



W.P.(MD)Nos.4341 and 4730 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 17.03.2023

PRONOUNCED ON : 23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)Nos.4341 and 4730 of 2023

and

W.M.P.(MD)Nos.4086, 4382 and 4383 of 2023

W.P.(MD)No.4341 of 2023:-

Shri Indra Ganesan Institute of Medical Science,
Naturopathy & Yoga Medical College,
represented by its Secretary,
Trichy.

... Petitioner

vs.

- 1.The State of Tamil Nadu,
represented by its Secretary,
Health and Family Welfare Department,
Secretariat, Chennai.
- 2.The Director of Indian Medicine and Homeopathy,
Arumbakkam, Chennai-06.
- 3.The Selection Committee,
represented by its Secretary,
Directorate of Indian Medicine and Homeopathy,
Arumbakkam, Chennai-06.



W.P.(MD)Nos.4341 and 4730 of 2023

4.The Tamil Nadu Dr.M.G.R. Medical University,
represented by its Registrar,
Anna Salai, Guindy, Chennai-32.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the fourth respondent in his proceedings in Ref.No.:Ex.IV(3)/33983/2023, dated 10.02.2023 and to quash the same and to direct the respondents to approve the 25 candidates list sent by the petitioner college for BNYS degree course for the academic year 2021-2022 with all consequential benefits.

For Petitioner	:Mr.V.Panneer Selvam
For R1 to R3	:Mr.V.Om Prakash
	Government Advocate
For R4	:Mr.S.Ramesh

W.P.(MD)No.4730 of 2023:-

The Principal,
Sree Ramakrishna Medical College of
Naturopathy and Yogic Sciences,
Kanyakumari District.

... Petitioner

vs.

1.The State of Tamil Nadu,
represented by its Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai – 600 009.



W.P.(MD)Nos.4341 and 4730 of 2023

2.The Additional Chief Secretary / Commissioner
of Indian Medicine and Homeopathy,
Arumbakkam, Chennai – 600 106.

3.The Secretary,
The Selection Committee,
Indian Medicine and Homeopathy,
Commissionerate of Indian Medicine and Homeopathy,
Chennai – 600 106.

4.The Tamil Nadu Dr.M.G.R.Medical University,
P.B.No.1200, No.69, Anna Salai,
Guindy, Chennai – 600 032.
represented by its Registrar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned e-mail communication of the third respondent Selection Committee, dated 08.02.2023 and the consequential order passed by the fourth respondent University in Ref.No.ExIV(3)/33983/2023, dated 10.02.2023 and to quash the same and further to direct the third and fourth respondents to confirm the admission of the candidates (name list annexed) admitted in the petitioner-college against lapsed seats in the academic year 2021-2022 so as to enable them to continue to do the Bachelor's Degree in Naturopathy and Yogic Science (BNYS).

For Petitioner	:Mr.Isaac Mohanlal Senior Counsel for M/s.Isaac Chambers
For R1 to R3	:Mr.V.Om Prakash Government Advocate
For R4	:Mr.S.Ramesh



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W.P.(MD)Nos.4341 and 4730 of 2023

COMMON ORDER

W.P.(MD)No.4341 of 2023:-

This Writ Petition had been filed in the nature of Certiorarified Mandamus to call for the records relating to the order passed by the fourth respondent/Registrar, the Registrar, the Tamil Nadu Dr.M.G.R. University in proceedings in Ref.No.:Ex.IV(3)/33983/2023, dated 10.02.2023 and to quash the same and to direct the respondents to approve a list of 25 candidates sent by the petitioner College for admission to BNYS degree course for the academic year 2021-22.

2.In the affidavit filed by the Secretary of the petitioner College, Shri Indra Ganesan Institute of Medical Science, Naturopathy & Yoga Medical College, Manikandam, Trichy, it had been stated that the College was affiliated to the fourth respondent/the Tamil Nadu Dr.M.G.R. Medical University, and they had permission to conduct Bachelor's Degree in Naturopathy and Yogic Science (BNYS) with an annual intake of 100 seats in the academic year 2021-2022. Out of these 100 seats, 65 seats were to be filled up by the Selection Committee



W.P.(MD)Nos.4341 and 4730 of 2023

formed by the State Government, the third respondent herein and 35 seats were to be filled by the Management. During the first round of counselling, the Selection Committee had sent a list of 32 students for 65 seats available for the Government quota seats. During the second round of counselling, they sent one additional student. Those 33 students out of 65 students were alone admitted under the Government quota. The petitioner had, however, filled up the management quota of 35 seats. It was seen that a total number of 32 seats remained unfilled.

3.It had been further stated that the petitioner had filled the vacancy by admitting 32 students, but out of them, seven students discontinued and 25 students continued to study. The petitioner had sent the list of those students on 25.05.2022 to the Selection Committee/third respondent for approval. It had been stated that there was no irregularity in the act of the Management in such admission. It had been stated that however, the fourth respondent had issued the communication, which is impugned in the Writ Petition directing the petitioner College to discharge the said 25 seats, who had been admitted by the petitioner College under Government quota. Questioning that particular



W.P.(MD)Nos.4341 and 4730 of 2023

communication, the Writ Petition has been filed.

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4.The third respondent filed a counter affidavit and gave the statistics relating to the students, who have been admitted under the Government quota in self financing Colleges and had stated that every effort had been made to fill all the students under the Government quota. It had been stated that for the academic year 2021-2022, the counselling process was conducted till the cut-off date fixed by the Ministry of AYUSH, Government of India, ie., till 20.05.2022. It had been stated that there was wide paper notification, website notification and uploading of the notification and prospectus for admission to BNYS course in Health Department official website, namely, www.tnhealth.tn.gov.in. It had also been stated that 65% of the seats were reserved for Government quota and 35% of the seats were reserved for Management.

5.It had been stated that two rounds of counselling were conducted and thereafter, a walk-in-counselling was also conducted. It had been stated that admission of 25 students by the petitioner College was



W.P.(MD)Nos.4341 and 4730 of 2023

irregular and in this connection, Clause-9 of enrolment candidates relating to the fourth respondent, the Tamil Nadu Dr.M.G.R. Medical University was relied on. With respect to 25 students, it had been stated that 16 students had not even applied to the third respondent for admissions to BNYS course. It had further stated that 11 students had applied, but they were not eligible, since they had either been rejected or were absent during counselling or were allotted seats, but did not join. It had been stated that those, who were absent for counselling process, were not eligible for selection. They could have attended the walk-in-counselling. But they did not do so. It had been stated that one of the candidates was actually a Pondichery based candidate.

6.It had been stated that the seats should have been filled in communal rotation, but the third respondent was not able to verify this particular aspect. It had been stated that the last date was fixed as 14.05.2022 for admission and the petitioner could have brought the above candidates through walk-in-counselling. It had been stated that appropriate orders may be passed by this Court.



W.P.(MD)Nos.4341 and 4730 of 2023

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7.The Registrar of the fourth respondent University filed a counter affidavit stating that the petitioner had admitted the students in Government quota seats without allotment from the Selection Committee. It was also stated that the students, who had been so admitted have not approached the Court. The *locus standi* of the petitioner to file the Writ Petition had also been seriously questioned. It had also been stated that the petitioner had not disclosed whether they had complied with the procedure relating to merit, communal reservation, eligibility criteria and questioned the qualifying marks of the students. The details of various orders passed in similar Writ Petitions had also been listed. It had been stated that the petitioner should have questioned the order passed by the Directorate of Indian Medicines and Hemeopathy and that the Writ Petition should be dismissed.

8.Heard the arguments advanced by Mr.V.Panneer Selvam, learned Counsel for the petitioner, Mr.V.Om Prakash, learned Government Advocate for Respondents 1-3 and Mr.S.Ramesh, learned Standing



W.P.(MD)Nos.4341 and 4730 of 2023

Counsel for the fourth respondent.

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9.Mr.V.Panneer Selvam, learned Counsel for the petitioner stated that the petitioner college had incurred substantial expenses in ensuring proper facilities are provided to the students to pursue their course and stated that the students had been admitted only because there were no candidates available under the Government quota. The learned Counsel also pointed out that most of the students are Scheduled Caste students and therefore, stated that special care had been taken that only those who required this education had been admitted by the petitioner College. The learned Counsel also stated that the admission of the students should be regularised and students should not be put at fault. It was also pointed out that only Government fees have been charged from the said students. The learned Counsel reiterated the fact that every step had been taken by the petitioner seeking candidates to be sponsored by the third respondent. It was only after all efforts had failed, did the petitioner come forward to admit the students. The learned Counsel stated that the petitioner had acted *bona fide* and stated that the future of the students should not get affected.



W.P.(MD)Nos.4341 and 4730 of 2023

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10.Mr.V.Om Prakash, learned Government Advocate appearing for the respondents 1-3, however, contended that the petitioner had not given the list of students, who had joined and their qualification marks and the date on which, they joined the petitioner College herein. It was stated that there was no communication by the petitioner in the first instance. It was stated that most of the students, who have been admitted, had never applied for the course through the Selection Committee and therefore, it was stated that the admission of the students cannot be regularised. The learned Government Advocate also emphasized that communal rotation should be maintained and therefore, stated that the admission should not be regularised by this Court. The learned Government Advocate further stated that the petitioner knew all these guidelines and had deliberately violated the rules and regulations.

11.Mr.S.Ramesh, learned Counsel for the fourth respondent University was quiet emphatic in his submission that the fourth respondent can never regularise the admission of these students. The learned Counsel stated that admission was done in violation of the rules



W.P.(MD)Nos.4341 and 4730 of 2023

and stated that the admission must be through the third respondent. It was specifically pointed out that the fourth respondent had issued guidelines and the petitioner College was also aware of it. He also stated that the last date for admission of students had been extended and communication in this regard had been forwarded to the petitioner. The learned Counsel, therefore, stated that the admission of the students was in violation of rules and guidelines and therefore, urged that this Court should dismiss this Writ Petition.

W.P.(MD)No.4730 of 2023:-

12.This Writ Petition had been filed in the nature of Certiorarified Mandamus calling for the records relating to an e-mail communication of the third respondent/Selection Committee, Indian Medicine and Homeopathy, Chennai, dated 08.02.2023 and the consequential order passed by the fourth respondent, the Registrar, the Tamil Nadu Dr.M.G.R. Medical University, in Ref.No.ExIV(3)/33983/2023, dated 10.02.2023 and to quash both the communication and the order and to direct the third and fourth respondents to confirm the admission of five candidates admitted by the petitioner College for the academic year 2021-22 in



W.P.(MD)Nos.4341 and 4730 of 2023

Bachelor's Degree in Naturopathy and Yogic Science (BNYS).

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13.In the affidavit filed by the Principal, Sree Ramakrishna Medical College of Naturopathy and Yogic Sciences, Kanyakumari District, it had been stated that the said College was established in the year 2001 and is offering undergraduate course in Indian system of Medicine (Naturopathy), namely, Bachelor of Naturopathy and Yogic Sciences (BNYS). It is a 5½ years course. The sanctioned intake is 100 seats per annum from 2014-2015. It is a self finance College. It does not receive any grant-in-aid or financial assistance from the State. It is affiliated to the Tamil Nadu Dr.M.G.R. Medical University, and is recognised by the State of Tamil Nadu. By virtue of an agreement with the State Government, the seats were shared in 65:35 proportion, namely, 65% of students are admitted by the State Government, 35% are filled by the College from the list approved by the Admission Monitoring Committee constituted by the State Government.

14.The Government forwarded the candidates through single



W.P.(MD)Nos.4341 and 4730 of 2023

window system for the 65% of seats under Government quota. It had been stated that for the year 2021-2022, the Selection Committee, the third respondent herein, had conducted first and second round of counselling for admission of students through Government quota from 14.03.2022 till 16.03.2022 and again on 19.04.2022. A total number of 64 candidates were granted admission. Three of the candidates discontinued the course immediately. The College had intimated this fact to the third respondent/Selection Committee. On 22.04.2022, the third respondent/Selection Committee scheduled a walk-in-counselling notifying four seats were vacant in the petitioner College. In the walk-in-counselling, three candidates were sponsored by the third respondent and they joined on 25.04.2022, 27.04.2022 and 27.04.2022, respectively. Thus, a total number of 64 candidates had been admitted under Government quota on 29.04.2022 and one seat remained vacant.

15.It had been further stated that the fourth respondent/University by their proceedings, dated 13.04.2022 had notified that the last date for admission was 30.04.2022. After this communication was received, four candidates discontinued their course on 29.04.2022 and 30.04.2022.



W.P.(MD)Nos.4341 and 4730 of 2023

Thus, five seats fell vacant under the Government quota. It was stated in the affidavit that this vacancy was intimated by the petitioner to the third respondent/Selection Committee with a request to fill the same under the lapsed seat category. It is claimed that there was no response. It was further stated in the affidavit that on 30.04.2022, the last date for admission, five seats were filled by the petitioner College under lapsed seat by collecting fees as prescribed by the Government under Government quota candidates. They were given admission and they started attending classes from 30.11.2022 onwards. This admission of five candidates was intimated to the Selection Committee and to the University by letter, dated 02.05.2022 seeking confirmation of admission.

16.It is claimed that there was no response and reminder letters were sent on 04.07.2022, 12.10.2022 and again on 15.11.2022. It had been stated that in the meanwhile, the examination for the first year were scheduled to commence. The petitioner sent a further reminder on 15.02.2023. The third respondent finally responded by an e-mail communication, dated 08.02.2023 to treat the admission of the five



W.P.(MD)Nos.4341 and 4730 of 2023

students as invalid and to take necessary action. The fourth respondent/University by their proceedings, which is impugned in the Writ Petition, directed the College to discharge the said five candidates admitted in Government quota seats. Questioning these two communications, alleging that no rule or regulations were violated by the petitioner College, the Writ Petition is filed.

17.A counter affidavit was filed by the the third respondent/Secretary, Selection Committee. In the counter affidavit, it had been stated that the third respondent/Selection Committee conducted counselling for UG course in Bachelor's Degree in Naturopathy and Yogic Science (BNYS) for the academic year 2021-22 for the Government surrendered seats in self finance Medical Colleges from 14.03.2022 to 16.03.2022 and had exhausted the merit list completely. Subsequently, a walk-in- counselling was conducted on 23.04.2022 to give a second chance to those eligible candidates, who had missed the deadline for applying for admission to Bachelor's Degree in Naturopathy and Yogic Science (BNYS). It had been stated that after that process, the total number of seats allotted to the petitioner College was 60 out of 65



W.P.(MD)Nos.4341 and 4730 of 2023

available seats. It had been stated that the third respondent had taken every effort to fill up the vacancy in the petitioner College.

18.It had been further stated that the admission made by the petitioner for five candidates is against the norms of the University, particularly, Clause-9 relating to enrolment of candidates. It had also been stated that the petitioner College had not represented to the third respondent about the admission made by them. It had been stated that the third respondent is not empowered to regulate the seats filled by the petitioner under lapsed seats of the Government quota. They cannot also confirm the admission made by the petitioner.

19.The details of the five candidates had also been given in the counter affidavit. It had been pointed out that two of the candidates had not even applied to the Selection Committee for admission and therefore, their admission has to be straightaway rejected. One candidate, who had been admitted, had not attended the counselling. Two candidates had attended the walk-in-counselling, but one of them did not opt for



W.P.(MD)Nos.4341 and 4730 of 2023

admission and the other had opted for another College at Nagapattinam and did not join that particular College. It had been stated that the cut off date for admission was 14.05.2022. It had been stated that the petitioner should have brought the admitted candidates to the respondents during the walk-in-counselling. Their admission could then have been regularised.

20.It had been stated that the admissions were done after issuing wide paper notification, website notification and uploading the complete notification and prospectus for admission to BNYS course in the official website, www.tnhealth.tn.gov.in. The statistics relating to College wise admission had been given and it had been stated that third respondent had taken every effort to fill all vacancies in self finance Medical College by conducting two phases of counselling till the exhaustion of merit list and also by walk-in-counselling. It had been stated that the petitioner had filled up Government quota seats without an allotment order of the third respondent. It had been stated that in accordance with the regulation of the fourth respondent, the Tamil Nadu Dr.M.G.R. Medical University, the Government quota seats can be filled up only by the third



W.P.(MD)Nos.4341 and 4730 of 2023

respondent and therefore, it had been stated that the action of the College is highly condemnable. It had been finally stated that the Court may pass appropriate orders, as it deems fit.

21.The Registrar of the fourth respondent University, had filed a counter affidavit claiming that the petitioner College has no *locus standi* to file the Writ Petition, since it was the students, who are directly affected and they had not come forward to question the order passed to discharge them. It had been stated that the petitioner had not disclosed whether they had followed the procedure including the merit and communal reservation and had examined the eligibility criteria of the students before admitting them. They had also not stated the qualifying marks obtained by the students. The orders passed in earlier Writ Petitions had also been listed out. It had been stated that the petitioner should have challenged the communication from the Directorate of Indian Medicines and Homeopathy. It was stated that the Writ Petition should be dismissed.



W.P.(MD)Nos.4341 and 4730 of 2023

22. Heard the arguments advanced by Mr. Isaac Mohanlal, learned Senior Counsel for the petitioner, Mr. V. Om Prakash, learned Government Advocate for Respondents 1-3 and Mr. S. Ramesh, learned Standing Counsel for the fourth respondent.

23. It is the contention of Mr. Isaac Mohanlal, learned Senior Counsel for the petitioner that the petitioner had honoured the ratio of 65:35 of allocation of seats between Government quota and management quota. The onus was on the respondents to admit students under the Government quota. The learned Senior Counsel pointed out that the respondents had conducted first and second rounds of counselling between 14.03.2022, 16.03.2022 and again on 19.04.2022 and had sponsored only 64 candidates out of 65 candidates. They were all given admission by the petitioner. However, three candidates discontinued the courses. This was intimated to the third respondent. It was specifically stated by the learned Senior Counsel that the third respondent themselves had conducted a walk-in-counselling for those, who had applied through the third respondent and also for those, who had never applied for admission through the third respondent. By such counselling, three



W.P.(MD)Nos.4341 and 4730 of 2023

further candidates were sponsored. They had joined the College. Even then one seat was vacant as on 28.04.2022. The last date for admissions itself was notified as 30.04.2022.

24.The learned Senior Counsel pointed out that on 29.04.2022 and 30.04.2022, four students discontinued. This left a vacancy of 5 students under the Government quota. It is the specific contention of the learned Senior Counsel that the petitioner had addressed the third respondent seeking to fill up the same under lapsed seat category. But, there was no response. Thereafter, the petitioner had admitted five students only under Government quota and had also charged them only the Government fees and had intimated this fact on 02.05.2022 to the respondents. There was no response. Further intimations were sent on 04.07.2022, 12.10.2022 and 15.11.2022. Again, there was no response. Since the examinations were scheduled to start, a further reminder was sent on 15.02.2023 and then the Writ Petition had been filed.

25.During the course of arguments, the learned Senior Counsel had



W.P.(MD)Nos.4341 and 4730 of 2023

made a fervent plea for permission for the five seats to write their examination. The learned Senior Counsel further stated that they would not claim any equity. The learned Senior Counsel charged the respondents for having issued the impugned communication directing the petitioner to discharge the students, by stating that the respondents had not responded to the communication sent by the petitioner. The learned Senior Counsel was emphatic in his submission that the petitioner had adhered to the communal rotation and had admitted only the deserved students and that therefore, sought regularisation of such admission.

26.Mr.V.Om Prakash, learned Government Advocate appearing for the Respondents 1-3, however, seriously disputed these contentions. The learned Government Advocate pointed that communal rotation was paramount important and stated that this had been given a go by the petitioner. The learned Government Advocate also stated that the respondents had intimated the extension of date for admission of students and therefore, stated that the petitioner should have intimated the vacancy list to the third respondent, who would then sponsored candidates to be joined. It was pointed by the learned Government



W.P.(MD)Nos.4341 and 4730 of 2023

Advocate that the petitioner had admitted the students in violation of the rules. Very specifically, it was pointed out that the communal rotation had not been kept up and the communication relating to the extension of time for admission of students was also pointed out. It was also stated that the list of students were also not forwarded to the third respondent and the actual date on which, they were admitted was also not disclosed. The learned Government Advocate also stated that the students, who have so admitted in petitioner college, should be discharged.

27.Mr.S.Ramesh, learned Standing Counsel for the University stated that the University can never recognise the students, who had been directly admitted by the petitioner under Government quota. The learned Counsel pointed out that it was imperative that the petitioner should admit students only through the third respondent Selection Committee after intimating the vacancy list. The learned Counsel also pointed the various correspondences by which the last date of admission of students had been extended. The learned Counsel, therefore, stated that the admission of the students was in violation of rules and guidelines and therefore, urged that this Court should dismiss this Writ Petition.



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Discussion:

28.I have given careful consideration to the arguments advanced and had examined the available records.

29.The petitioner Colleges were entitled to admit 100 students for BNYS course. The 100 students were divided into two categories, namely, 65 students under Government quota and 35 students under management quota. It is, however, imperative that the students are admitted after they had applied through a single window system of the third respondent. The third respondent then sponsors students under Government quota to the petitioners College. After that is over, the petitioners are at liberty to admit 35 students, but, however only from those who had applied through the third respondent. When there is a vacancy in the Government quota seats, namely, if students had been sponsored by the third respondent and discontinue immediately after joining, then the burden is on the petitioners to inform this vacancy to the third respondent, who would then, in accordance with merit and



W.P.(MD)Nos.4341 and 4730 of 2023

communal roster, sponsor another candidates.

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30.The one point of dispute in the present Writ Petitions is about the last date of admission. It is contended by the petitioners that two rounds of counselling were conducted to fill up the seats under Government quota. The first round was between 14.03.2022 and 16.03.2022. The second round was on 19.04.2022. It is stated that the last date was on 30.04.2022. The Writ Petitioners claim that there were vacancies in the Government quota. They had intimated the same to the third respondent. But since there was no proper response, the petitioners had admitted students under the Government quota and had charged them only the Government fees. Regularisation of these students are now sought by the petitioners herein.

31.The admission is questioned by the respondents primarily on three grounds:

(i) that the petitioners should have admitted such students only through the third respondent, who had forwarded the names of the



students in accordance with merit and communal roaster.

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ii)that the students, who had admitted, had not even applied through the third respondent; and

iii)that the admission materially imbalanced the communal rotation.

32.It is to be further seen that since the seats under Government quota could not be filled up and even according to the counter of the third respondent, the merit list had been completely exhausted, the third respondent had resorted to what was called a walk-in-counselling session. As the term signifies any student, who had completed 12th standard, could just walk and seek admission under the Government quota through the third respondent. By this system, the third respondent themselves have done away with the primary condition that students should have applied for joining the course through the third respondent. In the walk-in-counselling, if any student had not even applied, can still be admitted under the Government quota. This completely shatters the premise of the third respondent that only who those had been applied



W.P.(MD)Nos.4341 and 4730 of 2023

through the third respondent can ever be admitted under the Government quota. The third respondent themselves had opened the doors for anybody to walk and get admission. Then, it would not matter if they had walked under the wings of the third respondent or directly to the petitioner College.

33.The next aspect is about the communal rotation. A careful perusal of the list of students admitted shows that communal rotation had not been materially imbalanced. Scheduled caste students have been given preference. It is also noted that the one Muslim community woman had been admitted in the petitioner College in W.P(MD)No.4730 of 2023. The specific contention of the petitioners is that they have the necessary infrastructures and they have charged only the Government fees from the students, who had been so admitted. They had claimed that they have done so only after the last date of admission.

34.The other aspect to be examined is about the last date for admission. If there had been an extension of the last date for admission,



W.P.(MD)Nos.4341 and 4730 of 2023

there should be a free flow of communication both ways from the third respondent to the petitioners and also from the fourth respondent to the petitioners and the petitioners to the third and fourth respondents. After all they were in the field of education and their primary intention was the welfare of the students. Letters have been produced about the communications issued and statements have been made that communications had not been properly served. When the date had been extended, there must be wide publicity for the same. Even otherwise, the very fact that on the extended date, a walk-in-counselling was conducted would show that the third respondent was also equally desperate that the seats should not be vacant.

35. My attention is drawn to a judgment of learned Single Judge of this Court in a batch of Writ Petitions, dated 13.05.2022 in W.P.No.693 of 2022 batch in the case of *Nandha Ayurveda Medical College and Hospital represented by its Chairman, Pitchandampalayam Post, Erode vs the Director of Indian Medicine and Homeopathy, Arumbakkam, Chennai and others*, wherein, the learned Single Judge had in very exactly similar circumstances, but the earlier admission in the



year 2021-22, and had held as follows:

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*“9. On the other hand, in my view, the issue raised in these writ petitions is no longer res integra. The Hon'ble Supreme Court in the decision reported in **2021 SCC Online 318 [Index Medical College, Hospital and Research Centre Vs. State of Madhya Pradesh and Others]** had held as follows:*

“26. The right to admit students which is a part of the management's right to occupation under Article 19 (1) (g) of the Constitution of India stands defeated by Rule 12 (8) (a) as it prevents them from filling up all the seats in medical courses. Upgradation and selection of subject of study is pertinent only to postgraduate medical course. In so far as undergraduate medical course is concerned, the upgradation is restricted only to a better college. Not filling up all the medical seats is not a solution to the problem. Moreover, seats being kept vacant results in huge financial loss to the management of the educational institutions apart from being a national waste of resources. Interest of the general public is not subserved by seats being kept vacant. On the other hand, seats in recognised medical colleges not being filled up is detrimental to public interest. We are constrained to observe that the policy of not permitting the managements from filling up all the seats does not have any nexus with the object sought to be achieved by Rule 12 (8) (a). The classification of seats remaining vacant due to non-joining may be based on intelligible differentia but it does not have any rational connection with the object sought to be achieved by Rule 12 (8) (a). Applying the test of proportionality, we are of the opinion that the restriction imposed by the Rule is unreasonable. Ergo, Rule 12 (8)(a) is violative of Articles 14 and 19 (1) (g) of the Constitution.”

10. Respectfully applying the aforesaid ratio, I hold that the writ petitioners-College Managements were well within their rights to fill up the vacant seats in the respective courses. All the writ petitions stand allowed and the orders impugned in the writ petitions (W.P.Nos. 693, 695, 12761, 12182, 12188, 12193 and 12585 of 2022) stand quashed. No costs. Consequently, connected miscellaneous petitions are closed.”



W.P.(MD)Nos.4341 and 4730 of 2023

36.Consistency has to be maintained and it is seen that the learned Single Judge had regularised the admission made by the petitioners therein. The ratio of the Honourable Supreme Court that the seats in reconized Medical Colleges not being filled up is detriment to the public interest would directly applied to the facts of this case also.

37.Mr.S.Ramesh, learned Standing Counsel for the fourth respondent University had relied on a judgment of the Honourable Supreme Court in ***Civil Appeal Nos.966 and 967 of 2023***, in the case of ***National Medical Commission and another vs. Annasaheb Chudaman Patil Memorial Medical College and others***, wherein, the Honourable Supreme Court had exercised their authority under Article 142 of the Constitution and had directed to deposit a sum of Rs.2.5 crores with the All India Institute of Medical Sciences, New Delhi and had not disturbed the admission of the students.

38.This Court can only apply the ratio laid down and it had been the consistent view that the future of the students should not be spoiled.



W.P.(MD)Nos.4341 and 4730 of 2023

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39.I have deliberately not chosen to state the community or caste of the students, who have been admitted, as that is a personal issue of each student. It is seen that a majority of the students belong to Scheduled Caste and it is only appropriate that they are also granted an education opportunity by the petitioners herein.

40.In view of the above reasons, I would quash the impugned notification and allow the Writ Petition and direct the students to be regularised.

41.During the course of arguments, a fervent plea had been made by the learned Counsel for the petitioner in W.P.(MD)No.4341 of 2023 and the learned Senior Counsel for the petitioner in W.P.(MD)No.4730 of 2023 that the students should be permitted to write their examination, which was held on 13.03.2023 and 14.03.2023. But the Court was not inclined to grant that permission without examining the issue in entirety. The petitioners also had come at the last moment, knocking at the doors



W.P.(MD)Nos.4341 and 4730 of 2023

of this Court, just a week before the scheduled date of the examination.

However, the Writ Petitions are allowed and the admission of the students are regularised. When the supplementary examinations are to be conducted, the respondents are directed to issue hall tickets and permit the students to write their examinations.

42.In view of the above, the Writ Petitions are allowed. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes / No
Internet :Yes
NCC : Yes/No

23.03.2023

cmr



W.P.(MD)Nos.4341 and 4730 of 2023

To
WEB COPY

- 1.The Secretary,
The State of Tamil Nadu,
Department of Health and Family Welfare,
Fort St.George, Chennai – 600 009.
- 2.The Director of Indian Medicine and Homeopathy,
Arumbakkam, Chennai-06.
- 3.The Additional Chief Secretary / Commissioner
of Indian Medicine and Homeopathy,
Arumbakkam, Chennai – 600 106.
- 4.The Secretary,
The Selection Committee,
Indian Medicine and Homeopathy,
Commissionerate of Indian Medicine and Homeopathy,
Chennai – 600 106.



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W.P.(MD)Nos.4341 and 4730 of 2023

C.V.KARTHIKEYAN, J.

cmr

Pre Delivery order made in
W.P.(MD)Nos.4341 and 4730 of 2023

23.03.2023