



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.04.2021

PRONOUNCED ON : 22.04.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)Nos.7643 and 5905 of 2021

and

W.M.P. (MD) .Nos.5809 and 4675 of 2021

W.P. (MD) .No.7643 of 2021:

Matha School/College of Nursing,
(Sponsored by Matha Memorial Educational Trust),
Represented by its Correspondent,
P.Jayakumar ...Petitioner

Vs.

1.The Secretary,
Health & Family Welfare Department,
Secretariat, Chennai- 600 009.

2.The Secretary,
Indian Nursing Council,
New Delhi-110 020.

3.The Registrar,
Dr.MGR Medical University,
Anna Salai,
Guindy, Chennai-600 032.

4.The Registrar,
Tamilnadu Nurses & Midwives Council,
Jayaprakash Narayanan Maaligai,
Santhome High Road,
Chennai-600 004.

5.The District Collector,
Sivaganga District,
Sivagangai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order vide Ref.No.3/NC/2021 dated 23.03.2021 on the file of the 4th respondent and quash the



same as illegal and consequently direct to restore the recognition to the Petitioner College.

For Petitioner : Mr.P.Muthuvijaya Pandian
For Respondents 1 & 5 : Mr.P.Mahendran
Additional Government Pleader

For Respondent No.3 : Mr.S.Ramesh

For Respondent No.4 : Mr.K.P.Narayanakumar
Special Government Pleader

W.P. (MD) .No.5905 of 2021:

1.P.Sivasangari
2.D.Sneha
3.G.Grena Kethalin
4.P.Bharathi
5.B.Elakkiya
6.P.Yeshuran ...Petitioners

Vs.

1.The Hon'ble Chairman/Principal District and Sessions Judge,
District Legal Services Authority,
Sivagangai,
Sivagangai District.

2.The Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Chennai- 600 009.

3.The Registrar,
Tamilnadu Dr.MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai-600 032.

4. The Director of Medical Education,
Office of the Director of Medical Education,
No.156, New Boopathy Nagar,
Setpet, Chennai-600 031.

5. The Tamilnadu Nurses & Midwives Council,
Old No.140, New No.56,
Santhome High Road,
Mylapore,
Chennai-600 004.



6.The District Collector,
Sivagangai District,
Sivagangai.

7.The Chairman/Principal,
Matha College of Nursing,
Annavasal Road,
Vaanpuram, Manamadurai,
Sivagangai District-630 606.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondent Nos.2 to 6 to shift the petitioners to some other B.Sc.(Nursing) College under the control of the 3rd respondent University and to ensure safe, secure and better education to the petitioners and consequently directing the respondent Nos.2 to 6 to take appropriate and necessary action against the 7th respondent college on the basis of the spot inspection report submitted by the Chairman, Taluk Legal Services Committee, Manamadurai dated 12.02.2021 to the 1st respondent and on the basis of the representation of the petitioners dated 09.02.2021, 15.02.2021, 17.02.2021 and 24.02.2021.

For Petitioner	: Mr.V.Thirumal
For Respondents 1, 2, 4 & 6	: Mr.P.Mahendran Additional Government Pleader
For Respondent No.3	: Mr.S.Ramesh
For Respondent No.5	: Mr.K.P.Narayanakumar Special Government Pleader

COMMON ORDER

The issues involved in both the writ petitions are common and hence they are taken up together, heard and disposed of through this common order.

2. The students of the Educational Institution have filed W.P.(MD).No.5905 of 2021 for the issue of the writ of mandamus directing the respondents 2 to 6 to shift the petitioners from the 7th respondent institution to any other recognized College of Nursing and to take action against the 7th respondent, based on the representations made by them.

3. The institution has filed W.P.(MD).No.7643 of 2021 challenging the impugned order of the 4th respondent Council dated 29.03.2021 in withdrawing recognition given to the institution with



immediate effect from the Academic year 2020-2021.

4. For the sake of convenience, the parties will be identified in line with the rank assigned to them in W.P.(MD). No.7643 of 2021.

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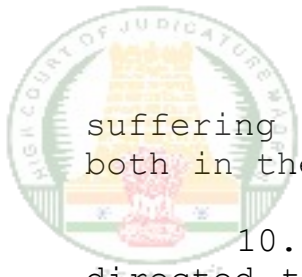
5. The petitioner institution was accorded with provisional recognition by the 4th respondent Council in the year 1993. After conducting Annual Inspection on 23.10.2013, an order was passed by the 4th respondent Council on 12.01.2015 granting continuance of provisional recognition to the petitioner for the Academic Year 2014-2015 and the name of the programme and the intake that was permitted, was also stipulated in these proceedings. It was made clear in these proceedings that the 4th respondent Council is entitled to make surprise inspection without any prior notice and if the institution is found to be unsuitable, it will be open to the Council to withdraw the recognition without any further notice.

6. In continuation to the above proceedings, an inspection was made on 27.07.2018 and a lot of deficiencies were identified. The same is evident from the inspection report that has been filed by the 4th respondent Council. The same was communicated to the petitioner and through letter dated 25.09.2018, the petitioner was informed that pursuant to the inspection report and the explanation given by the institution, the 4th respondent Council decided to reduce the intake of students from 100 to 50 students for the Academic year 2018-2019. The intake that was sanctioned is evident from the communication dated 25.09.2018.

7. Thereafter, yet another surprise inspection was conducted in the petitioner institution on 14.09.2019 and various deficiencies and shortcomings were identified. The 4th respondent Council called upon the petitioner to submit a rectification report on or before 12.12.2019 and the petitioner was clearly informed that if necessary action is not taken, the provisional recognition will be withheld.

8. The petitioner, on receipt of the letter from the 4th respondent, informed the Council through letter dated 06.12.2019 that 60 days time is required for rectification of the deficiencies. It is important to note that the petitioner institution did not refute the deficiencies pointed out in the report and it merely sought for time to rectify the deficiencies.

9. In the meantime, students belonging to the petitioner institution started giving complaints by making very serious allegations with regard to the facilities available in the institution as to how the women students were virtually



suffering due to the non-availability of even basic facilities both in the institution as well as in the hostel.

10. The District Collector on receipt of the complaint had directed the officials to conduct an inspection in the petitioner institution on 13.02.2021. On inspection, various deficiencies were found in terms of the infrastructure, basic facilities available and also fees that was collected from the students. On receipt of the report, the 5th respondent District Collector made a communication to the 4th respondent Council dated 25.02.2021 pointing out all the deficiencies to enable the Council to act upon the same.

11. The complaint given by the students was also acted upon by the Sivagangai District Legal Services Authority. The Chairman, who is the Principal District and Sessions Judge directed the Chairman of the Taluk Legal Services Committee, Manamadurai, to take immediate action and to submit a report. The Legal Services Authority decided to act upon the complaint since the aggrieved persons in the present case were women, who were deprived of basic facilities and were virtually finding it very difficult to continue their education in the petitioner institution. The Legal Services Authority has presumably acted in exercises of its power under Section 12 of the Legal Services Authority Act, 1987.

12. Pursuant to the above direction issued by the Chairman of the Legal Services Authority, an inspection was conducted by the Principal District Munsif on 11.02.2021 and a report dated 12.02.2021 was sent to the District Legal Services Authority pointing out several deficiencies and the manner in which the students were suffering even without basic facilities and as to how fees is being collected from the students without providing them with proper coaching.

13. The Chairman of the District Legal Services Authority through letter dated 12.02.2021 forwarded this report to the third respondent Affiliating University and requested for improvement action to ensure safety of the students and to give them an Academic assurance.

14. The 3rd respondent University immediately conducted a surprise inspection in the petitioner institution on 15.03.2021. Even during this inspection, various deficiencies were found out and the same concurred with the deficiencies that were identified by the 4th respondent Council, District Collector and also the Legal Services Authority.



15. The 4th respondent Council did not receive any rectification report from the petitioner institution and ultimately through impugned order dated 23.03.2021, the Council decided to withdraw the recognition of the petitioner institution with immediate effect from the Academic Year 2020-2021.

16. Heard Mr.P.Muthuvijaya Pandian, learned counsel appearing for the petitioner in W.P.(MD).No.7643 of 2021, Mr. V.Thirumal, learned counsel appearing for the petitioners in W.P.(MD).No.5905 of 2021, Mr.P.Mahendran, learned Additional Government Pleader appearing for the respondents 1, 2, 4 & 6 in W.P.(MD).No.7643 of 2021 and respondents 1 & 5 in W.P.(MD).No.5905 of 2021, Mr.S.Ramesh, learned counsel appearing for the third respondent in both writ petitions and Mr.K.P.Narayanakumar, learned Special Government Pleader, appearing for the respondent No.4 in W.P.(MD).No.7643 of 2021 and respondent No.5 in W.P.(MD).No.5905 of 2021.

17. The learned counsel for the petitioner submitted that the impugned order has been passed without affording opportunity to the petitioner. It was further submitted that the 4th respondent should have withdrawn the recognition only after getting the concurrence of the first and second respondents. The learned counsel further submitted that all the deficiencies have been rectified and a compliance report has been filed on 05.04.2021 before the 4th respondent Council. The learned counsel submitted that six students with ulterior motives had given a false complaint and it has been acted upon and an institution, which is in existence for nearly 28 years is being de-recognised. It was submitted that there are totally 156 students studying in the institution and almost all the students have given individual letters expressing their desire to continue their education in the petitioner institution. The learned counsel, in order to substantiate his submissions, relied upon the documents and photographs filed as additional typeset of papers and pleaded before this Court to set aside the impugned order passed by the 4th respondent Council and direct the Council to make an inspection and continue the recognition of the petitioner institution.

18. This is a classic case which can be taken as a sample for understanding how certain institutions mislead students and fleece them and ultimately destroy their future.

19. It is quite surprising that the petitioner has taken a ground as if no opportunity was given before the 4th respondent Council withdrew the recognition. Even when the provisional recognition was continued in the Academic Year 2014-2015, the petitioner was categorically informed by the 4th respondent Council

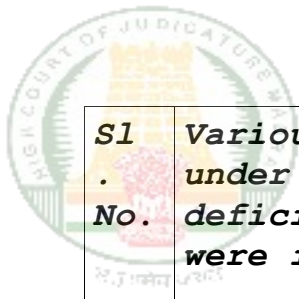


that surprise inspection will be conducted and if the institution is found unsuitable, the recognition will be withdrawn. The petitioner was well aware of the consequences of not satisfying the norms fixed by the 4th respondent Council.

20. The petitioner institution was consistently defaulting and not complying with the norms. When the inspection was conducted in the year 2018, the inspection report dated 27.07.2018 pointed out various deficiencies on different heads. This was taken into consideration by the 4th respondent Council and it was decided to reduce the intake of students from 100 to 50 for the Academic Year 2018-2019. Atleast at this point of time, the petitioner institution should have pulled its socks up and brought in improvement in standards. However, the petitioner institution did not seem to bother about this report and the situation was getting from bad to worse.

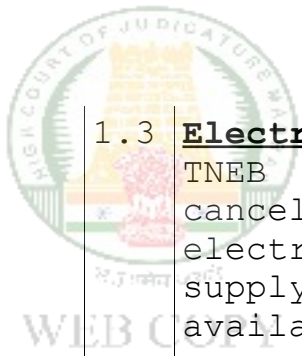
21. During the inspection that was conducted by the 4th respondent Council on 14.09.2019, once again deficiencies were pointed out under various heads and the petitioner institution was directed to rectify the same and file a rectification report. The petitioner, by letter dated 06.12.2019 sought for 60 days time for rectification of the deficiencies. However, no deficiency report was filed before the 4th respondent Council. The petitioner wants to conveniently take umbrage by citing the Pandemic situation for not submitting the rectification report during the year 2020.

22. In the meantime, serious complaints on the non-availability of even basic facilities, were given by the women students. Inspection was conducted from three sources. One inspection was conducted by the officials deputed by the District Collector on 13.02.2021. Another inspection was conducted on the directions of the Legal Services Authority on 11.02.2021. The third respondent University also independently conducted an inspection on 15.03.2021. All the four reports reiterate the deficiencies found in the petitioner institution and as to how even basic facilities were not available to the students. That apart there is a very serious complaint on the non-availability of faculties. This Court consciously did not list the deficiencies in this order since it is already available in the four reports that have been brought to the notice of this Court from four different sources. However, in order to get a birds eye view of the nature of deficiencies that were pointed out in these reports, the same is presented in a tabulated form hereunder:



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Sl No.	Various heads under which deficiencies were identified	Report of the Tamilnadu Nurses and Midwives Council	Report of the District Legal Services Authority	Report of the Tamilnadu Dr.MGR Medical University	Report of the District Collector
1.	<u>Physical infrastructure-academic and hostel buildings</u> Regarding the maintenance of the buildings, the validity of building license, Sanitation and Fire Safety certificate and CMDA/DTCP approval.	✓	✓	✓	✓
1.1	<u>Bathroom facilities</u> Poor sanitation, maintenance and disproportionate number of bathrooms to the number of students.	X	✓	✓	✓
1.2	<u>Water</u> Drinking water, poor maintenance of water tanks and non-availability of filtered water.	X	✓	✓	✓



1.3	<u>Electricity</u> TNEB cancellation of electricity supply and the availability of power in hostels and in the classrooms	X	✓	X	✓
1.4	<u>Food and sanitation</u> Infrastructure of the kitchen and food hygiene	X	✓	X	✓
2.	<u>Labs</u> Necessary quantity of instruments and their availability.	✓	X	✓	✓
3.	<u>Library</u> Infrastructure, the faculty and the maintenance.	✓	✓	✓	X
4.	<u>Transport</u> Required registration of the vehicles and their availability to the students including day scholars.	✓	✓	X	✓
5.	<u>Faculty</u> The number and availability of qualified faculties	✓	✓	✓	✓

Other significant deficiencies found in the reports



petitioner institution is restrained from admitting any students and there shall be a further direction to the petitioner to refund the fees that was collected from the students, who are willing to shift to another College.

27. It is left open to the 4th respondent Council to consider the compliance/rectification report submitted by the petitioner on 05.04.2021 and take a decision as to whether recognition can be considered during the future Academic Years.

28. In the result, W.P.(MD).No.7643 of 2021 is hereby dismissed and W.P.(MD).No.5905 of 2021 is allowed with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Hon'ble Chairman/Principal District and Sessions Judge,
District Legal Services Authority,
Sivagangai,
Sivagangai District.

2.The Principal Secretary to Government,
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Mylapore, Chennai-600 004.

5.The District Collector,
Sivagangai District, Sivagangai.

+2 CC to M/s.B.SARAVANAN, Advocate (SR-17065 &17066[F] dated
22/04/2021)

+1 CC to M/s.MUTHU VIJAYA PANDIYAN, Advocate (SR-17299[F] dated
23/04/2021)

+1 CC to M/s.SPL GP (SR-17385 & 17388[F] dated 23/04/2021)

+1 CC to M/s.P.THIYAGARAJAN, Advocate (SR-15555[F] dated
08/04/2021)

+1 CC to M/s.V.Thirumal (SR-17232F] dated 23/04/2021)

ORDER

MADE IN

**W.P(MD)Nos.7643 and 5905 of 2021
22.04.2021**

SSS(CO)

TR(05.05.2021) 12P 12C