sciences (B.N.Y.S.) Degree Course 5 1/2 years for the Academic year 2016-2017 in the Petitioner institution Pending

W.P.No.38721 of 2016, filed for the issuance of a Writ of Mandamus directing the Tamillnadu Dr.M.G.R. Medical University No.69 Anna Salai Guindy Chennai 600 032 by its Registrar the 3rd respondent herein to issue the continuance of provisional affiliation to the petitioner S.V.S.Medical College of Yoga and Naturopathy and Research Institute Salem Main Road Bangaram Kallakurichi for the academic year 2015-2016 2016-2017 to conduct the Bachelor of Naturopathy and Yogic Sciences (B.N.Y.S.) Degree Course in the petitioner Institution and Register the admission of students of the Academic year 2015-2016 2016-2017.

For appellant : Mr.Mr.G.Harihara Arun Somasankar

For R1 : Mr.S.Prabakaran for
Mr.K.Balakrishnan

For R2 : Mr.R.Prathapkumar,
Additional Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2.This appeal is filed by the Tamil Nadu Dr.M.G.R.Medical University against the interim order passed by the learned Single Judge on 16.11.2016 in W.M.P.No.33176 of 2016 in W.P.No.38721 of 2016.

3. In the grounds raised by the appellant, it is stated that the Health and Family Welfare Department of Tamil Nadu has recommended to the appellant to disaffiliate the first respondent institution, by letter dated 14.11.2016 and the learned Single Judge failed to consider that the appellant has disaffiliated the first respondent institution by order dated 8.11.2016 passed by the Governing Council in its 248th Meeting and therefore, the first respondent institution cannot admit the students without affiliation from the appellant.

4. According to the learned counsel appearing for the appellant, the Government of Tamil Nadu, by G.O.(3D) No.76 dated 24.6.2016, Health and Family Welfare (Z1) Department has rescinded the notification No.II(2)HFW/673/2013 published at page No.598 of Part II-Section 2 of the Tamil Nadu Government Gazette dated 4.9.2013, wherein the first respondent institution has been declared to be a teaching medical institution for the purpose of Anatomy Act, 1951 and also therefore, the first respondent institution is not authorised to admit candidate in the BNYS course without having permission from the Government to run the Anatomy Department and that the BNYS course consists of five subjects viz., (1) Human Anatomy (2) Human Physiology (3) Bio-Chemistry (4) Philosophy & Nature Cure and (5) Yoga Philosophy & Practice of Yoga in the first year and as such, the first respondent institution has not got permission to conduct Anatomy subject, but, the learned Single Judge failed to consider that students cannot be awarded BNYS degree without studying anatomy subject and has erred in giving direction to the appellant to consider the first respondent institution for counselling without verifying whether the first respondent institution has got permission of the appellant to run the BNYS course. Expressing the difficulties, the appellant prayed for setting aside the order dated 16.11.2016 passed by the learned Single Judge in the miscellaneous petition referred to above.

5. However, the order of the learned Single Judge is in the form of interim order and it has not been finally disposed of. Of course, several grounds have been raised by the University relating to the consequences of non-affiliation of one of the courses and also the disaffiliation steps being taken by the University governing council in its 248th Meeting. However, at this stage, we are not inclined to go into the merits of the case.

6. After having heard the learned counsel appearing for the parties with regard to disaffiliation of the college and also the resolution passed by the governing council, this court is of

the view that the parties shall raise all the contentions before the learned Single Judge to enable the learned Single Judge to dispose of the matter, in accordance with law, after hearing both the parties. Even thereafter, if the parties are aggrieved by any such order, by way of final disposal of the writ petition, this court would take up the issue. As such, it may not be proper to interfere, at this stage, rather the appellant is directed to urge all the contentions before the learned Single Judge to pass an appropriate order. It is also represented that there are certain new materials available with the University. Such new materials also shall be produced before the learned Single Judge, after serving a copy of the same on the other side. It is for the appellant to move the learned Single Judge today itself and in such event, it is for the learned Single Judge to pass appropriate orders, after hearing both the parties. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Secretary to Government
Health and Family Welfare Department
Fort St. George Secretariat
Chennai-600 009
- 2 The Special Commissioner
Director of Indian Medicine and Homeopathy
Arignar Anna Hospital Complex
Arumbakkam Chennai-106
- 3 The Central Council for Research in
Yoga and Naturopathy
Government of India
Ministry of Health and Family
Welfare Department
No.61-65 Pankha Road
Janakpuri New Delhi 110 058

4 The Registrar,
The Tamilnadu Dr.M.G.R. Medical University
No.69 Anna Salai Guindy,
Chennai-32.

+2cc to M/S.K.Balakrishnan, Advocate 67896
+1cc to the Government Pleader sr.68088

W.A.No.1508 of 2016

mv[co]
srg 08/12/2016



WEB COPY