

C.M.P.No.18502 of 2019
in
W.A.Sr.No.109429 of 2019

S.MANIKUMAR, J.,
AND
SUBRAMONIUM PRASAD, J.,

(Order of the Court was made by S.MANIKUMAR.J.,)

Mr.V.Kadhirvelu, learned Special Government Pleader, takes notice for Secretary to the Government, Health and Family Welfare Department, Government of Tamil Nadu, Chennai/the 3rd respondent. Mr.Abdul Saleem, learned counsel, takes notice for Secretary, Selection Committee, Director of Medical Education, Chennai/the 2nd respondent herein.

2. Petitioner/Mr.K.M.Krishnan, seemed to have filed three public interest writ petitions. Prayer made in W.P.No.2807 of 2019, is as follows:-

"To direct Respondent Nos. 1 to 3, to pass appropriate orders on the representation dated 26.03.2018, made by the petitioner, within stipulated time period."

3. Sri Muthukumaran Medical College Hospital and Research Institute,

Chikkarayapuram, Chennai, is not a party in W.P.No.2807 of 2019.

4. In W.P.No.17964 of 2019, petitioner has sought for a Writ of Mandamus, directing the respondents 1 and 2, to take necessary action against the respondents 3 and 6 therein, for continuing the recognition and affiliation to the 10th respondent medical college which is unauthorized construction, as per the enforcement action taken by the 4th respondent therein. In the abovesaid writ petition, Sri Muthukumaran Medical College Hospital and Research Institute, represented by its Managing Trustee, Chennai, is a party respondent.

5. In W.P.No.19812 of 2018, petitioner has sought for a Writ of Mandamus, directing the respondents 1 and 2, to consider the representation dated 26.03.2018, made by the petitioner about the 5th respondent trust encroachments in Survey Nos. 49, 54, 57, 59, 65, 61, 78, 69, 255, 256 and Survey Nos. 2/2 Part 51 part 52 part 56/1 and unauthorized constructions erected at Sikkarayapuram and Mangadu Village, Sriperumbudur Taluk, Kacheepuram District. In the said writ petition, Sri Muthukumaran Educational Trust, represented by its Managing Trustee, Mr.A.N Radhakrishnan, Chennai, is the 5th respondent.

6. Material on record discloses that Chennai Metropolitan Development Authority, Chennai, in his letter dated 31.07.2019 addressed to the Chairman, TANGEDCO, Chennai, has requested disconnection of power supply.

7. A perusal of the letter, shows that lock and seal and demolition notice, has been issued to these buildings and that the appeal preferred by M/s.Muthukumaran Educational Trust against the same has been disposed of as withdrawn.

8. We have also gone through the affidavit filed in support of C.M.P.No.18502 of 2019 in W.A.Sr.No.109429 of 2019, seeking leave to file a writ appeal against the order dated 19.08.2019 in W.P.No.23726 of 2019 and the memorandum of grounds.

9. From the above, it could be deduced that Sri Muthukumaran Educational Trust, represented by its Managing Trustee, Mr.A.N Radhakrishnan, Chennai, is alleged to have encroached upon certain lands and constructed unauthorised buildings in the campus under the

said trust. Lock and Seal and demolition notice, and disconnection of electricity supply, has been sought for by CMDA. As contended by Mr.R.Singaravelan, learned Senior Counsel for the petitioner/K.M.Krishanan, a reading of the impugned order made in W.P.No.23726 of 2019, dated 19.08.2019, does not indicate, reference to any of the above three writ petitions, filed by the proposed writ appellant, or the prayers sought for therein.

10. It is represented by the learned Senior Counsel for the petitioner, that even in W.P.No.23726 of 2019, Sri Muthukumaran Educational Trust, represented by its Managing Trustee, Mr.A.N Radhakrishnan, Chennai, filed for a Mandamus, against the Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai, to perform its statutory duties 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, the trust has not impleaded, Chennai Metropolitan Development Authority, Chennai, as a party respondent. However, there is a reference to the show cause notice issued for lock and seal, for want of building approval.

11. Mr.R.Singaravelan, learned Senior Counsel, submitted that though in the abovesaid two public interest writ petitions, Sri Muthukumaran Educational Trust, represented by its Managing Trustee, Mr.A.N Radhakrishnan, Chennai, has been made as a party respondent and notice has been issued, the said Trust has not impleaded, the proposed appellant as a party in W.P.No.23726 of 2019.

12. Inviting the attention of this Court to the decision of the Hon'ble Supreme Court in ***Mridul Dhar (Minor) and Another vs. Union of India and Others***, reported in (2005) 2 SCC 65, Mr.R.Singharavelan, learned Senior Counsel, submitted that the last date for admission to medical courses is 30th September of every year. Further, referring to a decision of the Hon'ble Supreme Court in ***Medical Council of India vs. Chairman, S.R.Educational and Charitable Trust (SC) in C.A.Nos.10372 of 2018***, etc. batch of civil appeals, learned Senior Counsel, submitted that the Hon'ble Supreme Court has opined that in respect of deficiencies, for recognition, Central Government should provide an opportunity to the institute to

rectify the same and according to the learned Senior Counsel, Sri Muthukumaran Medical College and Hospital and Research Institute, represented by its Chairperson, Tmt.gomathi Ammal, Chennai, does not have a recognition, whereas, averments made in W.P.No.23726 of 2019, filed by the said Institute has obtained recognition till the year 2019-2020 and renewal starts from 2020-2021.

13. As stated supra, the last date for admission to the first year medical courses, is 30th September of every year. Perusal of the order made in W.P.No.23726 of 2019, dated 19.08.2019, indicates that on the undertaking of the said institute that it would adhere to norms and standards of affiliation and rectify the defects, pointed out by the inspection team, within a period of three months, pending disposal of the writ petition for regularisation of the buildings by Chennai Metropolitan Development Authority.

14. As observed that proposed appellant, is not a party, there are defects in the notice of Chennai Metropolitan Development Authority, that buildings are stated to be unauthorised. Undertaking to rectify the defects noticed by the Inspection Team of the

University, is different from rectifying the defects noticed by CMDA or regularisation of the unauthorised buildings.

15. Whether affiliation can be granted to an institute, which has constructed unauthorised buildings and whether inspection made by the University, and rectification of the defects noticed is sufficient, is the question to be decided, in the instant writ appeal.

16. For the prima facie reasons, extracted supra, we are of the view that the proposed petitioner should be granted leave, to file an appeal against the order made in W.P.No.23726 of 2019, dated 19.08.2019. Hence, leave is granted. Registry is directed to assign writ appeal number.

17. Mr.Abdul Saleem, learned counsel for the Secretary, Selection Committee, Director of Medical Education, Chennai, acknowledges the submission of the learned senior counsel for the petitioner that counseling is scheduled at 2.00 p.m on 27.08.2019. Both Mr.R.Singharavelan, learned Senior Counsel for the petitioner as well as Mr.Abdul Saleem, learned counsel for the Selection

Committee, Director of Medical Education, Chennai, submitted that counselling may go on, but results be withheld, we are of the view that instead of causing inconvenience to the students, who might approach the Selection Committee, for counselling, it is desirable to pass an interim order, which would not seriously prejudice the interest of all concerned.

18. Let the counseling go on 27.08.2019, as scheduled. Provisional selection and admission of any student in Sri Muthukumaran Medical College Hospital and Research Institute, Chennai, would be subject to the further orders of this Court. It is also made clear that the Secretary, Selection Committee, Director of Medical Education, Chennai/the 2nd respondent, will also publish in the official website of the Selection Committee, Director of Medical Education, Chennai, that provision selection and admission of any student, is at the risk of the student and subject to further orders of this Court, in the instant writ appeal.

19. Mr.R.Singharavelan, learned Senior Counsel, submitted that concession given is only for deciding the interim application for stay

and not for final disposal, insofar as selection and admission are concerned.

20. Mr.Abdul Saleem, learned counsel for the Selection Committee, Director of Medical Education, Chennai, further submitted that a notice board will be put up, at the place where counseling is scheduled.

21. Medical Council of India, New Delhi and Chennai Metropolitan Development Authority, Chennai, are necessary and proper parties for effective adjudication of the issues involved in the instant writ appeal and therefore, petitioner/appellant is granted permission to take steps for impleadment, thus, steps are taken as expeditiously as possible.

22. Notice to the Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai and Sri Muthukumaran Medical College Hospital and Research Institute, Chennai, the respondents 1 and 4 respectively, through Court and privately.

23. Petitioner/Appellant is permitted to serve entire cause paper to the above respondents. Learned Senior Counsel appearing for the petitioner/appellant, requested that the matter be posted on 28.08.2019.

24. Registry is directed to post the matter on 28.08.2019.

25. Mr.V.Kadhirvelu, learned Special Government Pleader, for the Secretary to the Government, Health and Family Welfare Department, Government of Tamil Nadu, Chennai/the 3rd respondent and Mr.Abdul Saleem, learned counsel, for the Secretary, Selection Committee, Director of Medical Education, Chennai, shall communicate the orders of this Court to the above respondents, for implementation.

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[S.M.K.,J.] [S.P., J.]
26.08.2019

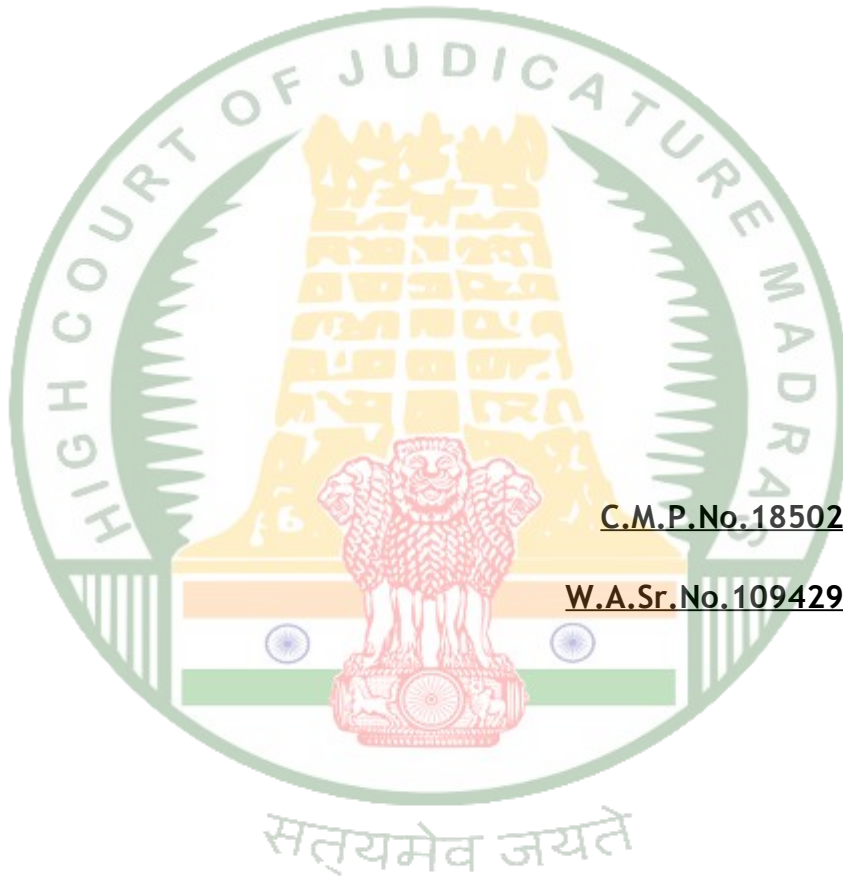
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Note:

Issue order copy on 26.08.2019.

S.MANIKUMAR, J.,
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