

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Thirteenth day of December Two Thousand Nineteen

PRESENT

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

WMP No.35577 of 2019

IN WP.28868/2018

THE PRINCIPAL [PETITIONER]
RVS HOMOEOPATHIC MEDICAL COLLEGE,
242-B, TRICHY ROAD, SULUR,
COIMBATORE, COIMBATORE DISTRICT

Vs

1 THE UNION OF INDIA [RESPONDENTS]
REP. BY ITS SECRETARY, DEPARTMENT OF HEALTH
AND FAMILY WELFARE, (DEPARTMENT OF AYURVEDA,
YOGA AND NATUROPATHY, UNANI, SIDDHA AND
HOMEOPATHY (AYUSH)) IRCS BUILDINGS
1ST RED CROSS ROAD, NEW DELHI.

2 THE CENTRAL COUNCIL OF HOMOEOPATHY,
REP. BY ITS SECRETARY,
NO. 61-65, INSTITUTIONAL AREA OPP. D BLOCK,
JANAKPURI, NEW DELHI

3 THE COMMISSIONER OF INDIAN
MEDICINE AND HOMEOPATHY,
ARUMBAKKAM, CHENNAI

4 THE TN DR. M.G.R. MEDICAL
UNIVERSITY,, REP. BY ITS REGISTRAR,
NO. 69/ 40,ANNA SALAI, GUINDY, CHENNAI

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order of Interim Direction, directing the 4th Respondent University to permit the students (Name List annexed) to take the examinations scheduled to be held on 16.12.2019 or any other date and to take the results thereon, (WMP.35577/2019) pending disposal of the WP.28868/2019

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.GODSON SWAMINATHAN, FOR M/S.ISAAC CHAMBERS, Advocate for the petitioner and of MR.POONAM CHOPRA, CGSC on behalf of the 1st Respondent and of MR.G.KARTHIKEYAN, Additional

Government Pleader, for the 2nd Respondent and of MR.R.VENKATESH, GOVERNMENT ADVOCATE for the 3rd Respondent and of MR.D.RAVICHANDER, Advocate for the 4th Respondent the court made the following order:-

Heard Mr. Godson Swaminathan, Learned Counsel for the Petitioner, Mr.Poonam Chopra, Learned Central Government Standing Counsel for the First Respondent, Mr. G Karthikeyan, Assistant Solicitor General for the Second Respondent, Mr. R. Venkatas, Learned Government Advocate for the Third Respondent and Mr. D. Ravichandar, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent by order in F.No. R. 17014/161/2013/2018-EP(H) dated 10.10.2018 denied permission to the Petitioner for taking admission in 1-BHMS Course with intake capacity of 50 UG seats for the academic session 2018-19. That order has been challenged by the Petitioner in this Writ Petition and consequential direction has been sought to permit the Petitioner's college to admit students for the academic year 2018-19.

3. It is represented by the Learned Counsel for the Petitioner that on the strength order of interim stay of the impugned order granted by this Court on 01.11.2018 in W.M.P. No. 33716 of 2018, the Petitioner had admitted students for the aforesaid course for the academic year 2018-2019. It is further contended that pursuant to the order dated 04.12.2018 passed by this Court, it has been confirmed by the authorities that no deficiency has found in the college. In that backdrop, a cryptic affidavit has been filed in support of this application for a direction to the Fourth Respondent to permit the students to take examinations scheduled to commence on 16.12.2019 on the ground that students have requisite attendance.

4. It is complained by the Learned Counsel for the Fourth Respondent that though the Petitioner was aware of the forthcoming examinations would commence on 16.12.2019 (Monday), this application has been filed at the eleventh hour on 13.12.2019 (Friday). That apart, reliance has been placed by him on the decision of the Hon'ble Supreme Court of India in Dental Council of India v. Dr. Hedgewar Smruti Rugna Seva Mandal, Hingoli and Others [(2017) 13 SCC 115] in which the practice of permitting admission of students by way of interim orders passed by the High Court under Article 226 of the Constitution, has been strongly deprecated.

5. In the first place, it is required to be noticed here that the order of interim stay of the impugned order granted by this Court, cannot confer any right on the Petitioner to admit students for the academic year 2018-2019 inasmuch as it cannot have the effect of wiping out the impugned order from the existence, unlike quashing of an order which results in restoration of the position as it stood at the time when it was passed, as pointed out by the Hon'ble Supreme Court of India in Shree Chamundi Mopeds

Ltd., vs. Church or South India Trust Assn., [AIR 1992 SC 1439]. This would obviously mean that the manner in which the Petitioner has claimed to have admitted the students is itself highly questionable. Further, after referring various earlier decisions the Hon'ble Supreme Court of India in Minor Sunil Oraon Tr. Guardian and others vs. C.B.S.E [(2006) 13 SCC 673], which has been quoted with approval in Committee of Management Anuragi vs. State of Uttur Pradesh [(2016) 12 SCC 517], has reiterated the legal position in unequivocal terms that the admission of students without permission of the affiliating body cannot be countenanced and there is no question of permitting them to take examinations, much less declare their results, and that too by invoking the powers of the High Courts under Article 226 of the Constitution qua interim orders.

6. In view of the aforesaid reasons, it is not possible to entertain this application for grant of interim order to permit the students admitted by the Petitioner to take examinations, and the same stands dismissed.

-sd/-

13/12/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,
UNION OF INDIA DEPARTMENT OF HEALTH AND
FAMILY WELFARE, (DEPARTMENT OF AYURVEDA,
YOGA AND NATUROPATHY, UNANI, SIDDHA AND
HOMEOPATHY (AYUSH))

2 THE SECRETARY,
CENTRAL COUNCIL OF HOMOEOPATHY,,
NO. 61-65, INSTITUTIONAL AREA OPP.
D BLOCK, JANAKPURI, NEW DELHI

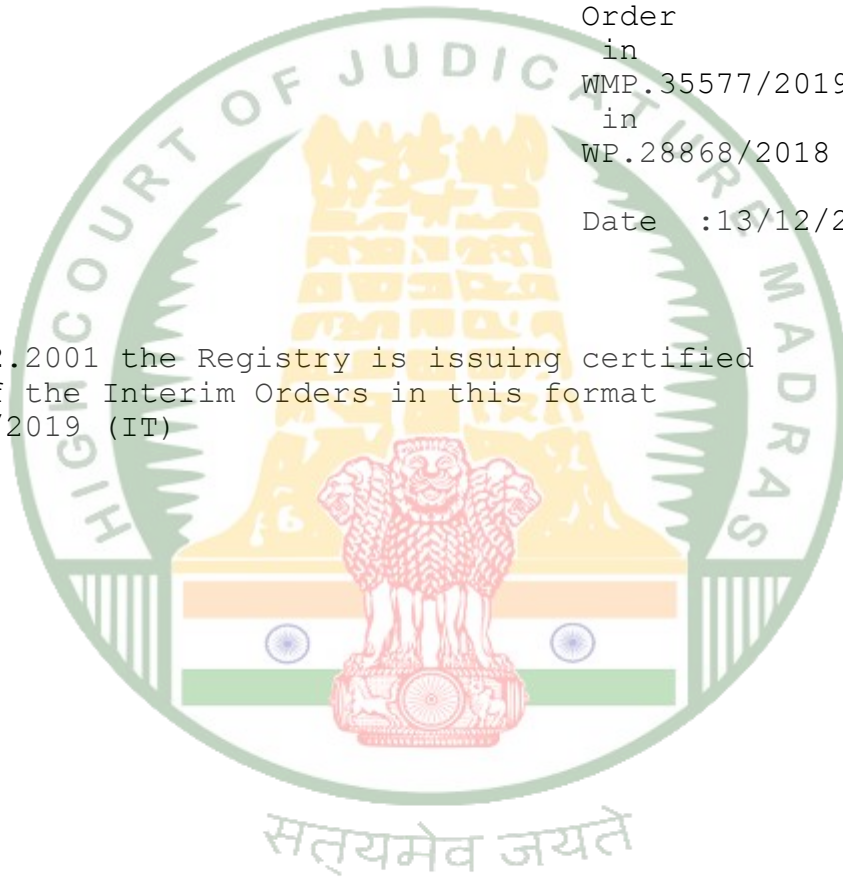
3 THE COMMISSIONER OF INDIAN
MEDICINE AND HOMEOPATHY, ARUMBAKKAM, CHENNAI

4 THE REGISTRAR,
TN DR. M.G.R. MEDICAL UNIVERSITY,,
NO. 69/ 40, ANNA SALAI, GUINDY, CHENNAI

C.C. to M/S.ISAAC CHAMBERS Advocate SR.NO.14833
C.C. to MR.D.RAVICHADER, Advocate SR.NO.14930

Order
in
WMP.35577/2019
in
WP.28868/2018
Date :13/12/2019

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