



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
09.08.2019
CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) Nos.21883 of 2016, 18966 and 20417 of 2017
and W.M.P. (MD) Nos.15818, 15819/2016, 15633 & 15634/2016
15324 and 15325 of 2017, 2062/2019 in W.P. (MD) No.18966/2017 and
16686/2017, 18954/2017 in W.P. (MD) No.20417/2017

M/s.Maria Homeopathic Medical College & Hospital
Rep. By Principal
Perai,
Thiruvattar
Kanyakumari District,
Tamil Nadu

... Petitioner in all W.Ps.

Vs.

1.The Union of India,
Rep. By Ministry of Ayurveda, Yoga &
Naturopathy, Unani, Siddha &
Homeopathy (AYUSH)
Ayush Bhavan,
B-Block
GPO Complex, INA
New Delhi 110 023.

... Respondent in all W.Ps.

2.The Central Council of Homeopathy
Janakpuri, New Delhi 58 ... Respondent in WP(MD).21883/16
& 18966/17

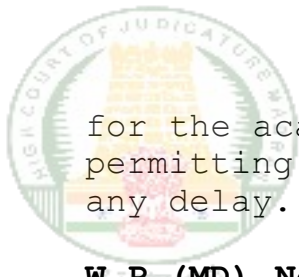
3.The Tamil Nadu Dr.MGR Medical University,
No.69 Anna Salai, Guindy
Chennai. ... Respondent in all W.Ps.

4.The Additional Chief Secretary cum
Commissioner of Indian Medicine and
Homeopathy
Chennai. ... Respondent in all W.Ps.

PRAYERS :

W.P. (MD) No.21883/2016: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent in F.No.R.12014/12/2014-EP(H) dated 15.11.2016 received by e-mail on 16.11.2016 quash the same and consequently direct the respondents 1 to 4 herein to issue necessary orders for continuation of BHMS programme to the petitioner to continue the BHMS programme

<https://hccasesetion.org.in/cases.html>



for the academic year 2016-17 for the existing students and also for permitting intake of students for the academic year 2016-17 without any delay.

W.P. (MD) No.18966/2017: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st respondent herein to grant approval to the petitioner college for running BHMS course for the academic year 2017-18 on the basis of petitioner's explanation dated 16.08.2017 and its compliance report dated 04.09.2017 to the 1st respondent and consequently direct the respondents to permit the petitioner to have intake of students for admission into BHMS course for the academic year 2017-18 through counselling of 3rd and 4th respondent in the petitioner college and allow the petitioner to continue the III year BHMS programme for the academic year 2017-18.

W.P. (MD) No.20417/2017: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent in F.No.R.12014/12/2014/EP(H) dated 27.10.2017 quash the same and consequently direct the 1st respondent to approve the BHMS course for the academic year 2016-17 with 60 seats of students and continue the educational programme for the academic year 2017-18.

For Petitioner :Mr.Veera Kathiravan
Senior counsel for
M/s.Veera Associates (in all W.Ps)

For Respondents :Mr.C.Nandagopal for R1
Central Government standing counsel
in W.P. (MD) No.20417/2017

Ms.S.Srimathy for R1
Central Government Standing counsel
in W.P. (MD) Nos.21883/2016 &
18966/2017

Mr.N.Dilipkumar for
(Central Council for Homeopathy)

C.Karthick
(MGR Medical University)

Mr.P.Kannithevan for R4
(In W.P. (MD) Nos.21883/2016 &
18966/2017)
Additional Government Pleader



COMMON ORDER

W.P.(MD) No.21883/2016 has been filed challenging the impugned order of the 1st respondent dated 15.11.2016 and for a consequential direction to the respondents to grant permission to the petitioner to continue the BHMS programme for the academic year 2016-17 for the existing students and also to permit intake of students for the academic year 2016-17.

2. The prayer in W.P.(MD) No.18966/2017 is for issuance of a Writ of Mandamus to direct the 1st respondent herein to grant approval to the petitioner College for running BHMS course for the academic year 2017-18 on the basis of petitioner's explanation dated 16.08.2017 and its compliance report dated 04.09.2017 to the 1st respondent and consequently direct the respondents to permit the petitioner to have intake of students for admission into BHMS course for the academic year 2017-18 through counselling of 3rd and 4th respondent in the petitioner college and allow the petitioner to continue the III year BHMS programme for the academic year 2017-2018.

3. W.P.(MD) No.20417/2017 is filed challenging the impugned order of the 1st respondent dated 27.10.2017 and for a consequential direction to the 1st respondent to approve the BHMS course for the academic year 2016-17 with 60 seats of students and continue the educational programme for the academic year 2017-18.

4. Since all these writ petitions have been filed by the very same petitioner, ie., M/s.Maria Homeopathic Medical College and Hospital and the relief sought for in each of the writ petition are related to each other, the facts are similar and parties are one and the same, all these writ petitions were heard together and are being disposed of by this common order.

5. That the petitioner College was established by a Trust called Maria Educational and Charitable Trust, having registered office at Kanyakumari, Tamil Nadu and the said Trust being a registered Trust having so many objects and the main object of the Trust is to establish and run an educational institution, especially, Medical College in Indian Homeopathic Medicines and in order to fulfil the same, the said Trust had established the petitioner College. Under "the Homeopathic Central Council Act, 1973" and the subsequent Act "Central Council of Homeopathy 2013 Act" (hereinafter referred to as 'the Act'), permission to establish a Homeopathic College has to be given by the first respondent Central Government, Ministry of Ayurveda, Yoga, Naturopathy, Unani, Siddha and Homeopathy (in short "AYUSH") and the institutions so approved by the said Ministry (AYUSH) on the basis of the recommendation given by the Central Homeopathy Council would get affiliated to the respondent Dr.MGR Medical University and



accordingly, as per the permitted intake of students per year, as per the permission given by AYUSH, students would be admitted.

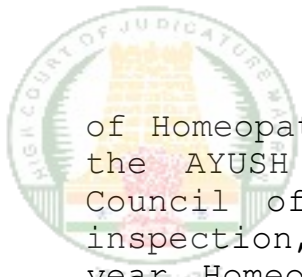
6. Therefore, in order to get approval from the first respondent, application was submitted by the petitioner to the Homeopathic Council and the said council having processed the application and after having inspected the institute to verify the infrastructural and instructional facilities established by the Management of the petitioner College, seems to have given recommendation to the AYUSH Ministry, who, in turn, on considering the same and after having satisfied with the facilities created by the Management of the College to establish the petitioner College to conduct the BHMS, ie., the Bachelor of Homeopathic Medicine and Surgery programme, has conveyed its permission to the Management of the petitioner College for the academic year 2015-16, by its order dated 16.07.2015. For easy reference, the relevant portion of the said order reads thus:

"In continuation to the Ministry's letter dated 16.04.2015 wherein a Letter of Intent was issued to the college with respect to the proposals submitted to the Central Government as cited above. I am directed to say that after careful consideration of the recommendations of the CCH in terms of the provision of the HCC Act 1973, relevant regulations of the CCH and approved norms for 2015-16 academic sessions; **permission of the Central Government is hereby granted to the Maria Educational and Charitable Trust,** Chevaracode, Kanyakumari (TN) to start BHMS course with an intake of 60 students at Maria Homeopathic Medical College & Hospital, Perai, Thiruvattar, Kanyakumari (TN), from the academic session 2015-2016 under section 12A of the HCC Act, 1973."

Accordingly, the petitioner College started the course of BHMS from the academic year 2015-16 and students were admitted for the approved intake of 60 seats.

7. As per the procedure in vogue, for every academic year, the College, like the petitioner, has to make application for extension of approval/permission to the Homeopathic Council as well as the AYUSH Ministry and after having verified the infrastructural and instructional facilities of the College concerned, by making an inspection by the Council, recommendation would be made to the AYUSH Ministry, based on which, decision would be taken by the AYUSH Ministry for grant of further permission or extension of permission for the academic year concerned.

8. Accordingly, for the academic year 2016-17, the application of the petitioner, having been processed and after having conducted inspection on 21st April, 2016, the Central Council



of Homeopathy had conveyed their inspection report on 05.07.2016 to the AYUSH Ministry and the execution committee of the Central Council of Homeopathy, since have considered the report of the inspection, decided to allow the admission of the students of First year Homeopathy and second year Homeopathy degree course in the petitioner College for the academic year 2016-17. However, subsequent to the order of AYUSH Ministry dated 01.08.2016, it seems that, a surprise inspection was undertaken on 30.08.2016, based on which, certain deficiencies were found out and based on those deficiencies, the AYUSH Ministry has passed an order on 15.11.2016, whereby, the petitioner Institution was not given permission to admit students for the academic year 2016-17. The relevant portion of the order, dated 15.11.2016, is extracted hereunder:

"2.Whereas, CCH inspected the Maria Homeopathic Medical College & Hospital, Perai, Thiruvattar, Kanyakumari (TN) on 21st April 2016 and conveyed the inspection report vide letter NO.15-30/2016-CCH (113-11) 11993 dated 05.07.2016. The Executive Committee of CCH considered the reports of inspection and decided to allow admission of students in I-BHMS and II-BHMS Degree course in Maria Educational Charitable Trust's Maria Homeopathic Medical College.

3.Whereas in compliance to the Ministry of AYUSH order, No.R.13040/25/2016-HD(Tech) dated 01.08.2016, Ministry of Ayush had carried out surprise inspection of the Maria Educational and Charitable Trust on 30.08.2016 to ascertain the actual status/functioning of the College and attached Hospital as per HCC(MSR), 2013.

.....
...

8.Now, therefore, in view of the shortcomings and deficiencies mentioned in para 7 above, which violate the provisions of the HCC Act and the relevant regulations and are of such a serious and fundamental in nature that they adversely affect the ability of the College to provide qualify medical education in terms of the provisions of the HCC Act and the relevant regulations, the "Maria Homeopathic Medical College & Hospital, Perai, Thiruvattar, Kanyakumari (TN)" is hereby denied permission for taking admission to 1st BHMS course with 60 seats under section 12A of the HCC Act, 1973 for the academic session 2016-17."

9. Aggrieved over the said order passed by the AYUSH Ministry dated 15.11.2016, the petitioner filed the first writ petition, ie., W.P. (MD) No.21883/2016 with the aforesaid prayer.



10. In the said writ petition, in W.M.P.(MD) No.14896/2017, a learned Judge of this Court, by order dated 10.10.2017, has passed the following order:

"4.The submissions made on either side shall have to be gone into in detail at the time of final hearing of the writ petition. In the meantime, as an interim measure to temporarily give quietus to the issue, this Court directs the third respondent/Tamil Nadu Dr.MGR Medical University to permit the first year students for the academic year 2016-2017 of the petitioner College to register their names to write their BHMS examination and arrears if any and the third respondent shall withhold the result, pending disposal of the writ petition."

11. Subsequently, in the very same writ petition, the learned Judge, by orders, dated 11.12.2017 and 14.12.2017, has passed the following orders:

(i) Order dated 11.12.2017-

"As an interim arrangement, the third respondent is directed to publish results of the students, who wrote examinations as per the order passed by this Court in WMP(MD) No.14896/2017 within a period of two days.

Call this matter on 14.12.2017 for passing further orders."

(ii) Order dated 14.12.2017-

"2.Today, the learned senior counsel appearing for the petitioner College submits that as per the interim order dated 11.10.2017 passed by this Court, the students of the petitioner - College were permitted to write their examinations and accordingly, they appeared in the examinations and this Court, by order dated 11.12.2017, directed the third respondent to publish the result of the students, who wrote their examinations and now, they are seeking a direction to the respondents to permit the students to pay the examination fees and appear in the forthcoming examinations, for which, the respective learned counsel for the respondent have no serious objections.

3.Considering the facts and circumstances of the case, this Court by order dated 11.12.2017, directed the third respondent to forthwith publish the results of the students who wrote their examinations.



4. In continuation to the order dated 11.12.2017, now the respondents are directed to accept the examination fees and permit the students to write the forthcoming examinations, however, withhold the results pending disposal of this writ petition."

12. In the meanwhile, since the academic year 2016-17 was over, insofar as the academic year 2017-18 is concerned, once again, the petitioner Institution, on application, was inspected by the Council and based on the inspection, they still found certain deficiencies to be complied with by the petitioner Institution and therefore, ultimately, the AYUSH Ministry, by order dated 27.10.2017 has passed the following order:

"Now, therefore, in view of the shortcomings and deficiencies mentioned in para 8 above, which violate the provisions of the HCC Act, 1973 and the relevant regulations made thereunder and are of such a serious and fundamental in nature that they adversely affect the ability of the College to provide quality medical education in terms of the provisions of the HCC Act, 1973 and the relevant regulations made thereunder, the "Maria Homeopathic Medical College & Hospital, Perai, Thiruvattar, Kanyakumari (TN)" is hereby denied permission for taking admission to BHMS course with 60 UG seats as per the provision of HCC (MSR), 2013 for the academic session 2017-18."

13. Challenging the said order, dated 27.10.2017 in respect of the academic year 2017-18, the petitioner filed writ petition in W.P.(MD) No.20417/2017 with the aforesaid prayer of Certiorarified Mandamus.

14. In the meanwhile, the petitioner also filed yet another writ petition in W.P.(MD) No.18966/2017 seeking for a writ of mandamus to grant approval to the petitioner College for running BHMS course for the academic year 2017-18 on the basis of the petitioner's explanation dated 16.08.2017 and its compliance report dated 04.09.2017 to the first respondent and also consequently to direct the respondents to permit the petitioner to have the admission to the intake of 60 students in BHMS course for the academic year 2017-18.

15. In that Writ Petition in W.M.P.(MD) No.15324/2017 in W.P.(MD) No.18966 of 2017, a learned Judge of this Court by order dated 11.10.2017 passed the following order:

"4. The learned senior counsel appearing for the petitioner would submit that after complying



with all the deficiencies pointed out by the authorities for approval, till date, no orders are forthcoming and thereby causing injustice for the students to participate in the counselling.

5.The learned counsel appearing for the first respondent seeks time to get instructions.

6.Since counselling falls between 11 and 14th October, 2017, as an interim measure to temporarily give quietus to the issue, this Court permits the petitioner college to have intake of students for admission into BHMS course for the academic year 2017-2018 through counselling of the respondents 3 and 4 of the petitioner College, which is subject to the result of this writ petition. The order of admission to be issued by the petitioner shall indicate that the admission is subject to the result of the writ petition. The petitioner shall not be entitled to claim any equity at a later point of time."

16. Thereafter, in W.M.P.(MD) No.1470/2018 in W.P(MD) No.21883/2016, another learned Judge of this Court passed an interim order on 10.05.2018, which reads thus:

"3.Considering the facts and circumstances of the case and in view of the previous orders, this Court is inclined to allow this petition. Accordingly, this Writ Miscellaneous Petition is allowed. The third respondent is directed to publish the results of the BHMS arrear examinations for the academic year 2016-17 forthwith. Further, the respondents are directed to accept the examination fees and permit the students to write the forthcoming examinations, however, withhold the results pending disposal of this writ petition."

17. Thereafter, on 12.10.2018, yet another learned Judge of this Court in W.M.P.(MD) Nos.18703 and 18704 of 2018 in W.P.(MD) Nos.21883/2016 and 18966/2017 passed the following interim order:

"6.The third respondent is directed to permit the students to participate in the examination scheduled to take place on 15.10.2018 and the results of the examination shall not be declared until further orders from this Court. It is also made clear that mere participation of the students in the ensuing examination on the directions of this Court cannot clothe with any right to claim of equitable consideration or otherwise, when the writ petitions are taken up for final disposal."



18. In the meanwhile, as against the interim order passed in W.M.P.No.15324/2017 in W.P.(MD) No.18966/2017 dated 11.10.2017, the first respondent Union of India, Ministry of AYUSH, preferred an intra Court appeal in W.A.(MD) No.238/2018, where, by order dated 13.06.2018, a Division Bench of this Court, has passed the following order:

"7.Heard both sides.

8.A careful perusal of the interim order granted by the writ court would show that such permission granted was subject to the result of the writ petition and that the writ petitioner will not be entitled to claim any equity in the event of their failure to succeed in the writ petition. It is true that the Hon'ble Supreme Court in the above decision reported in 2007 (4) L.W.97, has specifically deprecated the practice of Educational Institution admitting the students without requisite recognition or affiliation. However, in this case the admission of students is permitted by the writ court by way of an interim order. Though such an order was passed as early as on 11.10.2017, by the time this writ appeal is taken up for hearing, the said interim order has been worked out already. Hence, it is for the appellant as well as the third respondent to raise all their contentions and objections before the writ court, which in turn will consider the merits of the matter and pass appropriate orders in the main writ petition. In any event, as the interim order granted by the learned single Judge as early as on 11.10.2017 is said to have been worked out by this time, we are not inclined to interfere with such order without expressing any view on the merits of the claim made by the respective parties, as we found that the writ Court has posted the main writ petition itself for final disposal. Therefore, this writ appeal is disposed of by requesting the Writ Court to take up the main writ petition itself and dispose of the same, on merits and in accordance with law, after hearing all the parties concerned, as expeditiously as possible, at any event within a period of three weeks from today. No costs. Consequently, connected Miscellaneous Petition is closed."

19. Thereafter, by latest order, dated 14.05.2019 in W.M.P.No.6620/2019 in W.P.(MD) No.21883/2016, yet another learned Judge of this Court has passed the following order:

"3.It is not in dispute that the Central Government has granted recognition for the academic



year 2017-2018. The dispute in this writ petition is that for 2016-2017 and 2017-2018 no recognition was granted. Since the students were permitted to appear as per the interim orders passed by this Court, now they have sought for publishing the results and to write the arrears examination, which is to be commenced from 15.05.2019.

4.The learned senior counsel for the petitioner would submit that the students of the petitioner are also willing to pay the examination fee along with the penalty today itself.

5.The learned counsel for the third respondent University has vehemently opposed for granting the relief stating that in spite of a direction being issued to dispose of the above-said writ petition within a period of three weeks, till date, the matter has not been listed. He would also submit that the results are ready and only the publication of the result is kept pending.

6.Taking into account the fact that the interest of the students of the petitioner college is paramount, this Court is inclined to allow this petition as prayed for. The students of the petitioner college are directed to pay the examination fee along with the penalty, today (14.05.2019) before 5.00 p.m., itself. The University is also directed to publish the results immediately. This petition is allowed accordingly."

20. Only at this juncture, at the instance of the learned counsel for both sides, all these writ petitions were clubbed and heard together and finally disposed of by this common order.

21. The uncontroverted facts arising out of these litigations are that, the petitioner Institution was established with the permission of the first respondent from the academic year 2015-16 with an annual intake of 60 students by order of the AYUSH Ministry dated 16.07.2015 and the relevant portion of the said order has already been extracted hereinabove. Accordingly, students seems to have been admitted in that academic year and they are continuing their course. However, the trouble starts only from the academic year 2016-17, as, for the said academic year, the first respondent refused to give permission for extension of approval for the academic year 2016-17 through their order dated 15.11.2016. If we peruse the said order, it discloses that, already an inspection was conducted on 21st April 2016, accordingly, inspection report dated 05.07.2016 was conveyed to Central Council of Homeopathy, who also recommended to the AYUSH Ministry for grant of extension of permission/affiliation to the petitioner College for the academic year 2016-17.



22. However, it further discloses that, only at the instance of the first respondent AYUSH Ministry, further surprise inspection had been made on 30.08.2016, where, they found certain deficiencies, based on those deficiencies only, the said order dated 15.11.2016 was issued denying the permission for taking admission to first year BHMS course for the academic session 2016-17. When the said order was assailed before this Court in W.P.(MD) No.21883/2016, interim orders, as has been stated above, had been issued, whereby, students were permitted to write the University examinations and by subsequent order of this Court, results of the said examinations also had been published and the students were pursuing their course.

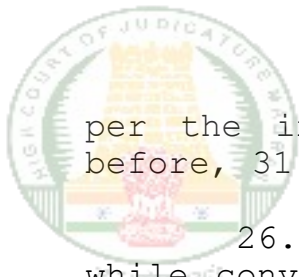
23. Almost, the similar position continues for the academic year 2017-18 also, where, by order dated 27.10.2017, the first respondent denied the permission to the petitioner Institution to admit students for the academic year 2017-18. This was also a subject matter of one of the writ petition, ie., in W.P.(MD) No.20417/2017, where also, interim orders are passed. Also in W.P.(MD) No.18966/2017 also, the interim orders have been passed, thereby, the students admitted in the academic years 2016-17 and 2017-18 were permitted to sit for University examination and though initially, their results were directed to be withheld, by subsequent orders, the results also were directed to be declared. Accordingly, the results for the academic years 2016-17 and 2017-18, students have also been declared by the respondent University.

24. Subsequently, for the year 2018-19 is concerned, the first respondent, vide order dated 10.08.2018 has conveyed its permission for admission of students for the academic year 2018-19 and while conveying the said permission, in the said order dated 10.08.2018, the first respondent has given the following permission:

"2.In order to verify the compliance of the College, the Board of Governors to CCH has conducted inspection of Maria Educational and Charitable Trust, Maria Homeopathic Medical College & Hospital, Perai, Thiruvattar, Kanyakumari District, Tamil Nadu, on 13.06.2018 and furnished the recommendation as under:

Recommended for allowing admission in I-BHMS with the intake of 60 students for the session 2018-19 and continuation of II BHMS to IV BHMS course, subject to the removal of deficiencies reflected in the report of inspection before 31.12.2018."

25. It is pertinent to note here that, while allowing the Institution to admit the first year BHMS course with an intake capacity of 60 students, for the year 2018-19, it was also permitted for continuation of second BHMS to fourth BHMS course, of course, subject to the removal of certain deficiencies still reflected, as



per the inspection report, before the cut off date, ie., on or before, 31.12.2018.

26. Therefore, it is to be noted that, the first respondent, while conveying the permission to the petitioner to admit students in first BHMS course for 2018-19 session, the students of second BHMS to 4th BHMS, who are already in the institution, had also been permitted to continue their course.

27. Like that, for the next academic year, ie., the current academic year (2019-20), the petitioner was given permission, by order dated 14.05.2019 by the first respondent, where, the following permission has been conveyed by the first respondent:

"2.After considering the provisions of section 12C(1) of Homeopathy Central Council Act, 1973 and HCC (MSR) Regulations, 2013, recommendations of the Board of Governors to CCH, permission of the Central Government is hereby granted to Maria Educational and Charitable Trust, Chevaracode Kanyakumari's Maria Homeopathic Medical College and Hospital, Perai, Thiruvattar for continuing admissions in I-BHMS course and continuation of 2nd to 4th BHMS during the academic year 2019-20 with intake capacity of 60 seats."

28. Here also similar language is used, as the order particularly states that, the institution is permitted for first year BHMS course and continuation of second to fourth BHMS course during the academic year 2019-20 with intake capacity of 60 students. Therefore, the uncontroverted facts remains that, insofar as the academic year 2015-16, where the College was started and permission was granted, no issues before this Court and insofar as the academic years 2016-17 and 2017-18 are concerned, though permission was not granted by two separate orders, which are the subject matters in these writ petitions, by virtue of successive interim orders passed by this Court, the students admitted, in 2016-17 and 2017-18, had written their respective examinations and they were permitted to continue their course. Insofar as the academic years 2018-19 and 2019-20 are concerned, permission have been conveyed by orders dated 10.08.2018 and 14.05.2019 respectively by the first respondent and therefore, insofar as those two orders are concerned, there is no quarrel.

29. The only issue now, still lingering, is as to whether the students, who were admitted in 2016-17 and 2017-18 in their respective first BHMS course in the petitioner institution within the intake capacity, so far completed / pursued their course by various interim orders passed by this Court, as has been referred to above and as of now who are in the fourth and third BHMS course respectively, can further be permitted to complete their course ?



30. In order to answer the aforesaid question, this Court, after hearing the learned counsel for the petitioner, the learned standing counsel for the first respondent and the learned standing counsel for the second respondent University as well as the learned Additional Government Pleader for the third respondent and having considered the respective submissions made by the counsel and after having perused the materials placed before this Court, is of the view that, not only on the basis of the interim orders passed by this Court at various point of time as referred to above in these batch of writ petitions, the students of the year 2016-17, 2017-18 are pursuing their course, beyond that, the first respondent also, after having considered the happenings taken place in the said academic years, ie., 2016-17 and 2017-18, where students were admitted and they were permitted to write the examinations and their results have already been declared, they have been permitted to pass on to or move on to the next year course and accordingly, both the batch of students have been in the third and fourth BHMS course respectively and having taken note of these facts, in the order dated 10.08.2018, while conveying the approval of the first respondent to the petitioner institution for the academic year 2018-19 to admit students in the first BHMS course, has also conveyed its permission for continuation of second BHMS course to fourth BHMS course.

31. Like that, in the latest order of the first respondent dated 14.05.2019, where, the first respondent while conveying its permission to the petitioner Institution to admit students in first year BHMS course for the academic year 2019-20, has specifically given permission for continuation of second to fourth BHMS during the academic year 2019-20 with intake capacity of 60 students per year. Therefore, it means that, not only the students to be admitted in first BHMS course during the current academic year 2019-20, but also the students, who are studying in 2nd BHMS course, third BHMS and fourth BHMS course, during the academic year 2019-20 are permitted to continue their course.

32. Therefore, it has become clear that, the students admitted in the academic year 2016-17, who are in the fourth BHMS course during 2019-20 and the students admitted in 2017-18, who are in the third BHMS course during the academic year 2019-20, also had been permitted to continue their course.

33. This order of permission conveyed by the first respondent, by order dated 14.05.2019, in the considered opinion of this Court, is an order of permission by way of ratification of the admission made by the petitioner Institution of the students during the years 2016-17 and 2017-18, otherwise, such a specific permission ought not to have been or could not have been given for students of second to fourth BHMS course during the academic year 2019-20.

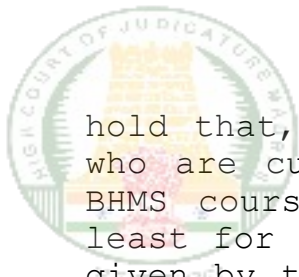
34. The said permission for the students of Second to fourth



BHMS course, during the academic year 2019-20, cannot be differently interpreted, as if, it is meant only in respect of the students to be admitted in 2019-20 to continue their course up to 4th BHMS course, because, no such permission would be or can be given by the first respondent for the whole course at the very beginning of the course itself. This is evident from the language used by the first respondent in the earlier orders given in this regard, especially, the order for the academic year 2015-16, dated 16.07.2015.

35. When this was specifically pointed out and a query was raised as to the meaning of the said permission given by the first respondent, in its order dated 14.05.2019, no different reason or view of interpretation has been given on behalf of the first respondent through the learned standing counsel appearing for the first respondent.

36. Moreover, the petitioner Institution was started in the year 2015-16 with the permission of the first respondent and by subsequent orders, for 2016-17 and 2017-18, though initially the Council recommended for continuation of approval/permission, however only subsequent to the surprise inspection triggered by the first respondent, they found certain deficiencies and because of such deficiencies, for the years 2016-17 and 2017-18, permission was denied, however, those orders were challenged before this Court in this batch of cases, where successive interim orders were given by this Court at various point of time, taking into account the overall factual matrix of the issue and the students also, during the pendency of these writ petitions, have completed their respective years of BHMS course from 2016-17 onwards till 2018-19, thereby, the students admitted in 2016-17 batch completed three years in 2018-19 and the students admitted in 2017-18 completed two years course in 2018-19 and in the academic year 2019-20, the students of 2016-17 batch will be in the fourth year and the students of 2017-18 batch will be in the third year and the students of 2018-19 batch will be in the second year. Therefore, covering all the batch of students, ie., first BHMS course students to be admitted for 2019-20, second BHMS course students, who were admitted in 2018-19, third BHMS course students, who were admitted in 2017-18 as well as the fourth BHMS course students, who were admitted in 2016-17, have all been permitted by the orders of the first respondent dated 14.05.2019, as the language used by the first respondent in the said orders, with the followings words, **"permission of the Central Government is hereby granted to Maria Educational and Charitable Trust, Chevaracode Kanyakumari's Maria Homeopathic Medical College and Hospital, Perai, Thiruvattar for continuing admissions in I-BHMS course and continuation of 2nd to 4th BHMS during the academic year 2019-20 with intake capacity of 60 seats."**, makes it abundantly clear that, all the four years students, including fresh students, admitted in this academic year, can continue the course during the academic year 2019-20. Therefore, this Court has no hesitation to



hold that, the students of the academic years 2016-17 and 2017-18, who are currently in the petitioner's College at third and fourth BHMS course, can very well continue and complete their course at least for the academic year 2019-20, as such approval or permission given by the first respondent would valid for one year and insofar as the academic year 2020-21 is concerned, it is for the petitioner to approach the AYUSH Ministry the first respondent herein and get further continuation of permission for 2020-21 on its own merits. Therefore, the challenge made in these writ petitions, especially, as against the orders dated 15.11.2016 and 27.10.2017 are concerned, the effect and import of the said orders, since have been watered down and the same have been merged with the order dated 14.05.2019 of the first respondent, where, the students admitted in 2016-17 and 2017-18 also had been taken care of and they were permitted to continue their course, the import of or sustainability of or veracity of the impugned orders in W.P.(MD) Nos.21883/2016 and 20414/2017 need not be gone into at this juncture.

37. In that view of the matter, this Court is inclined to pass the following orders:

(i) By virtue of the latest order passed by the first respondent dated 14.05.2019 conveying its permission to the petitioner Institution to admit students in first year BHMS course and also conveyed its permission to the students of second to fourth BHMS course, during the academic year 2019-20, with an intake capacity of 60 students with the petitioner Institution, the students admitted, during the academic year 2016-17 and during the academic year 2017-18 at the petitioner Institution, who are currently at third and fourth BHMS course respectively, can continue their course during the academic year 2019-20 and there is no further impediment for those students to continue and complete their course.

(ii) Since the results of the examination already written by those students of 2016-17 and 2017-18 batch, have already been declared, of course, by the orders passed by this Court at various point of time, those examinations and results declared therein can be taken into account by the respondent University for the said students, during the subsequent years till their completion of the course.

(iii) In view of the aforesaid directions, no further orders are required to be passed in these batch of writ petitions, especially, the prayer of writ of Certiorari in W.P.(MD) No.21883/2016 and W.P.(MD) No.20417/2017, as such a relief is not required at this juncture for the petitioner and the students of 2016-17 and 2017-18 of the petitioner's College. In this context, if at all any further order to be passed ratifying the admissions made for the academic year 2016-17 and 2017-18 at the petitioner's institution and the continuation of the said students in the



petitioner College, a formal order to that effect, in the light of the order of the first respondent dated 14.05.2019, can be passed by the first respondent provided, if any such need arises.

(iv) Accordingly, the second respondent University shall act upon in the above lines of directions issued by this Court, of course, on the basis of the latest order passed by the first respondent dated 14.05.2019, insofar as the students of 2016-17 and 2017-18 batch at the petitioner Institution and their further studies in the BHMS course shall not be hindered by the respondent University.

38. With these directions, all these writ petitions are ordered accordingly. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

RR

To

1.The Union of India,
Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha &
Homeopathy (AYUSH)
Ayush Bhavan, B-Block
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2.The Central Council of Homeopathy
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3.The Tamil Nadu Dr.MGR Medical University,
No.69 Anna Salai, Guindy, Chennai.

4.The Additional Chief Secretary cum
Commissioner of Indian Medicine and Homeopathy,
Chennai.

+1CC TO M/S.SRIMATHI, Advocate Sr. No.81027
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+3CC TO MR.N.DILIP KUMAR, Advocate Sr. No. 80939 TO 80941



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W.P.(MD)No.21883/2016

**W.P. (MD)No.21883 of 2016, 18966 of 2017
and 20417 of 2017 and W.M.P. (MD)
Nos.15818, 15819/2016, 15633 &
15634/2016, 15324 and 15325 of
2017, 2062/2019 in W.P. (MD)
No.18966/2017 and 16686/2017,
18954/2017 in W.P. (MD) No.20417/2017
09.08.2019**

NA (CO)
TR(23.10.2019) 17P 12C