

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.4.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.1071 of 2019
and
CMP.Nos.7867 & 7869 of 2019

A.T.S.V.S. Siddha Medical College
& Hospital (run by Akila Thiruvudhan-
code Siddha Vaidhya Sangam),
Kanyakumari District rep.by its
Interim Administrator Justice A.
Ramamurthy (Retired) ...Appellant

Vs

- 1.The Vice Chancellor, Tamil Nadu
Dr.MGR Medical University,
Chennai-32.
- 2.The Registrar, Tamil Nadu Dr.MGR
Medical University, No.69, Anna
Salai, Chennai-32.
- 3.The Controller of Examinations,
Tamil Nadu Dr.MGR Medical
University, No.69, Anna Salai,
Chennai-32.

...Respondents

APPEAL under Clause 15 of the Letters Patent against the
order passed in W.P.No.26858 of 2018 dated 28.1.2019.

Prayer in WP.No.26858 of 2018:

Writ Petition filed under Article 226 of the Constitution of
India, praying for issuance of Writ of Mandamus, directing the
Respondents herein to implement the Indian Medicine Central
council (Minimum Standards of Education in Indian Medicine)
Amendment Regulations 2016 (MSE 2016) i.e. Regulation 6 Scheme of
Examination (1)(c) (2)(c) and (3)(c) which came into force on
7.11.2016 in letter and spirit.

For Appellant : Mr.T.R.Rajagopalan, SC for
Mr.C.V.Vijayakumar

For Respondents : Mr.D.Ravichander

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.T.R.Rajagopalan, learned Senior Counsel appearing on behalf of Mr.C.V.Vijayakumar, learned counsel on record for the appellant and Mr.D.Ravichander, learned Standing Counsel accepting notice for the respondents.

2. This appeal is directed against the order dated 28.1.2019 passed by the learned Single Judge in W.P.No.26858 of 2018.

3. In the said writ petition, the appellant sought for the issuance of a Writ of Mandamus to direct the respondents herein to implement the Indian Medicine Central Council (Minimum Standards of Education of Indian Medicine) Amendment Regulations 2016 (MSE 2016) i.e. Regulation 6 : Scheme of Examination (1) (c), (2) (c) and (3) (c), which came into force on 7.11.2016 in letter and spirit.

4. According to the appellant institution, the said Regulation should be given effect for the academic session 2016-17, as the last date for admission was extended upto December 2016. It is the submission of the learned Senior Counsel for the appellant that for the last ten years, the admission to the Indian System of Medicine has been consistently done only in November/ December 2016 and that therefore, any failure to implement the Notification dated 07.11.2016 introducing amendment in Regulation 6 for the academic session 2016-17 will create prejudice.

5. As could be seen from the said Notification dated 07.11.2016 issued in exercise of powers conferred by Clauses (i), (j) and (k) of Sub-Section (1) of Section 36 of the Indian Medicine Central Council Act, 1970, the Central Council of Indian Medicine, with previous sanction of the Central Government, made the following Regulations further to amend the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Regulations, 1986, namely the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations, 2016 and they should come into force on the date of publication of the Official Gazette. Hence, no retrospective effect can be given. Further, in Clause 6 of the said Notification, which deals with the Scheme of Examination, in Sub-Clause (1), it is stated that the first professional session shall ordinarily start in July and

the first professional examination shall be at the end of one academic year of first professional session.

6. Hence, in our considered view, to issue a direction to the respondent University to implement the said Notification with effect from November/ December 2016 would be an exercise, which cannot be done, as it is a Notification issued by the Union of India. Furthermore, as there is no power for the respondent University to give retrospective effect to the said Notification, the question of issuing a Writ of Mandamus as prayed for does not arise. We are of the view that the prayer sought for in the said writ petition could not have been granted as rightly denied by the learned Single Judge.

7. Accordingly, the above writ appeal is dismissed. However, dismissal of this writ appeal will not stand in the way of the appellant institution to move for a larger relief by either approaching the Central Government or by approaching the appropriate forum by impleading the Union of India. No costs. Consequently, the connected CMPs are also dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Vice Chancellor,
Tamil Nadu Dr.MGR Medical University,
Chennai-32.

2.The Registrar,
Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai,
Chennai-32.

3.The Controller of Examinations,
Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai, Chennai-32.

+1cc to Mr.C.V.Vijayakumar, Advocate, S.R.No.31475
+1cc to Mr.D.Ravichander, Advocate, S.R.No.30949

WA.No.1071 of 2019 & CMP.
Nos.7867 & 7869 of 2019

LN (CO)

RRS (05/07/2019)