

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.16464, 16651 and 17085 of 2018

Sree Abirami College of Pharmacy
administered by Sree Abirami Charitable Trust,
Machegoundanpalayam,
Seerapalayam Village,
Eachnari Post,
Coimbatore - 641 021,
rep. by its Chairman,
Dr.P.Periyaswamy

... Petitioner in W.P.No.16464 of 2018

Sengunthar College of Pharmacy,
administered by Sengunthar Charitable Trust,
No.1/311-1, Sengunthar Nagar,
Thiruchengodu,
Namakkal District,
rep. by its Secretary and Correspondent,
A.Baladhandapani.

... Petitioner in W.P.No.16651 of 2018

P.S.V. College of Pharmaceutical Science & Research,
administered by St. Joan's Educational Trust,
Oprappam Village,
Bangalore - Chennai Highway (NH-46),
Krishnagiri District - 635 108,
rep. by its Chairman and Managing Trustee,
Mr.P.Selvam.

... Petitioner in W.P.No.17085 of 2018

Vs.

1. The Registrar,
MGR Medical University,
69, Anna Salai, Guindy,
Chennai 600 032.

2. The Pharmacy Council of India,
represented by the Secretary-cum-Registrar,
Combined Council Building,
Temple Lane, Kotla Road,
Aiwan-E-Ghalie Marg,
Post Box No.7020,
New Delhi - 110 002.
3. The Member Secretary,
All India Council for Technical Education (AICTE),
Nelson Mandela Marg,
Vasanth Kunj,
New Delhi - 110 067.
4. The Director of Medical Education,
Directorate of Medical Education Campus,
Kilpauk, Chennai 600 010.

... Respondents in all W.Ps.

W.P.No.16464 of 2018 filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned order passed by the 1st Respondent in Rc.No.Affln.I(4)/20324/2018, dated 21.05.2018, quash the same, and direct the 1st Respondent to grant affiliation to the Petitioner Institution for an intake of 100 students for the academic year 2018-19, pursuant to the approval granted by the 2nd and 3rd Respondents for an intake of 100 students for the academic year 2018-19.

W.P.No.16551 of 2018 filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned order passed by the 1st Respondent in Lr.No.Affln.I(6) 64891/2018, dated 26.06.2018, quash the same and direct the 1st Respondent to grant affiliation to the Petitioner Institution for an intake of 100 students for the academic year 2018-19, pursuant to the approval granted by the 2nd and 3rd Respondents for an intake of 100 students for the academic year 2018-19.

W.P.No.17085 of 2018 filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned order passed by the 1st Respondent in Lr.No.Affln.I(1)/59424/2018, dated 02.07.2018, quash the same and direct the 1st Respondent to grant affiliation to the Petitioner Institution for an intake of 100 students for the academic year 2018-19, pursuant to the approval granted by the 2nd and 3rd Respondents for an intake of 100 students for the academic year 2018-19.

For Petitioner in all W.Ps. : Mr.Prabhu Mukunth Arunkumar

For 1st Respondent in
W.P.Nos.16464 & 16651/2018 : Mr.P.R.Gopinathan

For 1st Respondent in
W.P.No.17085 of 2018 : Mr.D.Ravichander

For 2nd Respondent in all W.Ps.: Mr.M.T.Arunan
For 3rd Respondent in all W.Ps.: Mr.B.Rabu Manohar
For 4th Respondent in all W.Ps.: Mr.A.Rajaperumal,
Addl. Government Pleader

COMMON ORDER

As the issue involved in all the above Writ Petitions is one and the same, the cases are taken up for disposal by a common order.

2. Petitioners have come up with the above Writ Petitions challenging the impugned orders, dated 21.05.2018, 26.06.2018 and 02.07.2018, respectively, passed by the 1st Respondent and for a consequential direction to the 1st Respondent to grant affiliation to their Institutions for an intake of 100 students for the academic year 2018-19, pursuant to the approval granted by the 2nd and 3rd Respondents for an intake of 100 students for the academic year 2018-19.

3. According to the Petitioner in W.P.No.16464 of 2018 viz. Sree Abirami College of Pharmacy, their Institution was started in the year 2014 and they were granted permission to start 4 year B.Pharm. Degree Course for the academic year 2014-2015 with an annual intake of 60 students. However, the Petitioner could start 4 year B. Pharm. Course only for the academic year 2017-18. The 1st Respondent/University conducted inspection for an intake of 60 students and issued a letter of consent dated 14.07.2017 based on the Government Order issued by the Government of Tamil Nadu.

3.1.The 2nd Respondent/Pharmacy Council of India granted approval for an intake of 60 students for the academic year 2017-2018, by its order dated 07.09.2017 and 08.09.2017. The 3rd Respondent/All India Council for Technical Education, granted approval only for an intake of 50 students for the academic year 2017-18, though inspection was conducted for an intake of 60 students. The 1st Respondent/University, based upon the approval granted by the 2nd and 3rd Respondents, granted affiliation to the Petitioner College for an intake of 50 students for the academic year 2017-18.

3.2.Challenging the order passed by the 3rd Respondent and the 1st Respondent, insofar as not granting approval for 60 students for the academic year 2017-18, the Petitioner filed W.P.No.26455 of 2017 and this Court, vide order dated 10.10.2017 allowed the said Writ Petition, and quashed the order passed by the 3rd Respondent and 1st Respondent and directed the 3rd Respondent to grant approval for 60 seats for the academic year 2017-2018.

3.3.The 2nd Respondent/Pharmacy Council of India, granted approval for an intake of 100 students for the academic year 2018-19, by its Executive Committee decision, dated 05.05.2018. The 3rd Respondent herein also granted approval for an intake of 100 students for the academic year 2018-19, vide order dated 10.04.2018. Based on the approval of the 2nd and 3rd Respondents, the Petitioner College submitted an application to the 1st Respondent/University on 23.04.2018 to enhance the provisional affiliation from 60 seats to 100 seats. While so, the 1st Respondent/University, by impugned order dated 21.05.2018, rejected to enhance the provisional affiliation from 60 seats to 100 seats. Challenging the same, the Petitioner College is before this Court.

4. According to the Petitioner in W.P.No.16651 of 2018, viz. Sengunthar College of Pharmacy, their Institution was granted permission to start 4 year B.Pharm Course from the academic year 2016-17 with an annual intake of 60 students vide G.O.Ms.No.240, dated 13.09.2016. However, the Petitioner/College could not start the said Course for the academic year 2016-2017 and started the Course from the academic year 2017-18.

4.1.The 2nd Respondent/Pharmacy Council of India granted approval for an intake of 60 students for the academic year 2017-18, by its order dated 12.08.2017. The 3rd Respondent/All India Council for Technical Education granted approval only for an intake of 50 students for the academic year 2017-2018, though inspection was conducted for an intake of 60 students. The 1st Respondent/University, based on the approval granted by the 2nd and 3rd Respondent granted affiliation to the Petitioner College for an intake of 50 students for the academic year 2017-18.

4.2.Challenging the order passed by the 3rd Respondent and the 1st Respondent, insofar as not granting approval for 60 students for the academic year 2017-18, W.P.No.25914 of 2017 was filed before this Court. This Court, by order dated 13.10.2017, allowed the said Writ Petition and quashed the order passed by the 3rd Respondent and 1st Respondent, and directed the 3rd Respondent to grant approval for 60 seats for the academic year 2017-18.

4.3.The 3rd Respondent/AICTE has granted approval for an intake of 100 students for the academic year 2018-19, by its order dated 10.04.2018. The 2nd Respondent herein granted approval for an intake of 100 students for the academic year 2018-19, by its Executive Committee decision dated 18.04.2018 and the same was communicated vide communication dated 26.04.2018. Based on the approval of the 2nd and 3rd Respondents, the Petitioner College submitted an application to the 1st Respondent/University dated 13.06.2018 to enhance the provisional affiliation from 60 seats to 100 seats. But, the 1st Respondent/University, by the impugned order dated 26.06.2018, rejected to enhance the provisional affiliation from 60 seats to 100 seats. Hence, the Petitioner is before this Court with the above Writ Petition.

5. According to the Petitioner in W.P.No.17085 of 2018 viz. P.S.V. College of Pharmaceutical Science & Research, their College was granted permission to start 4 year B.Pharm. Degree Course from the academic year 2016-2017 with an annual intake of 60 students vide G.O.Ms.No.187, dated 20.07.2016. However, the Petitioner could not start the Course for the academic year 2016-17 and started the Course only from the academic year 2017-18.

5.1.The 2nd Respondent/Pharmacy Council of India granted approval for an intake of 60 students for the academic year 2017-18, by its order dated 02.08.2017. The 3rd Respondent/AICTE, granted approval only for an intake of 50 students for the academic year 2017-18, though inspection was conducted for an intake of 60 students. The 1st Respondent/University based upon the approval granted by the 2nd and 3rd Respondents, granted affiliation to the Petitioner College for an intake of 50 students for the academic year 2017-18, vide its order dated 20.09.2017.

5.2.Challenging the order passed by the 3rd Respondent and the 1st Respondent, insofar as not granting approval for 60 students for the academic year 2017-18, W.P.No.25915 of 2017 was filed before this Court. This Court allowed the Writ Petition by an order dated 13.10.2017 and quashed the order passed by the 3rd Respondent and 1st Respondent, directed the 3rd Respondent to grant approval for 60 seats for the academic year 2017-18.

5.3.The 3rd Respondent/AICTE granted approval for an intake of 100 students for the academic year 2018-19, by an order dated 10.04.2018. The 2nd Respondent/Pharmacy Council granted approval for an intake of 100 students for the academic year 2018-19 by its Executive Committee decision dated 05.05.2018 and the same was communicated vide communication dated 21.05.2018.

5.4. Based on the approval of the 2nd and 3rd Respondents, the Petitioner College submitted an application dated 13.06.2018 to the 1st Respondent/University to enhance the provisional affiliation from 60 seats to 100 seats. The 1st Respondent/University passed the impugned order dated 02.07.2018, rejecting to enhance the provisional affiliation from 60 seats to 100 seats. Hence, the Petitioner College has come up with the present Writ Petition.

6. Learned counsel for the Petitioners contended that the impugned orders passed by the 1st Respondent are violative of Article 14 and 19(1)(g) of the Constitution of India. According to the learned counsel, unless this Court permits the Petitioners herein to take part in the counselling for 100 seats and admit students for the academic year 2018-2019, the Petitioners will lose 40 seats, which they are entitled to, as per the orders of the 2nd and 3rd Respondents.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. Admittedly, the 2nd Respondent/Pharmacy Council of India, has granted approval for an intake of 100 students for the academic year 2018-19, vide order dated 05.05.2018 and the 3rd Respondent/AICTE has also increased the intake of students from 60 to 100 for the academic year 2018-19, vide order dated 10.04.2018. The grievance of the Petitioner/Institutions is that there is no communication from the 2nd Respondent/Pharmacy Council of India that there was an Executive Committee meeting, wherein, it was decided to increase the seats from 60 to 100 from the academic year 2018-2019.

9. Learned counsel appearing for the 1st Respondent/MGR Medical University is that the University has acted only as per the Regulations.

10. Mr.M.T.Arunan, learned counsel appearing for the 2nd Respondent/Pharmacy Council of India, submitted that at no point of time, Executive Committee Meeting has been conducted and a different yardstick has been taken and communicated to the 1st Respondent/University.

11. The contention of the learned counsel for the 2nd Respondent that there is no need to intimate the 1st Respondent/University with regard to increase of seats may not be correct, as, in terms of the Prospectus of the 1st Respondent/University, for more than 60 seats, proportionate increase of Teachers and Faculty has to be made and a communication need to be given to the 1st Respondent/University by the 2nd Respondent/Pharmacy Council of India.

12. When a similar issue with regard to the academic year 2016-2017 came up before this Court in W.P.No.25361 of 2017, this Court, by an order dated 06.10.2017, holding that Section 58 of the Tamil Nadu Dr.M.G.R. Medical University statute cannot be applied to nullify or violate the decision taken by the Pharmacy Council of India and AICTE, quashed the impugned order and directed the 1st Respondent/University to grant affiliation to the Petitioner therein for intake of 100 students for the academic year 2017-18 and consequently include the Petitioner's Institution for counselling for 100 seats.

13. In view of the above, this Court is of the view that it is for the 1st Respondent/University to ascertain as to whether the Petitioner/Institutions have complied with the norms and thereafter, consider the request of the Petitioner/Institutions for affiliation. Rejection of grant of affiliation to the Petitioner/Institutions on the ground that their request for annual intake from 60 to 100 will be considered only after the successful completion of Course by the first batch of students, may not be correct.

14. If sufficient infrastructure is available, the Petitioner/Institutions must be permitted to have an intake of entire 100 seats. If Counselling is already over, it is for the the 1st Respondent/University to conduct a special Counselling for the Petitioner/Institutions. However, the time limit prescribed by the Apex Court in the case of Parshavanth Charitable Trust Vs. All India Council for Technical Education, reported in 2013 (3) SCC 385, should be taken note of for the academic years in question. It is made clear that if time is extended by the Apex Court subsequently, the same shall be taken note of by the 1st Respondent/University, while taking a decision with regard to the grant of affiliation to the Petitioner/Institutions for an intake of 100 students for the academic year 2018-19.

In fine, the Writ Petitions are disposed of with the above direction and observation. No costs. Consequently, connected W.M.P.No.19676 of 2018 in W.P.No.16464 of 2018, W.M.P.Nos.19861 and 19862 of 2018 in W.P.No.16651 of 2018 and W.M.P.Nos.20347 and 20348 of 2018 in W.P.No.17085 of 2018 are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

aeb

To:

1. The Registrar,
MGR Medical University,
69, Anna Salai, Guindy,
Chennai 600 032.
2. The Pharmacy Council of India,
represented by the Secretary-cum-Registrar,
Combined Council Building,
Temple Lane, Kotla Road,
Aiwan-E-Ghalie Marg, Post Box No.7020,
New Delhi - 110 002.
3. The Member Secretary,
All India Council for Technical Education (AICTE),
Nelson Mandela Marg,
Vasanth Kunj, New Delhi - 110 067.
4. The Director of Medical Education,
Directorate of Medical Education Campus,
Kilpauk, Chennai 600 010.

+2ccs to Mr.B.Rabu Manohar, Advocate, S.R.No.46949,46950,46951,
+2ccs to Mr.D.Ravichander, Advocate, S.R.No.46936,46937,
+3ccs to Mr.Prabhu Mukunth, Advocate, S.R.No.46965,46966,46967,
+3ccs to Mr.Arunan, Advocate, S.R.No.46903,46904,46905,
+1cc to the Government Pleader, S.R.No.48057.
+1cc to Mr.B.Rabu Manohar, Advocate sr.no.46949(07/08/18)
+1cc to Mr.D.Ravichander, Advocate sr.no.46938(07/08/18)

Common Order in
W.P.No.16464, 16651
and 17085 of 2018

BM 06/08/2018

सत्यमेव जयते

WEB COPY