



WEB COPY



W.P.No.25867 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.25867 of 2023

Hahnemann Homoeopathie Medical Trust,
6/177-A, Mount Poonamallee Road,
Karambakkam, Porur,
Chennai-600 116
Established and Administering
Venkateswara Homoeopathic Medical College & Hospital,
Rep. by its Trustee and Principal,
Mrs.A.Sakuntala

... Petitioner

Vs.

Tamil Nadu Dr.M.G.R.Medical University,
Rep. by its Registrar,
69, Anna Salai, Guindy,
Chennai-600 032.

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent university in Rc.No.Affln VII(2)/18302/2018 dated 03.07.2023 and quash the same and direct the respondent university to grant continuance of provisional affiliation to the petitioner college for an intake capacity of 100 seats to BHMS Degree Course



W.P.No.25867 of 2023

from the academic year 2015-2016 onwards.

For Petitioner : Mr.G.Masilamani
Senior Counsel
for Mr.D.Prabhu Mukunth Arun Kumar

For Respondent : Mr.P.Elayarajkumar
for M/s.Ramalingam and Associates

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner herein runs a Homeopathy College and the issue is about increasing the number of seats from 50 to 100 annually. When it is dissected, it is all about the application of Section 12(A) of Homeopathy Central Council Act, 1973. The learned counsel for the petitioner submitted that it has been repeatedly held by this Court, including a Division Bench of this Court in W.A.No.660 of 2017, dated 17.08.2017, that Section 12(A) of Homeopathy Central Council Act will have only prospective operation. Because this is not followed by the Council and consequently the university, the petitioner and those who are similarly placed are driven to approach the Court annually for orders.



W.P.No.25867 of 2023

3.Heard Mr.G.Masilamani, the learned Senior Counsel appearing for the petitioner and Mr.P.Elayarajkumar, the learned counsel appearing for the respondent.

4.Mr.G.Masilamani, the learned Senior Counsel appearing for the petitioner took this Court through the order of a division bench of this Court in W.A.No.660 of 2017, dated 17.08.2017. In Paragraph 7.6 thereof, the Bench has recorded as below:

"7.6. As noted by us above, the Central Government itself clarified vide communication dated 27.12.2004 and 12.07.2005, that the 2002 Amendment Act would not apply where CCH had granted permission prior to the said Amendment Act coming into force, and the approvals so granted operated not only for the academic year in issue, but also qua future academic years. There is no dispute before us that such permission was granted to the Trust/VMCH by the CCH vide communication dated 03.10.2002."

5.Mr.P.Elayarajkumar, the learned counsel appearing for the respondent, however took this Court through an appeal in W.A.Sr.No.56999 of 2016,



W.P.No.25867 of 2023

intended to be preferred by the Ministry of Ayush with a delay which finds a reference in the impugned order, but the learned counsel also submitted that this respondent is not in a position to ascertain the same. He however, added to a pointed query that it appears to be against an order passed by a learned Single Judge of this Court in W.P.No.34141 of 2015, dated 27.10.2015.

6.While there is some degree of speculation involved as to the subject matter of intended or proposed challenge in W.A.Sr.No.56999 of 2016, for the present, this Court is required to abide by the order of the division bench of this Court in W.A.660 of 2017, more particularly in Paragraph 7.6 thereof.

7.This Court directs the respondent to take up the representation / application of the petitioner for continuation of affiliation since 2015 - 2016 till date. The entire exercise is required to be completed within a period of eight (8) weeks from the date of receipt of an online copy or the date on which the order is hosted in the official website, whichever is earlier.

8. This Writ Petition stands disposed of accordingly with the above direction. No



WEB COPY



W.P.No.25867 of 2023

11.09.2023

Anu

Index : Yes / No

Neutral citation : yes/no

To

Tamil Nadu Dr.M.G.R.Medical University,
Rep. by its Registrar,
69, Anna Salai, Guindy,
Chennai-600 032.

N.SESHASAYEE, J.

Anu



WEB COPY



W.P.No.25867 of 2023

W.P.No.25867 of 2023

11.09.2023