



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.08.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.23726 of 2019

Sri Muthukumaran Medical College
Hospital & Research Institute,
Chikkarayapuram Near Mangadu,
Chennai - 600 069,
Rep. by Chairperson,
Tmt.Gomathi ammal ... Petitioner

/verus/

1. The Registrar,
The Tamil Nadu,
Dr.M.G.R. Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
 2. The Secretary,
Selection Committee,
Directorate of Medical Education,
Chennai.
 3. The Secretary to Government,
Health and Family Welfare Department, .
Government of Tamil Nadu,
St.George Fort, Chennai. ... Respondents
- (R3 impleaded as per order dated 13.08.2019 in W.M.P. 23690 in
W.P.No.23726/2019)

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, to issue Writ of Mandamus, directing the
1st respondent to perform his statutory duties within such time
as Hon'ble High Court may prescribe and pass such further and
other orders as this Hon'ble High Court deem fit and proper by
including the Petitioner college in the seat matrix for the
academic year 2019-2020 so as to enable admission of students
before 31th August 2019.

For Petitioner : Mr.T.Masilamani, Senior Counsel,
for Mr.M.Vishnu Venkatesh

For R1 : Mr.Ilayaraj Kumar,
for Ramalingam Associates

For R2 : Mr.Abdul Saleem, Standing Counsel

For R3 : Mr.S.Suresh Kumar,
Government Advocate

O R D E R

Heard the Learned counsel for the petitioner and the learned Counsel appearing for the respondents.

2. Due to urgency, on completion of pleadings the matter is taken up for final disposal. The petitioner Institute is running Sri Muthukumaran Medical College Hospital & Research Institute, with duly approval from Medical Council of India. The Dr.M.G.R. Medical University, Chennai, has also affiliated the Petitioner College and while releasing the seat matrix for the admission in the academic year 2019-2020, the petitioner College has been included in the seat matrix permitting intake of 150 seats. However, in view of the Public Interest Litigation and the show cause notice issued by the CMDA issuing show cause notice for lock and seal of 14 buildings under the petitioner Trust, the Tamil Nadu Dr.M.G.R.Medical University has revoked the permission granted to the petitioner Institute for admitting students. This has forced the petitioner herein to approach this Court.

3. From the pleadings and documents furnished by the petitioner as well as the 1st respondent/the Tamil Nadu Dr.M.G.R.Medical University, this Court finds that the petitioner Institute has obtained consent for affiliation from the 1st respondent on 29.10.2008. Later, provisional affiliation was granted and was in force till the academic year 2014-2015. Thereafter, the Petitioner Institute has not admitted any students for the academic year 2014-2015 to 2016-2017. Out of 14 buildings which is under scanner of CMDA and show cause notice issued for Lock and seal for want of building approval, 7 buildings were used for the Medical college and rest of the 7 buildings were used for the Engineering College run under the Petitioner Management trust. The petitioner Trust has now approached the CMDA for regularisation of the buildings constructed without approval and the matter is pending consideration.

4. In the said circumstances, the Government has also taken a positive view on the representation given by the Institute and addressed the Vice Chancellor of Tamil Nadu Dr.M.G.R University vide letter dated 25.07.2019 to consider the petitioner representation and take appropriate decision to include the Institution in the seat matrix for the academic year 2019-2020, subject to the condition that the Institute shall furnish a declaration stating that planning permission for the 7 buildings of Sri MuthuKumaran Medical College and Research Institute, Mangadu, Chennai, will be obtained from CMDA within a period of three months. Pursuant to this Government letter, University has deputed inspection team and sought certain clarification from the Institute. The Institute vide letter dated 05.08.2019 as against the issues raised by the Inspection team has given the clarification. After considering that, the Vice-Chancellor has deputed another committee to find out whether the clarification given by the Institute may be considered for granting affiliation. A detailed report has been given by the committee and the report dated 10.08.2019 concludes with the following observations.

- a. The animal house building will take about a month to be made ready for the purpose of housing the library and necessary conversion shall be obtained.
- b. The hostel ear-marked for Gents and Girls hostel falls short by 3 Square metres - 24 square metres as against the requirement of 27 Square metres.
- c. The portions for Gents and Girls hostel is yet to be segregated by obtaining conversion and made ready for occupation and as such there is a single entry for both the hostels.
- d. There is no provision for Doctor's quarters or CRRI accommodation.
- e. CMDA is yet to regularize the unauthorised constructions. The application is said to have been filed. Further progress on the same is not on record.

5. The Vice Chancellor has also thought fit that before proceeding further, the opinion of the Advocate General has to be obtained. The Learned Advocate General has given his opinion vide SBOPN No.43/AGVN/2019, dated 14.08.2019. He has opined that it is for the University to find out if the Medical College meets the norms and standard for affiliation and if its meets all those norms and standard, they can be included in the seat matrix for the current academic year by grant of provisional affiliation. In the light of the inspection report and the opinion of the Learned Advocate General, the 1st respondent has

filed counter expressing the stand of the University and the apprehension what will happen to the students admitted and if the Institute fails to rectify the defects pointed out within a period of three months.

6. Further, in the counter, it is also brought to the notice of this Court that, after the show cause notice, CMDA has also requested the TANGEDCO to take immediate action to disconnect the power supply to the buildings. In the said circumstances, the concern of the 1st respondent is whether the Institute, if fail to comply the undertaking of rectifying the defects pointed out by the Inspection committee, what will happen to the students.

7. The defects pointed out by the Inspection committee are already extracted above. Those defects appears to be compilable, if really the Institute genuinely wants to rectify and comply. This Court is of the opinion that the Institute may not take the risk of disaffiliation by not complying the undertaking, to rectify the defects pointed out by the Inspection committee within three months.

8. The last defect regarding the approval of CMDA, the Government communication dated 25.07.2019 indicates that the CMDA will consider the representation of the petitioner for regularisation of the building and will re-visit his earlier demolition notice, dated 29.04.2019. Even otherwise the petitioner Institute has come forward to provide alternate building to accommodate the College and Hospital.

9. The learned Senior Counsel appearing for the petitioner would submit that in almost identical circumstances, the Hon'ble Supreme Court AL-Karim Educational Trust and another Vs. State of Bihar and others reported in (1996) 8 SCC 330 has observed and directed the University to grant temporary affiliation.

"(i) In the final analysis, the question to be posed, is whether there exists the minimal and satisfactory requirements to keep the matter going, and not whether better arrangements that will render the set up more efficient and more satisfactory, should be insisted as "a wooden" rule.

(j) It may be that there are some minor deficiencies here and there which call for rectification. Time can certainly set right such matters. What is required is a total, practical,

overall view in the light of the latest tabular statement filed along with the affidavit dated 4.9.1995. material placed before the Court goes to show that there has been "substantial" though not literal compliance with the deficiencies pointed out in the latest report dated 28.6.1995."

10. In this case, the facts remains that the Institute was given affiliation till 2014 and due to other reasons, affiliation was not extended. For the current academic year, the affiliation was granted and the Medical Council of India has permitted the Institute to admit 150 students. It is the demolition notice issued by CMDA on 29.04.2019, which has intervene the process of admission. Presently, the request of the petitioner for regularisation of the building is pending before the CMDA. Anticipating a negative response from the CMDA, the University need not prevent the Institute admitting the students.

11. Hence, the Writ Petition is disposed of with a direction of the 1st respondent to grant affiliation to the petitioner Institute after getting undertaking from them that within a period of three months from today, they will rectify the defects pointed out by the Inspection team.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Registrar,
The Tamil Nadu,
Dr.M.G.R. Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.
2. The Secretary,
Selection Committee,
Directorate of Medical Education,
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St.George Fort, Chennai.

+2 Ccs to Ramalingam Associates, sr 70327
+1 CC to Govt. Pleader sr 70845.
+2 CCS to Mr.M.Vishnu Venkatesan, Advocate sr 70107.
+1 CC to Mr.S.Sathish, Advocate sr 70360 (26/08/2019)

W.P.No.23726 of 2019

AD(CO)
SP(20/08/2019)



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