



W.P.No.19235 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19235 of 2023

and W.M.P.Nos.18463, 18464 & 18465 of 2023

PSG College of Pharmacy,
Represented by its Principal,
Avainashi Road,
Peelamedu, Coimbatore 641 004

... Petitioner

Vs.

1. The Pharmacy Council of India,
Represented by its Registrar,
NBCC Centre, 3rd Floor,
Plot no.2, Community Centre,
Maa Anandamal Marg,
Okhla Phase-I, New Delhi-110 020.
2. The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.
3. The Tamil Nadu Dr.M.G.R.Medical University
Represented by its Registrar,
No.69, Anna Salai, Guindy,
Chennai-600 032.

... Respondents



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Prayer:

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling or any other Writ, order or direction in the nature of Certiorarified Mandamus calling for the records of the 3rd respondent in letter dated 24.04.2023 in reference Rc.No.Affn.(4)/19602/2020, quash the same and consequently direct the 3rd respondent to process the application dated 14.04.2023 submitted by the petitioner for issuance of letter of consent of affiliation without insisting on obtaining essentiality certificate from the 2nd respondent.

For Petitioner : M/s.Abhishek Jenasenan

For Respondents : Mr.P.Sathish,
Additional Government Pleader
for R2.

ORDER

Aggrieved by the impugned order of the 3rd respondent the petitioner is before this Court.



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2. Mr.P.Satish, learned Additional Government Pleader takes

notice on behalf of the 2nd respondent.

3. The petitioner institution is one of the reputed pharmacy educational institutions affiliated with the third respondent conducting various courses in pharmacy. Having intended to start two further courses with an intake of 15 seats in each course, the petitioner institution had applied to the 3rd respondent university for its consent to start M.Pharm in Pharmaceutical Chemistry and M.Pharm in Pharmacognosy courses, however, the third respondent returned the petitioner's application rejecting its claim on the ground that the petitioner institution did not submit the Essentiality Certificate from the Government. Challenging the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner submitted that the issue involved in this writ petition is no longer *res integra* and further submitted that already the Hon'ble Division Bench of this Court had dealt with similar issue in ***W.A.No.3534 of 2019 (Annai J.K.K.Sampoorani Ammal Charitable Trust Represented by its Management Trustee Vs. The***



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Tamil Nadu Dr.MGR Medical University) and further submitted that the said decision was followed by this Court in ***W.P.No.24404 of 2021 (Sree Abirami Charitable Trust Vs. The Registrar, Tamil Nadu Dr.MGR Medical University)***.

5. The learned Additional Government Pleader appearing for the 2nd respondent did not dispute the facts submitted by the learned counsel appearing for the petitioner and submitted that the petitioner has not produced the permission granted to the petitioner under Section 12 of the Pharmacy Act. If the same is produced, the petitioner's request will be considered without insisting for the Essentiality Certificate.

6. This Court heard the learned counsel for the petitioner and learned Additional Government Pleader appearing for the 2nd respondent.

7. The issue involved in this writ petition is no longer *res integra*. Already the Hon'ble Division Bench of this Court had dealt with similar issue in ***W.A.No.3534 of 2019 (Annai J.K.K.Sampoorani Ammal***



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Charitable Trust Represented by its Management Trustee Vs. The Tamil Nadu Dr.MGR Medical University) on 16.06.2020 and the said decision was followed by this Court in *W.P.No.24404 of 2021 (Sree Abirami Charitable Trust Vs. The Registrar, Tamil Nadu Dr.MGR Medical University)* dated 29.11.2021.

8. For better appreciation, the relevant portion of *W.P.No.24404 of 2021 (Sree Abirami Charitable Trust Vs. The Registrar, Tamil Nadu Dr.MGR Medical University)* dated 29.11.2021 is extracted hereunder:

“8. This Court has carefully considered the rival submissions and also perused the materials placed before it.

9. 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:

"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



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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."

and 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, Tamil Nadu Dr.M.G.R.Medical

University, Chennai), held 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



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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."

10. 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 Rc. No. Affln. 1(4) / 27811 / 2017, dated 03.08.2021, is quashed and the 1st respondent is directed to process the applications submitted by the petitioner dated 27.07.2021 for grant of consent of affiliation for starting M.Pharm. course (3 branches namely 1.M.Pharm.(Pharmaceutics), 2.M.Pharm.(Pharmaceutical Analysis), 3.M.Pharm.(Pharmacology) and Pharm.D., for academic year 2022-23 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. This writ petition is accordingly disposed of with the above observations. No costs. Consequently connected miscellaneous petitions are closed."

9. In view of the above, the impugned order of the 3rd respondent is set aside and accordingly this Writ Petition is allowed. The petitioner is directed to produce the permission granted under Section 12 of the Pharmacy Act before the 3rd respondent within a period of one week from the date of receipt of a copy of this order. Upon receipt of the same, the 3rd



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respondent is directed to consider the request of the petitioner and pass appropriate orders in accordance with law.

10. The writ petition is allowed in the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No



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2. The Secretary,
The State of Tamil Nadu,
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M.DHANDAPANI, J.

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