



W.P.No.29292 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.29292 of 2022
and W.M.P.Nos.28587 & 28589 of 2022

Sri Nandhanam Educational and Social
Welfare Trust, (Nandhanam Health
Sciences College), Represented by its
Chairman, PMN.Mohan Krishnaa
Nandhanam Nagar, Molagarampatti
Tirupattur Town and District.

.... Petitioner

-Vs-

- 1.The Principal Secretary
Department of Health and Family Welfare
State Secretariat, Namakkal Kavignar Maligai
Fort St.George, Chennai 600 009.
- 2.The Directorate of Medical Education
O/o Director of Medical Education
162, Periyar EVR High Road, Chennai 600 010.
- 3.The Secretary, Selection Committee
O/o Directorate of Medical Education
162, Periyar EVR High Road, Chennai-600 010.
- 4.The Registrar
Tamil Nadu Dr.MGR Medical University
Guindy, Chennai 600 032.
- 5.Dr.P.Senthil Kumar IAS
The Principal Secretary
Department of Health and Family Welfare



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State Secretariat, Namakkal Kavignar Maligai
Fort St.George., Chennai 600 009.

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.... Respondents

(R5 deleted vide Court order dated 04.11.2022
by RSKJ in W.P.No.29292 of 2022)

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records in Letter No.3370949/PM E2/2022-1 dated 21.10.2022 on the file of 1st respondent and quash the same in respect of para 2(i) and Para 2(iii) and consequently direct the 1st, 2nd and 4th respondents herein to issue suitable instruction today to the 3rd respondent for including the petitioner college name in seat matrix of the counselling commencing from today ie., 02.11.2022 or subsequent dates pending issuance of "No Objection Certificate" by 1st respondent for B.Pharm and D.Pharm courses within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr.B.Manoharan

For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.U.M.Ravichandran
Special Government Pleader – for RR 1 & 2
Ms.M.Sneha, Standing Counsel – for R3
Mr.S.Wilson, Standing Counsel – for R4

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records in Letter No.3370949/PM E2/2022-1 dated 21.10.2022 on the file of 1st respondent and quash the same in respect of para 2(i) and Para 2(iii) and consequently direct the 1st, 2nd and 4th respondents herein to issue



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suitable instruction today to the 3rd respondent for including the petitioner college name in seat matrix of the counselling commencing from today ie., 02.11.2022 or subsequent dates pending issuance of "No Objection Certificate" by 1st respondent for B.Pharm and D.Pharm courses within the time frame fixed by this Court.

2. The petitioner being a Trust, is running a college of Pharmacy after getting necessary approvals from the Pharmacy Council of India. They approached the 4th respondent University for getting affiliation for the current academic year ie., 2022-23. That application was not considered for the reason that, the institution must get a 'No Objection Certificate' (NOC) or approval from the State Government as it is one of the condition precedent for considering the application of the institution for grant of affiliation. Only at that juncture the petitioner had approached this Court and filed a writ petition in W.P.No.8757 of 2020, which came to be disposed of on 11.10.2022, where inter alia I have passed the following order.

" 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*



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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 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*



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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 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."

3. Pursuant to the said order, the State Government ie., the Directorate of Medical Education has sent two communications on 21.10.2022, whereby they wanted some more additional particulars regarding the DTCP approval for the buildings constructed by the Pharmacy college and other compliances, which have been pointed out in the communication dated 21.10.2022 issued by the first respondent.



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4. In fact, pursuant to the said communications, it is the claim of the petitioner that on the very next day ie., on 22.10.2022 a compliance report has been submitted, except with regard to the DTCP approval which is sought for by the first respondent in their communication which is impugned herein, because these buildings, according to the petitioner, were constructed prior to 01.11.2011. Therefore, the construction made prior to 01.11.2011 need no DTCP approval as it became mandatory only as per the provisions of Section 47A of the Tamil Nadu Town and Country Planning Act, which came into force from 01.11.2011. Therefore, except the said insistment, the other queries raised by the respondents are fulfilled by the petitioner by their compliance report dated 22.10.2022. Learned counsel for the petitioner submits that, there could be no further impediment for the respondents to process the application of the petitioner to grant NOC so that it would enable the petitioner to approach the 4th respondent University to get affiliation.

5. Only at that juncture, since it has been delayed on the part of the respondents 1 and 2 according to the petitioner, that the application has not been disposed of despite the compliance report was submitted on 22.10.2022, and the counseling for this year has already been commenced and it is going to be completed by today ie., 04.11.2022, in order to get an early disposal the



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petitioner has moved the present writ petition challenging the very communications itself issued by the respondents 1 and 2 dated 21.10.2022.

6. Heard Mr.J.Ravindran, learned Additional Advocate General appearing for respondents 1 and 2, Ms.M.Sneha, learned Standing Counsel for the 3rd respondent and Mr.S.Wilson, learned Standing Counsel for the 4th respondent. Learned Additional Advocate General would submit that, as per the earlier orders passed by this Court dated 11.10.2022, one week time was given to the respondents to point out the deficiencies based on the inspection conducted in 2020 and it has been pointed out through the impugned communication and for what reasons they have challenged this communication is not known. If at all they have given a compliance report on 22.10.2022, certainly that would be looked into and orders would be passed on merits and in accordance with law as two weeks time has been granted in the order itself by this Court. Therefore, the respondents have followed the order of this Court and they are examining or processing the application of the petitioner along with the compliance report and accordingly, orders would be passed within the time frame that may be stipulated by this Court.

7. Insofar as the insistence of DTCP approval for the buildings constructed by the petitioner for running the institution is concerned, the learned Additional



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Advocate General would submit that, as per the law declared by this Court, the State Government would not insist upon the DTCP approval for the buildings which were constructed prior to 01.11.2011 but however, for the constructions which are made subsequent to 01.11.2011 certainly such approval should be obtained or at least application should have been made to the DTCP and proof to that effect should be filed before the authority concerned ie., first / second respondent so that the plea of the petitioner for getting an NOC would be considered.

8. I have taken note of the submissions made by the learned counsel for both sides and have perused the materials placed on record.

9. In my earlier order dated 11.10.2022 itself, I have given a set of directions, whereby the deficiencies can be pointed out by the respondents, which they have pointed out by their communication dated 21.10.2022 and it is the case of the petitioner that they have complied with the deficiencies by sending a compliance report dated 22.10.2022 and in that case, there is no necessity for the petitioner to challenge the impugned communication dated 21.10.2022.



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10. If at all the petitioner has got any grievance that early decision is required or solicited within the shortest possible time, the respondents can process the application of the petitioner based on the compliance report without insisting on the DTCP approval for the buildings constructed prior to 01.11.2011 and orders can be passed and for such arrangement the learned Additional Advocate General fairly submits that within the time stipulated by this Court by the earlier order dated 11.10.2022, certainly orders would be passed on merits and in accordance with law.

11. In view of the said stand taken by the learned Additional Advocate General, this Court is inclined to dispose of this writ petition with the following order.

- Based on the compliance report dated 22.10.2022 submitted by the petitioner, without insisting on the DTCP approval from the petitioner for the construction made prior to 01.11.2011, the application of the petitioner for getting NOC can be processed and orders can be passed within a period of one week from the date of receipt of a copy of this order.
- After getting the NOC ie., after the application of the petitioner is positively considered and orders are passed, it is open to the petitioner to approach the fourth respondent University for granting necessary affiliation.



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12. Since the fifth respondent has been arrayed as a party to this writ petition in his personal capacity, this Court, having gone through the facts of this case feels that there is no necessity to array the 5th respondent in his personal capacity as a party to this writ petition. Therefore, the 5th respondent is struck off from the array of parties.

13. With the above directions and observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

04.11.2022

Index : Yes/No

Internet : Yes/No

KST

Note Issue order copy on 07.11.2022



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To

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R. SURESH KUMAR, J.

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