

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.6013 of 2018
and W.M.P.Nos.7394 to 7396 of 2018

Madha Dental College and Hospital
Represented by its Principal,
Madha Nagar, Somangalam Road,
Kundrathur, Chennai - 600 069.

... Petitioner

Vs.

1. The Union of India,
Represented by its Secretary to Government,
Ministry of Health & Family Welfare,
(Dental Education Section),
A Wing, Nirman Bhawan, Maulana Azad Road,
New Delhi - 110 011.
2. The Dental Council of India,
Represented by its Secretary,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opp. Mata Sundari College for Women,
New Delhi - 600 010.
3. Directorate of Medical Education,
162, EVR Periyar Salai, Kilpauk,
Chennai - 600 010.
4. The State of Tamil Nadu,
Represented by its Secretary to Government,
Health and Family Welfare Department,
Secretariat, For St. George,
Chennai - 600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to the order dated 28.02.2018 bearing No.V.12025/149/2017-DE (Pt.111) [FTS No.3143073] in respect of the petitioner and quash the same and consequently, direct the 1st respondent to issue permission to the petitioner for the M.D.S courses in the specialties of Oral Pathology and

Microbiology, Oral and Maxillofacial surgery, Conservative Dentistry and Endodontics, Oral Medicine and Radiology, Prosthodontics and Crown & Bridge, Orthodontics & Dentofacial Orthopedics, and Periodontology for the academic session 2018-2019.

For Petitioner : Mr.Richardson Wilson

For 1st Respondent : Mr.S.Sathish Rajan

For 2nd Respondent : Dr.S.Seethalakshmi

For 3rd & 4th Respondents: Ms.V.Annalakshmi
Government Advocate

O R D E R

The Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent pertaining to the order dated 28.02.2018 bearing No.V.12025/149/2017-DE (Pt.111) [FTS No.3143073] in respect of the petitioner and quash the same and consequently to direct the 1st respondent to issue permission to the petitioner for the M.D.S courses in the specialties of Oral Pathology and Microbiology, Oral and Maxillofacial surgery, Conservative Dentistry and Endodontics, Oral Medicine and Radiology, Prosthodontics and Crown & Bridge, Orthodontics & Dentofacial Orthopedics, and Periodontology for the academic session 2018-2019.

2. The case of petitioner is that the petitioner-college and Hospital was established in the year 2007 and it offers free dental care to the sub-urban population of Kunrathur, Kovur, Thandalam and other surrounding villages. The College was located in 5.2 acres. The Hospital caters to an average of 400 patients per day. The institution is attached to Madha Medical College and Research Institute, Kovur, where the college performs complicated Oral and Maxillofacial Surgeries. The College and Hospital was granted Letter of Intent dated 29.06.2007 and Letter of Permission dated 13.07.2007 to admit its first batch of 100 students for pursuing the five year B.D.S. UG course in the year 2007 and since its inception, a total of 600 students have graduated from the B.D.S. Programme. In the year 2015, the petitioner-college was granted Letter of Intent and Letter of Permission to admit first batch of 8 students for pursuing Post Graduate Dental education (MDS) across 4 disciplines and in the subsequent year, approval was granted for starting M.D.S. in 3 more disciplines. The Institution has got 36 Post Graduate students pursuing M.D.S., in addition to 600 students pursuing B.D.S. course.

3. That apart, the Institution also conducts free Dental Camps and has made it a habit of conducting at least 4 camps per week at several locations across the City to create awareness about Dental hygiene as part of the petitioner's community outreach program. The College and Hospital is being run through a Christian Minority Trust viz., Soosaiya Peter Education Trust. While that being so, the petitioner sought for renewal of the permission of the first respondent/ Union of India, Ministry of Health & Family Welfare, New Delhi, under Section 10-A of the Dentists Act, 1948, for the academic year 2018-2019 for the following seven (7) courses:-

S. No.	Course	Year	No. of seats
i.	Oral Pathology and Microbiology	2015-16	2
ii.	Oral and Maxillofacial surgery	2015-16	2
iii.	Conservative Dentistry and Endodontics	2016-17	2
iv.	Oral Medicine and Radiology	2016-17	2
v.	Prosthodontics and Crown & Bridge	2015-16	2
vi.	Orthodontics & Dentofacial Orthopedics	2015-16	2
Vii.	Periodontology	2016-17	3
Total			15

4. The 2nd respondent/Dental Council of India, New Delhi, formed a team to conduct inspection of the petitioner-college and the said team submitted a report. After considering the report and finding that the petitioner possesses all the necessary infrastructure, the sub-committee of the 2nd respondent observed a lacunae with respect to only three areas, viz., (i) University Affiliation, (ii) Clinical Material, (iii) Stipend. Therefore, the 1st respondent, vide communication dated 07.10.2017 directed the petitioner to take note of these issues and report compliance. Accordingly, the petitioner, vide e-mail dated 13.10.2017 sent a report of compliance. However, the 1st respondent directed the officer concerned of the petitioner-college to appear in person on 02.11.2017 for an enquiry, on which date, the petitioner appeared before the 2nd respondent. The petitioner has satisfied the requirements with regard to the clinical materials and Stipend aspect. The only outstanding issue was with regard to the University Affiliation.

5. According to the petitioner, the petitioner is affiliated to the Tamil Nadu Dr.M.G.R Medical University and that on 02.11.2017, it was granted a conditional affiliation for a

period of three months, in contemplation of permanent affiliation. This conditional affiliation was in force till 02.02.2018. The 2nd respondent received the conditional affiliation dated 02.11.2017 and did not pass any orders thereafter. However, a compliance inspection was conducted on 13.12.2018 and 14.12.2018 by the 2nd respondent and a report was submitted to the 2nd respondent stating that all issues except affiliation, were resolved.

6. The 2nd respondent contacted the petitioner over phone on 31.01.2018, which was the last date for application for permission for the academic year 2018-2019 and stated that the 2nd respondent would need a permanent affiliation proceedings from the University to grant permission to the petitioner. Since the petitioner had less than half a working day to arrange for the same, the petitioner rushed to the University and met the Registrar and pleaded for issuance of certificate with regard to permanent affiliation. A permanent affiliation certificate was issued on 31.01.2018 stating that the petitioner-college has been affiliated from the year 2015-2016 onwards for M.D.S. courses and the affiliation certificate dated 31.01.2018 was communicated to the 2nd respondent through e-mail. The office of the 2nd respondent contacted the petitioner on 06.02.2018 and it was stated that affiliation certificate dated 31.01.2018 issued by the University does not specifically mention the academic year 2018-2019 and the name of the seats, and hence sought for clarification.

7. According to the petitioner, they were under the bona fide impression that the 2nd respondent was seeking a clarification. Hence, the petitioner approached the University once again and obtained a clarificatory affiliation certificate dated 07.02.2018. The clarificatory affiliation certificate dated 07.02.2018 was furnished to the 2nd respondent in response to its query vide e-mail dated 08.02.2018.

8. The 1st respondent has passed the impugned order dated 28.02.2018 refusing permission for the 3rd year M.D.S. course for the academic year 2018-2019 and the reason was that the "updated university affiliation" certificate was furnished by the petitioner only on 07.02.2018 after the last date viz., 31.01.2018 and hence the application cannot be considered.

9. According to the petitioner, great hardship and irreparable harm has been caused to them, on account of which, they will not be able to admit any student to the M.D.S. course for the academic year 2018-2019 for the said 7 specialties extracted supra.

10. According to the petitioner, they have invested huge amount and they require P.G. Students to run the hospital. In

the absence of the students in a given academic year, even the patients will be put to hardship. Hence, the impugned order dated 28.02.2018 needs to be interfered with.

11. The 1st respondent has filed a counter affidavit. According to them, the Dental Council of India (DCI) is a body constituted under the provisions of the Dentists Act, 1948. It has been given the responsibility of discharging the duty of maintenance of the highest standards of dental education throughout the country. The objective of Dental Council of India is to regulate Dental Education in the country and to formulate regulations and guidelines with regard to standard and conduct of dental education in India. In terms of Section 10-A of the Dentists Act, 1948, every person is obliged to make an application to the Central Government for establishing any dental college or starting any higher course of study or for increase in its annual intake capacity. The Central Government is required to refer the application to the Dental Council of India for its recommendations. On receipt of an application, the Council may obtain such other particulars as may be required to make a recommendation for its approval or disapproval. The Central Government, after considering the recommendations of the Council, may either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme. No scheme shall be disapproved by the Central Government except after giving the person or college concerned, a reasonable opportunity of being heard.

12. Section 20 of the Act provides for the detailed procedures to be followed and the criteria to be fulfilled for making an application to the Central Government for grant of permission for establishing a new dental college and for starting new higher courses of study or training or increase of intake capacity in the existing dental college, which have got to be followed.

13. An inspection by the inspection team of DCI will be done to verify the infrastructure, teaching faculty, clinical material and other physical facilities available at the college concerned for imparting the relevant course. Based on the inspection report, the DCI recommends to the Central Government for grant of requisite permission to make admission with an annual intake in the said course.

14. It is stated that the 1st respondent considered the recommendation of the Hearing Committee and requested the 2nd respondent vide communication dated 09.11.2017 to renew/physically verify the schemes in the light of compliance along with the supporting documents submitted by the petitioner-college for furnishing its revised recommendations at the earliest.

15. The 1st respondent stated that the Executive Committee of the Council at its meeting held on 31.01.2018, considered the verification inspection report and decided not to renew its permission for admitting 4th batch of students in M.D.S. course in the different specialties mentioned in the pleadings of the petitioner, which are extracted in detail supra.

16. Only on 08.02.2018, updated affiliation certificate dated 07.02.2018 for the academic year 2017-2018 was forwarded to the 2nd respondent for necessary action, vide communication dated 19.02.2018, as the last date for sending recommendations to the Central Government expired on 31.01.2018 as per the schedule of the DCI Regulations, 2006. Therefore, the request of the petitioner could not be considered.

17. The 1st respondent vide communication dated 28.02.2018, informed the petitioner-college that after considering the recommendations of the 2nd respondent dated 31.01.2018 and letter dated 19.02.2018, the Central Government has decided not to renew the permission for 3rd year of M.D.S. course in the 7 different specialties reflected in the aforesaid paragraph.

18. It is stated that there is no fault in rejecting the request and there is no need to quash the communication dated 28.02.2018, wherein, the request of the petitioner-college for the M.D.S course in the seven specialties for the academic year 2018-2019 was rejected and the Writ Petition is not maintainable and the same is liable to be dismissed.

19. A detailed counter has been filed by the 2nd respondent, wherein, it has been stated that the petitioner sought for permission for 3rd year M.D.S. course in the 7 disciplines mentioned by the petitioner, which are extracted supra, for totally 15 seats. The inspection was conducted on 18th, 19th and 20th September, 2017.

20. In Executive Committee meeting held on 07.10.2017, the Joint Inspection Report of its Inspectors was considered and on the same day, the petitioner was asked to fulfill the following specialty-wise deficiencies:-

Oral & Maxillofacial Surgery with 2 seats

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. University Affiliation:- There is no University Affiliation for the year 2017-18 from the Tamil Nadu Dr.MGR Medical University.

2. Clinical Material:- There is deficiency of clinical material since there were 57 patients on the 2nd day of Inspection against the requirement of 60.

3. Stipend:- There is no authenticated proof of Stipend paid for PG Students as per the rules laid down in MDS Course Regulation, 2017.

Periodontology with 3 seats

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. University Affiliation:- There is no University Affiliation for the year 2017-18 from the Tamil Nadu Dr.MGR Medical University.
2. Equipments:- There is deficiency of equipments in the department of Periodontology i.e. UV chamber -1, Formalin Chamber -1, Arkansas Sharpening stone -1, Mini five curettes -1, Bone fixation screw it -1, Bone scrapper -1, Bone Trephines for harvesting autografts-1, Bone regenerative materials (not resorbable GTR not available) -5, Local drug delivery system -1, Bone expander and bone crester -1, Distraction osteogenesis kit -1, Bone mill -1, Piezo surgery unit -1, Digital camera -1, Intra Oral Camera -1, Implant maintenance kit (plastic instruments) -1, RVG with X-ray machine -1, Implant removing kit -1.
3. Dr.M.R.Sainath:- Principal was not present on the day of inspection.
4. CLINICAL WORKLOAD:- The separate records of number of patients in UG and PG in last six months are not maintained.
5. Infrastructure Details:- There is deficiency of Laboratory Space and Preclinical Lab in constructed area for PG study.
6. Stipend:- There is no authenticated proof of Stipend paid for PG Students as per the rules laid down in MDS Course Regulation, 2017 at S.No.12 Page No.49.
7. Medical Faculty supporting documents not provided.
8. E-journal facility are not functional on the day of inspection.
9. There is no maintenance of records of patients and clinical work done by Postgraduate.
10. There is no Research facility.
11. Post Graduate Academic details:- There is no clinical case discussion and lectures taken for UG of PG students 2016-19 and 2017-19 and no attendance, no journals discussion and no seminar of PG students of (2017-2020) provided in academic presentation.
12. There is no LD topic approved by the University of 2016-19 PG students.

13. There is no dissertation topic approved by the University of 2016-19 PG students.

Oral Pathology & Microbiology with 2 seats

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. University Affiliation:- There is no University Affiliation for the year 2017-18 from the Tamil Nadu Dr. MGR Medical University.
2. Equipments:- There is deficiency of equipments in the department of Oral Pathology & Microbiology i.e. Multi head microscope (penta head)-1.
3. Publications:- To furnish the list alongwith copy/documents of Publications of the following faculties:-
 - (i) Dr.G.Sivakumar, Prof.&HOD,
 - (ii) Dr.R.Sarangarajan, Prof.
 - (iii) Dr.K.T.Shanmugam, Reader
 - (iv) Dr.M.S.Sivakumar

Stipend:- There is no authenticated proof of Stipend paid for PG Students as per the rules laid down in MDS Course Regulation, 2017

Orthodontics & Dentofacial Orthopedics with 2 seats

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. University Affiliation:- There is no University Affiliation for the year 2017-18 from the Tamil Nadu Dr.MGR Medical University.
2. Clinical Material:- Clinical Material is not available as per DCI norms.
3. The number of patients was not what they showed in the records in wa very much lesser.
4. Equipments:- There is deficiency of equipments in the department of Orthodontics & Dentofacial Orthopaedics i.e. tracing table-1, Hinge articulators - 1, Computer with internet connection with attached printer and scanner-1.
5. Staff Assessment:- There is no staff assessment as per DCI norms.
6. Student Assessment:- The students assessment are poor in standard
7. Library facilities:- In department library does not have books.
8. There is no Research facility.
9. Stipend:- There is no authenticated proof of Stipend paid for PG Students as per the rules laid down in MDS Course Regulation, 2017 at S.No.12

Page No.49.

10. There is no hostel facility for PG in the campus.
11. Dr. A. Adarsh, PG students was absent on the day of inspection.
12. The form 26AS is not available even one staff.
13. Publishing points are very less for few staff (they don't have any copy of articles.)

Prosthodontics and Crown & Bridge with 2 seats

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. University Affiliation:- There is no University Affiliation for the year 2017-18 from the Tamil Nadu Dr. MGR Medical University.
2. There is no Research facility.

Stipend:- There is no authenticated proof of Stipend paid for PG

Students as per the rules laid down in MDS Course Regulation, 2017.

Conservative Dentistry and Endodontics with 2 seats.

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. University Affiliation:- There is no University Affiliation for the year 2017-18 from the Tamil Nadu Dr. MGR Medical University.
2. Equipments:- There is deficiency of equipments in the department of Conservative Dentistry & Endodontics - operating microscope 3 step or 5 step magnification -1, Surgical Endo kits-2, chair side micro abrasion-1, instrument retrieval kits with Pieza Electric ultrasonic tips-1, Refrigerator-1, laser preferably hard issue-1, face bow with semi adjustable articulator-1.

Stipend:- There is no authenticated proof of Stipend paid for PG Students as per the rules laid down in MDS Course Regulation, 2017

Oral Medicine & Radiology with 2 seats

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. University Affiliation:- There is no University Affiliation for the year 2017-18 from the Tamil Nadu Dr. MGR Medical University.
2. Clinical Material:- There is deficiency of clinical material since there were 127 patients on the 1st day and 130 patients on the 2nd day of Inspection against the requirement of 140.

3. Equipments:- There is deficiency of equipments in the department of Oral Medicine & Radiology i.e. Autoclave-1, Surgical trolley-2, extra oral cassette with intensifying screen-1, Automatic Radiographic film processor-1, illuminated mouth mirror and probe-1, dark room with safe light facility-1, digital camera-1, LCD projector-1.
4. Student Assessment:- Dr.Mahalingam, 2nd year PG MDS students is irregular.
5. There is no certificate for Research facility of PG students.
Stipend:- There is no authenticated proof of Stipend paid for PG Students as per the rules laid down in MDS Course Regulation, 2017.

21. Since the college did not furnish its compliance report on each specialty in the meeting held on 12th and 13th October, 2017, the Executive Committee decided not to renew its permission for 3rd year of M.D.S. courses in 7 specialties for the academic year 2018-2019 on account of the deficiencies contained in the respective letters and the details, which are already mentioned above.

22. It has been stated that the petitioner did not send the compliance report, as there is a time schedule prescribed by the Hon'ble Apex Court by its order dated 24.03.2015 in W.P.No.76 of 2015 and it was decided not to renew the permission. It is true that the representative of the petitioner appeared in person on 02.11.2017 after personal hearing, in the 2nd phase of the time schedule, the observations of the committee were forwarded to the 1st respondent to renew and to verify the schemes in the light of the compliance along with supporting documents and furnish the revised recommendations. The inspection was held on 13th and 14th December, 2017, with regard to all specialties and the Executive Committee, in its meeting held on 31.01.2018, considered the compliance verification report and recommended as follows:-

Oral Pathology & Microbiology with 2 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for admitting 4th batch of Students in MDS Course in the specialty of Oral Pathology & Microbiology with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

Orthodontics & Dentofacial Orthopedics with 2 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for admitting 4th batch of Students in MDS Course in the specialty of Orthodontics & Dentofacial Orthopedics with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

Prosthodontics and Crown & Bridge with 2 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for admitting 4th batch of Students in MDS Course in the specialty of Prosthodontics and Crown & Bridge with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

Oral & Maxillofacial Surgery with 2 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for 3rd year MDS Course in the specialty of Oral & Maxillofacial Surgery with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

Periodontology with 3 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for for 3rd year MDS course in the specialty of Periodontology with 3 seats with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

Oral Pathology & Microbiology with 2 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for admitting 4th batch of Students in MDS Course in the specialty of Oral Pathology & Microbiology with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

Conservative Dentistry and Endodontics with 2 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for 3rd year MDS course in the specialty of Conservative Dentistry and Endodontics with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

Oral Medicine & Radiology with 2 seats

Since, the University Affiliation issued by the concerned University vide letter Proc.No.Affln.IV(2)/56058/2016 dated 02.11.2017 for the academic year 2017-18 is conditional and has been issued only upto 01.02.2018 which is not accepted, therefore, the Executive Committee recommends to the Central Government 'not to renew' its permission for 3rd year MDS course in the specialty of Oral Medicine & Radiology with 2 seats of Madha Dental College & Hospital, Chennai, for the academic session 2018-19.

23. But, the college only furnished a conditional affiliation dated 02.11.2017 issued by the Dr.M.G.R. Medical University only for a period of three months upto 01.02.2018 and again on 31.01.2018 to the effect that the petitioner-college is affiliated to them from the academic year 2015-2016 conducted M.D.S course only for the purpose of inspection of the petitioner-Dental College without mentioning therein, the name of the specialty, seat, academic year etc. The conditional affiliation, which was valid only for three months, was not acceptable for renewal of the permission in respect of the petitioner's Dental College for admitting fresh batch of students in all 7 specialties for the academic year 2018-2019. As per the 2nd phase of the time schedule notified in the

Official Gazette on 07.03.2016, pursuant to the order of the Hon'ble Apex Court dated 24.03.2015 in the case of Ashish Rajan Vs. Union of India and Others (W.P.No.76 of 2015), the 2nd respondent was mandated to send its appropriate recommendations on or before 31.01.2018, but the petitioner could not furnish the University Affiliation for the academic year 2017-2018. As the petitioner could furnish its University Affiliation only on 07.02.2018 for the academic year 2017-2018 only after the cut-off-date viz., 31.01.2018, the affiliation could not be considered, as the last date for the purpose was already over in terms of DCI Regulations, 2006.

24. According to the 2nd respondent, the strict adherence to the statutory time schedule has got to be followed in terms of the decision taken in the case of Priya Gupta Vs. State of Chhattisgarh reported in (2012) 7 SCC 433 and that the MCI, Government of India, the State Government or the University or other selected bodies have no power of relaxing, varying or disturbing the time schedule or the procedure for admission as provided in the order of the Hon'ble Apex Court and the MCI Regulations.

25. According to the 2nd respondent, with a view to check the unregulated, uncontrolled and mushrooming growth of dental colleges/institutions or higher courses of study in Dentistry, the Legislature made amendments in the Dentists Act in 1993, and incorporated new provisions of Sections 10-A, 10-B and 10-C, thereby, making it absolutely mandatory and obligatory for any person desirous of establishing a dental college or starting of higher courses or increase of admission capacity in UG/PG courses in Dentistry to obtain a prior permission from the Union of India.

26. In order to avoid wrath of Hon'ble Apex Court, the time limit has been fixed and more particularly, the Legislature has amended the provisions of the Act and that there is cut-off-date in terms of the Regulations, and the request of the petitioner has been rejected.

27. It is in accordance with the maintenance of the highest standards of Dental Education that new colleges including the colleges where fresh permission for starting of higher courses, is granted, which are required to take fresh renewals of permission to admit students from the Union of India in each successive year till the final recognition is granted. Such renewals being based on the fulfillment of annual targets, and as also the maintenance of standards of infrastructure, facilities, faculty and the like, inspections are carried out by the Dental Council of India, which then makes recommendations to the Union of India as to whether renewal of permission should be granted or not.

28. As per the statutory scheme for the grant of initial permission by the Central Government in favour of any college under Section 10-A of the Act, thereby entitling the college to admit the first batch of students in the first year of the M.D.S course. If the college fails to meet the further requirements and is not granted annual renewals by the Union of India, further admissions in the said dental course are liable to be stopped. Hence, according to the respondents, the Writ Petition has got to be dismissed.

29. Heard the learned counsel appearing for both parties and perused the materials available on record.

30. The sum and substance of the issue on hand is that the petitioner's College and Hospital was established in the year 2007 and that the Post Graduate courses commenced in the year 2015, initially with four (4) disciplines and in the subsequent year, three (3) disciplines were also added. It is also not in dispute that the renewal of the courses have been periodically made and the request of the petitioner has been acceded to. For the present year, several defects have been pointed out with regard to 15 seats in the seven disciplines for the academic year 2018-2019. Periodical inspection had been conducted in the year 2017 and various defects have been pointed out by the 2nd respondent and the details are reflected in the 2nd respondent's counter, which are extracted above.

31. The short point for consideration is as to whether the affiliation certificate dated 31.01.2018 is a permanent one for the academic year or it is for a specific purpose. For the sake of convenience, Section 10(A) of the Dentists Act, 1948, is extracted hereunder:-

10A. Permission for establishment of new dental college, new courses of study, etc.-(1) Notwithstanding anything contained in this Act or any other law for the time being in force,-

(a) no person shall establish an authority or institution for a course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the grant of recognised dental qualification; or

(b) no authority or institution conducting a course of study or training (including a post-graduate course of study or training) for grant of recognised dental qualification shall-

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such

course or training to qualify himself for the award of any recognised dental qualification; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training), except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, "person" includes any University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission capacity", in relation to any course of study or training (including a post-graduate course of study or training) in an authority or institution granting recognised dental qualification, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person, authority or institution granting recognised dental qualification shall, for the purpose of obtaining permission under sub-section (1), submit, to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the said scheme to the Council for its recommendations.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person, authority or institution concerned, granting recognised dental qualification and thereafter, it may,—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person, authority or institution concerned for making a written representation and it shall be open to such person, authority or institution to rectify the defects, if any, specified by the Council;

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be

considered necessary by it from the person, authority or institution concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person, authority or institution concerned granting recognised dental qualification a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person, authority or institution whose scheme has not been approved to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (2).

(5) Where within a period of one year from the date of submission of the scheme to the Central Government under sub-section (2), no order passed by the Central Government has been communicated to the person, authority or institution submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it has been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person, authority or institution concerned submitting the scheme in furnishing any particulars called for by the Council or by the Central Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:-

(a) whether the proposed authority or institution for grant of recognised dental qualification or the existing authority or institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of dental education in conformity with the requirements referred to in section 16A and the regulations made under sub-

section (1) of section 20;

(b) whether the person seeking to establish an authority or institution or the existing authority or institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure; proper functioning of the authority or institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such authority or institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such authority or institution or course of study or training by persons having the recognised dental qualifications;

(f) the requirement of manpower in the field of practice of dentistry; and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person, authority or institution concerned.

32. Apart from that, as per the typed set of papers filed by the 2nd respondent, dated 26.03.2018, the Notification of DCI mentioning the Schedule reads as follows:-

"SCHEDULE"

[See Regulation 4(2)]

TIME SCHEDULE FOR RECEIPT OF APPLICATION FOR ESTABLISHMENT OF NEW DENTAL COLLEGES / INCREASE OF UNDER GRAGUATE SEATS / RENEWAL OF PERMISSION AND PROCESSING OF THE APPLICATIONS BY THE CENTRAL GOVERNMENT AND THE DENTAL COUNCIL OF INDIA

Sl. No	Stage of processing	Last Date
4.	Receipt of reply/compliance from the applicant by the Central Government and for personal hearing thereto, if any and forwarding of compliance by the Central Government to the Dental Council of India	Two months from receipt of recommendation from DCI but not after 31 st January.

Note:

(1) In case of renewal permission, the applicants shall submit the application to the Dental Council of India by 31st July.

(2) The time schedule indicated above may be modified by the Central Government, for reasons to be recorded in writing, in respect of any class or category of applications.

33. From a reading of the provisions of Section 10(A) of the Dentists Act, 1948, and the Schedule, which is extracted supra, it is clear that the time schedule for receipt of application for renewal of permission and processing of the application by the Central Government and DCI was before 31.01.2018. The affiliation certificate dated 31.01.2018 issued by the Tamil Nadu Dr.M.G.R Medical University is only for the purpose of inspection. Admittedly, Tamil Nadu Dr.M.G.R Medical University is not a party to the Writ Petition. Even if it is a party, they cannot issue the said certificate. It is no doubt true that said certificate was communicated by e-mail to the respondent concerned, but, the said certificate is not a permanent one and it is only for the purpose of inspection as stated above. The affiliation certificate, after rectification of the defects pointed out by the authorities, was issued only on 07.02.2018. This alone can be construed as the certificate of affiliation, but unfortunately, it has been issued only after the cut-off-date viz., 31.01.2018.

34. The learned counsel appearing for the petitioner would vehemently contend that there is no reference at all with regard to the certificate dated 31.01.2018 and that affiliation certificate is a permanent one and that Tamil Nadu Dr.M.G.R Medical University, vide proceedings dated 02.11.2017, granted conditional continuance of provisional affiliation to Madha Dental College & Hospital, Madha Nagar, Somangalam Road, Kundrathur, Chennai, for M.D.S. Course for the academic year 2017-2018, based on an undertaking given by the Chairman of

Soosaiya Peter Education Trust and it was subject to the conditions stated therein and necessary documents are to be submitted within a period of three months. University has taken note of the request of the Chairman, but untimely admission is only for the period of three months and that, in any event, communication runs to counter to the Regulations, which clearly stipulates that cut-off-date/last date is on 31st January of every year. Even on 31.01.2018 with regard to seven disciplines, there has been a categorical rejection and the Dental Council of India (DCI) has decided not to renew its permission for the third year M.D.S course in the various seven specialties for the defects pointed out thereunder.

35. As rightly pointed out by the learned counsel appearing for the 2nd respondent, the cut-off-date was fixed based on the Regulations and that the purpose of introduction of Section 10 (A) of the Dentists Act, 1948, was to curtail the mushrooming growth of dental colleges/ institutions. The Hon'ble Apex Court has come down heavily with regard to the grant of affiliation beyond the cut-off-date. Hence, this Court is of the view that the petitioner will not be entitled to any relief. There is no reference to the communication dated 31.01.2018 with regard to the affiliation, which cannot hold good, as it is only for the purpose of inspection and not for any other purpose and it may not by any stretch of imagination, be construed as one of permanent grant of approval. The petitioner cannot admit any student in seven disciplines for the academic year 2018-2019. This will not preclude the petitioner seeking for recognition/approval for the academic year 2019-2020 and if they fulfill the conditions, it is open to the respondents to consider the same.

36. With the above directions, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
सहायक न्यायाधीश
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
Ministry of Health & Family Welfare,
(Dental Education Section),
A Wing, Nirman Bhawan, Maulana Azad Road,
New Delhi - 110 011.

2. The Secretary,
Dental Council of India,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opp. Mata Sundari College for Women,
New Delhi - 600 010.

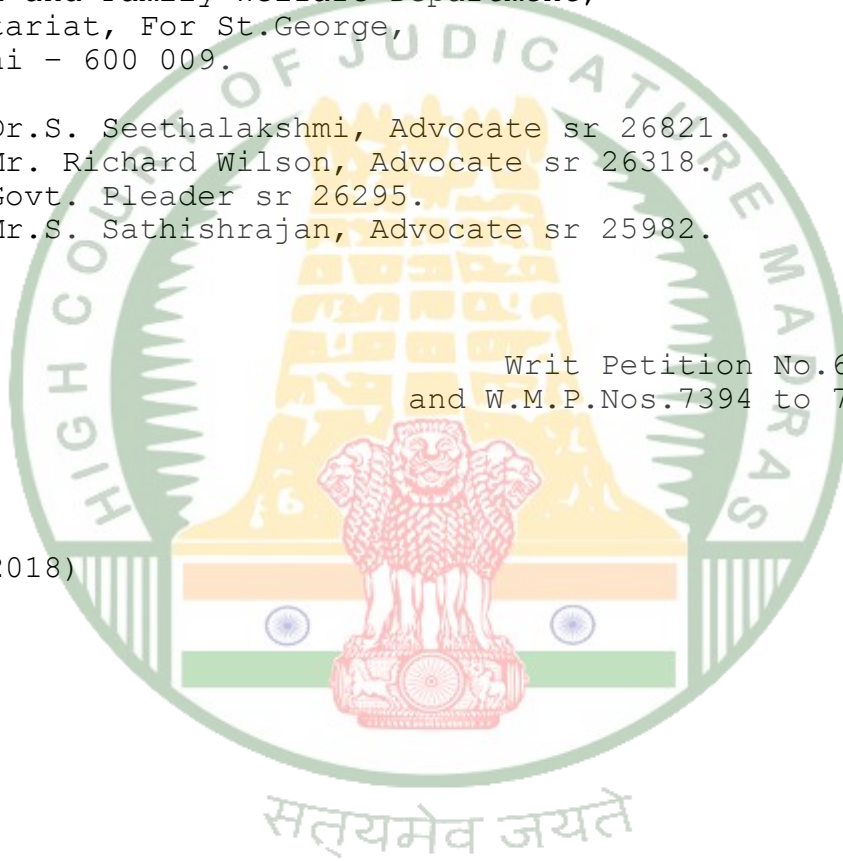
3. Directorate of Medical Education,
162, EVR Periyar Salai, Kilpauk,
Chennai - 600 010.

4. The Secretary to Government,
Health and Family Welfare Department,
Secretariat, For St.George,
Chennai - 600 009.

+1 CC to Dr.S. Seethalakshmi, Advocate sr 26821.
+1 CC to Mr. Richard Wilson, Advocate sr 26318.
+1 CC to Govt. Pleader sr 26295.
+1 CC to Mr.S. Sathishrajan, Advocate sr 25982.

Writ Petition No.6013 of 2018
and W.M.P.Nos.7394 to 7396 of 2018

SP(28/04/2018)



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