

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.7413 of 2018

Sri Venkateswara Dental College and Hospital

rep. by its Principal,
Off. OMR, Near Navalur,
Thalambur, Chennai 600 130.

... Petitioner

vs.

1. The Dental Council of India,
rep. by its Secretary,
Aiwan-E-galib Marg, Kotla Road,
New Delhi - 110 002.
2. The Tamil Nadu Dr. MGR Medical University,
rep. by its Registrar,
No.69, Anna Salai, Guindy,
Chennai 600 032.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the 2nd Respondent/University to consider the application dated 08.02.2018 submitted by the Petitioner and grant Letter of Consent of Affiliation to the Petitioner Institution for commencement of MDS Degree courses in four specialities without insisting on obtaining Essentiality Certificate from the Government of Tamil Nadu.

For Petitioner : Mr.B.Jagannath
For 1st Respondent : Ms.S.Seethalakshmi
For 2nd Respondent : Mrs.P.Rajalakshmi

O R D E R

The Petitioner/Institution has come up with the present Writ Petition seeking a direction to the 2nd Respondent/University to consider their application dated 08.02.2018 and grant Letter of Consent of Affiliation to their Institution for commencement of MDS Degree courses in four specialities without insisting on obtaining Essentiality Certificate from the Government of Tamil Nadu.

2. According to the Petitioner, the establishment of Dental Colleges and the courses they are entitled to offer is governed by the Dental Council of India (Establishment of New Dental Colleges, Opening of New or Higher Course of Study or Training and Increase of Admission capacity in Dental Colleges) Regulations, 2006, as amended from time to time. If a Dental College intends to start a new or higher course of study or training, then, as per Regulation 12 of the 2006 Regulations, it has to apply to the Central Government for necessary permission. Regulation 13 lays down the qualifying criteria to be fulfilled by the Dental College for starting a new higher course of study.

3. For better understanding, Regulation 13(b) of the 2006 Regulations is extracted hereunder:

"the Certificate regarding desirability and feasibility for starting a new or higher course of study or training at the Dental College has been obtained by the College from the State Government".

4. The 2nd Respondent/Tamil Nadu Dr. M.G.R. Medical University has filed counter affidavit, wherein, paragraphs 9 (iii) and 9(iv) read as under:

9.(iii) If any of the Institution has got any trouble either in the administration (or) in the Trust then the Government will take responsibility to accommodate (or) to transfer the candidates of the troubled institution to any other Government Institutions after getting concurrence from the Dental Council of India/Medical Council of India.

9.(iv) As stated supra, Statute 7(e) of the Affiliation of Post Graduate Dental Courses Statutes of this University also stipulates to obtain permission (i.e.) Essentiality Certificate of the Government of Tamil Nadu regarding the desirability and feasibility for starting the proposed MDS degree course in the proposed Colleges. Under such circumstances, this University could not deviate its own rules and regulations in granting Letter of Consent of Affiliation to the Petitioner Institution.

5. Learned counsel for the Petitioner submitted that the Petitioner has no objection in giving such an Undertaking, if so required and he has no objection for the Government to transfer a candidate, if there is any trouble in the Institution.

6. It is the further contention of the learned counsel for the Petitioner that once Regulation 13(b) of the 2006 Regulations is deleted, the contention of the 2nd Respondent/University that there are rules and regulations in granting Letter of Consent of Affiliation, cannot be accepted. Further, the 1st Respondent/Dental Council of India has stated that the requirement of desirability and feasibility in the form of Essentiality Certificate from the State Government for starting a new or higher course of study or training or for increase of seats at Post Graduate level is no longer required.

7. According to the learned counsel for the Petitioner, the 2nd Respondent/University cannot insist that the Petitioner/Institution must get the Letter of Consent of Affiliation, as it runs counter to the provisions of the 2006 Regulations and that the 2nd Respondent/University cannot have such a clause, when no such provision exists as on date in the Dental Council of India.

8. However, taking note of the aforesaid facts and the stand of the Dental Council of India, the 2nd Respondent/University is directed to consider the representation of the Petitioner/Institution and pass appropriate orders on or before 30.04.2018. Thereafter, the 1st Respondent/Dental Council of India is directed to consider the request of the Petitioner with regard to approval after getting appropriate Letter of Consent of Affiliation, if required, from the 2nd Respondent/University, within a period of two weeks.

9. It is needless to mention that the 1st Respondent/Dental Council of India can also inform the 2nd Respondent/University as to whether such Letter of Consent of Affiliation is required in the light of the deletion of Regulation 13(b) of the 2006 Regulations.

This Writ Petition is disposed of with the above direction and observation. No costs. Consequently, connected W.M.P.No.9211 of 2018 is closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To:

1. The Secretary,
Dental Council of India,
Aiwan-E-galib Marg, Kotla Road,
New Delhi - 110 002.
2. The Registrar,
Tamil Nadu Dr. MGR Medical University,
No.69, Anna Salai, Guindy,
Chennai 600 032.

+2 Ccs to Mr.A. Jenasenar, Advocate sr 27554.

+1 CC to M/s.S. Seethalakshmi, Advocate sr 27207.

+1 CC to M/s. P. Rajalakshmi, Advocate sr 27314.

W.P.No.7413 of 2018

RSK (CO)
SP(13/04/2018)



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