

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.04.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P. NO.9884 of 2017

S.R.TRUST,
Rep. By it's Trustee,
G.Sakthi Saravanan,
S/o. S.P.Gopalakrishnan,
219, Anna Nagar,
Madurai - 625 020. ... Petitioner

Vs.

1. The Principal Secretary,
Ministry of Health and family Welfare,
Government of Tamilnadu,
Secretariat, Chennai - 9.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai. ... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus or any other Writ or order in the nature of a writ calling for the records of the first respondent in his letter No.32125/PME-2/2016-2, dated 30.03.2017, quash the same and further direct to issue the essentiality certificate/permission to the petitioner trust to start Meenakshi College of Nursing with an intake of 60 seats per year from the academic year 2017-2018 at Kotakudi Village, Melur Taluk, Madurai District forthwith.

For Petitioner : Mr.K.Subramanian
Senior Counsel
for Mr.S.Punniyakotti

For Respondents:Ms.Vasudha Thiyagarajan
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the letter of the first respondent in No.32125/PME-2/2016-2, dated 30.03.2017, quash the same and further direct to issue the Essentiality certificate/permission to the petitioner trust to start Meenakshi College of Nursing, with an intake of 60 seats per year from the academic year 2017-2018 at Kotakudi Village, Melur Taluk, Madurai District forthwith.

2. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents.

3. The petitioner-Trust was registered as a Public Trust by the founder Trustee, to establish, build and maintain hospitals, surgical homes, health clinics, nursing homes, dispensaries etc., and other institutions. With a view to construct a nursing college in the land owned by the Trust in survey No.245 and 247/1A of Kottakudi Village and Panchayat, Mulur Taluk, Madurai District, the petitioner trust had obtained the plaining permission from the Deputy Director of Town Planning, Madurai on 30.9.2015 vide the proceedings in NA.KA.No.1027 of 2015 MM3.

4. The second respondent who is the Director of the Medical Education, directed the inspection of the petitioner's nursing college by the inspection team. The said inspection team inspected the college on 4.10.2016 and filed an inspection report, reporting that the infrastructural facilities are all satisfactory. The inspection team also have recommended for the starting of Nursing College and also to issue the Government Order in that regard. It is stated that on 29.11.2016, on behalf of the petitioner Trust, an email was sent to the Indian Nursing Council, requesting to grant time till 15.12.2016, to enable the petitioner trust to furnish the Government Order. As per the calendar fixed by the Indian Council of Nursing, the last date for submission of the application of the petitioner college of Nursing for admitting students in the academic year 2017-2018 is 30.11.2016. However, since the first respondent did not pass any Government Order within the aforesaid time, the petitioner had to seek the extension of time from the Indian Council of Nursing. However, by order dated 29.4.2016 passed by the second respondent- Director of Medical Education, the said proposal with the application was returned on the ground that the cut-off date for admission of proposal was already over i.e. on 31.12.2015. The petitioner again sent a proposal to the

first respondent on 24.8.2016 to start the nursing college for the academic year 2017 - 2018 which has been filed as annexure - D. Thereafter the committee constituted by the second respondent inspected the petitioner nursing College and filed inspection report on 6.10.2016.

5. It is further stated by the petitioner that even though the inspection report from the inspection committee was filed as early as 6.10.2016, so far no action was taken by the respondents. The petitioner was helpless as it is required to approach only if the essentiality Certificate is given by the Government. In such a situation the petitioner filed a Writ Petition in W.P.No.2872 of 2017 before this court praying to issue a Writ of Mandamus directing the respondents 1 and 2 to consider and pass orders within a period of two weeks on the application dated 24.8.2016. Accordingly, this court also passed an order on 6.2.2017 directing the respondents to consider the representation and pass orders within a period of three weeks from the date of receipt of a copy of the said order. However, the impugned order in letter No.32125/PME-2/2016-2, dated 30.3.2017 passed by the first respondent, rejecting the request of the petitioner to grant permission to conduct the B.Sc. Nursing Course in 2017-2018 on the ground that the last date for submission of application to the Indian Nursing Council, New Delhi is over and that the petitioner had not furnished the Directorate of Town and Country Planning (D.T.C.P) approval for college and hostel building. So far as the first point of delay is concerned, it is submitted that delay is only on the part of the respondents who deliberately delayed in forwarding the inspection report from 4.10.2016 to 15.12.2016, by which time cut-off date had expired. The time taken by the respondent in passing order despite the direction by this court is deliberate, for which the petitioner cannot be put to Jeopardy. So far as second reason that the petitioner trust has not furnished the Directorate of Town and Country Planning (D.T.C.P) approval for the college and hostel building is concerned, the same is factually incorrect as the D.T.C.P. Approval obtained by the petitioner college was verified by the Inspection Team when the team visited the Institution. In such circumstances, the impugned order of the first respondent, dated 30.03.2017, rejecting the application of the petitioner is unsustainable and hence the petitioner filed this Writ Petition seeking for the aforesaid relief.

6. Considering the facts and circumstances of the case and also considering the submissions made on either side, the time lapse taken is condoned and the impugned order dated 30.3.2017, passed by the first respondent is hereby quashed and the respondents are directed to issue the Essentiality

Certificate/Permission to the petitioner trust to start Meenakshi College of Nursing with an intake of 60 seats per year from the Academic Year 2017-2018 at Kotakudi Village, Melur Taluk, Madurai District, within a period of three weeks from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

arr/av
To

1. The Principal Secretary,
Ministry of Health and family Welfare,
Government of Tamilnadu,
Secretariat, Chennai - 9.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai.

+1cc to M/s.S.Punniyakoti,Advocate sr.36390

+1cc to Government Pleader sr.26411

W.P. NO.9884 of 2017

nrII(co)
ss(31/5/2017)

सत्यमेव जयते
WEB COPY