

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.04.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P. NO.6347 of 2017

&

W.MP.NO.6843/2017

Vivekananda Medical Care Hospital
Allied Health Courses,
Elayampalayam,
Tiruchengodu,
Namakkal District
Pin - 637 205
Rep.by its Principal Dr.Rajkumar

... Petitioner

Vs.

The Registrar Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai, Guindy, Chennai - 600 032. ... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in Rc.No.Affln.V(3)/58208/2016 dated 15.2.2017, quash the same and direct the respondent to grant continuation of provisional affiliation to the Institution run by the petitioner for the Academic year 2016-2017 without insisting on the approved building plan from the Director of Town and Country Planning (DTCP).

For Petitioner : Mr.K.Sridhar
for Mr.R.Gunalan

For Respondents : Mr.P.R.Gopinathan

O R D E R

This writ petition has been filed challenging the order passed by the respondent in Rc.No.Affln.V(3)/58208/2016 dated 15.2.2017, quash the same and direct the respondent to grant continuation of provisional affiliation to the Institution run by the petitioner for the Academic year 2016-2017 without insisting on the approved building plan from the Director of Town and Country Planning (DTCP).

2. The case of the petitioner is that the petitioner is the Principal of the Petitioner Hospital, Educational Agency, namely, Angammal Educational Trust, Tiruchengodu and have started various Educational Institutions and Colleges at Tiruchengodu, Namakkal District, especially for Women from all communities. The Educational Agency has started Engineering Colleges, Dental Colleges, Nursing Colleges and Pharmacy Colleges purely for Women and have purchased more than 250 Acres of Land for the purpose of establishing the Educational Institutions and at present, there are more than 23,000 Women students studying in the various institutions established by the Trust. In the year 1999, the President, Sathinaickenpalayam Panchayat, Elayampalayam, by its proceedings dated 05.08.1999 granted planning permission to construct 51,062.2 Square feet building for Vivekananda Institute for Ophthalmology and Research Hospital at Elayampalayam Village, Tiruchengodu Taluk for the construction of a Hospital and Research Institute. The Board of Trustees of Angammal Educational Trust resolved in its meeting dated 15.11.2009 decided to promote the Vivekananda Eye Care Hospital into a Hundred Bed Hospital from the year 2010 onwards for which permission was granted by the then competent authority dated 05.08.1999 and thereafter it was converted into a 100 bed hospital in the name and style of "Vivekananda Medical Care Hospital", Elayampalayam. Thus, the petitioner made an application to the respondent dated ***05.11.2013** to start the courses viz., (i) B.Sc., (Cardiac Technology) (ii) B.Sc., (Radiology Imaging Technology) for the academic year 2014-15. An application dated 24.10.2014 was submitted to the Registrar, Tamil Nadu Medical University, Chennai, the respondent herein, to start the courses viz. B.sc., (Cardiac Technology) and B.Sc., (Operation Theatre & Anaesthesia Technology). The respondent in its proceedings dated 19.02.2014 has granted provisional affiliation for the Academic year 2014-2015 to the courses viz., (i) B.Sc., (Cardiac Technology) (ii) B.Sc., (Radiology Imaging Technology). Subsequently, by order dated 21.07.2015, the respondent granted provisional affiliation for the Academic year 2015-16 to the courses viz., B.sc., (Cardiac Technology) and B.Sc., (Operation Theatre & Anaesthesia Technology). The petitioner has complied with all the other infrastructural facilities necessary for the continuation of the affiliation. However, by the impugned order dated 15.02.2017, the respondent has informed the petitioner Hospital that the detailed approved building plan along with the proceeding copy obtained from the competent authority, namely, the Director of Town and Country Planning (DTCP) was not obtained. The petitioner informed the respondent that the Planning permission granted by the President, Sathinaickenpalayam Panchayat dated 05.08.1999 and 12.02.2000 has been accepted by the Respondent for the purpose of granting affiliation for the Academic Year

2014-2015 and 2015-2016 and the same should be applicable for the Academic year 2016-17 also. But the respondent has informed the petitioner orally that due to the amendment to Section 47 of the Tamil Nadu Town & Country Planning Act, 1971 the approval of planning permission from the Director of Town and Country planning is mandatory. The Government of Tamil Nadu amended Section 47 of the Tamil Nadu Town and Country Planning Act 1971 and inserted Section 47 (a) by way of Act 46 of 2010. This amendment was published in the Tamil Nadu Government Gazette dated 03.12.2010. As such this amendment is prospective from 03.12.2010 and not retrospective. The authorities of the State have been taking action on the owners of the Buildings who have not obtained approval from the Director of Town & Country Planning and have been proceeding for demolition of the buildings which have obtained planning permission from the Director of Town & Country Planning. It is further stated that this Court, while deciding a batch of writ petitions in W.P.Nos. 20890 and 20891 of 2016 dated 31.08.2016 had held that the amendment to Section 47(A) of the Town & Country Planning Act, 1971 is prospective and not retrospective and the earlier planning approval given by the Panchayat would hold good since it is a valid planning authority. The students of the Petitioner's hospital have undergone their courses for the Academic Year 2016-17 in all the courses viz., B.Sc., (Accident and Emergency Care Technology), B.Sc., (Radiology Imaging Technology), B.Sc., (Cardiac Technology) and B.Sc., (Operation Theatre & Anaesthesia Technology).

3. The grievance of the petitioner is that if they are not allowed to continue their courses for the Academic Year 2016-17 and for subsequent years irreparable loss and hardship would be caused and hence come forward with the present Writ Petition seeking for the aforesaid relief.

4. Heard both sides and perused the materials on record.

5. A counter affidavit has been filed by the respondent stating that the Respondent University has conducted the inspection of the Petitioner Institution on 19.01.2017 and ascertained that till date, the petitioner Institution has not obtained the detailed Approved Building Plan from DTCP, the competent authority. The Respondent University had again sent a letter to the Petitioner Institution, instructing to submit the required Mandatory DTCP approval vide its letter dated 15.02.2017, for which the petitioner Institution has replied on 27.02.2017 that they had applied to the DTCP and awaiting their Approval for the detailed Building plan.

6. It is now stated by the learned counsel for the petitioner that the petitioner has given a letter/undertaking,

dated 18.03.2017, furnishing an affidavit that their DTCP approval is under process and three months time is further required. A resolution has been passed by the Governing council of the Respondent University extending 3 months time to furnish DTCP approval. **"However, it is submitted by the petitioner that the earlier approval was in the year 1999 by the Panchayat and obtaining DTCP approval at this length of time would be difficult and it is next to impossible."**

7. This Court, on 31.08.2016, in the batch of W.P.Nos.20890 & 20891 of 2016, has held that the amendment to Section 47 (A) of the Town & Planning Act, 1971 is prospective and not retrospective and the earlier planning approval given by the Panchayat would hold good since it is a valid planning authority.

***8.In view of the same, the respondent is directed to consider the grant of provisional affiliation without insisting on the DTCP Approval and pass orders on the same on merits and in accordance with law and also in the light of the order of this Court in W.P.Nos.20890 & 20891 of 2016 dated 31.08.2016.**

9. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-IV)

Dated:30/05/2017

*Corrected and issue fresh order Copy as per the order of this Court dated 8/6/17 in WMP No.15003/17 in W.P.No.6347 of 2017

Sd/-

Assistant Registrar (CS-IV)

Dated:15/06/2017

True Copy

Sub-Assistant Registrar

av/arr

To

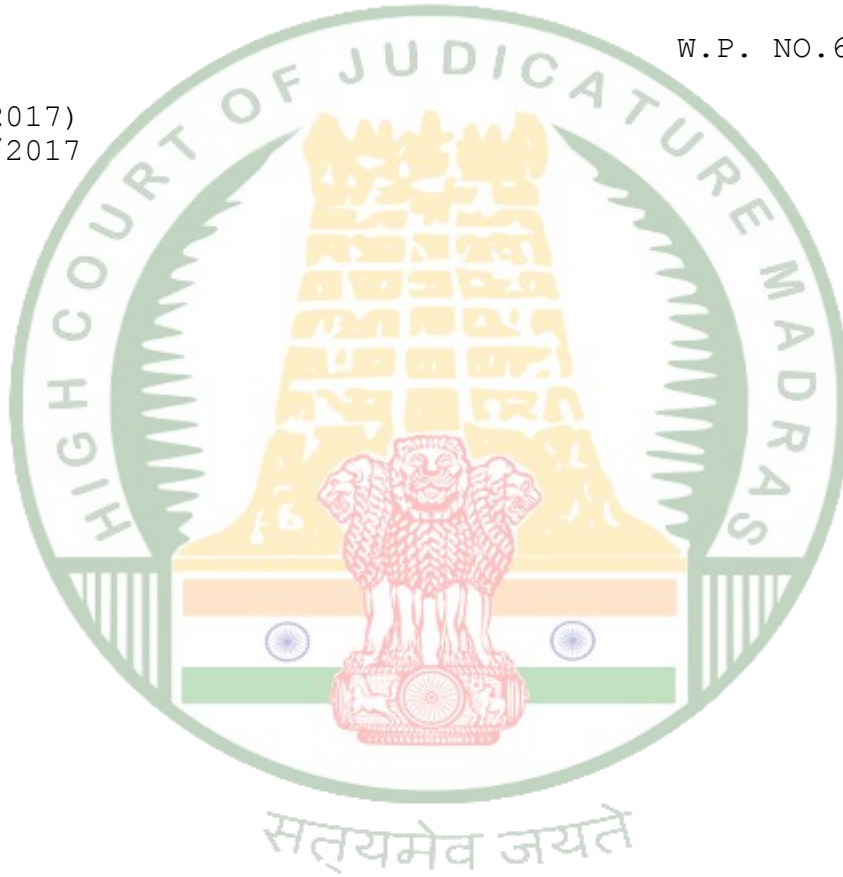
The Registrar Tamil Nadu
Dr.MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai - 600 032.

To be substituted the order
already despatched on
02/06/2017

+lcc to M/s T.P. Savitha, Advocate in Sr.No.25048

W.P. NO.6347 of 2017

MG(CO)
NR(02/06/2017)
srg 15/06/2017



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