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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.1758 of 2022

P.Perichi Gounder Memorial Charitable Trust,
Ashwin Hospital Campus,
1, Alamu Nagar, Sathy Main Road,
Gandhipuram, Coimbatore,
Tamil Nadu - 641 012.
Established and Administering
PPG College of Pharmacy,
NH-209, Sathy Road,
Saravanampatti,
Coimbatore, Tamil Nadu - 641 035,
rep. by its Chairman/Managing Trustee,
Dr.L.P.Thangavelu

...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 Delhi - 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 to call for the records relating to the impugned order passed by the 1st Respondent in Rc.No.Affln.1(6)/52723/2016, dated 20.01.2022,



quash the same and direct the 1st Respondent to grant consent of affiliation to the Petitioner College to start additional courses namely M.Pharm. (Pharmaceutics) and Pharm.D., for the academic year 2022-23, without insisting Essentiality Certificate from the Government.

For Petitioner : Mr.D.Prabhu Mukunth Arun Kumar
For 1st Respondent : Mr.M.T.Arunan
For 2nd Respondent :Mr.Imaya Varamban
For 3rd Respondent :Mr.C.Jayaprakash,
Government Advocate

O R D E R

Petitioner has come up with this Writ Petition seeking to quash the impugned order passed by the 1st Respondent in Rc.No.Affln.1(6)/52723/2016, dated 20.01.2022, and for a direction to the 1st Respondent to grant consent of affiliation to their College to start additional courses namely M.Pharm. (Pharmaceutics) and Pharm.D., for the academic year 2022-23, without insisting Essentiality 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 an 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



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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 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:



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''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 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



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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 dated 29.11.2021 passed by this Court in W.P.No.24404 of 2021. No costs. Consequently, connected W.M.P.Nos.1915 and 1916 of 2022 are closed.

Sd/-
Assistant Registrar

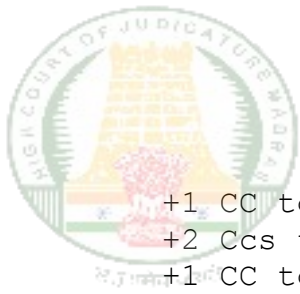
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Sub Assistant Registrar

(aeb)

To:

1. The Registrar,
Tamil Nadu Dr. MGR Medical University,
69, Anna Salai, Guindy,
Chennai - 600 032.
2. The Secretary-cum-Registrar,
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,
Government of Tamil Nadu
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.



+1 CC to Mr.T. Arunan, Advocate sr 6187

+2 Ccs to Mr.D. Prabhu Mukunth Arunkumar, Advocate sr 5972

+1 CC to The Government Pleader sr 6452(21/03/2022)

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W.P.No.1758 of 2022

SP(01/02/2022)