



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P. (MD) Nos.16252 and 16286 of 2020

White Memorial Homeo Medical College Hospital,
Represented by its Chairman,
Leela Bai Rajendran,
Having Office at Veeyanoor Post,
Attoor, Kanyakumari District-629 177.

... Petitioner
in both W.Ps.

-Vs-

- 1.Union of India,
Represented by its Secretary,
Ministry of AYUSH, New Delhi.
- 2.The Central Council of Homeopathy Medicine,
Represented by its Secretary,
No.61-65, Institutional Area, New Delhi.
- 3.The Tamil Nadu Dr.M.G.R., Medical University,
Represented by its Registrar,
No.69, Anna Salai, Guindy, Chennai.
- 4.The Commissioner,
Selection Committee,
Indian System of Medicine and Homeopathy,
Anna Hospital, Arumpakkam, Chennai-106.

... Respondents
in both W.Ps.

Common Prayer: Writ Petitions are filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to register the names of the students admitted to 1st year MD course and B.H.M.S., degree course respectively for the year 2019-2020 without insisting the pass in NEET examination by considering the request of the petitioner dated 15.12.2019 and 29.09.2020 respectively in the light of the orders passed in Civil Appeal No.603 of 2020 of the Hon'ble Apex Court in Union of India Vs. Federation of Self Finance Ayurvedic Colleges, Panjab and others.

For Petitioner	:	Mr.S.C.Herold Singh
For R1 and R2	:	Mr.V.Malayendran, Central Government Standing Counsel
For R3	:	Mr.S.Ramesh
For R4	:	Mr.K.P.Krishnadoss, Special Government Pleader. (in both Writ Petitions)



COMMON ORDER

By consent of both parties, these Writ Petitions are taken up for final disposal at the stage of admission itself.

2. Mr. V. Malayendran, learned Central Government Standing Counsel accepts notice on behalf of the respondents 1 and 2, Mr. S. Ramesh, learned counsel accepts notice on behalf of the third respondent and Mr. K. P. Krishnadoss, learned Special Government Pleader accepts notice on behalf of the fourth respondent.

3. The case of the petitioner is that the students should be admitted in the first year MD course and B.H.M.S., degree course for the year 2019-2020 without insisting the pass in NEET examination by considering the request of the petitioner dated 15.12.2019 and 29.09.2020 respectively, in the light of the orders passed in Civil Appeal No.603 of 2020 of the Hon'ble Apex Court in ***Union of India Vs. Federation of Self Finance Ayurvedic Colleges, Panjab and others.***

4. Before referring to the decision of the Hon'ble Apex Court, this Court would like to refer the judgment of the Hon'ble Apex Court in ***Padmasundara Rao (Dead) & others vs. State of Tamil Nadu and others***, reported in (2002) 3 SCC 533, wherein the Hon'ble Apex Court has held that while relying on a judgment, if it is found that the factual situation totally differs, then there is no compulsion for the subordinate courts to blindly rely on the same to arrive at a conclusion. The relevant portion of the said judgment is extracted below:-

"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in *Herrington vs. British Railways Board* (1972) 2 WLR 537. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."

5. With regard to the reference made to Civil Appeal No.603 of 2020, in paragraph No.12, the Hon'ble Apex Court has granted relief as one time measure to the persons, who have the benefit of interim order and who have been admitted into the course before 31.10.2019. In this case, those stages have not come at all and the petitioner wants the representations dated 15.12.2019 and 29.09.2020 to be considered for the admission to the post graduate students. The decision quoted by the petitioner may not be applicable for three reasons. Firstly, there is no interim order in



their favour. Secondly, they have approached this Court belatedly and thirdly, the decision is only applicable to those students and colleges, who have approached this Court earlier and not subsequently after the order of this Court. Hence, I am of the view that in the light of the **Padmasundara Rao case** stated supra, as the case of the petitioner is distinguished from the decision of the Hon'ble Apex Court in Civil Appeal No.603 of 2020, no relief can be granted.

6. Accordingly, these Writ Petitions stand dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary, Union of India,
Ministry of AYUSH, New Delhi.
 2. The Central Council of Homeopathy Medicine,
Represented by its Secretary,
No.61-65, Institutional Area, New Delhi.
 3. The Tamil Nadu Dr.M.G.R., Medical University,
Represented by its Registrar,
No.69, Anna Salai, Guindy, Chennai.
 4. The Commissioner, Selection Committee,
Indian System of Medicine and Homeopathy,
Anna Hospital, Arumpakkam, Chennai-106.
- +1 CC to M/s.GP (SR-22397 & 22411[F] dated 20/11/2020)
+2 CC to M/s.S.RAMESH, Advocate (SR-22122 & 22121[F] dated 19/11/2020)

Order made in

W.P. (MD) Nos.16252 and 16286 of 2020

19.11.2020

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