



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2017

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.(MD)No.15518 of 2016

and

WMP(MD)No.11410 & 11411 of 2016

Immanuel Arasar International Institute
of Science and Technology Educational and
Charitable Trust, rep. by Managing Trustee
Dr.Sam G.Jeba Joselin, SG Hospital Campus
Old Theatre Junction, Pammam,
Marthandam, Kanyakumari District.
Petitioner

:

-vs-

- 1.The Union of India,
Represented by its Secretary,
Ministry of Health & Family Welfare,
Department of Ayurveda Yoga & Naturopathy,
Unani, Siddha & Homeopathy (AYUSH)
IRCS Annex Building, 1-Red Cross Road,
New Delhi-110 001.
- 2.The Central Council of Homeopathy (CCH)
rep. by its Secretary,
Jawahar Lal Nehru Bhartiya Chikitasa
Avum Homeopathy Anuandham Bhavan
No.61-65, Institutional Area,
Opp. "D"Block, Janakpuri,
New Delhi - 110 058.
- 3.The State of Tamilnadu,
Rep. by its Secretary,
Department of Health & Family Welfare,
Fort St. George, Chennai-600 009.
- 4.The Commissioner of Indian Medicine and Homeopathy,
Arumbakkam,
Chennai-600 106.
- 5.Tamil Nadu Dr.MGR Medical University
rep. by its Registrar,
69, Anna Salai,
Guindy, Chennai- 600 032.



Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 3rd respondent State Government in Letter No.26031/IM1-2/2016-1, Health, dated 09.05.2016, quash the same and further direct the 3rd respondent State Government herein to recognise forthwith the status of the petitioner as a Christian Religious Minority Educational Agency for running the proposed college namely, Immanuel Arasar Homeopathic Medical College & Hospital, Nattalam, Kanyakumari District.

For Petitioner : Mr.Isaac Mohanlal
Senior counsel
for Mr.T.Cibi Chakraborty

For 1st & 2nd Respondent : Mr.P.Palpandi

For R3 and R4 : Mr.A.Muthukaruppan
Additional Government Pleader

For 5th Respondent : Mr.C.Karthik

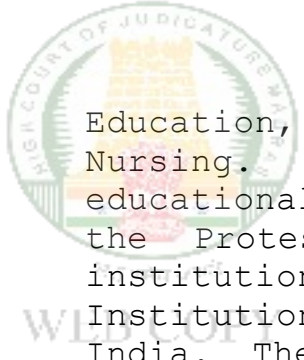
ORDER

The petitioner has come up with the present writ petition challenging the order of the 3rd respondent, dated 09.05.2016 and for a direction to the third respondent/State Government to recognise forthwith the status of the petitioner as Christian Religious Minority Educational Agency.

2.Heard Mr.Isaac Mohanlal, learned Senior counsel for the petitioner, Mr.P.Palpandi, learned counsel for the 1st respondent and 2nd respondent, Mr.A.Muthukaruppan, learned Additional Government Pleader for the respondents 3 and 4, Mr.C.Karthik, learned counsel for the 5th respondent and perused the materials available on record.

3.According to the petitioner, it is a trust and it was registered in the year 2005 with an object to promote Health and Education for the uplift of the poor Christians and the downtrodden among the rural population and to establish educational institutions for the deprived sections of the society.

4.The petitioner would further state that the trust is running a hospital in the name of S.G. Multi Speciality Hospital at Nattalam and a group of colleges namely Immanuel Arasar JJ College of Engineering, Immanuel Arasar B.Ed. College of



Education, Immanuel Arasar D.T.Ed. College and Global College of Nursing. The trust is the Educational Agency of all the educational institutions and the members of the trust belong to the Protestant order of Christianity. All the educational institutions have been functioning as Minority Educational Institutions in terms of Article 30(1) of the Constitution of India. The State Government has also conferred the religious minority status to the petitioner institutions.

5.It is further stated that the trust has recently decided to start a Homeopathy Medical College in the name of Immanuel Arasar Homeopathic Medical College & Hospital. When the petitioner has approached the officials of the 5th respondent University seeking affiliation, it was informed that unless the Government grants minority status or prior permission, they would not process the application. So the petitioner filed an application to the third respondent for a formal declaration of the monitory status. Since, it was rejected, the present writ petition.

6.The respondents 3 and 4 filed a counter affidavit stating that as per G.O.Ms.No.270, Higher Education Department, dated 17.06.1998, minority status can be conferred only to the educational institutions already established by the minority.

7.By the impugned order, the third respondent rejected the application of the petitioner on the only ground that the minority status cannot be conferred to the college proposed to be started by the petitioner trust.

8.Learned Senior counsel for the petitioner, by referring to sections 3, 4, 5 and 8 of the Tamil Nadu Private Colleges (Regulation) Act 1976, submitted that the trust is an educational agency and even without establishing an educational institution, the educational agency is entitled to seek minority status for the institution proposed to be started by the petitioner trust. Therefore, the reasons given by the petitioner cannot be countenanced. In support of his case, the learned Senior counsel has placed reliance on the following judgments:-

(1)2015(1) CWC 557 [The Secretary, Immaculate College for Women vs. The State of Tamil Nadu].

2.Unreported decision of this court made in W.P.No.43331 of 2016, dated 06.07.2017 [The Secretary, St. Theresa's Arts and Science College for Women, Santhangudi, Tharangambadi, Nagapattinam District]

<https://hcservices.courts.gov.in/Menches>
 G. M. Govindarajan, learned Additional Government Pleader for the respondents 3 and 4 contended that the petitioner seeks minority status based on the G.O.Ms.No.270, Higher Education



Department, dated 17.06.1998, but as per the G.O, only after establishment of the institution, the petitioner can seek minority status.

10. In **2015(1) CWC 557** [The Secretary, Immaculate College for Women vs. The State of Tamil Nadu], this court after considering the relevant provisions of the Tamil Nadu Private Colleges Regulation Act, 1976 and G.O.Ms.No.270, Higher Education Department, dated 17.06.1998 has held that even without establishing institutions, the Educational Agency is entitled to seek minority status and remitted the case to the Government to pass an order afresh. The relevant paragraph would run thus:-

"21. In K.M. Benedict Crizal vs. Secretary to Government, decided on 11.07.2007, by K. Chandru, J., in W.P(MD) No. 9424 of 2006, the learned Judge rejected a very identical contention raised by the respondents. Therefore, I am of the view that the stand taken by the respondents either in the impugned order or in the counter affidavit cannot be sustained. Hence, W.P. No. 22376 of 2014 is allowed, the impugned order is set aside and the respondents are directed to pass appropriate orders in accordance with law, within a period of eight weeks, taking into account the fact that the original Educational Agency, namely, the Society registered under the Tamil Nadu Societies Registration Act, has already been conferred with Minority Status and that they are also running several institutions. After the first respondent passes an order, the University shall take up the application and pass consequential orders. The other writ petitions are closed, in view of the fact the last writ petition is for a larger relief and it has been disposed of as above. Consequently, connected M.Ps are closed."

11. This court in **W.P.No.43331 of 2016**, dated 06.07.2017 [The Secretary, St. Theresa's Arts and Science College for Women, Santhangudi, Tharangambadi, Nagapattinam District] has taken the similar view.

12. In the case on hand, it is not in dispute that the petitioner trust has already been running several institutions and the Government has conferred minority status to the institutions run by the petitioner trust. It is also not in dispute that the educational agency includes body of persons established and
<https://hcservices.echubts.gov.in/hcservices/>
or proposed to establish and administer any institution.



13. In the light of above facts, I am of the considered opinion that the judgments referred supra would squarely apply to the facts of this case.

14. In that view, this writ petition is **allowed** and the impugned order passed by the third respondent is set aside. Consequently, the matter is remitted back to the third respondent to pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of the order copy, taking into account the fact that the original Educational Agency has already been conferred with Minority status and that they are also running several institutions. After the third respondent passes an order, the 5th respondent University shall take up the application of the petitioner and pass consequential orders. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To,

1. The Secretary, The Union of India,
Ministry of Health & Family Welfare,
Department of Ayurveda Yoga & Naturopathy,
Unani, Siddha & Homeopathy (AYUSH)
IRCS Annexe Building, 1-Red Cross Road,
New Delhi-110 001.
2. The Vice President,
The Central Council of Indian Medicine (CCIM)
Jawahar Lal Nehru Bhartiya Chikitasa
Avum Homeopathy Anuandham Bhavan,
No.61-65, Institutional Area,
Opp. "D" Block, Janakpuri, New Delhi - 110 058.
3. The Secretary, The State of Tamilnadu,
Department of Health & Family Welfare,
Fort St. George, Chennai-600 009.
4. The Commissioner of Indian Medicine and Homeopathy,
Arumbakkam, Chennai-600 106.
5. The Registrar, Tamil Nadu Dr.MGR Medical University
69, Anna Salai,
Guindy, Chennai- 600 032.

+1cc to Mr.C.KARTHIK Advocate in SR. No. 80840

+1cc to Mr.T.CIBI CHAKARABORTHY Advocate in SR. No. 80999

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 81128

ER

JS/KK/SAR.1/4.10.2017/5P-9C