

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

WP.No.20046 of 2018
and W.M.P.Nos.23508 to 23510 of 2018

The Principal,
RVS Dental College & Hospital,
242-B, Trichy Road,
Kumaran Kottam Campus,
Kannampalayam - 641 402,
Coimbatore District.Petitioner

Vs.

1. The Union of India,
Rep. by its Secretary,
Ministry of Health & Family Welfare
(Dental Education Section),
Nirman Bhawan, New Delhi.
2. The Dental Council of India,
Aiwan-E-Galib Marg, 14, Sector 8,
Dwaraka, New Delhi - 110 077,
Rep. by its Secretary.
3. The State of Tamil Nadu, Rep. by its Secretary,
Department of Health and Family Welfare,
Fort St. George, Chennai - 600 009.
4. The Director of Medical Education,
Directorate of Medical Education,
162, Poonamallee High Road,
Kilpauk, Chennai - 600 010.
5. Tamil Nadu Dr.M.G.R.Medical University,
P.B.No.1200, No.69, Anna Salai,
Guindy, Chennai - 600 032.
Rep. by its Registrar.Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in Ref.No.V. 12017/02/2018-DE, dated

25.07.2018 stopping admission of students to BDS course in the petitioner's RVS Dental College and Hospital at Coimbatore for the academic year 2018-19, quash the same.

For petitioner : Mr.Isaac Mohanlal, Senior Counsel
for M/s.Isaac Chambers

For Respondents: Mr.B.Rabu Manohar, CGSC, for R1
Mr.S.Haja Mohideen Gisthi, for R2
Mr.K.Karthikeyan, G.A., for RR3 & 4

ORDER

The writ petition is filed for issuance of a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in Ref.No.V. 12017/02/2018-DE, dated 25.07.2018, stopping admission of students to BDS course in the petitioner's RVS Dental College and Hospital at Coimbatore for the academic year 2018-19, and quash the same.

2. The petitioner is a Dental College administred by RVS Educational Trust, Coimbatore. It was established in the year 2008 and it is offering degree course in Bachelor of Dental Surgery (BDS). The petitioner-College is a Self Financing Institution. Based on the recommendation of the second respondent in year 2008, the first respondent gave permission to establish the petitioner-College. The fifth respondent, viz., the Tamil Nadu Dr.M.G.R.Medical University has given affiliation to the College. The first respondent renewed the permission every year, till the first batch of Students completed their final year, in the academic year 2012-2013. After grant of permanent recognition, the respondents conducted periodical inspection and having been satisfied with the facility available in the petitioner-College, permission was renewed every year.

3. It is stated that the second respondent conducted inspection on 29.05.2017 and on 30.05.2017 and sent a communication to the petitioner on 21.07.2017 pointing out certain deficiencies and directed the petitioner-College to rectify the same and report to the Council within 15 days.

4. It is stated that the petitioner recified the deficiencies pointed out by the second respondent and submitted the compliance report to the second respondent on 21.08.2017. However, the second respondent, after conducting another inspection on 09.10.2017, found that there were some deficiencies with regard to the faculties. Based on the recommendation of the second respondent, the first respondent sent a communication to the petitioner stating that the second respondent has

recommended not to permit admission for the petitioner's College and withdrew the recognition given to the petitioner's College from the academic year 2018-2019. The first respondent, in the communication that was addressed to the petitioner, has directed the petitioner to appear for a personal hearing on 24.01.2018 along with the compliance report.

5. It is further stated by the petitioner that they had rectified the deficiencies even before the date of hearing and appeared before the first respondent along with compliance report. Further, on 16.02.2018, the first respondent passed an order directing the petitioner not to admit any students from the academic year 2018-2019. Alleging that the said order was passed without an application of mind and in violation of the principles of natural justice, the petitioner filed a writ petition in W.P.No.5332 of 2018. This court allowed the writ petition by an order dated 29.06.2018 and remitted the matter to the first respondent for fresh consideration. The operative portion of the said order reads as follows:

"4. The Petitioner was surprised to receive a letter dated 19.01.2018 from the 1st Respondent, wherein, it was stated that the 2nd Respondent, vide proceedings dated 22.12.2017, has recommended to stop admissions and withdrawal of recognition of the College from the academic year 2018-2019. The 1st Respondent directed the Petitioner to appear for personal hearing on 24.01.2018 at 10.00 a.m. in the Ministry along with the compliance Report. After the personal hearing, no Report was furnished for no reason. While so, the 1st Respondent issued impugned proceedings dated 16.02.2018 accepting the recommendation of the 2nd Respondent/Dental Council of India and Hearing Committee regarding stoppage of admission in BDS Course from the academic year 2018-2019 and directed the Petitioner not to admit any student in the College from the academic year 2018-2019. However, the 1st Respondent has not assigned any reason for such impugned action.

5. Heard the learned counsel for the parties and perused the material documents available on record.

6. Considering the facts and circumstances of this case, as the impugned order has been passed without assigning any reason, this Court feels it appropriate to interfere with the same. Accordingly, the same is quashed and the matter is remitted to the 1st Respondent for fresh consideration. The 1st Respondent is directed to send a copy of the

Inspection Report to the Petitioner-College within a period of one week from the date of receipt of a copy of this order and thereafter, the Petitioner-College is directed to file their objections on the same within one week. On receipt of objections from the Petitioner-College, the 1st Respondent shall fix a date for personal hearing of the Petitioner-College and pass fresh orders in accordance with law on or before 27.07.2018. If the Petitioner fails to appear on the date fixed, orders can be passed recording their absence and the Petitioner cannot, at a later date contend that no opportunity of personal hearing was given. "

6. It is the case of the petitioner that after the order of this Court, the petitioner appeared before the Hearing Committee as per the direction. It is further contended that the petitioner, though furnished all the documents to substantiate the rectification of deficiencies, the committee was also fully satisfied with the compliance report, and, however, the first respondent, once again without giving any opportunity of hearing, passed the impugned order, dated 25.07.2018 reiterating its earlier decision by directing stoppage of admission for the academic year 2018-2019.

7. The learned Senior Counsel appearing for the petitioner submitted that the impugned order passed by the first respondent not only suffers from non application of mind, but it was passed without furnishing a copy of the report of the second respondent.

8. It is the case of the petitioner that the impugned order is passed without considering the objections submitted before the Hearing Committee. Having regard to the nature of the order passed by the first respondent, which is impugned in this writ petition and the earlier order passed by this Court in W.P.No.5332 of 2018, dated 29.06.2018, this Court is unable to sustain the order of the first respondent. The impugned order is in violation of principles of natural justice and liable to be quashed for the same reason stated earlier by this Court in W.P.No.5332 of 2018.

9. It is admitted by the learned counsel appearing for the second respondent that the second respondent is used to convene a meeting of the Executive Committee every Thursday, which is a Statutory Body, and in the meeting, Inspection Committee will be appointed, which will inspect and submit a report to the first respondent.

10. In view of the above facts and submissions of the

learned counsels on either side, the second respondent is directed to appoint an Inspection Committee, on or before 24.08.2018 and the said Committee shall conduct inspection and submit a report on or before 29.08.2018. The second respondent, on the basis of the report, if any received from the Inspection Committee shall forward its recommendations to the first respondent. The first respondent on receipt of the recommendation from the second respondent, shall furnish a copy of the inspection report and the recommendation of the second respondent to the petitioner, and after hearing the petitioner regarding the objections on the report of the inspection committee, the first respondent shall pass orders on merits and in accordance with law, within a period of ten days therefrom. If no order could be passed on or before 10.09.2018, the first respondent shall not stop admission of students to BDS course in the petitioner-College for 2018-19. Having regard to the above position, the petitioner-Institution shall submit a seat matrix along with particulars on or before 15.09.2018. The time stipulated in this order has to be strictly adhered to by the respondents 1 and 2.

11. With the above observations and direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

pvs
To

1. The Secretary,
The Union of India, सत्यमेव जयते
Ministry of Health & Family Welfare
(Dental Education Section),
Nirman Bhawan, New Delhi.
2. The Dental Council of India,
Aiwan-E-Galib Marg, 14, Sector 8,
Dwaraka, New Delhi - 110 077,
Rep. by its Secretary.
3. The Secretary,
The State of Tamil Nadu,
Department of Health and Family Welfare,
Fort St. George, Chennai - 600 009.

4. The Director of Medical Education,
Directorate of Medical Education,
162, Poonamallee High Road,
Kilpauk, Chennai - 600 010.

5. The Registrar.
Tamil Nadu Dr.M.G.R.Medical University,
P.B.No.1200, No.69, Anna Salai,
Guindy, Chennai - 600 032.

+1cc to Mr.S.Haja mohideen Gisthi, Advocate SR.No.56323
+1cc to Mr.B.Rabu Manohar, Advocate SR.No.56929
+1cc to Issac Chambers, Advocate SR.No.56944
+1cc to Government Pleader SR.No.57272

GN(23/08/2018)

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