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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.23265 OF 2011

A.C.S.Medical College & Hospital
(Constituent Unit of Dr.MGR Educational & Research Institute,
Deemed to be University)
Rep. By its Registrar,
Periyar EVR High Road,
Maduravoyal, Chennai-95.

... Petitioner

.Vs.

1. Union of India,
Rep.by its Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan
New Delhi.

2. National Medical Commission,
Rep. By its Secretary,
Pocket-14, Sector-8,
Dwarka, Phase-1,
New Delhi-110 077.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the second respondent to consider the application of the petitioner and accordingly direct the second respondent to permit the increase in intake if the same is in accordance with the regulations.

For Petitioner : Mr.P.S.Raman
Senior Counsel
For Mr.Vikram

For Respondents: Mrs.K.Nithilavani R1
Central Government Standing Counsel
M/s.Shubharanjani Anand R2
Standing Counsel



O R D E R

This writ petition has been filed to issue of a Writ of Mandamus directing the second respondent to consider the application of the petitioner and accordingly direct the second respondent to permit the increase in intake if the same is in accordance with the regulations.

2. The case of the petitioner is that the petitioner is an institute viz., A.C.S. Medical college and Hospital affiliated to Dr. MGR Educational & Research Institute and was established pursuant to the Letter of Permission issued by the National Medical Council viz., second respondent in 2008 to administer MBBS Degree to the students. Thereafter, the petitioner was granted renewal of permission for admission of 150 students every year starting from the academic year 2016-2017. Based on the approval, the petitioner Institution continued to admit 150 students every year. Subsequently in the year 2019-2020, the petitioner Institution was also granted letter of permission to start non-clinical as well as clinical PG courses. The petitioner had also acquired recognition from the second respondent for award of MBBS Degree. Therefore, the petitioner was entitled to apply for increase in intake under the opening of a new or higher course of study or Training (including post-graduate course of study or training) and increase of admission capacity in any course of study or training (including post-graduate course study or training). In the above backdrop, the petitioner applied for increase in intake on 27.11.2020 and also paid the requisite fees. Despite the application of the petitioner, the second respondent failed to act upon the same, for which, the petitioner sent repeated request and reminder to the second respondent. However, as there was no response from the second respondent, the petitioner has filed the present writ petition.

3. The learned Senior Counsel for the petitioner submitted that on earlier occasion, Sri Lakshmi Narayana Institute of Medical Sciences, Puducherry filed a writ petition before this Court in W.P.No.19005 of 2021 and the same was dismissed vide order dated 16.09.2021. At the time of hearing, the National Medical Council (NMC) viz., second respondent herein submitted that they will consider the increase in intake for the academic year 2022-2023 and therefore, the petitioner has not pursued the matter further. Thereafter, the NMC inspected various colleges for increase in intake for MBBS course and Post Graduate courses for the academic year 2020-2021 & 2021-2022 in the month of October, contrary to the instructions given before this Court. Hence, the petitioner filed the present writ petition to pursue



the earlier application filed by the petitioner college on 27.11.2020. On the basis of the outer limit fixed as 15.12.2020, the petitioner has complied with all the formalities. Hence, this Court may issue a direction to the second respondent to consider the petitioner's application without saying it is incomplete for non-payment of fee. Admittedly, the payment was made on 18.11.2020. Therefore, the learned counsel prays to allow this petition.

4. The learned Standing Counsel for the second respondent submitted that the petitioner has not even submitted the application. The petitioner college has created the UG portal account with the NMC on 27.11.2020. After the first level of registration the login credentials were sent on the college's official email ID. It has been noted that after creating the portal account, the application was 'saved as draft' and was not submitted finally. Hence, the application submitted by the petitioner college is incomplete one and they have not submitted the application as per norms created by the NMC. The learned counsel further submitted that the technical team in MNC have opined that the petitioner college created their UG portal account with NMC on 17.11.2020 and the unique ID allotted to the college was TN3230065 and the petitioner college have filled their form and saved it as draft on the same day. Thereafter, the work flow status of the said application is 'yet to finish' and the petitioner college did not take any further steps to submit the application to NMC. In the absence of the application, the NMC have rejected the claim of the petitioner college. Hence, the learned counsel prays that this Court may fix a time limit for disposing of the application, if any, submitted by the petitioner.

5. Heard the learned senior counsel for the petitioner and the learned counsel for the first respondent and the learned Standing counsel for the second respondent and perused the materials available on record.

6. Though very many contentions and counter contentions have been raised, however, in view of the limited relief sought for by the petitioner and also taking note of the fact that the respondents too are willing to consider the application, if any, submitted by the petitioner in proper form within the time stipulated by this Court, this Court without going into the merits of the contentions raised is inclined to direct the second respondent within a fixed time.

7. Accordingly, this petition is disposed of directing the 2nd respondent to take a decision on the application submitted by the petitioner strictly in accordance with law within a period



of four weeks from the date of receipt of a copy of this order.
No costs.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Ministry of Health & Family Welfare,
Government of India
Nirman Bhawan
New Delhi.
2. The Secretary
National Medical Commission,
Pocket-14, Sector-8,
Dwarka, Phase-1,
New Delhi-110 077.

+1cc to Mr.V.P.Raman, Advocate, S.R.No.57952

W.P.NO.23265 OF 2011

SSN(CO)
PM/12/11/2021