



W.P.No.27257 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.27257 of 2017
and
W.M.P.No.29107 of 2017

M/s.Sri Devi Karumariamman Educational Trust,
Rep. by its Trustee Mr.J.Kumaran,
Having Office at No.5, Chellammal Complex,
Arcot Road, Janaki Nagar,
Valasaravakkam, Chennai-87

...Petitioner

-Vs-

1. The Union of India,
Rep. by its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhavan, New Delhi-110 011.
2. The Medical Council of India,
Rep by its Secretary,
Pocket-14, Sector-8,
Dwarka, Phase-I,
New Delhi-110 077.
3. The State Government of Tamil Nadu,
Rep. by its Principal Secretary,
Ministry of Health and Family Welfar,
Secretariat, Chennai.



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4. The Tamil Nadu Dr.MGR University,
Rep. by its Vice Chancellor,
No.69, Anna Salai,
Guindy, Chennai-32.

5. The Director of Medical Education,
162, EVR Periyar Salai,
Kilpauk, Chennai-10.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 3rd Respondent in order vide Letter No.17797/ MCA2/ 2011-1 dated 11.05.2011 cancelling the essentiality certificate issued with respect to the Petitioner Trust and quash the same.

For Petitioner : Mr.N.Rama Krishnan for
M/s.Waraon & Sai Rams

For Respondents :
(for R1) : Mr.J.Madanagopal Rao, SC GSC
(for R2) : Ms.Shubharanjani Ananth for MCI
(for R3 & R5) : Mr.S.Silambanan, AAG, assisted by
Mr.T.Arun Kumar, AGP
(for R4) : Mr.S.Wilson

ORDER

The writ on hand has been instituted to quash the letter dated 11.05.2011, issued by the Principle Security to Government, Health and Family Welfare Department to the writ petitioners.



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2.The writ petitioner is M/s.Sri Devi Karumariamman Educational Trust who established a Medical College in the name and style of Annai Medical College and Hospital at Pennalur Village, Sriperambudur. The petitioner trust is running other institutions namely Engineering College and Management Institution.

3.The learned counsel for the petitioner contended that the petitioner submitted an appropriate application and the respondents issued an Essentiality Certificate in letter dated 30.09.2010, and pursuing the Essentiality Certificate, the petitioner has created infrastructure facilities and other facilities for the purpose of running the Medical College. However, without giving any opportunity to the writ petitioner, the respondent issued an impugned letter dated 11.05.2011, stating that the Essentiality Certificate issued was cancelled for the reason that the infrastructure, clinical material and teaching faculty were inadequate, there were no full fledged 300 bedded hospital with inpatients facilities and required college building as per MCI norms and there were no equipments. Citing the above reason, the Essentiality Certificate granted by the respondents in letter dated 30.09.2010 was cancelled. However,



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liberty was granted to the writ petitioner stating that if the petitioner desires to start a new Medical College in the intended place, they are free to submit an application afresh to the Government for the Essentiality Certificate after fulfilling all the norms prescribed by the Medical Council of India for starting of new Medical College.

4.Thus, the order impugned is paving way for the petitioner to comply with the MCI norms for the purpose of starting a Medical College. The impugned order is not denying the opportunity to the petitioner to start a Medical College, however, it imposes conditions that the petitioner should comply with the MCI norms. The Essentiality Certificate issued on 30.09.2010 was not acted upon on the ground that the petitioner had not complied with the MCI norms during the relevant point of time. The order impugned was issued on 11.05.2011 and the writ petition was filed in the year 2017.

5.The learned counsel for the petitioner states that the impugned order was not communicated to the writ petitioner during the relevant point of time and on receipt of the order, they have filed the writ petition.



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6.The learned counsel appearing on behalf of the National Medical Commission of India, brought to the notice of this Court that 2017 amendment effected the establishment of Medical College Regulations 1999, prescribing new form of Essentiality Certificate to be obtained from the competent authorities for the purpose of starting a Medical College. Therefore, the 2010 certificate cannot be acted upon for the purpose of starting a Medical College and necessarily the petitioner has to submit a fresh application by complying with the MCI norms for the purpose of obtaining the Essentiality Certificate.

7.May that as it be, this Court is of the consider the opinion that Essentiality Certificate issued in the year 2010 was cancelled on account of the reasons that the petitioner had not complied with the MCI norms during the relevant point of time, during the year 2010-11. The reasons for cancellation of the Essentiality Certificate, as stated in the impugned order on 11.05.2011, cannot be continenced in view of the fact that the defence noticed are vital which is to be rectified in any event, for the purpose of starting a Medical College. The defence stated, indicates that the infrastructure, clinical materials and teaching faculty were



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inadequate, no full-fledged 300 bedded hospital with inpatients facilities and required college buildings was there as per the MCI norms and there were no equipments. The above 3 defects were noted for the purpose of cancelling the Essentiality Certificate which are required to be provided for the purpose of submitting a fresh application under the amended procedures.

8.The learned counsel for the petitioner states that now the infrastructural facilities are created as per the MCI norms, therefore, an inspection is to be conducted based on the Essentiality Certificate of the year 2010. Such an argument deserves no merit consideration since the procedure underwent changes and pursuant to the 2017 amendment, new Form is introduced. That being the factum, the petitioner has to necessarily submit a fresh application for the purpose of seeking permission to start a Medical College by complying with the requisite norms, procedure etc. Thus, the petitioner is at liberty to do so in the manner known to law.

9.If at all, the petitioner submits any such application for starting a Medical College, the competent authorities shall consider the same



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without causing any undue delay, since starting new Medical Colleges are of greater benefit to the development of our great Nation.

10. With these observations, the writ petition stands **disposed of**.

No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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To

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2. The Medical Council of India,
Rep by its Secretary,
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