

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.11.2018

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WA.No.2552 of 2018 and
CMP.No.20558 of 2018

- 1.The All India Council For Technical Education,
Rep.by its Member Secretary,
Nelson Mandela marg, Vasanth Kunj,
New Delhi-110 067.
- 2.The Regional Officer,
Southern Regional Office,
All India Council for Technical Education,
Haddows Road,
Chennai-600 006. ... Appellants/1st & 2nd Respondents

Vs

Pachamuthu Educational Trust,
Rep. By its Vice Chairman,
No.39/1, First Cross,
Nedumaran nagar,
Dharmapuri-636 701. ... Respondent/Petitioner

PRAYER:- Writ Appeal filed under clause 15 of the Letter Patents against the common order passed by this Court dated 09.05.2018 made in WP.No.12026 of 2018.

Prayer in WP.No.12026 of 2018:-

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified Mandamus, calling for the records of the 1st Respondent in F.No.Southern/ 2018/ 1- 3728715501- LOR dated 12.03.2018 and F. No.Southern/ 2018/ 1-3728715501- LOR dated 30.04.2018 and quash the same and consequently direct the respondents herein to grant approval for starting a new Pharmacy College for the academic year 2018-19 in the name and style of "Pachamuthu College of Pharmacy" at S.F. No.178/3A, Muthupatti, Nallanahalli Village,

Hale Dharmapuri Post, Krishnagiri Road , Dharmapuri- 636 701.

For Appellants : Mr.B.Rabu Manohar and Ms.R.Charubala

For Respondent : Mr.Kandan Doraisamy

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal.

2. The respondent/writ petitioner is an Educational Trust and claimed that it had established several institutions in Dharmapuri District for the benefit of poor and downtrodden.

3. The petitioner Trust, with a view to establish a new Pharmacy College in the name and style of 'Pachamuthu College of Pharmacy', have applied to various authorities, as early as August 2017 and got necessary clearance from the concerned competent authority also. Accordingly, the application dated 30.01.2018 was submitted to the 1st respondent for starting Pharmacy College and the 1st respondent vide communication dated 15.02.2018, had called upon the petitioner to attend Scrutiny Committee to be held on 19.02.2018. In compliance of the said communication, the authorised representative of the petitioner Institution attended the meeting of the Scrutiny Committee and submitted all the relevant records with reference to infrastructure / instructional facilities as well as other clearances.

4. The Expert Committee of the 1st respondent also caused an inspection on 04.03.2018 and after such an inspection, pointed out certain deficiencies.

5. The petitioner was surprised and shock to receive a communication dated 12.03.2018 from the 1st respondent rejecting their application to start a Pharmacy College and it was followed by a detailed communication dated 30.04.2018 in the form of final letter of rejection pointing out 30 deficiencies. Therefore, the petitioner challenging the legality of the communication dated 12.03.2018 and 30.04.2018 of the 1st respondent, has come forward to file the writ petition and it was entertained and notices were ordered.

6. When the writ petition was taken up for final disposal, it was the submission of the learned counsel for the petitioner that whatever deficiencies as pointed out by the 1st respondent,

have been complied with and therefore, prayed for further inspection.

7. The Court after hearing the submission of the learned Standing counsel appearing for the respondents 1 and 2 in the writ petition/ appellants herein had disposed of the writ petition vide impugned order dated 09.05.2018, by directing them to cause inspection as per the procedures as contemplated under the Rules and take appropriate action and challenging the legality of the said order, the official respondents in the writ petition came forward to file the present writ appeal.

8. Mr.Rabu Manohar and Ms.R.Charubala, learned counsel for the appellants / official respondents in the writ petition would submit that prayer in the writ petition, is to quash the impugned communication sent by the 1st respondent with a consequential direction directing them to grant approval for starting new Pharmacy College for the academic year 2018-19 and since the writ petition came to be disposed of with certain directions, it can be construed as if that in the event of deficiencies being pointed out have been rectified, recognition has to be granted for the academic year 2018-2019 and if it is not possible / capable for compliance, in the light of the time schedule and also as per the various pronouncements of the Hon'ble Supreme Court of India and prays for its clearance.

9. Per contra, Mr.Kandan Duraisamy, learned counsel for the respondent / writ petitioner would submit that classes for the current academic year have already commenced and on instructions would submit that whatever deficiencies pointed out in the final letter of rejection dated 30.04.2018 of the 1st respondent have been complied with. If inspection is caused as per the procedures contemplated, then the appellants would be definitely satisfied as to the compliance of the deficiencies and would grant recognition so as to enable the Pharmacy College to start academic session for the ensuing academic year 2019-2020 and therefore, prays for appropriate orders.

10. This Court has considered the rival submissions and also perused the materials placed before it.

11. It is the categorical stand of the respondent/writ petitioner that in the event of appellants being satisfied about the rectification / compliance of all the deficiencies, they may be in a position to commence the Pharmacy College and admit the students for the ensuing academic year 2019-2020. In the light of the said submission, the apprehension, if any, on the part of the appellants, in the considered opinion of this Court, is wholly unfounded.

12. It is also to be pointed out at this juncture that in one of the impugned communications dated 30.04.2018, it has been pointed out that it shall be open to the applicant / writ petitioner to make a further application in the next Academic year.

13. In the light of the submission made by the respondent / writ petitioner on instructions, it is open to the respondent / writ petitioner to make a further application for the next Academic year 2019-2020 within a time stipulated and on filing of such application and if it is otherwise in order, the appellants, subject to payment of necessary charges shall cause inspection of the facilities available in the said Institution at an early date and without any loss of time and do the needful in accordance with law / procedures as contemplated. It is also made clear that in the event of deficiencies being fully complied with, the respondent/writ petitioner can avail the benefit of admission only for the next academic year 2019-2020.

14. Accordingly, the writ appeal stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Member Secretary,
The All India Council For Technical Education,
Nelson Mandela marg, Vasanth Kunj,
New Delhi-110 067.

2.The Regional Officer,
Southern Regional Office,
All India Council for Technical Education,
Haddows Road, Chennai-600 006.

+1 cc to M/s.Muthumani Duraisami, Advocate Sr.No.79973

+1 cc to M/s.B.Ramu Manohar, Advocate Sr.No.799894

WA.No.2552 of 2018

RSI (CO)
CSL/12.12.2018