



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.25488 of 2019
& W.M.P.Nos.25012, 25014 & 25017 of 2019

The Principal,
Sivaraj Homoeopathic Medical College &
Research Institute,
Siddhar Kovil Road,
Salem - 636 307. Petitioner

/versus/

1. The Union of India,
Rep. by its Secretary,
(Ministry of Ayurveda, Yoga & Naturopathy,
Unani, Siddha and Homoeopathy (AYUSH),
'B' Block, GPO Complex, INA,
New Delhi - 110 023.
2. The Central Council of Homoeopathy,
Rep. by its Secretary,
No.61-65, Institutional Area,
Opp. 'D' Block, Janakpuri,
New Delhi - 110 058.
3. The Commissioner of Indian Medicine,
and Homoeopathy, Arumbakkam,
Chennai - 600 106.
4. The Tamil Nadu Dr.M.G.R.Medical University,
Rep. by its Registrar,
No.69/40, Anna Salai,
Guindy, Chennai - 600 032. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent vide File No.R.14014/197/2019-EP-II dated 08.07.2019 denying permission to admit students to the BHMS course in the petitioner's Sivaraj Homoeopathic Medical College & Research Institute, Salem in the academic year 2019-2020, quash the same and further direct the respondents to permit the petitioner's college to admit students for the academic year 2019-2020.

For Petitioner : Mr.Godson Swaminathan,
for M/s.Isaac Chambers

For R1 : Mr.B.Rabu Manohar,
Senior Central Government
Panel Counsel, Government of India

For R2 : Mr.G.Karthikeyan,
Assistant Solicitor General

For R3 : Mr.V.Kathirvelu,
Special Government Pleader

For R4 : Mr.D.Ravi Chandar, Standing Counsel

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The Petitioner/Institute was inspected by the Central Council of Homoeopathy (CCH) team on 16.05.2019 for grant of permission for B.H.M.S course for the academic session 2019-2020 and found that, there were deficiencies in faculty and other infrastructure facilities. Hence, the Board of Governors of Central Council of Homeopathy refuse recommendation for allowing admission against which the Hearing Committee caused notice to the Petitioner/Institute and invited their response regarding the deficiencies pointed out by the Central Council of Homeopathy team.

3. The petitioner herein has submitted the compliance report and requested for grant of permission. However, the Hearing Committee, after affording opportunity to the petitioner, found that the Petitioner/College is having only 10 eligible Readers and 12 eligible Lecturers as full time faculty against 24 full time faculties required as per the Regulation. Similarly, the minimum requirement of Guest Lecturers is eight, whereas, the Institute is only having 7 Guest Lecturers. Further, there are other deficiencies which was found to be very crucial and hence, the Hearing Committee has submitted the overall observation as below:-

Overall Observations of Hearing Committee:

1. The College is having 10 eligible Readers and 13 eligible Lecturers at the time of hearing.

2. 07 Guest faculties available against the requirement of 08.

3. The College has applied to the Director of Medical Education, Chennai, Government of Tamil Nadu to include their College under Anatomy Act but the same has not been granted by the State Government till date.

4. The College students visited 02 industries in the year 2018.

5. The College has applied for License for procuring alcohol/spirit in department of Pharmacy but the same has not been granted till date.

4. In the light of the above observation of the Hearing Committee, the 1st respondent/Ministry of AYUSH, which is the authority to grant permission, has refused permission to admit candidates in view of shortcomings and deficiencies.

5. The Learned Counsel appearing for the petitioner would submit that, as per the Homeopathy Central Council (Minimum Standard Requirements of Homoeopathic Colleges and Hospitals), for a College which has upto 60 students intake, the minimum requirement of full time faculties is 24 which includes the Principal. Whereas, the Petitioner/Institute, at the time of inspection had 23 full time faculties and one Principal and therefore, it has complied the minimum requirement, even otherwise under the Regulation upto 10% of shortage is permissible. While so, the respondents ought not to have denied permission to admit students for the academic year 2019-2020.

6. Regarding the field visit, the Learned Counsels submit that, as per the regulation, the Institute is suppose to arrange for health Check-up Camps, Water Purification Plant, Milk Pasteurization Plant and also to industries to make them understand about the Industrial Health Hazards. Nowhere in the Regulation, the minimum number of visit is prescribed. Even according to the Hearing Committee, the College students had earlier visited two Industries in the year 2019 and if necessary, the Institute is ready to arrange for Industrial visit.

7. The Learned Standing Counsel appearing for the 2nd respondent would submit that, the petitioner was given opportunity to rectify the defects soon after the Inspection Committee visited the petitioner/Institute. But the petitioner/Institute has not rectified the defects and furnished relevant documents particularly regarding the faculty, the petitioner/Institute failed to produce documents relating to their date of appointment and qualification. Therefore, in view

of the serious shortage of eligible faculty members, the permission to admit students was refused and the petitioner/Institute was directed to stop admission for the academic session 2019-2020.

8. The petitioner/Institute, after refusal of admission issued by the 1st respondent on 30.07.2019 had made a representation to the 1st respondent to review the earlier order and re-examine the documents submitted by the Institute. The subsequent request was not considered by the 1st respondent in view of the last date for inspection of Institute and review by the Hearing Committee was over and the admission process for the session 2019-2020 already commenced.

9. The Learned Counsel appearing for the petitioner would submit that, if the inspection Committee of Central Council Homeopathy makes re-visit to the Institute, they are ready to satisfy the committee with all the necessary requirements regarding faculties and other infrastructure facilities. For the said submission, the Learned Counsel for the 1st respondent/Ministry of AYUSH states that, if the petitioner/Institute pays inspection fees, the Committee will take up the exercise of inspecting the infrastructure available in the Petitioner/Institute and submit appropriate report to the 1st respondent for consideration.

10. In the light of the above fact, the petitioner herein is permitted to make fresh application for inspection and on receipt of the application and required fees, the 1st respondent shall re-inspect the petitioner/Institute, within a period of four weeks, from the date of receipt of the application and proceed to pass orders in accordance with law.

11. With the above observation, the Writ Petition is disposed of. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The Secretary,
The Union of India,
(Ministry of Ayurveda, Yoga & Naturopathy,
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Chennai - 600 106.
 4. The Registrar,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69/40, Anna Salai,
Guindy, Chennai - 600 032.
- +1 cc to M/s.Isaac Chambers, Advocate, S.R.No.93914
+1 cc to M/s.G.Karthikeyan, Advocate, S.R.No.93881
+1 cc to Mr.B.Rabu Manohar, Advocate, S.R.No.93821
+1 cc to the Government Pleader, S.R.No.94112

W.P.No.25488 of 2019

PVS (CO)
SSM(14/11/2019)

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