



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.A.[MD].No.238 of 2018
and
C.M.P.(MD)No. 1363 of 2018

Union of India,
Represented by Ministry of Ayurveda, Yoga &
Naturopathy, Unani, Siddha &
Homoeopathy (Ayush)
Ayush Bhavan, B-Block,
GPO Complex, INA,
New Delhi - 110 023.

.. Appellant/1st Respondent

Vs.

1. M/s.Maria Homoeopathy Medical
College & Hospital,
Represented by Principal,
Perai, Tiruvattar,
Kanyakumari District,
Tamil Nadu.

.. 1st Respondent/ Writ Petitioner

2. The Central Council of Homoeopathy,
Janakupuri, New Delhi - 58.

3. The Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

4. The Additional Chief Secretary -Cum-
Commissioner of Indian Medicine &
Homoeopathy,
Chennai - 600 106. ... 2 to 4 Respondents/2 to 4 Respondents

PRAYER: Appeal is filed under Clause 15 of the Letter Patent Act,
against the order, dated 11.10.2017 made in W.M.P.(MD)No.15324 of
2017 in W.P.(MD)No.18966 of 2017 on the file of this Court.

Prayer in WMP(MD). 15324/ 2017 :

To Direct the respondents herein to permit the petitioner
to admit the students on management quota and through counselling
conducted by the 3rd and 4th respondent in BHMS Course for the



academic year 2017-2018 pending disposal of the above writ petition and pass such further.

Prayer in WP(MD). 18966/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of mandamus directing the 1st respondent herein to grant approval to the petitioner college for running BHMS Course for the academic year 2017-2018 on the basis of petitioners explanation dated 16.08.2017 and its compliance report dated 4.09.2017 to the 1st respondent and consequently direct the respondents to permit the petitioner to have intake of students for admission into BHMS Course for the academic year 2017-2018 through counselling of 3rd and 4th respondent in the petitioner college and allow the petitioner to continue the III Year BHMS Programme for the academic year 2017-2018.

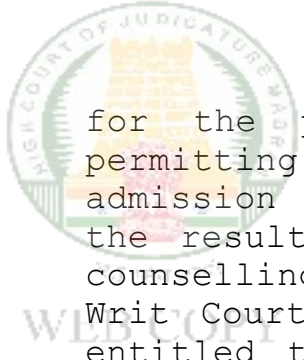
For Appellant	: Mrs.Srimathy
For R-1	: Mr.Veerakathiravan Senior Counsel for Mr.C.Jeganathan
For R-2	: No appearance
For R-3	: Mr.C.Karthick
For R-4	: Mr.K.Mu.Muthu Additional Government Pleader

JUDGEMENT

[Judgement of the Court was delivered
by **K.RAVICHANDRABAABU, J**]

This Writ Appeal is directed against the interim order granted by the Writ Court in W.M.P.(MD)No.15324 of 2017 in W.P.(MD) No.18966 of 2017, dated 11.10.2017.

2.The appellant before us is the first respondent in the writ petition. The first respondent before us as the writ petitioner sought for Mandamus directing the first respondent therein to grant approval to the petitioner College for running B.H.M.S. Course for the academic year 2017-2018 on the basis of the petitioner's explanation, dated 16.08.2017 and its compliance report, dated 04.09.2017 and consequently to direct the respondents to permit the petitioner to have intake of students for admission into B.H.M.S. Course for the academic year 2017-2018 through counselling of third and fourth respondents in the petitioner's College and allow the petitioner to continue the III year B.H.M.S. Programme for the academic year 2017-2018.



for the petitioner, thought fit to grant an interim order permitting the petitioner College to have intake of students for admission in B.H.M.S. for the academic year 2017-2018 subject to the result of the writ petition, apparently by noting that the counselling was scheduled between 11th and 14th October, 2017. The Writ Court also made it clear that the petitioner shall not be entitled to claim any equity at a later point of time, as the admission of the students is subject to the result of the Writ Petition. Thus, the Writ court directed the main Writ Petition itself to be listed for hearing on 26.10.2017 along with another connected W.P.(MD)No.21883 of 2016.

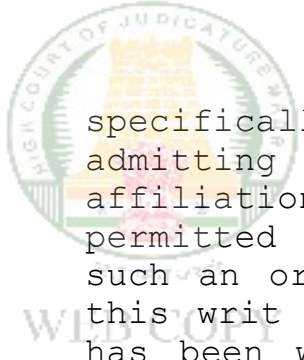
4.Now the present appeal is filed by the Union of India, which is the first respondent in the writ petition, mainly by contending that when the writ petitioner College is not having necessary approval and recognition from the respective Competent Authorities, granting of the interim permission to admit the students, goes against Principles laid down in the decision rendered by the Hon'ble Supreme Court in a case reported in **2007 (4) L.W. 97 (Minor Sunil Oraon Tr.Guardian & others Vs. C.B.S.E. & others)**. Thus it is contended that the Writ Court ought not to have granted the interim direction, permitting the writ petitioner to admit the students, pending the grant of approval and recognition.

5.The learned counsel appearing for the third respondent herein also supported the case of the appellant.

6.Per contra, the learned Senior Counsel Mr.Veerakathiravan, appearing for the first respondent/writ petitioner submitted that the very order passed by the Writ Court makes it very clear that the same was passed subject to the result of the writ petition with a specific observation that the petitioner is not entitled to claim any equity at a later point of time. Thus he submitted that admitting the students during the pendency of the writ petition is at the risk of the writ petitioner and therefore, the interest of the appellant as well as the third respondent is not affected or prejudiced in any manner. He further contended that since the Writ Court has posted the main writ petition itself for final disposal, all the points raised by the appellant herein can be raised before the Writ Court.

7.Heard both sides.

8.A careful perusal of the interim order granted by the Writ Court would show that such permission granted was subject to the result of the writ petition and that the writ petitioner will not be entitled to claim any equity in the event of their failure to succeed in the writ petition. It is true that the Hon'ble Supreme Court in the above decision reported in **2007 (4) L.W. 97**, has



specifically deprecated the practice of Educational Institution admitting the students without requisite recognition or affiliation. However, in this case the admission of students is permitted by the writ Court by way of an interim order. Though such an order was passed as early as on 11.10.2017, by the time this writ appeal is taken up for hearing, the said interim order has been worked out already. Hence, it is for the appellant as well as the third respondent to raise all their contentions and objections before the Writ Court, which in turn will consider the merits of the matter and pass appropriate orders in the main Writ Petition. In any event, as the interim order granted by the learned Single Judge as early as on 11.10.2017 is said to have been worked out by this time, we are not inclined to interfere with such order without expressing any view on the merits of the claim made by the respective parties, as we found that the Writ Court has posted the main Writ Petition itself for final disposal. Therefore, this Writ Appeal is disposed of by requesting the Writ Court to take up the main Writ Petition itself and dispose of the same, on merits and in accordance with law, after hearing all the parties concerned, as expeditiously as possible, at any event within a period of three weeks from today. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Additional Chief Secretary -Cum-
Commissioner of Indian Medicine &
Homoeopathy, Chennai - 600 106.

Copy to:

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

- + 1 cc TO Mr.C.Karthik , Advocate in SR No. 67991
- + 1 cc TO M/S.Veera Associates , Advocate in SR No. 68305
- + 1 cc TO Mrs.S.Srimathy , Advocate in SR No. 68067
- + 1 cc TO The Special Government Pleader in SR No. 68232

rj2/Ls

AE/RSK/SAR1/26.06.2018/4P/7C