

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.10885 of 2017

and

W.M.P.No.11828 & 11829 of 2017

Dr.Alva Para Medical Educational Institute
Rep by its Managing Trustee
Ambarampalayam
Pollachi - 642 103
Coimbatore District.

...Petitioner

Vs.

1.The Principal Secretary
Dept. of Health & F.W. Govt. of Tamil Nadu
St. Fort George
Chennai-600 009
Tamil Nadu.

2.The India Nursing Council
Coimbind Council Building
Rep by its Secretary
Kotla Road, Temple Lane
New Delhi-110 002.

3.The Registrar
Tamil nadu Nurses & Midwives Council
No.140, Santhome High Road
Mylapore, Chennai - 600 004.

4.The Director of Medical Health Services.
Chennai, Tamil Nadu.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the proceedings of the 2nd respondent pertaining to Letter F.No.18-29/20507-INC dated 01.12.2016, quash the same and consequently direct the respondent to re-inspect the Nursing College set up by the petitioner in Pollachi, Coimbatore district, State of Tamil nadu forthwith and grant recognition for the academic year 2016-2017 under Section 10 of the Indian Nursing Council Act, 1947.

For Petitioner : Mr.S.Makesh

For Respondents : Mr.A.Kumar [For R1]
Special Government Pleader
Mr.A.R.Nixon [For R2 & R3]
Standing Counsel

ORDER

The petitioner institute has been functioning from 2002, after obtaining approval. For the academic year 2016-2017, an application has been submitted to the respondent on 23.11.2015, for renewal of approval. After lapse of 7 months, on 15.06.2016, the 2nd respondent conducted an inspection and without assigning any reasoning rejected the application.

2.The petitioner sent a letter on 11.07.2016, for which a communication has been received from Indian Nursing Council on 27.07.2016 pointing out the deficiencies in the petitioner institute. Thereafter, the petitioner by annexing the required documents to show that the short comings have already been

rectified sought for re-inspection by the respondent by communication dated 15.12.2016. In spite of receipt of the said communication, the second respondent did not come forward to make re-inspection. On the other hand, on 07.12.2016, 2nd respondent wrote to the petitioner pointing out certain deficiencies and returned the re-inspection fee stating that they would not re-inspect again. On 15.12.2016, the petitioner again sent a communication to re-inspect the institution. However, there is no reply from the 2nd respondent, which compelled the petitioner to approach this Court challenging the order passed by the 2nd respondent, dated 07.12.2016 by which the 2nd respondent refused to make re-inspection.

3. Heard Mr. Makesh, learned counsel appearing for the petitioner, Mr. A. Kumar, learned Special Government Pleader appearing for the 1st respondent and Mr. Nixon, learned counsel appearing for the 2nd and 3rd respondents.

4. The learned counsel appearing for the 2nd and 3rd respondents would submit that the 2nd respondent had re-inspected the institute and gave permission to the petitioner on 27.07.2017 to make admission into the college for the academic year 2017-2018.

5. When the petitioner has been fighting for admission for the academic year 2016-2017, the second respondent already made inspection and pointed out certain deficiencies which were also rectified by the petitioner as evident from record, there should not be any ground to reject the petitioner's request for an approval for admission during the academic year 2016-2017. If there is any delay it is only on the part of the 2nd respondent. Moreover, the 3rd respondent /Tamilnadu Nurses and Midwives Council also inspected and issued order to admit the students for the year 2016-2017 as a continuous permission to run the petitioner institution. In the said order 3rd respondent also pointed out that the institution is running the course for the past 14 years from the academic year 2002-2003 and due inspection was conducted by the nursing council and based on that only every year admissions are being made.

6. By virtue of earlier directions issued by this Court, the respondents 2 and 3 conducted re-inspection, however granted permission/license only for the academic year 2017-18. Now it is revealed from the 3rd respondents letter dated 23.10.2017 that they have granted permission for the academic year 2016-17. Moreover, 2nd respondent has got no power to grant retrospective approval. Since the 3rd respondent has already approved the admission made by the petitioner and the approval is granted for the academic year 2016-2017 as a continuous permission to run the institution, the second respondent is

directed to grant necessary approval for the academic year 2016-17. Further, the students have already been admitted for the academic year 2017-18 and they are undergoing the course. Therefore, the results of the students who had already written the examination are directed to be published.

7. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

14.12.2017

Note : Issue on 27.12.2017.

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N.KIRUBAKARAN, J.

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4.The Director of Medical Health Services.
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