

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20/1/2021

C O R A M

THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

Writ Petition No.16153 of 2020

Selvam Educational and Charitable Trust
rep. By its Chairman
Dr.Jacob Raja
Established and Administering
S.A.Raja Pharmacy College
New Raja Nagar
Vadakangulam
Tirunelveli District 627 116. ... Petitioner

Vs

1. The Registrar
Tamil Nadu Dr. MGR Medical University
69 Anna Salai
Guindy
Chennai 600 032.
2. The Pharmacy Council of India
rep. By the Secretary-cum-Registrar
Combined Council Building
Temple lane, Kotla Road
Aiwan-E-Ghale Marg
Post Box No.7020
New Delhi 110 002. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned letter issued by the first respondent in Rc.No.Affln.I(5)/13265/2018 dated 23/3/2019, quash the same and direct the first respondent to grant consent of affiliation for starting Pharm D Degree Course for the academic year 2021-2022 without insisting on Essentiality Certificate (G.O).

For petitioner ... Mr.D.Prabhu Mukunth Arun Kumar

For respondent ... Mr.Wilson
Standing Counsel for R.1

Mr.M.T.Arunan
Standing Counsel for R.2

O R D E R

This writ petition has been filed to quash the impugned letter, issued by the first respondent, in Rc.No.Affln.I(5)/13265/2018, dated 23/3/2019, and direct the first respondent to grant consent of affiliation for starting Pharm D Degree Course, for the academic year 2021-2022, without insisting on Essentiality Certificate.

2. The petitioner College is imparting Pharmacy Education from the academic year 1988 onwards. The Government of Tamil Nadu, vide, G.O.Ms.No.961, dated 28/6/1993, granted permission to the petitioner to start B.Pharm degree course, from the academic year 1993- 94, with an annual intake of 50 students. The petitioner College gave a representation to start Pharm D Course. The request of the petitioner was rejected by an order, dated 23/3/2019, made in RC.No.Affln.I (5)/13265/2018, by the first respondent. Hence the petitioner is before this Court.

3. Heard Mr.D.Prabhu Mukunth Arun Kumar for the petitioner, Mr.Wilson, learned Standing Counsel for the first respondent and Mr.M.T.Arunan, learned Standing Counsel for the second respondent.

4. The learned counsel appearing for the petitioner would submit that the Principal Secretary to Government, vide letter No.38630/PME2/2016-4, dated 31/8/2018, has directed the Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai, to obtain permission from the Government to start Allied Health Science Courses and Paramedical courses, since the said courses have employment implication and it will be unfeasible to start the course without the permission of the Government.

5. Learned counsel appearing for the petitioner would further submit that on this requirement of Essentiality Certificate, Annai J.K.K.Sampoorani Ammal Charitable Trust, has approached this Court in W.A.No.3534 of 2019. Vide, order, dated 16/6/2020, a Hon'ble Division Bench of this Court has passed an order as follows:-

"The State Government lacks power to insist upon obtaining of Essentiality Certificate for the purpose of production before the first respondent/University for processing the Consent of Affiliation. Though heavy reliance has been placed upon the letter of the Principal Secretary to Government of Tamil Nadu, Department of Health and Family Welfare, dated 31/8/2018 in Letter No.38630/PME2/206-4, referred to supra, the said letter has no application to the case on hand for the reason that the said instructions came to be issued in the light of stand alone courses conducted by the first respondent/University, which do not have any affiliation with any of the Statutory Councils, namely MCI/DCI/PCI. Therefore, it is held that it is not obligatory on the part of the appellant to obtain Essentiality Certificate from the State Government and produce before the first respondent/University for processing the Consent of Affiliation."

6. By relying upon the abovesaid judgment, learned counsel for the petitioner would submit that even after the order of this Hon'ble Division Bench, the respondents are insisting for Essentiality Certificate, which the Statue does not prescribe for the same.

7. Mr.Wilson, learned Standing Counsel for the first respondent, relying on the counter affidavit would submit that the impugned letter is for the academic year 2019-2020 and since the period was already over, this writ petition is liable to be dismissed as infructuous.

8. The learned Standing Counsel would further submit that as per the PCI Time Schedule, last date for receipt of the application was already over, on 31/8/2020. Hence the petitioner Institution cannot start the Pharm D course in their institution, for the academic year 2021 - 2022. Learned counsel also pointed out the time prescribed by the time schedule for processing, as stipulated by Pharmacy Council of India as follows:-

S.NO.	STAGE OF PROCESSING	LAST DATE
1.	Receipt of Application	1 st August to 31 st August of the previous year
2.	Completion of Inspection	15 th December
3.	Approval of Central Council	31 st March
4.	EC/CC decision on website	30 th April

9. By way of response, learned counsel appearing for the petitioner would submit that in view of the pandemic situation, Pharmacy Council of India has published a Notification for the academic year 2021-2022, only in January 2021 and therefore, this time schedule prescribed for the previous year is not applicable for this year.

10. This Court had paid its anxious consideration to the rival submissions made by either counsel. The necessity for Essentiality Certificate, as directed in the impugned letter has already been decided by the Hon'ble Division Bench of this Court, vide order, dated 16/6/2020, made in W.A.No.3534 of 2019. Accordingly, the writ petition is allowed. The impugned letter passed by the first respondent in Rc.No.Affln.I(5)/13265/2018 dated 23/3/2019, is set aside. The respondents shall consider the petitioner's application, without insisting upon the Essentiality Certificate, for the academic year 2021-2022, within a period of six weeks, from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition No.16153 of 2020 is closed.

Sd/-
सत्यमेव जयते

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mvs
To

- The Registrar
Tamil Nadu Dr. MGR Medical University
69 Anna Salai,
Guindy, Chennai 600 032.

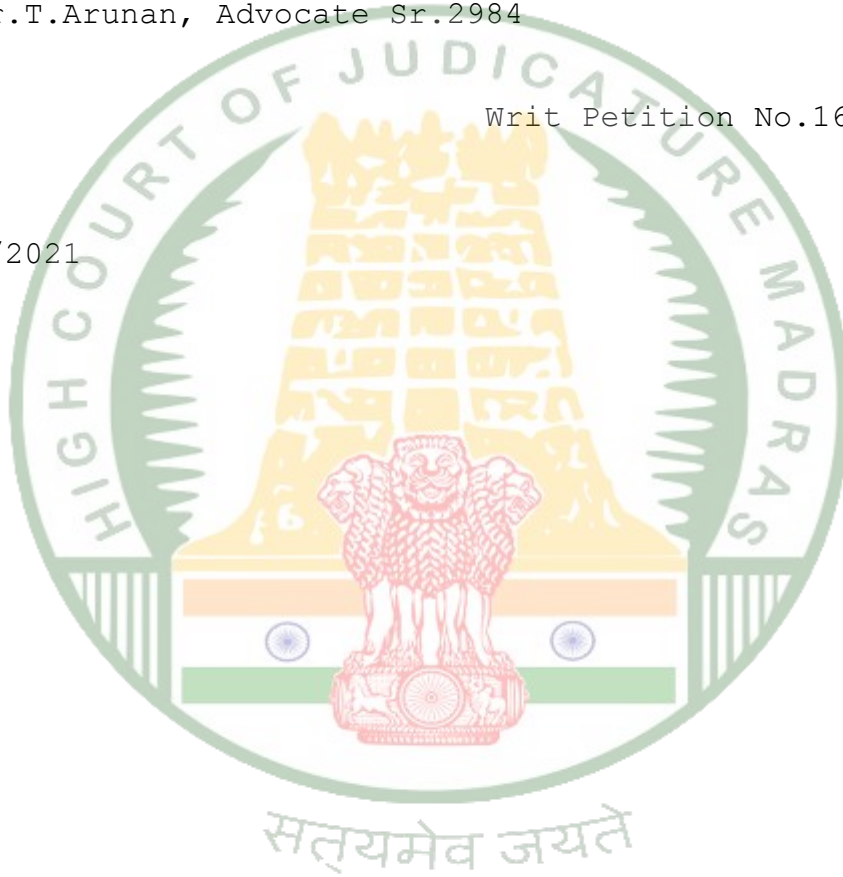
2. The Secretary-cum-Registrar,
Combined Council Building,
Pharmacy Council of India,
Temple lane, Kotla Road ,
Aiwan-E-Ghale Marg,
Post Box No.7020,
New Delhi 110 002.

+1cc to Mr.S.Wilson, Advocate Sr.3170

+1cc to Mr.T.Arunan, Advocate Sr.2984

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srg 05/02/2021



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