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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
W.P.No.8757 of 2020
and W.P.No. 3780 of 2022
and WMP.Nos.10629 & 10637 of 2020
and WMP.No.3909 of 2022

Sri Nandhanam Educational and Social Welfare Trust,
(Nandhanam Health Sciences College)
Represented by its Chairman
Mr.PMN.Mohan Krishnaa,
Nandhanam Nagar, Molagarampatti,
Tirupattur Taluk, Vellore District,
Tamil Nadu – 635 602. ..Petitioner in both W.Ps.

Vs.

1. The Tamil Nadu Dr.MGR Medical University,
   Represented by its Registrar,
   No.69, Anna Salai,
   Guindy, Chennai - 600 032.

2. The Directorate of Medical Education,
   Board of Pharmacy,
   162, Periyar E.V.R.High Road,
   Kilpauk, Chennai – 600 010.

3. The Pharmacy Council of India,
   Rep. by the Secretary cum Registrar,
   NBCC Centre, 3rd floor, Plot No.2, Community Centre,
   Maa Anandamal Marg, Okhla Phase I,
   New Delhi – 110 020. ... Respondents in W.P.No.8757/2020

[R3 impleaded vide order dated 25.01.2022 made in

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WMP.No.24725/2021 in W.P.No.8757/2020 by MDIJ]

1. The Pharmacy Council of India,
   Rep. by the Secretary cum Registrar,
   NBCC Centre, 3rd floor, Plot No.2, Community Centre,
   Maa Anandamal Marg, Okhla Phase I,
   New Delhi – 110 020.

2. The Tamil Nadu Dr.MGR Medical University,
   Represented by its Registrar,
   No.69, Anna Salai,
   Guindy, Chennai - 600 032.

3. The Directorate of Medical Education,
   Board of Pharmacy,
   162, Periyar E.V.R.High Road,
   Kilpauk, Chennai – 600 010.

4. The Selection Committee,
   Directorate of Medical Education,
   Board of Pharmacy,
   162, Periyar E.V.R. High Road,
   Kilpauk, Chennai – 600 010. ..Respondents in W.P.No.3780/2022

Prayer in W.P.No.8757 of 2020: Writ Petition filed under Article 226 of the Constitution of India for Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to his proceedings in Lr.No.Affln.1(1) 54784/2017 dated 12.11.2019 and Clause B(f)(iv) of the Scheme framed under Regulations 9(1) of the Pharmacy Course Regulations 2014 and quash the same and consequently direct the respondents 1 and 2 to grant affiliation to the petitioner Institution to offer the B.Pharm and D.Pharm Courses respectively with an annual intake of 60 seats each from the academic year 2020-2021 in view of the

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approval granted by the Pharmacy Council of India in ref.No.PCI.2878/2019-PCI/D and B/2708-10 dated 20.06.2019 without insisting on the Essentiality certificate /NOC from the State Government, subject to submission of the extension of approval by PCI for the upcoming academic year 2020-2021.

[Prayer amended vide order dated 25.01.2022 made in WMP.No.24728 of 2021 in W.P.No.8757 of 2020 by MDIJ]

Prayer in W.P.No.3780 of 2022: Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the 2nd respondent herein to grant affiliation for the additional approved 40 seats in B.Pharmacy Degree Course in the third phase of paramedical counselling in the petitioner's college pending grant of essentiality certificate by the first respondent.

For Petitioner [in both W.Ps.]	:	Mrs.A.L.Ganthimathi
For Respondents	:	Mr.M.T.Arunan Standing Counsel [3rd respondent in WP.No.8757 of 2020 & 1st respondent in W.P.No.3780 of 2022]
		Mr.U.M.Ravichandran Special Government Pleader [2nd respondent in W.P.No.8757/2020 & 3rd respondent in W.P.No.3780 of 2022]
		Mr.Imayavaruman for M/s.Ramalingam Associates [1st respondent in W.P.No.8757 of 2020 & 2nd respondent in W.P.No.3780 of 2022]

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Ms.M.Sneha
Standing Counsel [4th respondent
in W.P.No.3780 of 2022]

COMMON ORDER

Since the issue raised in these writ petitions is one and the same these writ petitions are disposed of by this common order.

2. The petitioner trust is running a pharmacy college, where the petitioner was able to get approval of additional intake of 40 seats in B.Pharm and D.Pharm Courses from the Pharmacy Council of India. Though such an order was obtained from the Pharmacy council by approval letter dated 20.06.2019, in view of the conditions imposed therein, where the Pharmacy Council since stated that the approval is subject to the submission of consent of affiliation of examining authority and NOC/approval of the State Government for starting the B.Pharm and D.Pharm courses before making admission, it become necessitated for the petitioner to make an application to the State Government through the Directorate of Medical Education for getting an approval/NOC.

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3. In this regard, the said application submitted by the petitioner having been processed, an inspection was conducted as early as on October, 2020 itself, where according to the learned counsel appearing for the petitioner that petitioner's infrastructure and instructional facilities having been inspected, the inspection team had expressed their satisfaction, despite that, it is a complaint of the petitioner's side that, no orders have been passed by the State Government granting NOC/approval, because of which, the respondent University has not come forward to give the affiliation to the additional intake of 40 students and thereby, the petitioner institution even though obtained approval from the Pharmacy Council is not able to admit the students for the past one academic year and this situation now also is prevailing, as this academic year i.e., 2022-2023 also there may be a stagnate, if the NOC is not granted by the State Government followed by the affiliation granted by the University, therefore, in order to get approval and affiliation or without approval or NOC from the State Government, the University can be directed to process the application for affiliation independently and accordingly affiliation can be given, based on which, the Institution can be permitted with additional intake of 40 students in the seat matrix for the selection of candidates for the academic year

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2022-2023 to be undertaken by the Selection Committee. For these reasons and the plea, the petitioner has moved the present writ petition.

4. Heard Mr.AL.Ganthimathi, learned counsel appearing for the petitioner, who would submit that, either the State Government can immediately clear the NOC, based on which, the University can be directed to process the application for affiliation, so as to enable the petitioner institution to get inclusion of seat matrix for the current academic year otherwise the petitioner institution can be permitted to include in the seat matrix for counselling for the current academic year.

5. However Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the State Government, on instructions would submit that, based on the inspection already conducted by the inspection team appointed by the State Government, certain deficiencies were pointed out, unless and until those deficiencies are complied with by the institution it may not be possible for the respondent i.e., State Government to positively consider the request of the petitioner to grant NOC.

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6. On the other hand, Mr.M.T.Arunan, learned Standing Counsel appearing for the Pharmacy Council would submit that, even though the Pharmacy Council is empowered to grant approval for any pharmacy course throughout the country, such approval granted by the Pharmacy Council is subject to consent of affiliation given by the affiliating University as well as the approval or NOC to be given by the State Government without which, no admission can be made even though the approval is granted by the Pharmacy Council.

7. Ms.M.Sneha, learned Standing Counsel appearing for the Selection Committee also would submit that, unless and until the petitioner College with additional intake is approved by the Pharmacy Council and NOC to that effect is granted by the State Government followed by affiliation by the University, the question of admitting the petitioner institution in the seat matrix for the academic year 2022-2023 does not arise. Therefore, the learned Standing Counsel appearing for the Selection Committee would submit that, insofar as the prayer sought for in the writ petition in W.P.No.8757 of 2020 is concerned, it cannot be granted and therefore, the learned counsel appearing for the Selection Committee wants the said writ petition to be dismissed.

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8. I have considered the rival submissions made by the learned respective counsel appearing for the parties and have perused the materials placed before this Court.

9. Insofar as the University affiliation is concerned, Mr.Imayavaruman, learned Standing Counsel appearing for the University would submit that, once the NOC or approval is granted by the State Government, the next moment the application submitted by the petitioner for grant of affiliation to the additional intake of 40 students would be considered or processed and accordingly on merits that would be disposed of within a shortest possible time.

10. However insofar as the grant of NOC or approval is concerned, the learned Special Government Pleader appearing for the State Government submits that, certain infirmities already pointed out have not so far been complied with. However, it is a submission of the learned counsel appearing for the petitioner that, the inspection report does not suggest any such deficiencies, therefore the question of complying those deficiencies does not arise.

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11. Be that as it may, it is a matter of fact. Whether any deficiencies are still found that can be pointed out by the State Government to the petitioner within a shortest possible of time and if those deficiencies are fulfilled by the petitioner within a shortest possible of time to be fixed in this regard by the State Government, this Court feels that, there can be no further impediment for the State Government to complete the process and pass orders on the application submitted by the petitioner for grant of NOC.

12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- That there shall be a direction to the State Government to point out, deficiencies, if any, arising out of the inspection report, based on the inspection conducted in October, 2020 and accordingly, if any deficiencies are pointed out by the State Government within one week from the date of receipt of a copy of this order, the same shall be complied with by the petitioner within one week thereafter. Once such compliance report is submitted, the State Government shall pass orders on considering the said compliance report with regard to grant of NOC/approval within a period of two

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weeks thereafter.

- Once such orders are passed by the State Government, depending upon the outcome of the said decision and order to be passed by the State Government, it is open to the petitioner to approach the respondent University and the respondent University on receipt of any such application along with NOC or approval from the State Government, they shall process the application to be submitted by the Institution for grant of affiliation or continuation of affiliation for the academic year 2022-2023 for the intake approved by the Pharmacy Council in respect of the petitioner Institution and orders shall be passed within a period of two weeks thereafter.
- If both the Authorities, as indicated above, passes any orders in favour of the petitioner, depending upon the outcome of those orders, the petitioner can very well approach the Selection Committee to seek inclusion of his Institution for the seat matrix/counselling for the academic year 2022-2023 and in that case, the Selection Committee shall consider the request of the petitioner for inclusion of the petitioner Institution in the counselling/seat matrix for admission of B.Pharm and D.Pharm as per the intake permitted to the petitioner Institute for the academic

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year 2022-2023.

◆ These orders are passed without prejudice to the right of the petitioner to challenge the regulation framed by the Pharmacy Council of India, as that issue is left open and it would be decided in appropriate case at appropriate time.

With these directions, these writ petitions are disposed of. No costs. Connected miscellaneous petition is closed.

11.10.2022

Index : Yes/No
Speaking Order: Yes/No

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Note: Issue order copy on 14.10.2022

To

1. The Pharmacy Council of India,
   Rep. by the Secretary cum Registrar,
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   New Delhi – 110 020.

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R.SURESH KUMAR, J.

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