

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.03.2020
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.30296 of 2019

Sri Muthukumaran Educational Trust,
Rep.by its Managing Trustee,
Tmt.R.Gomathi,
W/o.A.N.Radhakrishnan,
61, (Old No.641), Ramasamy Salai,
K.K.Nagar, Chennai 600 078.

..Petitioner

.v.

The Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Kovil Street,
Karapakkam,
Chennai 600 097.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to pass orders on the application for Continuation of Provisional Affiliation from the academic year 2018-19 dated 27.10.2017, pending regularization of buildings constructed for Sri Muthukumaran College of Education running by the Petitioner Trust located in S.No.253/1A, 253/1B and 253/2 of Chikkarayapuram Village, Pallavaram Taluk, Kancheepuram District by the relevant statutory body, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondent : Mrs.P.Rajalakshmi
Standing Counsel

W R D E R

This writ petition has been filed for the issue of a Writ of Mandamus, directing the respondent to pass orders and the application submitted by the petitioner seeking for Provisional Affiliation from the academic year 2018-2019.

2.The case of the petitioner Trust is that it was granted Provisional Affiliation by the University of Madras to offer B.Ed., programme from the year 2007-2008. Thereafter, the NCTE (National Council for Teacher Education) regulations started governing the field from the year 2014 onwards and a revised recognition of the B.Ed., course was given with an annual intake of 100 students from the year 2015-2016. This was extended up to June 2018. In the meantime, based on certain complaints, the CMDA had issued lock and seal notice to the petitioner.

3.The petitioner Trust aggrieved by the same submitted an appeal before the Government for regularization of the building and the same is pending. In the meantime, the petitioner Trust submitted an application seeking for continuation of the provisional affiliation for the B.Ed., programme from the year 2018-2019. Since the same was not considered, the present writ petition has been filed before this Court.

4.Mr.G.Sankaran, learned counsel appearing on behalf of the petitioner submitted that the petitioner Trust apart from this College is also running a Medical College and a dispute arose with regard to the continuation of the affiliation by the concerned department viz; the Medical Council. The petitioner at that point of time approached this court and filed W.P.No.23726 of 2019. This Court passed a final order on 19.08.2019 and the relevant portions are extracted hereunder:

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.

5.The learned counsel submitted that the petitioner had already obtained permission from the local Panchayat and it is now pending for the Directorate of Town and Country Planning [DTCP] approval and already a Division Bench of this Court has given guidelines with regard to the same in The Tamil Nadu Unaided Polytechnic Management Association & Another .v. The State of Tamil Nadu rep. by the Secretary to Government Housing and Urban Development Department, Chennai and Others reported in [2018 4 CTC 29].

6.The learned counsel for the petitioner, by pointing out to the above judgement, submitted that the respondent can be directed to continue the provisional affiliation and the petitioner will satisfy all the other requirements except the approval from the CMDA, since it is pending before the Government. The learned counsel also submitted that the petitioner will give an undertaking that within a prescribed period, the said defect will also be rectified.

7.The learned Standing Counsel appearing on behalf of the respondent University submitted that the representation/application given by the petitioner is now pending before the respondent and the same will be considered in accordance with law and the petitioner must give an undertaking to rectify the defect insofar as the DTCP approval is concerned within a time frame.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.The order that has been extracted supra makes it clear that the Medical Council was directed to extend the affiliation and permit the petitioner to admit the students, pending the approval which is pending before the Government. The manner in which such approvals will have to be considered and has been dealt with by the Division Bench of this Court in The Tamil Nadu Unaided Polytechnic Management Association & Another .v. The State of Tamil Nadu rep. by the Secretary to Government Housing and Urban Development Department, Chennai and Others reported in [2018 4 CTC 29].

10.In view of the above, this writ petition is disposed of with a direction to the respondent to consider the application submitted by the petitioner seeking for provisional affiliation from the academic year 2018-2019, If the petitioner has satisfied all the other requirements except the approval

that is now pending before the Government, the respondent shall proceed further to grant the provisional affiliation from the academic year 2018-2019 onwards. The petitioner shall file an undertaking before the respondent to the effect that the petitioner will get the necessary permission with regard to the DTCP approval, within a period of three months from the date of receipt of copy of this order. This undertaking shall be taken on file before granting the provisional affiliation to the petitioner Trust. It goes without saying that if the petitioner fails to comply with the undertaking given before the respondent, it is always open to the respondent to proceed further in accordance with law.

Accordingly, this writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/
Sub Asst. Registrar

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To

The Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Kovil Street,
Karapakkam,
Chennai 600 097.

+1 cc to M/s.G.Sankaran Advocate sr21411

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W.P.No.30296 of 2019

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