

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16928 of 2021

and

W.M.P.Nos.17934 & 17935 of 2021

Dhanraj Baid Jain College
(Institution of Tamil Nadu Educational
and Medical Trust), Jyothi Nagar, Thoraipakkam
Chennai 600 097, rep.by its Secretary
(Administration), Harish L.Mehta
S/o Late C.L.Mehta

.... Petitioner

-Vs-

1.The State of Tamil Nadu
rep.by its Principal Secretary to Government
Higher Education Department, Secretariat
Fort St.George, Chennai 600 009.

2.The Director of Collegiate Education
DPI Campus, College Road
Chennai 600 006.

3.The Registrar, University of Madras
Chepauk, Chennai 600 005.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.17816/G1/2019 dated 17.03.2021 and to quash the same and consequently directing the respondents for surrender 5 UG Degree aided courses and 3 PG Decree aided courses in

compliance to Rule 16 of Tamil Nadu Private Colleges (Regulation) Rules 1976 from academic year 2020-21.

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.A.Selvendran, Government Advocate
-for RR 1 and 2
Mr.L.P.Shanmugasundaram, Standing Counsel
-for R3

ORDER

The petitioner has assailed the impugned proceedings of the second respondent dated 17.03.2021 and sought for a consequential direction to the respondents to permit the petitioner to surrender five Under Graduate aided courses and three Post Graduate aided courses.

2. The petitioner had earlier approached this Court and filed W.P.No.9444 of 2020 seeking for a direction to the respondents to accept the application submitted by the petitioner for surrender of certain courses. When this writ petition was taken up for hearing, this Court took note of the reasons assigned by the petitioner and passed a final order on 22.07.2020. The relevant portions in the order are extracted hereunder.

" 6. It is seen from records that the petitioner College had earlier made a representation to convert aided courses into self financing courses from the academic year 2019-2020. Thereafter the petitioner

had approached this Court and filed W.P.No.13641 of 2019 and this Court had also passed an order directing the respondents to consider the representation and pass appropriate orders. Subsequently, the petitioner College has decided to surrender all the aided courses to the department which covered five UG degree courses and three PG degree courses. Such surrender of courses is contemplated under the relevant Rules and an application has been submitted in the prescribed format for that purpose. In view of the later decision taken by the petitioner College, the earlier representation made to the respondents for conversion of the aided courses and the orders passed by this Court in W.P.No.13641 of 2019 will have no relevance. The respondents will have to consider the fresh application submitted by the petitioner College in the prescribed format. Since the petitioner is giving up the earlier representation, the order passed by this Court in W.P.No.13641 of 2019 will also automatically cause to have any operation.

7.The petitioner is directed to make necessary application in the prescribed format before the second respondent and the second respondent is directed to consider the same and pass necessary orders within a period of three months from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation in this regard to the second respondent along with a copy of this order. Insofar as the third respondent is concerned, they will be able to take follow up action depending upon the orders passed by the second respondent.”

3. Pursuant to the above order, the petitioner gave a representation on 04.08.2020 to the second respondent along with a copy of the order and requested for surrendering certain courses. On receipt of the representation, the second respondent has proceeded to pass the impugned order dated 17.03.2021 rejecting the request made by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The second respondent has filed a counter affidavit in this case. The counter affidavit substantially reiterates the reasoning given in the impugned order. The sum and substance of the impugned order passed by the second respondent and the counter affidavit filed before this Court is that, there is no provision in the Tamil Nadu Private Colleges Regulation Act, 1976 to convert aided courses into self financing courses. That apart, if the same is allowed, the poor students in the locality will lose their chance of undergoing free education in the college. It is further stated that, the college had indulged in malpractices and various reasons have been given to substantiate this allegation. In view of the same, the request made by the petitioner was rejected.

5. The learned counsel for the petitioner submitted that, the petitioner institution had submitted an application to the second respondent in the prescribed format as per Rule 16 of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 for

surrendering certain courses, which includes five Under Graduate Courses and three Post Graduate Courses apart from surrendering aided teaching and non-teaching posts to the Department. The learned counsel submitted that, the petitioner college was never expecting allegations to be made against the College while the second respondent rejected the request made by the petitioner. It was further submitted that, if at all the second respondent wanted to pass orders on those allegations, the petitioner should have been put on notice and the petitioner would have substantiated that those allegations are unconnected and unsustainable. Since the petitioner was not given an opportunity and the second respondent has straight away rejected the request based on certain allegations, the learned counsel sought for remanding the matter back to the file of the second respondent in order to enable the petitioner to give their explanation along with all the relevant materials and come out clean.

6. The learned Government Counsel appearing on behalf of the respondents 1 and 2 reiterated the reasoning given in the impugned proceedings of the second respondent and submitted that the second respondent had given various reasons for rejecting the request made by the petitioner and therefore, there is absolutely no ground to interfere with the same in the present writ petition and accordingly, the present writ petition is liable to be dismissed.

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

8. The petitioner had approached the second respondent with a request for surrendering certain courses and the aided teaching and non-teaching staff. When such a request was made by the petitioner and the second respondent had certain materials against the petitioner which was brought in as a justification for rejecting the request made by the petitioner, the same should have been brought to the notice of the petitioner and explanation should have been sought for before taking a decision. The second respondent has mentioned in the impugned proceedings, certain allegations like, there was no audit that was conducted after the financial year 2014-15, there are financial irregularities, receipt of exorbitant fees from the students etc., and the petitioner has come up with a case that all these allegations are untenable and it can be disproved by the petitioner. If that is the case, the second respondent should have put the petitioner on notice to enable the petitioner to give their explanation and thereafter a decision could have been taken. However, this procedure has not been followed by the second respondent.

9. In view of the above discussion, the impugned proceedings of the second respondent is liable to be interfered mainly on the ground that it is in violation of the principles of natural justice. When certain adverse materials are put against the

petitioner, the minimum that is required is to seek for an explanation from the petitioner and that has not been done in the present case. As a consequence, the impugned proceedings of the second respondent dated 17.03.2021 is hereby quashed and the matter is remanded back to the file of the second respondent. The second respondent is directed to issue notice to the petitioner. The notice shall specifically state the allegations / materials against the petitioner and the petitioner shall be called upon to give their explanation. The same shall be considered and thereafter orders shall be passed based on the request made by the petitioner. This process shall be completed by the second respondent within a period of four weeks from the date of receipt of a copy of this order.

10. This writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

25.08.2021

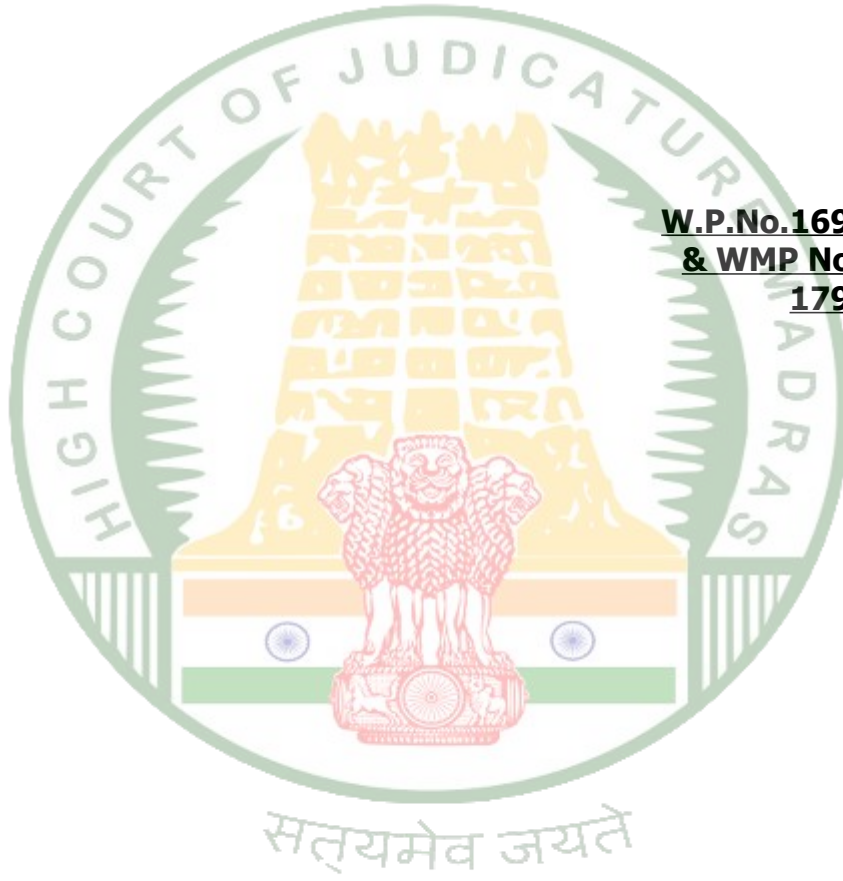
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KST
To

- 1.The Principal Secretary to Government, Higher Education Department, Secretariat Fort St.George, Chennai 600 009.
- 2.The Director of Collegiate Education, DPI Campus, College Road, Chennai 600 006.
- 3.The Registrar, University of Madras, Chepauk, Chennai 600 005.

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N.ANAND VENKATESH, J.

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