

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.17482 of 2017
and
WMP Nos.18975 & 18976 of 2017

Meenakshi Medical College Hospital
and Research Institute
Enathur, Kanchipuram - 631 552.
Represented by its Chairman
A.N.Radhakrishnan

...Petitioner

Vs.

- 1.The Under Secretary to Government
Ministry of Health and Family Welfare
Government of India, New Delhi.
- 2.The Secretary
Medical Council of India
New Delhi - 110 077.

...Respondents

Prayer :

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order vide letter No.U.12012/127/2015-ME-I (FTS.3084749) dated 31.05.2017 on the file of the 1stt respondent herein and quash the same and consequently direct the first respondent to consider the inspection report of MCI held on 25.04.2017 and pass suitable order for increase of MBBS admission from 150 to 250 at Meenakshi Medical College Hospital and Research Institute, Enathur, Kanchipuram District from the academic year 2017-2018.

For Petitioner : Mr.G.Masilamani,
Senior Counsel
for Mr.T.Meikandan

For Respondents : Mr.G.Baskaran
standing counsel, for R1
Mr.V.P.Raman,
standing counsel, for R2

O R D E R

This writ petition is filed challenging the order of the first respondent dated 31.05.2017, refusing to increase the intake capacity from 150 to 250 for MBBS Course in the petitioner college for the academic year 2017-2018.

2. Heard Mr.G.Masilamani, learned Senior Counsel appearing for the petitioner, Mr.G.Baskaran, learned standing counsel appearing for the first respondent and Mr.V.P.Raman, learned standing counsel appearing for the second respondent.

3. The first respondent filed a counter affidavit and opposed the writ petition. The learned counsel for the second respondent submitted that no relief is sought for against the second respondent, as the very prayer in the writ petition is for directing the first respondent to consider the inspection report filed by the second respondent dated 25.04.2017.

4. The learned Senior Counsel appearing for the petitioner submitted that the impugned order was passed in total non-application of mind, without considering the report filed by MCI dated 25.04.2017 and a communication dated 26.05.2017 of MCI. According to the learned Senior counsel appearing for the petitioner, if the said report dated 25.04.2017 is considered by the first respondent, it would only favour the petitioner and justify their request for increase of intake capacity from 150 to 250. Thus, he submitted that the impugned order passed, based on the earlier letter of MCI dated 19.04.2017, cannot be sustained, as the first respondent has failed to take note of the subsequent development viz., the report of MCI dated 25.04.2017 and the letter of MCI dated 26.05.2017. He further pointed out that the impugned order does not disclose any specific reason for rejecting the request of the petitioner. Therefore, he submitted that it is a non-speaking order as well.

5. On the other hand, the learned standing counsel appearing for the first respondent submitted that the impugned order was passed based on MCI letter dated 19.04.2017, re-commending to disapprove the scheme for increase of intake and therefore, the petitioner cannot find fault with the first respondent in rejecting the request.

6. The learned standing counsel appearing for the second respondent is not disputing the fact that MCI has issued a report dated 25.04.2017 and also the communication dated 26.05.2017, by marking a copy of the same to the first respondent as well.

7. The grievance of the petitioner Institution is that the first respondent has not considered the subsequent report dated 25.04.2017 and the letter dated 26.05.2017 issued by the second respondent, before passing the impugned order of rejection. Therefore, it is contended that the first respondent has to reconsider the whole issue by considering the above said report and the letter of MCI, also by giving an opportunity of hearing to the petitioner. Perusal of the impugned order would justify the above contention of the petitioner, as it is evident that the first respondent, while passing the impugned order on 31.05.2017, has taken into consideration the letter dated 19.04.2017 issued by MCI and not the subsequent report dated 25.04.2017 and the letter dated 26.05.2017 of MCI. In the said letter dated 26.05.2017, MCI has stated as follows:

"The Executive Committee of the Council considered the compliance verification assessment report (25.04.2017) along with previous assessment report (10th & 11th January, 2017) and decided to revoke notice issued under Clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment) 2010 (Part II), dated 16th April, 2010 and amended on 18.03.2016."

8. Therefore, from the above said communication of MCI, it is evident that it has taken a subsequent decision on 25.04.2017, by revoking a notice issued to the petitioner under Clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II). Copy of the said communication is also marked to the first respondent. These developments which admittedly had taken place earlier, that too, before passing the impugned order, ought to have been taken note of by the first respondent before deciding on the request of the petitioner, seeking for increase of intake capacity. It is seen that it has not been done so, in this case. Moreover, as rightly pointed out by the learned senior counsel for the petitioner, the impugned order does not state the specific reason such as any defect etc. for rejecting the request of the petitioner. Therefore, this Court, is of the view that the matter has to go back to the first respondent to consider the issue once again afresh, by taking into consideration of the report dated 25.04.2017 and the letter dated 26.05.2017 issued by MCI and pass fresh orders on merits and in accordance with law, after giving an opportunity of hearing to the petitioner as well. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent to consider the issue afresh and pass fresh orders as stated supra. Such exercise shall be done by the first respondent within a period of two weeks from the date of receipt of a copy of this order. It is made clear, that this Court, is not expressing any view on the merits of the claim made by the

petitioner, as it is for the first respondent to consider and decide the same. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1.The Under Secretary to Government
Ministry of Health and Family Welfare
Government of India, New Delhi.

2.The Secretary
Medical Council of India
New Delhi - 110 077.

+ 1 cc to M/s.T.Menikandan, Advocate,SR.59229

+ 1 cc to M/s.V.R.Raman, Advocate,SR.59264

+ 1 cc to M/s.G.Baskaran, Advocate,SR.59182

W.P. No.17482 of 2017

NMI (CO)
NR 18/08/2017



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