

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-10-2017

CORAM :
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.26455 of 2017
and
W.M.P.Nos.28158 & 28159 of 2017

Sree Abirami College of Pharmacy,
Administered by Sree Abirami Charitable Trust,
Machegoundanpalayam,
Seerapalayam Village,
Eachnari Post, Coimbatore - 641 021
Rep. by its Chairman Dr.P.Periyaswamy

.... Petitioner

Vs

1.The Registrar,
MGR Medical University,
69, Anna Salai, Guindy,
Chennai - 600 032.

2.The Pharmacy Council of India
Represented by the Secretary cum Registrar
Combined Council Building,
Temple Lane, Kotla Road,
Aiwan-E-GHALIE Marg,
Post Box No.7020,
New Delhi - 110 002.

3.The Member Secretary,
All India Council for Technical Education, (AICTE)
Nelson Mandela Marg,
Vasanth Kunj,
New Delhi - 110 067.

4.The Director of Medical Education,
Directorate of Medical Education Campus,
Kilpauk,
Chennai - 600 010.

.... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by 3rd respondent in F.No.Southern/2017/1-3355231741 dated 30.04.2017 and consequential order passed by the 1st respondent in Proc.No.Affn.1(4)/27811/2017 dated 06.10.2017, quash the same as far as it relates to the admission of 50 students intake for the Academic year 2017-18 for the first year

B.Pharm Degree Course and consequently direct the 1st and 3rd respondent to grant approval/affiliation to the petitioner Institution for an intake of 60 students for the Academic Year 2017-18 pursuant to the approval granted by the 2nd respondent and the Government of Tamil Nadu for an intake of 60 students for the academic year 2017-18.

For Petitioner : Mr.Prabhu Mukunth Arunkumar
For Respondents : Mr.P.R.Gopinathan
Standing counsel for R1

Mr.M.T.Arunan
Standing counsel for R2

Mr.B.Rabu Manohar (for R3)

Mr.T.M.Pappiah (for R4)
Special Government Pleader

O R D E R

The petitioner is Pharmacy college imparting four years course in B.Pharm., after obtaining permission from the Government of Tamil Nadu through G.O. Ms. No.108 dated 29.04.2014. The college has to function from the academic year 2017-2018, having obtained affiliation from Dr.M.G.R. Medical University on 14.07.2017.

2.The second respondent/Pharmacy Council of India granted approval for admitting 60 students by order dated 07/08.09.2017. The third respondent/AICTE, however, granted approval for 50 seats only. The petitioner contends that once Pharmacy Council of India approves intake of 60 students, the AICTE has got no jurisdiction to restrict it to 50 seats and the said order of AICTE is challenged before this court.

3.Heard, Mr.Prabhu Mukunth Arun Kumar, learned counsel appearing for the petitioner; Mr.P.R.Gopinathan, learned standing counsel appearing for the first respondent; Mr.M.T.Arunan, learned standing counsel appearing for the second respondent; Mr.B.Rabu Manohar, learned counsel appearing for the third respondent; Mr.T.M.Pappiah, learned Special Government Pleader appearing for the fourth respondent.

4.The Pharmacy Council of India is an expert body which is administrating and regulating pharmacy education and has got power and jurisdiction to give approval for Pharmacy courses. It is evident from the approval order dated 07/08.09.2017, the Pharmacy Council of India granted approval for 60 seats. Therefore, the petitioner is entitled to admit 60 students.

However, AICTE, has granted approval for only 50 seats based on Pharmacy Council's instruction given to them stating that the ceiling for approval is only for 50 seats and therefore, the AICTE has restricted the approval to 50 seats.

5.Mr.B.Rabu Manohar, learned counsel for the third respondent produced copy of e-mail dated 23.09.2017, addressed to him from the AICTE stating that it is only based on Pharmacy Council's instruction, the approval was restricted to 50 seats. However, The Pharmacy Council has made it clear before this Court that approval was granted to 60 seats and therefore it is deemed that ceiling fixed by the Pharmacy Council of India has been raised to 60 from 50. When the original authority makes it very clear that the approval is for 60 seats, the AICTE is also bound by the same. In view of the subsequent Pharmacy Council's order, the order dated 30.04.2017 passed by the AICTE is quashed and the AICTE is directed to give approval for 60 seats. Consequently, there shall be a direction to Tamil Nadu Dr. M.G.R. Medical University to include petitioner's college for counselling. If the first counselling is already over, the petitioner's college with 60 seats shall be included in the second counselling or special counselling.

6.Mr.P.R.Gopinathan, learned standing counsel would submit that Tamil Nadu Dr. M.G.R. Medical University has got the power and jurisdiction to make inspection and to verify the available infrastructure. There is no quarrel with regard to power and jurisdiction of the Tamil Nadu Dr. M.G.R. Medical University and it is at liberty to do so, if the situation warrants.

7.Though the issue as to who is the supreme body namely the Pharmacy Council of India or AICTE is pending before the Honourable Supreme Court, from the facts of the present case, it is evident that the say of the Pharmacy Council of India is final.

With the above observations, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

tkp

To

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69, Anna Salai, Guindy,
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4.The Director of Medical Education,
Directorate of Medical Education Campus,
Kilpauk, Chennai - 600 010.

+ 1 cc to Mr.B.Rabu Manohar Advocate,SR.72460

+ 1 cc to Mr.Prabhu Mukunth Arunkumar, Advocate,SR.72458

+ 1 cc to Mr.P.R.Gopinathan, Advocate in sr.no.72524

+ 1 cc to Mr.M.T.Arunan , Advocate in sr.no.72547

W.P.No.26455 of 2017

PVS (CO)
NR 12/10/2017

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