

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P. No. 18549 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. Natarjan

... 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.12013/01/2017-EP(IM-1) dated 31.05.2017, quash the same and direct the 1st respondent to receive the application dated 29.04.2017 to establish new Siddha College with admission capacity of 100 seats in BSMS course for the academic year 2018-2019 and process the application in accordance with law.

[illegible]

The petitioner Trust had submitted an application seeking permission for starting a new Siddha College from the academic year 2018-2019 to the 2nd respondent on 29.04.2017, which was forwarded to the 1st respondent. The 1st respondent received the said application on 02.05.2017 and by the impugned order, the same was returned stating that it has been filed beyond the stipulated time. The said order is being challenged before this Court.

3. There is no dispute with regard to the petitioner sending the application to the 2nd respondent on 29.04.2017 and forwarding of the same to the 1st respondent by the 2nd respondent. Without knowing that the application has to be sent to the 1st respondent, by mistake, or under the wrong impression the petitioner had sent the application seeking permission to establish Siddha College to the 2nd respondent before the cut-off date namely on 29.04.2017.

4. Though it is stated by the 1st respondent that the 2nd respondent received the application on 01.05.2017 and that he had received it on 02.05.2017, the work of the petitioner got over as soon as the application is posted through courier. Under the General Clauses Act, the date of posting is material. Therefore, the petitioner cannot be found fault with for receipt of the application by the 2nd respondent on 01.05.2017 and by the 1st respondent on 02.05.2017. It was only by mistake he had sent the application to the 2nd respondent. If the petitioner had filed the application beyond 30.04.2017 then there is every reason to find fault with the petitioner whereas the petitioner had clearly submitted the application in time. Therefore, the impugned order passed by the 1st respondent is quashed and the writ petition is allowed and the petitioner is directed to re-submit the application along with the required documents within two weeks from the date of receipt of a copy of this order. On receipt of the same, the 1st respondent is directed to consider

the said application afresh and pass appropriate orders, on merits and in accordance with law and in the light of the order passed by this Court with regard to limitation. 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,
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.75182
+1cc to Mr.D. Prabhu Mukunth, Advocate, S.R.No.75181
+1cc to Mr.Venkatesh Babu, Advocate, S.R.No.75807

सत्यमेव जयते

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CS/03/11/17

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