

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P. No. 18374 of 2017

Paavai Varam Educational Trust,
No.64-C, Rotary Nagar,
Namakkal Road, Rasipuram - 637 408
Namakkal District, Tamil Nadu,
rep. by its Chairman Mr.V. Natarajan

.. Petitioner

Vs.

1. The Union of India,
Ministry of Ayurveda Yoga and Naturopathy,
Unani, Siddha and Homeopathy (AYUSH)
rep. by its Secretary,
AYUSH Bhawan, B. Block,
GPO Complex, INA,
New Delhi - 110 023.

2. Central Council for Homeopathy,
rep. by its Secretary,
Jawaharlal Nehru Bharathya
Chikitsa Ava,
Homeopathy Anusandhan Bhawan
61-65, Industrial Area, Opp. D. Block,
Janakpuri, New Delhi - 110 058.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in F.N.R.12014/36/2017-EP(H) dated 30.05.2017, quash the same and direct the 1st respondent to receive the application dated 29.04.2017 to establish new Homeopathy College with admission capacity of 100 seats in BHMS course for the academic year 2018-2019 and process the application in accordance with law.

For Petitioner :: Mr.N. Chandrasekaran

For Respondents :: Mr.B. Rabu Manohar for R1
Mr.M.T. Arunan for R2

O R D E R

The petitioner, intending to establish Homeopathy Medical College from the academic year 2018-2019, sent an application in this regard through courier on 29.04.2017 to the 2nd respondent being an apex body, which grants permission for establishment of Homeopathy College and the last date for receipt of such applications was 30.04.2017. However, the said application was returned by the 2nd respondent stating that the application had to be filed before the 1st respondent. In view of that, the petitioner filed an application before the 1st respondent on 09.05.2017 and the same was rejected on the ground that the application had been sent belatedly, beyond the last date fixed namely, 30.04.2017. Hence, the present writ petition.

2. Heard Mr.N. Chandrasekaran, learned counsel for the petitioner; Mr.B. Rabu Manohar, learned Central Government Standing Counsel for the 1st respondent and Mr.M.T. Arunan, learned counsel for the 2nd respondent.

3. It is evident that the petitioner applied to the 2nd respondent seeking permission to establish a college on 29.04.2017 without knowing that it is the 1st respondent, who is the authority to grant permission. On return of the said application by the 2nd respondent, the petitioner had rightly approached the 1st respondent on 09.05.2017. It is not, as if, for the first time that the petitioner filed the application seeking permission on 09.05.2017 and since the 2nd respondent returned the application submitted by the petitioner on 29.04.2017, to be re-submitted before the 1st respondent, the same was filed on 09.05.2017. It is only a mistake on the part of the petitioner for having applied to the 2nd respondent, who is also one of the stakeholders for granting permission to establish a Homeopathy College. The mistake committed by the petitioner is neither wilful nor wanton and it was only because of the wrong understanding that the 2nd respondent is the authority to grant permission. If the petitioner had applied to the 2nd respondent after the last date, ie., 30.04.2017, then the reason given by the 1st respondent in the impugned order that the petitioner approached belatedly will hold good, whereas the petitioner had approached the 2nd respondent in time and therefore, the delay in this regard is not wilful and it has to be condoned.

4. In view of that, the impugned order passed by the 1st respondent is set aside and the writ petition is allowed. The petitioner is directed to re-submit the application seeking permission within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 1st

respondent shall consider the same afresh and pass appropriate orders, on merits and in accordance with law, without rejecting based on limitation, in the light of the order passed by this Court today. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Secretary,
The Union of India,
Ministry of Ayurveda Yoga and Naturopathy,
Unani, Siddha and Homeopathy (AYUSH)
AYUSH Bhawan, B. Block,
GPO Complex, INA,
New Delhi - 110 023.
2. The Secretary,
Central Council for Homeopathy,
rep. by its Secretary,
Jawaharlal Nehru Bharathya
Chikitsa Ava,
Homeopathy Anusandhan Bhawan
61-65, Industrial Area, Opp. D. Block,
Janakpuri, New Delhi - 110 058.

+1cc to Mr.B. Rabu Manohar, Advocate, S.R.No.75180
+1cc to Mr.M.T. Arunan, Advocate, S.R.No.75379
+1cc to Mr.N. Chandrasekaran, Advocate, S.R.No.75179

CS/03/11/17

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