



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD) Nos.14059, 14065 & 14069 of 2020

and W.M.P. (MD) .Nos.11721, 11732 & 11737 of 2020, 12087 & 12088 of 2021, 1902, 1905 & 3364 of 2022

W.P. (MD) .No.14059 of 2020

Maria Homeopathy Medical College,
Rep. by its Principal,
Dr.D.Dilipkumar,
Perai,
Thiruvattar,
Kanniyakumari District.

.. Petitioner

Vs

- 1.The Tamilnadu Dr.M.G.R.Medical University,
No.69, Annasalai,
Guindy, Chennai - 600 032.
 - 2.The Secretary,
National Commission for Homeopathy,
Medical Assessment and Ration Board for Homeopathy,
No.61-65, Institutional Area, Opp D Block, Janakpuri, New Delhi - 58.
 - 3.The Secretary,
Health and Family Welfare Department, Secretariat, Chennai - 9.
 - 4.The Commissioner of Indian Medicine,
The Directorate of Indian Medicine,
Aringar Anna Hospital Campus, Arumpakkam, Chennai - 106.
 - 5.The Registrar,
The Tamilnadu Dr.M.G.R.Medical University,
No.69, Annasalai, Guindy, Chennai 600 032.
- (R2 to R5 are impleaded vide Court order dated 04.03.2022 in W.M.P. (MD) .No.2514 of 2022 in W.P. (MD) .No.14059 of 2020)

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent herein to approve the students of the petitioner college admitted in the course BHMS (Bachelor of Homeopathy Medicine and Surgery) for the academic year 2019-2020 in the lapsed seats in the light of the orders passed by the Honourable Supreme Court in Civil Appeal No.603/2020, dated 20.02.2020, based on the representation of the petitioner College, dated 14.03.2020 and allow the students to writ



the examination and publish the results within the time stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for M/s.M.E.Ilango

For Respondents : Mr.S.Ramesh for R1 and R5
Standing Counsel

Mrs.L.Victoria Gowri for R2
Assistant Solicitor General

Mr.M.Lingadurai for R3 and R4
Special Government Pleader

W.P. (MD).No.14065 of 2020

Maria Siddha Medical College and Hospital,
Rep. by its Principal,
Dr.S.Soundararajan
Thottavaram,
Moovatumugham (Po)
Kanniyakumari District 629 177. .. Petitioner

Vs

- 1.The Tamilnadu Dr.M.G.R.Medical University,
No.69, Annasalai,
Guindy, Chennai - 600 032.
- 2.The Secretary to Government,
Health and Family Welfare Department, Secretariat, Chennai - 9.
- 3.The Commissioner of Indian Medicine,
The Directorate of Indian Medicine,
Aringar Anna Hospital Campus, Arumpakkam, Chennai - 106.
- 4.The Registrar,
The Tamilnadu Dr.M.G.R.Medical University,
No.69, Annasalai, Guindy, Chennai 600 032.
(R2 to R4 are impleaded vide Court order dated 04.03.2022 in W.M.P.
(MD).No.2509 of 2022 in W.P. (MD).No.14065 of 2020)
.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent herein to approve the students of the petitioner college admitted in the course BSMS (Bachelor of Siddha Medicine and Surgery) for the academic year 2019-2020 in the lapsed seats in the light of the orders passed by the Honourable Supreme Court in Civil Appeal No.603/2020, dated 20.02.2020, based on the representation of the



petitioner, dated 24.02.2020 and allow the students to writ the examination and publish the results within the time stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for M/s.M.E.Ilango

For Respondents : Mr.S.Ramesh for R1 and R4
Standing Counsel

Mr.M.Lingadurai for R2 and R3
Special Government Pleader

W.P. (MD).No.14069 of 2020

Maria Ayurveda Medical College,
Rep. by its Principal,
Kulathadivilai,
Moovatumugham Post,
Kanniyakumari District.

.. Petitioner

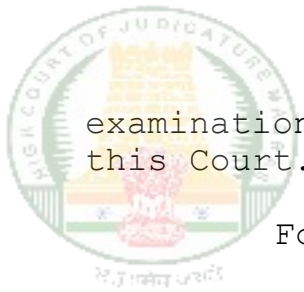
Vs

- 1.The Tamilnadu Dr.M.G.R.Medical University,
No.69, Annasalai,
Guindy, Chennai - 600 032.
- 2.The Secretary to Government,
Health and Family Welfare Department, Secretariat, Chennai - 9.
- 3.The Commissioner of Indian Medicine,
The Directorate of Indian Medicine,
Aringar Anna Hospital Campus, Arumpakkam, Chennai - 106.
- 4.The Registrar,
The Tamilnadu Dr.M.G.R.Medical University,
No.69, Annasalai, Guindy, Chennai 600 032.

(R2 to R4 are impleaded vide Court order dated 04.03.2022 in W.M.P.
(MD).No.2507 of 2022 in W.P. (MD).No.14069 of 2020)

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent herein to approve the students of the petitioner college admitted in the course BAMS (Bachelor of Ayurveda Medicine and Surgery) for the academic year 2019-2020 in the lapsed seats in the light of the orders passed by the Honourable Supreme Court in Civil Appeal No.603/2020, dated 20.02.2020, based on the representation of the petitioner, dated 24.02.2020 and allow the students to writ the



examination and publish the results within the time stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for M/s.M.E.Ilango

For Respondents : Mr.S.Ramesh for R1 and R4
Standing Counsel

Mr.M.Lingadurai for R2 and R3
Special Government Pleader

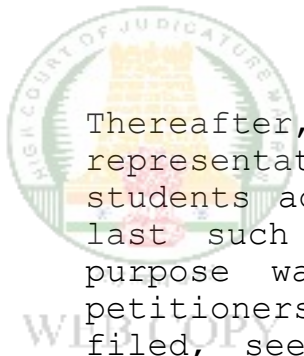
COMMON ORDER

These writ petitions have been filed for a Mandamus seeking direction to recognize the students admitted by the respective petitioner's institutions in respect of the lapsed seats.

2.According to the respective institutions, since the second counselling was not conducted, though they were entitled for allotment of more seats as per the sanctioned limit, they were unable to fill the entire quota of seats. The seats to be filled up pertains to Siddha, Ayurvedic and Homeopathy (undergraduate courses).

3.In respect of Homeopathy course, the total seats eligible to be admitted by the petitioner was 60 students. Out of the 60 students, the petitioner was able to fill up only 7 students under the State quota and 6 students under the Management quota, in all put together 13 students, based on the first counselling conducted by the respondents. Since the second counselling was not conducted, 47 seats got lapsed. The petitioner has admitted 17 students, out of the remaining 47 lapsed seats on or before 15.10.2019, which is the cut off date for admission. The petitioner made several representations that is on 22.02.2020, 24.02.2020 and 14.03.2020, to the respondents seeking to regularize the students admitted under the lapsed seats quota. The representations were not considered by the respondents. Finally one more representation was given on 24.01.2022 for the very same purpose. Since the said representations have not been considered, the petitioner has filed W.P.(MD).No.14059 of 2020, in respect of the lapsed seats for Homeopathy Course, seeking for a mandamus to direct the respondents to recognize/approve the petitioner's filled up of 17 students in the lapsed category.

4.Insofar as the Siddha Course is concerned, the petitioner was eligible to admit 100 students, but under the first counselling, only 57 students were allotted to the petitioner's institution for the said Course and the balance of 43 seats have become lapsed. The petitioner had admitted 12 students out of 43 seats under the lapsed category on or before 15.10.2019, being the cut of date.



Thereafter, as in the earlier case, the petitioner gave representations to the respondents requesting them to regularize the students admitted by the petitioner under the lapsed category. The last such representation given by the petitioner for the said purpose was on 01.12.2021. Since the representations of the petitioners were not considered, W.P.(MD).No.14065 of 2020 has been filed, seeking for a positive direction from this Court to the respondents to recognize the 12 students admitted by the petitioner for the Siddha Course under the lapsed category.

5. Insofar as the Ayurvedic Course is concerned, the total number of students the petitioner's institution is eligible to admit is 60 students. Out of which, the petitioner was allotted 26 students for admission in the said course, based on the first counselling held by the respondents. Since the second counselling was not held, 34 seats became lapsed for the Ayurvedic Course. Out of the lapsed seats numbering 34, the petitioner has filled up 15 seats on or before 15.10.2019, which is the cut off date for admissions. The petitioner has sent several representations, thereafter, to the respondents, seeking recognition/regularization of the students admitted in the lapsed quota. The last such representation was given on 01.12.2021. Since the representations have not been considered, the petitioner has filed W.P.(MD).No.14069 of 2020, seeking for a positive direction from this Court to the respondents to regularize the students admitted under the lapsed quota.

6. Since in all the three petitions, the petitioner has sought for recognition/regularization of the students admitted under the lapsed quota, they are disposed by way of common order.

7. Heard Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioner, Mr.S.Ramesh, learned Standing Counsel appearing for the respondents 1 and 5 in W.P.(MD).No.14059 of 2020 and respondents 1 and 4 in W.P.(MD).Nos.14065 & 14069 of 2020, Mr.M.Lingadurai, learned Special Government Pleader, appearing for the respondents 3 and 4 in W.P.(MD).No.14059 of 2020 and respondents 2 and 3 in W.P.(MD).Nos.14065 & 14069 of 2020 and Mrs.L.Victoria Gowri, learned Assistant Solicitor General, who accepts notice on behalf of the second respondent in W.P.(MD).No.14059 of 2020, based on the directions issued by this Court.

8. The learned Senior Counsel appearing for the petitioner on instructions would now submit that even though the petitioner has sought for a positive direction, the petitioner is now satisfied, if the petitioner's representations are considered on merits and in accordance with law, in the light of the Judgment of the Honourable Supreme Court in the case of **Union of India Vs. Federation of Self-Financed Ayurvedic Colleges, Punjab and Others**, reported in **2020 SCC Online 226**. He also drew the attention of this Court to a Judgment passed by a Division Bench of this Court, dated 06.01.2021, in **W.A.**



(MD) No. 1265 & 1266 of 2020 and would submit that the identical reliefs as sought for by the petitioners in these writ petitions were granted by the Division Bench which directed the respondents to consider the representations and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of that Judgment.

9. The learned Special Government Pleader appearing for the State seeks time to file counter in the main writ petitions. But, since the students admission is at stake, this Court is of the considered view that no prejudice will be caused to the respondents, if the petitioner's representations referred to supra are considered on merits and in accordance with law. This Court is not expressing any opinion on the merits of the matter. It is for the state to take a decision as to whether the petitioner's representations seeking for recognition / regularization of students under the lapsed category can be permitted or not. Whether the Judgment of the Honourable Supreme Court relied upon by the learned Senior Counsel referred to supra will apply to the case of the petitioner or not, it is for the State to consider the same in the final orders to be passed by it, pursuant to the directions given by this Court today.

10. The learned Standing counsel appearing for the University would submit that only those who have appeared in the NEET examinations and scored qualified percentile for the admissions can alone, if at all, be admitted under the lapsed category.

11. Accordingly, this Court directs the respective second respondents in the respective writ petitions to consider the petitioner's representations seeking for regularization / recognition of students admitted by the petitioner to the Ayurvedic, Homeopathy and Siddha undergraduate courses, under the lapsed category, referred to supra and pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner including granting their authorised representative a personal hearing, within a period of twelve weeks from the date of receipt of a copy of this order.

12. With the aforesaid directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

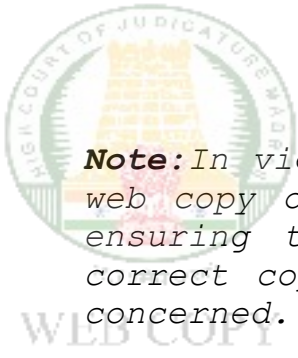
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Secretary, National Commission for Homeopathy,
Medical Assessment and Ration Board for Homeopathy,
No.61-65, Institutional Area, Opp D Block, Janakpuri,
New Delhi - 58.
 - 2.The Secretary,
Health and Family Welfare Department, Secretariat, Chennai - 9.
 - 3.The Commissioner of Indian Medicine,
The Directorate of Indian Medicine,
Aringar Anna Hospital Campus, Arumpakkam, Chennai - 106.
 - 4.The Registrar,
The Tamilnadu Dr.M.G.R.Medical University,
No.69, Annasalai, Guindy, Chennai 600 032.
- +3 CC to M/s.M.E.ILANGO, Advocate (SR-11242, SR-11241, SR-11243[F]
dated 10/03/2022)
- +1 CC to M/s.SPL GP (SR-11500[F] dated 11/03/2022)
- +1 CC to M/s.S.RAMESH, Advocate (SR-11681[F] dated 11/03/2022)

W.P. (MD) Nos.14059, 14065 & 14069 of 2020
09.03.2022

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