



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order Reserved on : 30.04.2019

Order Pronounced on : 08.05.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.2417 of 2019

and

W.M.P. (MD) Nos.1876, 5988 and 6328 of 2019

St.Joseph School of Nursing
Azhappapuram and post
Kanniyakumari District
represented by its Principal
J.Suganthy

... Petitioner

Vs

1.The Director,
Directorate of Medical Education,
Kilpauk, Chennai-10.

2.The Registrar,
Tamilnadu Nurses and midwives council,
Jeyprakash Narayanan Maligai,
56/140, Santhome High Road,
Mylapor, Chennai-4.

3.Dr.Evalin Arasi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus call for records and quash the orders passed by the second respondent vide Ref.No.509/NC/2018 dated 15.10.2018 and the consequential order passed by the 1st respondent vide Ref.No.81743/BON-1/2018 dated 04.01.2019 and may consequently direct the first and second respondent to permit the petitioner to conduct St.Joseph School of Nursing till the completion of admitted students of the year 2017-2018.

For Petitioner : Mr.K.P.Narayana Kumar
For R1 : Mr.M.Murugan
Government Advocate

For R2 : Mr.N.GA.Natraj

For R3 : Mr.S.R.Anbarasu

Proposed Party/
Students : Mr.H.Elango

**ORDER**

The writ petitioner is a Nursing School. It was started in the year 2000. The State Government granted permission vide G.O.No.303 Health and Family Welfare Department dated 21.08.2000. The Tamil Nadu Nurses and Midwives Council and Indian Nursing Council also granted permission to the writ petitioner to conduct three years course in Diploma in Nursing. In fact, the permission was given only in favour of the third respondent, Dr.Evalin Arasi. It appears that she entered into an agreement with one Sivakumar and allowed him to run the institution. The college was closed in the year 2010 and renewal was obtained during 2015-2016. The petitioner states that the first batch of students have completed the course successfully and the remaining students are still studying in the institution.

2.In the meanwhile, dispute had arisen between the building owner and the present management. O.S.No.337 of 2017 has been filed by the petitioner against the building owner. Further, the Tamilnadu Nurses and Midwives Council had withheld admission for the year 2018-2019. At this stage, the second respondent after conducting an inspection found that there are no proper facility for the existing students and that they decided to recommend the Board to transfer them. In this regard, a notice dated 15.10.2018 was issued by the second respondent. The petitioner is said to have given a reply on 22.11.2018. Not satisfied with the same, the impugned order dated 04.01.2019 has been passed transferring the second and third year students numbering 12 and 10 respectively to another institution. Certain directions with regard to refund of fees have also been made. This order is challenged by the writ petitioner on the grounds mentioned in the affidavit filed in support of this petition.

3.The learned counsel appearing for the writ petitioner reiterated all the grounds. This Court also heard the learned counsel appearing for the respondents and also the learned counsel for the students who wanted to implead themselves.

4.After a careful consideration of the rival contentions, this Court is of the view that the impugned order does not call for any interference. In G.O.No.303, Health and Family Welfare Department dated 21.08.2000, permission to run the petitioner college has been granted subject to the condition that the institution should provide necessary equipment to conduct the course before, actually starting the course. Obviously, it cannot be a transferable arrangement. When permission was granted in favour of Dr.Evalin Arasi, it is not known as to how she was able to transfer it in favour of Sivakumar by a lease agreement dated 02.01.2015.



5. On an inspection of the premises, the Tamil Nadu Nurses and Midwives Council has come to the conclusion that there are no proper facilities to train the existing students studying in the writ petitioner college. The inspection was conducted on 15.03.2018. Thereafter, the council decided to withhold fresh admission. This decision was taken on 30.04.2018. This was communicated to the writ petitioner vide letter dated 16.05.2018. There is nothing on record to indicate that the writ petitioner questioned the same. Even the communication dated 15.10.2018 was not challenged immediately. Only when the first respondent passed the impugned order dated 04.01.2019, this writ petition came to be filed.

6. These are matters that concern the interest of the students. The authorities concerned have come to the conclusion that there are no proper facilities in the writ petitioner college to train the students. There is nothing on record to indicate that this finding is vitiated or tainted by malafide. The respondents have nothing against the writ petitioner. Therefore, I am of the view that no cause has been made out for interference. I find no merit in this writ petition.

7. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To
The Director, Directorate of Medical Education,
Kilpauk, Chennai-10.

+1CC TO MR.K.P.NARAYANA KUMAR, Advocate Sr. No.65361
+1CC TO MR.H.ELANGO, Advocate Sr. No. 65314
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 65614

Pre-delivery on made in
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DKS (CO)

TR (23.05.2019) 3P 5C