



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.23560 of 2021

and

W.M.P.No.24779 & 24782 of 2021

Sengunthar Charitable Trust,
No.1/3 11-1, Sengunthar Nagar, Thiruchengodu
Namakkal District,
Established and Administring
Sengunthar College of Pharmacy
At Kosavampalayam Village,
Kumaramangalam Post, Thiruchengodu
Namakkal District,
Rep. by its Secretary and Correspondent
A.Baladhandapani

...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 its Secretary cum Registrar
NBCC Centre, 3rd Floor, Plot No.2
Community Centre, Maa Anandamai Marg.
Okhla Phase I, New Deli - 110 020.
3. The Government of Tamil Nadu
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 1st Respondent in Lr.No.Affln.1(6)/52760/2015 dated 07.10.2021 quash the same and direct the 1st Respondent to grant consent of affiliation to the Petitioner College to start additional courses namely M.Pharm. (three branches namely 1. M.Pharm. (Pharmaceutics), 2. M.Pharm. (Pharmacetutical Chemistry), 3.



M.Pharm. (Pharmacognosy) and Pharam.D., for the academic year 2022-23 without insisting Essentiality Certificate from the Government.

WEB COPY

For Petitioner : Mr.D.Prabhu Mukunth Arun Kumar

For Respondent R1 : Mr.T.Ravichandran

For Respondent R2 : Mr.M.T.Arunan

For Respondent R3 : No Appearance

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent in Lr.No.Affln.1(6)/52760/2015 dated 07.10.2021 and to quash the same and to direct the 1st respondent to grant consent of affiliation to the petitioner college to start additional courses for academic year 2022-2023 without insisting upon Essential Certificate from the Government.

2. When the matter was taken up for hearing, learned counsel for the petitioner submitted that, the issue involved in the present Writ Petition is squarely covered by the order dated 29.11.2021 passed by this Court in W.P.No.24404 of 2021. For better appreciation, relevant portion of the said order is extracted below:

9. The Division Bench of this Court in the case in W.A.No.3534 of 2019 (Annai J.K.K.Sampoorani Ammal Charitable Trust, rep.by its Management Trustee vs. the Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai), held as follows:

'17. 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 31.08.2018 in Letter No.38630/PME2/2016-4, referred to



WEB COPY

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.

18. In the light of the reasons assigned above, the impugned order dismissing the writ petition warrants interference.

19. In the result, this Writ Appeal is allowed and the order dated 14.10.2019 made in W.P.No.25473 of 2019 is set aside and as a consequence, the impugned letter of the first respondent / University dated 05.08.2019, signed on 07.08.2019, is quashed. No costs. Consequently, connected miscellaneous petition is closed.'

and the learned Single Judge in the case in W.P.No.14834 of 2020, dated 10.11.2020 (PGP Educational and Welfare Society, rep.by its Secretary Mr.K.Kandasamy Vs. The Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai), held as follows:

'22.In view of the above discussion, this Court is of the considered view that the Scheme framed under the Regulations by the Pharmacy Council of India does not contemplate any permission from the State Government after approval is granted by the Pharmacy Council of India for increase in intake either in the B.Pharm or M. Pharm Course



WEB COPY

in an existing Institution and the University must necessarily act upon the approval and grant provisional affiliation to the Institution. This is the manner in which the Pharmacy Council of India has understood the Scheme framed under the Regulations and it is uniformly applied in all the States and therefore the Government of Tamil Nadu cannot give a different interpretation and meaning than the one that is given by the Pharmacy Council of India.

23. In the result, the Impugned Letter issued by the 1st Respondent University dt. 25.07.2020, is hereby quashed and there shall be a direction to the 1st Respondent University to grant provisional affiliation to the Petitioner Institution for the academic year 2020-2021, by considering the representation dt. 18.05.2020.''

10. In view of the aforesaid ratio laid by the Hon'ble Division Bench and the learned Single Bench of this Court, the impugned order passed by the 1st Respondent in Rc. No. Affln. 1(4) / 27811 / 2017, dated 03.08.2021, is quashed and the 1st respondent is directed to process the applications submitted by the petitioner dated 27.07.2021 for grant of consent of affiliation for starting M.Pharm. course (3 branches namely 1.M.Pharm.(Pharmaceutics), 2.M.Pharm.(Pharmaceutical Analysis), 3.M.Pharm.(Pharmacology) and Pharm.D., for academic year 2022-23 on merits and in accordance with law and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order. This writ petition is accordingly disposed of with the above observations. No costs.



3. In view of the foregoing, the above Writ Petition is disposed of in terms of the above order passed by this Court dated 29.11.2021 passed in W.P.No.24404 of 2021. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

skt

To:

1. The Registrar,
Tamil Nadu Dr.MGR Medical University,
69, Anna Salai, Guindy,
Chennai - 600 032.
2. The Secretary cum Registrar
The Pharmacy Council of India
NBCC Centre, 3rd Floor, Plot No.2
Community Centre, Maa Anandamai Marg.
Okhla Phase I, New Delhi - 110 020.
3. The Secretary,
The Government of Tamil Nadu
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.

+1cc to Mr.M.T.Arunan, Advocate SR.No.65012

+1cc to Mr.D.Prabhu Mukunth Arun Kumar, Advocate SR.No.65104

+1cc to Mr.D.Ravichander, Advocate SR.No.65187

W.P.No.23560 of 2021
and
W.M.P.No.24779 & 24782 of 2021

RLD(CO)
GMY(12/01/2022)