



WEB COPY



W.P.No.24916 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.24916 of 2023
and WMP.No.24339 of 2023

Freedom Fighter N.Kandasamy Educational Trust,
Rep. by its President & Managing Trustee,
K.Chidambaram,

... Petitioner

Vs.

1. The Registrar,
Tamil Nadu Dr. MGR Medical University,
69, Anna Salai, Guindy,
Chennai 600 032.
2. The Pharmacy Council of India,
Rep. 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,
Rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai 600 009.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India,
to issue a writ of certiorarified mandamus calling for the records relating to the



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impugned orders passed by the 1st respondent in Rc.No.Affln.I(4)/45439/2019, dated 21.07.2023 quash the same and direct the 1st respondent to grant consent of affiliation to the petitioner College to start additional course namely M.Pharm (Pharmaceutics and Pharmaceutical Chemistry) and Pharm.D., for the academic year 2024-25 without insisting Essentiality Certificate from the Government.

For Petitioner : Mr.D.Prabhu Mukunth Arun Kumar

For Respondents

for R1 : Mr.S.Wilson

for R2 : Mr.M.T.Arunan

for R3 : Mr.A.Anandan, G.A.

ORDER

The petitioner is running a College of Pharmacy and now it proposes to add few more courses such as M.Pharm and Pharm.D Courses. When it applied to the first respondent, the first respondent vide its communication dated 21.07.2023 required the petitioner to provide essentiality certificate through a G.O. of the Government and this is under challenge.

2.Mr.S.Wilson, learned counsel appear for first respondent, Mr.M.T.Arunan,



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learned counsel for second respondent and Mr.A.Anandan, learned Government Advocate for third respondent.

3.Learned counsel for the petitioner brought to the notice of this Court an unreported judgment of this Court in the case of ***Annai J.K.K.Sampoorani Ammal Charitable Trust vs. The Registrar, Tamil Nadu Dr.MGR Medical University and others (W.No.3534 of 2019, dated 16.06.2020)*** and submitted that the Bench has categorically held that in case of College of Pharmacy in respect of M.Pharm and Pharm.D Courses essentiality certificate is not required. Learned counsel brought to the notice of this Court para 14 to 18 of the said judgment and that reads as below:

"14. Thus, Pharmacy Act, which is a Special Act, being the occupied field of Pharmacy, there cannot be any insistence in the absence of any norms and regulations as to the submission of Essentiality Certificate.

15. The counter affidavit of the first respondent in the writ petition as well as in this writ appeal do not throw any light as to the power of the State Government to insist upon obtaining of Essentiality Certificate and it appears that the first



respondent/University merely heeded to that though it does not have any statutory backing.

16. It is also a well settled position of law that if a Statue prescribes a thing to be done in a particular manner, it can be done only in that manner and not in any other manner.

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."



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4.Learned counsel also submitted that ever since this authority governs the field, it has been regularly followed in every judgment and it is also brought to the notice of this Court, few other judgments which has followed the *Annai J.K.K.Sampoorani Ammal Charitable Trust* Case.

5.This Court wonders as to why the first respondent mechanically insisted of essentiality certificate when this Court has already taken a position not just through one judgment of the Division Bench, but multiple judgments which had subsequently followed the former. A little care on the part of the first respondent would have ensured that some of these Colleges could have been allow to run peacefully, instead of driving them to litigate.

6.An avoidable litigations should be avoided. The first respondent needs to be responsible to the legal system, and cannot afford to be a breeder of litigation. After the orders passed by this Court, it ought to have fine tuned its format for recognising certain courses, which does not require essentiality certificate.

7.This Court necessarily has to follow suit and now directs the first respondent to



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consider the application of the petitioner on its own merits and without insisting
of essentiality certificate.

8.The writ petition stands disposed of accordingly. No costs. Consequently,
connected miscellaneous petition is closed.

31.08.2023

pvs

Index : Yes / No

Neutral citation : yes/no

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