



W.P(MD)No.6723 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6723 of 2019
and
W.M.P(MD)No.5377 of 2019

Indra Ganesan Educational and Charitable Trust,
Represented by
Its Secretary,
Indra Ganesan College of Nursing,
No.71, West Bouliward Road,
Trichy – 8.

... Petitioner

Vs

- 1.The State represented by
Its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai.
- 2.Tamil Nadu Dr.MGR Medical University,
Represented by its Registrar,
No.69, Anna Salai,
Guindy,
Chennai.
- 3.Tamil Nadu Nurses and Midwives Council,
Represented by its Registrar,
Jeyaprakash Narayanan Maligai,
Old No.140, New No.56, Santhome High Road,
Mylapore, Chennai.



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4.The Selection Committee,
Directorate of Medical Education,
Kilpauk, Chennai.

5.The Secretary,
Indian Nursing Council,
8th Floor, NBCC Centre,
Plot No.2, Community Centre,
Okhla Phase-I, New Delhi-110020.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the fifth respondent in his proceedings in File.No: 18-29/13425-INC 5554 dated 24.12.2018 and quash the same.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.T.Amjad Khan
Government Advocate for R.1 & R.4

Mr.S.Ramesh for R.2

Mr.B.Saravanan for R.3

Mr.R.Murali for R.5

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is a registered Trust running educational Institutions in Trichy. It is also running a Nursing College conducting B.Sc Nursing Course. The petitioner was originally permitted to seat intake of 30



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students that was subsequently enhanced by the second respondent University to 60 students by the third respondent / Tamil Nadu Nurses and Midwives Council. This enhancement was duly approved by the second respondent University. The fifth respondent by the impugned communication has questioned the enhancement of the seat intake. The communication issued by the fifth respondent is put to challenge in the writ petition. Though the learned Standing Counsel for the fifth respondent endeavored to sustain the impugned order by referring to Sections 14 and 15 of the Indian Nursing Council Act, 1947 the issue on hand is no longer *res integra*.

3. The learned counsel for the petitioner has drawn my attention to the order dated 24.07.2017 passed by the High Court of Karnataka at Bengaluru in ***W.P.Nos.25355- 25357/ 2017 (The Karnataka State Vs The Union of India)***. Following decision of the Hon'ble Supreme Court, it was held that Indian Nursing Council has no authority to grant recognition to the Institutions imparting nursing Courses. When the fifth respondent has no right or authority in the matter of granting recognition obviously, it will not have any power or jurisdiction in the matter of determining the seat intake also. My attention is also drawn to the decision of the Division Bench of the Rajasthan High Court rendered in D.B.Spl.Appl.Writ No.508 of 2018 (***Indian Nursing Council Vs.***



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Kamaksha Institute of Nursing and Others) dated 02.09.2019. The Hon'ble

Division Bench had held as follows:

“In the light of the above reasons and the formulation of law approved by the Full Bench of the Kerala High Court clearly emerges that the Central Council does not have the power to recognise institutions, which is a power vested with the State Council. The Central Council through the Executive Committee can ensure inspection, as and when needed and based upon such inspection reports, which of course has to be supplied to the (10 of 10) [SAW-508/2018] concerned institution and the State Government. Inputs are to be received under Section 13 from the State, after which, adverse action can be taken, if warranted.”

The aforesaid decision squarely answers the contention advanced by the learned Standing Counsel for the fifth respondent. In view of the above, the impugned communication is set aside.

4.This writ petition is allowed. There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

20.12.2022

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA



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To

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai.
2. The Selection Committee,
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