

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2016

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.255 of 2016
and
C.M.P.No.4313 of 2016

The Union of India,
rep by its Secretary,
Department of Health and Family Welfare,
Department of Ayurveda, Yoga & Naturopathy,
Unani, Siddha and Homoeopathy (AYUSH) ,
IRCS Building, 1st Red Cross Road,
New Delhi-110 023. Appellant/1st Respondent

Vs.

1. The Principal,
RVS Homoeopathy Medical College, Sulur,
Coimbatore-641 402.
2. The Secretary,
Central Council of Homoeopathy,
No.61-65, Institutional Area,
Opp, "D" Block, Janakpuri,
New Delhi-110 058.
3. The Commissioner of Indian Medicine & Homoeopathy,
Arumbakkam,
Chennai-600 106.
4. The Tamil Nadu Dr.M.G.R. Medical University,
represented by its Registrar,
No.69, Anna Salai, Guindy,
Chennai-600 032.
5. The T.N. Homoeopathic Medical Council,
represented by its Registrar,
Arignar Anna Government Hospital of
Indian Medicine Campus, Arumbakkam,
Chennai-600 106.

6. Midhun Jose
7. A.K.Akshayaraj
8. V.Vignesh
9. Keerthana Anand
- 10.Fathima Shaima
- 11.Safeera Shirin
- 12.E.Rashmitha
- 13.Amlah

... Respondents/Petitioners,
Respondents 2 to 13

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 27.01.2015 passed in W.P. No.3085 of 2014.

W.P. No.3085 of 2014 : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 4th respondent TN Dr.M.G.R. Medical University to register the eight candidates (List of Students annexed) admitted for the Bachelor of Homeopathic Medicine and Surgery (BHMS) Course for the Academic Year 2012-2013 by accpeting the under taking given by the petitioner to re-adjust eight seats in the next Academic Year 2013-2014.

For appellant : Mr.N.Rajan,
Senior Central Government
Standing Counsel(SCGSC)

For Respondents : Mr.Issac Mohanlal for R-1
M/s.D.Saravanan
Mr.G.Ashokapathy for R-4

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal is preferred by the appellant against the order dated 27th January, 2015 passed in W.P.No.3085 of 2014.

2. The first respondent herein preferred the writ petition, seeking for a direction to the fourth respondent herein to register the eight candidates for the Bachelor of Homeopathic Medicine & Surgery (BHMS) Course for the academic year 2012-13 by accepting the undertaking to re-adjust eight seats in the subsequent academic year 2013-14. The eight candidates were admitted to the course for the academic year 2012-13 in excess of the permitted intake of 50 seats. In the subsequent academic year 2013-14, complying with the undertaking, only 42 candidates against the permitted intake of

50 seats were admitted. The said eight candidates, in the meantime, completed their course.

3. The learned Single Judge, considering the peculiar facts involved in the case on hand, approved the admission of the said eight candidates as a one time measure and directed the University to approve their admission and publish the results of all candidates, who have taken the examination as well as the supplementary examination pursuant to the interim direction issued in the writ petition.

4. Feeling aggrieved, the Union of India has come up with the instant appeal, submitting that the relevant rule does not permit the excess admission more than the permitted intake. Indisputably, the permitted intake in the concerned college was 50, but the College had admitted 58 candidates against 50 sanctioned seats in the academic year 2012-13. In such view of the mater, the admission was illegal and the same be declared as null and void.

5. We have examined the controversy involved in the case from all angles. There is no dispute that Section 12A(1)(b)(ii) of the Homeopathy Central Council (Amendment) Act, 2002 does not permit admission more than the sanctioned capacity. However, in the facts of the case, excessive students have already completed the course and had also written their examination. Further, they have acquired the expertise in the subject after going through proper training and as such, the course cannot be set at naught in the facts of the case.

6. Thus, we are not inclined to interfere with the impugned order passed in the peculiar facts of the case. However, we make it clear that no college shall be permitted to admit excessive candidates more than the permitted capacity, in future even on the condition that in the next academic year, the excessive candidates will be adjusted by reducing the number of candidates. The question of law is not required to be adjudicated in the instant appeal, leaving the same open to be considered in an appropriate case. We dismiss the appeal, upholding the order of the learned Single Judge, in the facts of the case, which will not create any precedent in future. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary,
The Union of India,
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Indian Medicine Campus, Arumbakkam,
Chennai-600 106.

+1cc to Mr.N.Rajan, SCGSC, S.R.No.15259

+1cc to Mr.Issac Mohanlal, Advocate, S.R.No.15252

W.A.No.255 of 2016

KK(CO)
CA(28/03/2016)

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