



W.P.No.38503 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.38503 of 2016

and

W.M.P.Nos.32979 & 32980 of 2016

Lord Balaji Educational and Charitable Trust,
Rep. By its Chairman Dr.S.Rajamanickom
Shri Shellapha Hospital Campus,
231, Rajaram Nagar, Near Gandhi Stadium,
Salem 636 007.

... Petitioner

VS.

- 1.The Government of India
Rep. By its Secretary,
Ministry Ayurveda, Yoga & Naturopathy
Unani, Siddha & Homoeopathy (AYUSH)
AYUSH Bhawan, 'B' Block, GPO Complex,
INA, New Delhi - 110 023.
- 2.The Central Council of Homoeopathy (CCH)
Rep. By its Secretary,
Jawaharlal Nehru Bhartiya Chikitsa Avum,
Homoeopathy Anusandhan Bhawan,
No.61-65, Institutional Area,
Opp to "D" Block, Janakpuri, New Delhi 110 058.
- 3.The Commissioner,
Directorate of Indian Medicines & Homoeopathy
Aurmbakkam, Chennai 600 106.



W.P.No.38503 of 2016

4.Tamil Nadu Dr.M.G.R.Medical University,
Rep. by its Registrar, 69, Anna Salai, Guindy,
Chennai 600 032.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned order of the 1st respondent in F.No.R-17014/159/2013 – EP(H), dated 11.08.2016 and the consequential order of the 4th respondent in Rc.No.Affln.I(3)/18301/2015-2 dated 18.10.2016 and quash the same.

For Petitioner : Mr.G.Masilamani, Senior Counsel
for Mr.D.Prabhu Mukunth Arunkumar

For Respondents : Mr.K.Ramamoorthy
Central Govt. standing counsel, for RR 1& 2

Mrs.V.Yamunadevi, Spl.Govt. Pleader for R3

Mr.P.Elayarajkumar
for M/s.Ramalingam & Associates, for RR3 & 4

ORDER

The challenge in this writ petition is to the Notification issued by the Ministry of AYUSH indicating that the seat matrix in the Homoeopathy Medical College run by the petitioner's Trust would be 50 on 11.08.2016.



W.P.No.38503 of 2016

2. The petitioner Trust was permitted to commence the Homoeopathy Medical College with an intake of 50 students. Subsequently, by a proceeding dated 19.09.2002, the Central Council for Homoeopathy permitted the petitioner to increase the intake from 50 to 100 students in the said Homoeopathy Medical College. Subsequently, the Homoeopathy Central Council Act was amended and Section 12A was introduced and it came into effect from 28.01.2003. Under the said Section, powers of the Central Council for Homoeopathy stood transferred to the AYUSH Ministry.

3. The Ministry however clarified that the existing Colleges with sanctioned intake need not apply again to the Ministry for sanction. However, the Ministry passed orders reducing the intake of the petitioner's College and discharging students in the year 2012. Then a further reduction was made in 2013. This prompted the petitioner Trust to file W.P.No.12662 of 2013, challenging the orders reducing the intake and discharging the students.

4. This Court allowed the writ petition by order dated 23.07.2013 on



W.P.No.38503 of 2016

the conclusion that the amendment is essentially retrospective and it cannot be applied to Colleges which have been established earlier with a higher intake of students. Pursuant to that the petitioner's College was allowed to have an intake of 100 students for Annual Year 2013 – 14 on 11.11.2013. However, for the subsequent year, the Ministry took a stand that because the Ministry had challenged the orders of this Court in W.P.No.12662 of 2013, the petitioner's College will have to be satisfied with intake of 50 students. It is this order that is subject to challenge in this writ petition.

5. Pending this writ petition, the writ appeal that was filed challenging the order in W.P.No.12662 of 2013 was rejected since the delay in filing was not condoned by the Division Bench on 27.02.2019. A perusal of the order of the Division Bench dated 27.02.2019 would demonstrate that the delay in filing was not condoned because of the fact that two other Division Benches of this Court have upheld similar orders passed by this Court. It is not in dispute that this order of the Division Bench refusing to condone the delay has become final.

6. In view of the above, needless to state that the orders impugned



W.P.No.38503 of 2016

which are solely based on the fact that the appeals are pending will have to be set aside and they are accordingly set aside. This writ petition will stand **allowed**. No costs. Consequently, the connected writ miscellaneous petitions are closed.

11.07.2022

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Index: No

Internet: Yes

Speaking order



W.P.No.38503 of 2016

To

WEB COPY

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R.SUBRAMANIAN, J.

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