



WEB COPY



W.P. No.12593 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.12593 of 2020

Pondicherry Institute of Medical Sciences
Represented by its Chairman Mr.M.M.Phillip
Kalapet, Puducherry - 605 014

... Petitioner

Vs.

1.The Government of India
Represented by its Under Secretary
Ministry of Health and Family Welfare
Nirman Bhawan, New Delhi - 100 011

2.Board of Governors
in Super-session of
The Medical Council of India
Represented by its Secretary General
Pocket-14, Sector-8
Dwarka, Phase I, New Delhi 110 077

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records of the 2nd respondent in its orders dated 14.09.2019 in Ref. No.MCI-258(22)/2019/Med./147429 and dated 12.12.2019 in Ref. No.MCI-258(22)/2019-Med./171709, quash the same and consequently, permit the petitioner institution to admit students in the M.D. (General Medicine) course (4 seats) from the Academic Year 2021 - 2022 for which recognition has been granted by the 1st respondent vide its orders dated 24.07.2017 and 11.10.2019.



W.P. No.12593 of 2020

WEB COPY

For Petitioner : Mr.Abishek Jenasenan
For Respondents : Mr.M.Arvind Kumar,
SCPC for R1
Ms.Shubharanjani Ananth for R2

ORDER

The petitioner is a medical college and the second respondent has recognised MD (General Medicine) course at the petitioner institution for three seats. According to the petitioner, the course was recognised in 2011, but this court is now concerned with what has happened in 2019. The last of the batches was from 2016 – 2018 and in 2019, the second respondent debarred the petitioner from admitting any student for any period of three years from the academic year 2020 - 2021 vide its proceedings dated 09.09.2019 due to certain deficiency in following the prescription for the conduct of the course. Subsequently, the first respondent vide its letter dated 11.10.2019 has communicated to the petitioner that it conveys "approval of the Central Government to the recommendation of BoG-MCI for renewal of recognition" of the PG Degree/Diploma course granted by Pondicherry University to the petitioner. The petitioner, thereafter has addressed a communication dated 09.12.2019 informing the second respondent that the deficiency alleged by the second respondent is not supported by facts or is



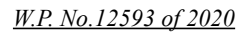
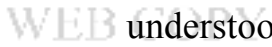
W.P. No.12593 of 2020

unfounded, but the second respondent reiterated its earlier decision vide its communication dated 12.12.2019. The proceedings of the second respondent dated 09.12.2019 and 12.12.2019 are now in challenge.

2.The learned counsel for the petitioner argued that so far as the first of the two proceedings of the second respondent dated 14.09.2019 is concerned, on the same thing, the first respondent, the Government of India had taken a contrary view and had approved the recognition given to the petitioner. Secondly, the petitioner has addressed a very detailed response dated 09.12.2019, but the second respondent has not considered any of the representations nor has caused any field visit to ascertain the correctness of what is stated in its reply dated 09.12.2019 and followed the same mechanically.

3.Mr.M.Arvind Kumar, learned standing counsel appearing for the first respondent made statement on instructions that the first respondent has not decided anything contrary to what the second respondent has decided on 14.09.2019.

4.The rival submissions are carefully weighed.



5. Turning to the first submission of the petitioner is concerned, it needs to be understood in the context of two paragraphs. First one is in the proceedings of the second respondent dated 14.09.2019 and another one that of the second respondent dated 11.10.2019, which read as follows:

Communication Dated 14.09.2019	Communication dated 11.10.2019
"The Board of Governors considered the Compliance Verification Assessment report (09.08.2019) along with the Council Assessor's Report(s) (April, 2016 29.12.2016, 11.01.2018 & 13.11.2018) and compliance dated 19.03.2019 submitted by the college authorities together with the recommendations of the PG Expert Group (BoG) and decided to recommend to the Central Government that the recognition of MD (General Medicine) qualification for 03 seats granted by Pondicherry University, Puducherry in respect of students being trained at Pondicherry Institute of Medical Sciences, Pondicherry be renewed. The BoG further decided to stop the admission from the academic year 2020-21 due to deficiency of 3 Asst. Prof. and low bed occupancy. The college stands debarred from making any	"I am directed to refer to Board of Governors - Medical Council of India's letters dated 14.09.2019 on the subject mentioned above and to convey approval of the Central Government to the recommendation of BoG-MCI for renewal of recognition/recognition against increased intake of following PG Degree/Diploma qualification granted by Pondicherry University, Puducherry in respect of students being trained at Pondicherry Institute of Medical Sciences:"



<i>Communication Dated 14.09.2019</i>	<i>Communication dated 11.10.2019</i>
<i>admission for a period of 3 years and in case it wishes to restart the course it shall make a fresh application u/s 10A of the IMC Act, 1956."</i>	

6.On a careful reading of the proceedings of the first respondent extracted above only shows that the first respondent had approved the recommendation of the proceedings of the second respondent dated 14.09.2019 which implies they are not deferred from the second respondent but only concurred with it.

7.Turning to the second leg of the argument, the last of the two proceedings of the second respondent dated 12.12.2019 does not make any reference to the reply of the petitioner dated 09.12.2019. This implies the second respondent has not applied its mind to the response of the petitioner dated 09.12.2019. To that extent, the proceedings of the second respondent dated 12.12.2019 is bad.

8.Now the three year ban period is already over either by design or by default, today a call has to be taken whether the PG courses of the petitioner institution must be approved or recognised. The second respondent is, therefore, required to take a fresh call uninfluenced by its earlier decision dated 09.12.2019 but not



W.P. No.12593 of 2020

exclusively based on the representation of the petitioner dated 09.12.2019 but its current capability to conduct the PG courses as per the norms now prescribed. The petitioner is also required to comply with all the statutory requirements, if they are so required by the second respondent.

9.The writ petition is disposed of accordingly. No costs.

20.07.2023

Asr

To

- 1.The Government of India
Represented by its Under Secretary
Ministry of Health and Family Welfare
Nirman Bhawan, New Delhi - 100 011
- 2.Board of Governors
in Super-session of
The Medical Council of India
Represented by its Secretary General
Pocket-14, Sector-8
Dwarka, Phase I, New Delhi 110 077
- 3.The Government Pleader
High Court, Madras



WEB COPY



W.P. No.12593 of 2020

N.SESHASAYEE, J.,

Asr

W.P. No.12593 of 2020

20.07.2023