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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE S.KANNAMMAL

W.A.No.859 of 2021
and C.M.P.No.5005 of 2021

The Directorate of Medical Education
Board of Pharmacy,
162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.

.. Appellant

Vs

1. Sri Nandhanam Educational and Social Welfare
Trust, Rep. by its Chairman,
Mr.P.M.B.Mohan Krishnan
Nandhanam Nagar, Melagrampatti,
Tiruppathur Taluk, Vellore District,
Tamil Nadu - 635 602.

2. The Tamil Nadu Dr.MGR Medical University,
Rep. by its Registrar,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the
order dated 18.08.2020 made in W.P.No.8757 of 2020.

Prayer in W.P. No. 8757/2020:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent pertaining to his proceedings in Lr.No.Affln.1[1]54784/2017 dated 12.11.2019 and quash the same and consequently direct the respondents 1 and 2 to grant affiliation to the petitioner's Institution to offer the B.Pharm and D.Pharm courses respectively with an annual intake of 60 seats each from the academic year 2020-21 in view of the approval granted by the Pharmacy Council of India in Ref.No.PCI-2878/2019-PCI/D&B/2708-10 dated 20.06.2019 without insisting on the Essentiality Certificate/NOC from the State Government subject to submission of the extension of approval by PCI for the upcoming academic year 2020-21.



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For Appellant : Mr.D.Ravichander,
Government Counsel

For Respondents : Mr.AR.L.Sundaresan, Sr.Counsel
for Mr.AR.Karthik Lakshmanan
for R1
Mr.P.Dinesh Kumar for R2

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant against the order of the learned Single Judge who was pleased to allow the writ petition inter alia holding that the second respondent/University before us is to grant provisional affiliation to the first respondent for the academic year 2020-2021 while quashing the impugned letter dated 25.07.2020.

2. Learned Government Counsel appearing for the appellant submitted that the order of the Division Bench of this Court in Annai J.K.K.Sampoorani Ammal Charitable Trust v The Registrar, Tamil Nadu MGR Medical University and others reported in 2020 5 MLJ 369 has got no application to the case on hand. There is a marked difference between the Pharm D Course and the B.Pharm course. The Pharm-D course is incidental to B.Pharm Course and M.Pharm course. Therefore, the primary infrastructure is intact. However, B.Pharm course is meant for a college which intends to start afresh. The Scheme framed under the Regulation 9(1) of Bachelor of Pharmacy (B.Pharm) Course Regulations, 2014 read with the Government Order in G.O.Ms.No.148 Health and Family Welfare (PME-2) Department, dated 24.04.2018 would govern the case. As per the Scheme and the Government Order, No Objection Certificate from the State Government is mandatory before starting B.Pharm Course. Therefore, the learned Single Judge was not correct in applying the law. What is applicable to B.Pharm is also applicable to D.Pharm as they are different and distinct from Pharm D, which is an integrated six years course. These aspects have not been taken into consideration by the learned Single Judge.

3. Learned Senior Counsel appearing for the first respondent submitted that the field is occupied by the Central enactment and therefore, it is not open to the appellant to contend to the contrary. Reliance has been made on the celebrated judgment of the Apex Court in State of T.N. and another v Adhiyaman Educational & Research Institute and Others reported in (1995) 4 SCC 104.

4. We are not inclined to express anything on the merits for the reason that the learned Single Judge has not considered the



scope and application of the Scheme framed under Rule 9(1) of the Bachelor of Pharmacy (B.Pharm) Course Regulations, 2014 read with Government Order in G.O.(Ms).No.148, Health and Family Welfare (PME-2) Department, dated 24.04.2018.

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5. In such view of the matter, without expressing anything on the merits, we are inclined to set aside the order of the learned Single Judge by giving liberty to both sides to get a specific finding on the aforesaid aspect.

6. Accordingly, the order of the learned Single Judge stands set aside and the matter is remitted to the learned Single Judge having the Roster. We make it clear that all the contentious issues are left open to be adjudicated upon before the learned Single Judge.

7. The writ appeal stands ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

mmi/ssm
To

1.The Chairman,
Sri Nandhanam Educational and Social Welfare Trust,
Mr.P.M.B.Mohan Krishnan
Nandhanam Nagar, Melagrampatti,
Tiruppathur Taluk, Vellore District,
Tamil Nadu - 635 602.

2.The Registrar,
Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

3. The Directorate of Medical Education
Board of Pharmacy,
162,Periyar EVR High Road,
Kilpauk, Chennai - 600 010.



Copy to
The Section Officer
Writ Section
High Court, Madras 104.

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+1 CC to M/s.A.L. Gandhimathi, Advocate sr 37617.
+1 Cc to Mr.P. Dinesh Kumar, Advocate sr 38225.

W.A.No.859 of 2021

PM(CO)
SP(02/09/2021)