



W.P.No.11279 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.11279 of 2023

and

W.M.P.No.11155 of 2023

Sri Shanmugha Educational Charitable Trust,
Rep. by its Chairman K.Shanmugham,
106 D, Sankari Road, Seetharampalayam,
Thiruchengode, Namakkal District-637 209,
Established and Administering
Sri Shanmugha College of Pharmacy, Morur Post,
Sankari TK, Salem District, Tamilnadu.
...Petitioner

Vs.

1. The Registrar,
Tamil Nadu Dr.MGR Medical University,
69, Anna Salai, Guindy,
Chennai – 600 032.
2. The Pharmacy Council of India,
Represented by the Secretary-cum-Registrar,
NBCC Centre, 3rd Floor, Plot No.2,
Community Centre, Maa Anandamai Marg.
Okhla Phase I, New Delhi – 110 020.
3. The Government of Tamil Nadu,



W.P.No.11279 of 2023

WEB COPY

Represented by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders passed by the 1st respondent in Lr.No.Affln.1(5)/52451/2022, dated 20.01.2023, quash the same and direct the 1st respondent to grant consent of affiliation to the petitioner College to start additional courses, namely, M.Pharm (Pharmaceutics and Pharmaceutical Chemistry) and Pharm D., for the academic year 2023-2024 without insisting Essentiality Certificate from the Government.

For Petitioner : Mr.D.Prabhu Mukunth Arun Kumar

For Respondents : Mr.S.Wilson, for R1
: Mr.M.T.Arunan, for R2
: Mr.U.Bharanidharan, AGP, for R3

ORDER

This Writ Petition has been filed seeking quashment of the order of the 1st respondent in Lr.No.Affln.1(5)/52451/2022, dated 20.01.2023 and for a consequential direction to the 1st respondent to grant consent of affiliation to the petitioner College to start additional courses, namely, M.Pharm., (Pharmaceutics and Pharmaceutical Chemistry) and Pharm.D for the academic year 2023-2024 without insisting Essentiality Certificate from



W.P.No.11279 of 2023

the Government.

WEB COPY

2. Mr.S.Wilson, learned counsel takes notice for the 1st respondent. Mr.M.T.Arunan, learned Standing Counsel takes notice for the 2nd respondent. Mr.U.Bharanidharan, learned Additional Government Pleader takes notice for the 3rd respondent.

3. In view of consent expressed by the learned counsel on either side, this petition is taken up for final disposal at the admission stage itself.

4. When the matter is taken up for hearing, learned counsel appearing for the petitioner submitted that, the issue arises in the present Writ Petition is no longer *res integra* as this Court in W.P.No.14834 of 2020, vide order dated 10.11.2020 (***PGP Educational and Welfare Society, Represented by its Secretary Mr.K.Kandasamy Vs. The Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai***) which view has since been affirmed by the Division Bench of this Court in W.A.No.3534 of 2019 (***Annai J.K.K.Sampoorni Ammal Charitable Trust, Represented by its***



W.P.No.11279 of 2023

WEB COPY

Management Trustee Vs. The Registrar, Tamil Nadu Dr.MGR Medical University, Chennai and others), have made it clear that, the scheme framed under the Regulations by the Pharmacy Council of India does not contemplate any permission from the State Government, after approval is granted by the Pharmacy Council for increase in intake either in the B.Pharm or M.Pharm Course in an existing Institution. Hence, the order impugned in the present Writ Petition for want of essentiality certificate from the Government, is not sustainable and prayed for appropriate orders.

5. Learned counsel appearing for the respective respondents have not disputed the facts submitted by the learned counsel for the petitioner and fairly submits that the issue has already been settled by this Court.

6. Heard learned counsel on either side and perused the materials placed on record.

7. The Division Bench of this Court in the case in W.A.No.3534 of 2019 (***Annai J.K.K.Sampoorani Ammal Charitable Trust, rep.by its Management Trustee vs. the Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai***), held as follows:



WEB COPY



W.P.No.11279 of 2023

"17. The State Government lacks power to insist upon obtaining of Essentiality Certificate for the purpose of production before the first respondent/University for processing the Consent of Affiliation. Though heavy reliance has been placed upon the letter of the Principal Secretary to Government of Tamil Nadu, Department of Health and Family Welfare dated 31.08.2018 in Letter No.38630/PME2/2016~4, referred to supra, the said letter has no application to the case on hand for the reason that the said instructions came to be issued in the light of stand alone courses conducted by the first respondent/University, which do not have any affiliation with any of the Statutory Councils, namely MCI/DCI/PCI. Therefore, it is held that it is not obligatory on the part of the appellant to obtain Essentiality Certificate from the State Government and produce before the first respondent / University for processing the Consent of Affiliation.

18. In the light of the reasons assigned above, the impugned order dismissing the writ petition warrants interference.

19. In the result, this Writ Appeal is allowed and the order dated 14.10.2019 made in W.P.No.25473 of 2019 is set aside and as a consequence, the impugned letter of the first respondent / University dated 05.08.2019, signed on 07.08.2019, is quashed. No costs. Consequently, connected miscellaneous petition is closed.

The aforesaid view has been reiterated by the learned Single Judge in the case in W.P.No.14834 of 2020, dated 10.11.2020 (***PGP Educational and Welfare Society, rep.by its Secretary Mr.K.Kandasamy Vs. The Registrar,***



W.P.No.11279 of 2023

WEB COPY

Tamil Nadu Dr.M.G.R.Medical University, Chennai), holding as follows:

"22.In view of the above discussion, this Court is of the considered view that the Scheme framed under the Regulations by the Pharmacy Council of India does not contemplate any permission from the State Government after *approval is granted by the Pharmacy Council of India for increase in intake either in the B.Pharm or M. Pharm Course in an existing Institution and the University must necessarily act upon the approval and grant provisional affiliation to the Institution. This is the manner in which the Pharmacy Council of India has understood the Scheme framed under the Regulations and it is uniformly applied in all the States and therefore the Government of Tamil Nadu cannot give a different interpretation and meaning than the one that is given by the Pharmacy Council of India.*

23.In the result, the Impugned Letter issued by the 1st Respondent University dt. 25.07.2020, is hereby quashed and there shall be a direction to the 1st Respondent University to grant provisional affiliation to the Petitioner Institution for the academic year 2020~2021, by considering the representation dt. 18.05.2020."

8. In view of the aforesaid ratio laid by the Hon'ble Division Bench and the learned Single Bench of this Court, the impugned order passed by the 1st respondent in Lr.No.Affln.1(5)/52451/2022 dated 20.01.2023, is quashed and the matter is remitted back to the first respondent. The first



W.P.No.11279 of 2023

WEB COPY

respondent is directed to process the application submitted by the petitioner for grant of affiliation for starting M.Pharm., (Pharmaceutics and Pharmaceutical Chemistry) and Pharm.D Courses for the academic year 2023-2024 on merits and in accordance with law and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition is allowed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

12.04.2023

skt

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

To

1. The Registrar,
Tamil Nadu Dr.MGR Medical University,
69, Anna Salai, Guindy,
Chennai – 600 032.

7/9



W.P.No.11279 of 2023

WEB COPY

2. The Pharmacy Council of India,
Represented by the Secretary-cum-Registrar,
NBCC Centre, 3rd Floor, Plot No.2,
Community Centre, Maa Anandamai Marg.
Okhla Phase I, New Delhi – 110 020.
3. The Government of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.



WEB COPY



W.P.No.11279 of 2023

M.DHANDAPANI., J.

skt

W.P.No.11279 of 2023

and

W.M.P.No.11155 of 2023

12.04.2023