

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10743 of 2018

SMG Anjalai Ammal Educational Society,  
Represented by the President  
M.Latchumanan, M.Sc., (Agri) DLL. DLIT,  
Thiruvannamali Road,  
Thirukkanur-605 501,  
Pondicherry. ... Petitioner

Vs.

1. The Registrar,  
Pondicherry University,  
R.V.Nagar, Kalapet,  
Pondicherry.
2. The Secretary to Government,  
(Agriculture),  
O/o Secretariat,  
Government of Pondicherry,  
Beach Road, Pondicherry.
3. The Director General,  
Indian Council of Agricultural Research,  
(Agricultural Education Division),  
Krishi Annusandhan Bhavan-II,  
PUSA, New Delhi-110 012. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent herein to consider the petitioners' filled up application dated 04.07.2017, vide petitioner Letter No.SMG/Agri/2017-2018 seeking to grant affiliation to the petitioner's "SMG Anjalai Ammal Education Society" to start the under-graduate course in Agriculture viz., "B.Sc., Agriculture" for the academic year 2018-2019 without insisting "No Objection Certificate" from the second respondent herein.

For petitioners : Mr.S.Gajendran  
For respondents : Mrs.A.V.Bharathi for R-1  
Mr.C.T.Ramesh, Addl.G.P.  
(Pondicherry) for R-2

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent herein to consider the petitioners' filled up application dated 04.07.2017, vide petitioner Letter No.SMG/Agri/2017-2018 seeking to grant affiliation to the petitioner's "SMG Anjalai Ammal Education Society" to start the under-graduate course in Agriculture viz., "B.Sc., Agriculture" for the academic year 2018-2019 without insisting "No Objection Certificate" from the second respondent herein.

2. The sum and substance of the present petition is that the petitioner-Society shall be granted affiliation to start the under-graduate course in agriculture, i.e. B.Sc. (Agriculture) in the petitioner's Institution for the Academic Year 2018-2019 without insisting on No Objection Certificate from the second respondent.

3. The Regulations of the University, more particularly in Chapter VII - Admission of Colleges/Institutions to the privileges of the University (Section 5(17) of the Act read with Statutue 32), reads as follows:

Ordinance 5(f):

(i) The Committee of Inspection may take necessary steps to examine the request, inspect the site and submit its report to the University on the need and feasibility of the proposed College/Course, the suitability of the site, the adequacy of the physical facilities and financial resources and then make suitable recommendations.

(ii) While making recommendations for provisional affiliation to a College and the Course to be offered by it, the Committee of inspection should satisfy itself about the following:

(a) "No Objection Certificate issued from the Government for establishment of such college.

(b) Permission granted by the concerned Statutory Council in respect of professional colleges/courses and the norms prescribed by the said Councils for establishment of new colleges/courses."

4. From the above provision, it is clear that the NOC has got to be obtained by the College before seeking affiliation. Even though it has been contended by the petitioner that all the necessary documents have been handed over and that on technical grounds, the request shall not be rejected and that the University shall grant affiliation without insisting on NOC from the Secretary to Government, and by order dated 13.10.2016, the Government has disposed of the request of the petitioner pursuant to the order of this Court, dated 20.09.2016 in W.P.No.32788 of 2016, and in the said order, the Government observed as follows:

"7. AND WHEREAS, in accordance with item (9) of the schedule read with Rules 9 and 10 of the Rules of Business of the Government of Puducherry, 1963, proposals involving any important change in policy or practice, the same has to be submitted before the Council of Ministers and the Hon'ble Lieutenant-Governor, Puducherry for their consideration and decision in granting NOC/Permission to the petitioner to start a new private Agricultural College in this Union Territory of Puducherry, apart from the existing one Government Agricultural College at Karaikal District.

8. NOW, THEREFORE, the undersigned, the first respondent in the above said Writ Petition, the Secretary to Government (Agriculture) has considered the application of the petitioner on the above stated lines and disposed of the same in compliance to the directions of the Hon'ble High Court of Judicature at Madras in Writ Petition No.32788 of 2016, dated 20.09.2016 filed by M/s.SMG Anjali Ammal Educational Society, rep. by Thiru.M.Latchumanan, Puducherry."

5. It is the Government which has to take the decision and only after getting the NOC from the Government, the affiliation can be granted by the University. It cannot be vice-versa. Getting affiliation and thereafter approaching the Government for NOC, would amount to putting the cart before the horse. By

communication dated 24.01.2017, addressed by the Pondicherry University to the petitioner-Society, it was made clear that the application sent earlier for the academic year 2017-2018 was incomplete and that they may apply afresh with necessary particulars including the documents, to start agricultural college (B.Sc. Agriculture) for the academic year 2018-2019. Even assuming for the sake of argument that the petitioner has given all the documents as required by the University for the purpose of starting B.Sc. (Agriculture) for the academic year 2018-2019, as long as there is no objection (NOC) obtained from the Government, the relief sought for by the petitioner cannot be granted. The disposal of this Writ Petition will not preclude the Government from considering the request of the petitioner with regard to the grant of NOC, which can be done if any representation is made by the petitioner to the Government. If the NOC along with necessary documents required for starting the College is produced to the University, the University shall consider the request of the petitioner. If any request/representation is made by the petitioner to the Government, the Government shall consider the same in accordance with law within a period of one month from the date of receipt of the said representation from the petitioner.

6. With the above observations, the Writ Petition is disposed of. No costs.

Sd/-  
Assistant Registrar (CS-VII)

// True Copy//

Sub Assistant Registrar

To  
The Secretary to Government,  
(Agriculture),  
O/o Secretariat,  
Government of Pondicherry,  
Beach Road, Pondicherry.

+1cc to Mr.S.Gajendran, Advocate SR.No.49138  
+1cc to Mr.A.V.Bharathi, Advocate SR.No.49001  
+1cc to Government Pleader SR.No.49121

W.P.No.10743 of 2018

NRJK (CO)  
SMI/14.08.2018