

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-06-2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.15460 of 2017

and

W.M.P.Nos.16748 and 16749 of 2017

Lord Balaji Educational and Charitable Trust
Rep.by its Chairman,
Dr.S.Rajamanickom

... Petitioner

-Vs-

The Tamil Nadu Dr.M.G.R.Medical University,
Represented by its Registrar,
69, Anna Salai, Guindy,
Chennai - 600 032. Respondent

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the respondent university in R.C.No.Affln.I(2)/14957/2017 dated 23.05.2017 quash the same and direct the respondent university to appoint an inspection commission to inspect the petitioner college (Dr.Hahneman Homoeopathy Medical College and Research Centre, Koneripatty Panchayat, Rasipuram Taluk, Namakkal District) for 100 seats for grant of continuance of Provisional Affiliation for the academic year 2017-2018 for BHMS Degree Course.

For Petitioner : Mr.G.Masilamani,
Senior Counsel for
Mr.D.Prabhu Mukunth Arunkumar

For Respondent : Mr.G.Harihara Arun Soma Sankar

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O R D E R

This Writ Petition is filed challenging the impugned order passed by the respondent university in R.C.No.Affln.I(2)/14957/2017 dated 23.05.2017, quash the same and direct the respondent University to appoint an inspection commission to inspect the petitioner college (Dr.Hahneman Homoeopathy Medical College and Research Centre, Koneripatty Panchayat, Rasipuram

Taluk, Namakkal District) for 100 seats for grant of continuance of Provisional Affiliation for the academic year 2017-2018 for BHMS Degree Course.

2. The case of the petitioner is that the Petitioner College was started in the year 2000 and on 30.09.2002, the Central Council of Homeopathy increased the intake of students from 50 to 100 under the unamended Homeopathy Central Council Act, 1973. The respondent University also based on the Central Council order dated 30.09.2002 granted permission for intake of 100 students with effect from the academic year 2012-2013 vide order dated 29.09.2012. While so, without notice the respondent University reduced intake of the petitioner college from 100 to 75 on 17.11.2012. Later on 14.12.2012, the Government of India- Ministry of Health and Family Welfare, Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH) now Ministry of AYUSH directed the University to reduce the intake of seats to the petitioner's college to 50 as the college had to get permission from the Central Government under Section 12 A of amended Homeopathy Central Council Act. The petitioner challenged the same, by filing the Writ Petition in W.P.No.12662 of 2013, in which a final order was passed on 23.07.2013, quashing the impugned orders and the University was directed to pass a consequential order restoring the original intake of 100 students with effect from the academic year 2002-2003. Subsequent to the said order, an inspection commission was appointed to carry out the inspection for the academic year 2012-2013 and 2013-2014 for grant of continuation of Provisional Affiliation for 100 seats in BHMS Degree Course. The Respondent University granted permission to the petitioner college to increase intake of seat from 50 to 100 from the academic year 2013 -2014, on 09.12.2013.

3. While the intake of the petitioner college was shown as 100 seats in the Official Website of Central Council for Homeopathy as on 12.10.2015, in the online publication of the respondent university of Affiliated institutions, sanctioned strength of the petitioner college was shown as 50 seats instead of 100. Challenging the same, a Writ Petition in W.P.No.34078 of 2015 was filed and this Court by an order dated 27.10.2015, has passed the final order, directing the respondent to rectify the sanctioned strength of 100 instead of 50. The petitioner college also paid affiliation fee to the respondent university for the academic year 2016-2017.

4. It is stated that on 26.10.2016, the Ministry of AYUSH denied the permission for admission of students by the petitioner's college which was once again challenged before this court in W.P.No.38505 of 2016. This Court, by an order dated 09.11.2016, has passed the interim order, allowing only 50 seats

as intake for the particular year, based on the inpatient ratio. It is the further case of the petitioner that the Respondent University all of a sudden passed the impugned order dated 23.05.2017, appointing an inspection Commission to inspect the petitioner College for grant of continuance of provisional affiliation for the academic year 2017-2018 only for 50 seats. Challenging the same, the present writ petition is filed seeking for the aforesaid relief.

5. Heard the learned counsel appearing for the petitioner as well as learned counsel appearing for the respondent.

6. Though, in the Inspection report, it was stated that the inpatient ratio was not complied with by the college and the number of seats that were permitted was reduced, it can be seen that seat matrix as prevailed in the previous years is only 100. Thus looking at the earlier orders passed by this court in the presence of the University, the college was entitled and permitted to admit 100 students. However, the impugned order dated 23.05.2017 passed by the respondent university for grant of continuance of provisional affiliation for the academic year 2017-2018 for BHMS Degree course, was shown as 50. The Inspection Commission was directed to inspect based on the number mentioned in the impugned order.

7. The learned senior counsel appearing for the petitioner vehemently contended that the seat matrix cannot be altered year after year. It is further contended that this Court had directed the petitioner college to take 100 students every year.

8. Admittedly, the inspection of AYUSH is yet to be done. The seat matrix is fixed at 100 seats for the petitioners college from 2002 excepting for the year 2016-2017 when it was reduced to 50 based on the inspection report which is also disputed by the petitioner college. The respondent university has reduced the number of seats for the academic year 2017-2018 to 50 seats and permitted inspection for 50 seats only. The respondent university has also not assigned any reason whatsoever in reducing the said number. The stand of the respondent university for reducing the seats from 100 to 50 is contrary to the earlier inspection orders passed by the respondent university for the academic years 2014-2015 and 2015-2016 and also contrary to the earlier orders passed by this court. Thus, viewing at any angle, when the earlier orders permitted the college to take 100 students, the petitioner cannot be prevented from taking 100 students for the academic year 2017-2018 even for conducting the inspection. The order dated 26.10.2016 passed by the Government of India has specifically directed the college to comply with the requirements as mentioned in the order before admissions during

the forthcoming academic year 2017-2018. It is stated by the petitioner college that the said requirements are complied with as per HCC (MSR) Regulations, 2013. Therefore, it is open for the respondent university to inspect the same. There is no impediment for the respondent University to conduct the inspection for 100 students.

7. In view of the same, the impugned order dated 23.05.2017 is set aside in so far as it restricted to number of 50 students and the same is increased to 100.

8. Accordingly, this writ petition is disposed of. The respondent is directed to rectify the impugned order correcting the number showing the sanctioned strength as 100 instead of 50 forthwith. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv/arr

To

The Tamil Nadu Dr.M.G.R.Medical University,
Represented by its Registrar,
69, Anna Salai, Guindy,
Chennai - 600 032.

+1cc to Mr.A.Thirumurthy, Advocate, S.R.No.44668

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