



WP(MD)No.21990 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.21990 of 2023

and

WMP(MD)Nos.18328, 18329, 18331 & 18332 of 2023

Maria Ayurveda Medical College & Hospital,
Rep.by the Principal,
Dr.V.S.Symala Devi, Kulathadivillai,
Moovatumugham Post, Thiruvattar,
Attoor, Kanyakumari District.

... Petitioner

v.

- 1.Under Secretary to Government of India,
Ministry of Ayush, Government of India,
Ayush Bhawan, 'B' Block,
GPO Complex, INA, New Delhi – 110 023.
- 2.The Secretary,
National Commission for Indian System
Medicine, 61-65, Institutional Area,
'D' Block, Janakpuri, New Delhi – 110 058.
- 3.The President,
Medical Assessment and Rating Board for
Indian System Medicine,
61-65, Institutional Area,
'D' Block, Janakpuri, New Delhi.
- 4.The State, rep.by its Secretary,
Ministry of Health and Family Welfare,
St.George Fort, Chennai.



WP(MD)No.21990 of 2023

5.The Tamil Nadu Dr.MGR Medical University,
Rep.by its Registrar, Annasalai,
Guindy, Chennai.

6.The Commissioner / Director,
Homeopathy, Arumbakkam,
Chennai – 600 106.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the third respondent in Ref.No.Teacher Verification/MARB/2023 dated 21.08.2023 and quash the same and consequently directing the respondents to allow the petitioner to participate with the admission process of BAMS course.

For Petitioner : Mr.B.Saravanan, Senior counsel
for Mr.S.Ramsundarvijayraj

For Respondents : Mr.K.Govindarajan,
Deputy Solicitor General of India for R1

Mr.N.Dilipkumar for R2 and R3

Mr.S.Ra.Ramachandran,
Additional Government Pleader for R4 and R6

Mr.S.Ramesh for R5



WP(MD)No.21990 of 2023

ORDER

Heard both sides.

2.The petitioner is an educational institution imparting collegiate education in Ayurveda. The petitioner obtained approval from the second respondent in the year 2015. The second respondent wanted to ensure that all the teachers shown on the rolls of the petitioner college are physically and actually serving the institution and that the phenomenon of what is colloquially called as "ghost teacher" is not there. In this regard, notice was issued on 29.05.2023. Enquiry was held on 31.05.2023. The Commission came to the conclusion that the seven named teachers were not actually working as regular teachers. Hence, vide proceedings dated 21.08.2023, monetary penalty to the tune of Rs.1 crore and 75 lakhs was imposed. Questioning the same, this present writ petition came to be filed.

3.The imposition of penalty is based on circular bearing Ref.No. 26-75/2021-Visitation dated 31.08.2021 issued by the second respondent. The said circular had been quashed by me vide order dated 04.10.2023 in WP(MD)No.23415 of 2023. Hence, the impugned order also has to be set aside as a corollary and consequence. I must make it clear that the imposition of penalty alone is set aside. The findings set out in the impugned order are not vacated by me. To satisfy my conscience, the Chairman of the



WP(MD)No.21990 of 2023

trust which is running the college was examined in person before me. The learned standing counsel for the commission questioned him. When he asked if he can produce the Google timeline of the seven named teachers for their regular travel from their house to the college during the academic year 2022-23, he frankly admitted that he is not in a position to produce the same. The CCTV footage was also not regularly maintained and he was not in a position to produce the same. As regards two of the seven named teachers, namely, Dr.Vishnu and Dr.Anish Jose, there is no proof to show that their monthly salary was remitted through bank account.

4.Since the learned Senior Counsel appearing for the petitioner submitted that they did not have sufficient opportunity during enquiry that was held on 31.05.2023, they filed typed set of papers before me containing bio-metric attendance details. Since factual aspects are involved, it is for the petitioner to file appropriate appeal before the appellate authority questioning the said finding. Liberty is given to the petitioner. If such an appeal is filed within a period of fifteen days from the date of receipt of copy of this order, the appellate authority will entertain the same without reference to limitation.

5.With these observations as regards the findings in the impugned order and granting liberty to the petitioner to file an appeal against them, this writ



WP(MD)No.21990 of 2023

petition is allowed by setting aside the penalty portion alone. No costs.

Connected miscellaneous petitions are closed.

20.10.2023

Index : Yes / No
Internet : Yes / No
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Issue order copy today

To

- 1.Under Secretary to Government of India,
Ministry of Ayush, Government of India,
Ayush Bhawan, 'B' Block,
GPO Complex, INA, New Delhi – 110 023.
- 2.The Secretary,National Commission for Indian System
Medicine, 61-65, Institutional Area,
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- 4.The Secretary, Ministry of Health and Family Welfare,
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- 5.The Tamil Nadu Dr.MGR Medical University,
Rep.by its Registrar, Annasalai, Guindy, Chennai.
- 6.The Commissioner / Director, Homeopathy, Arumbakkam,
Chennai – 600106.



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G.R.SWAMINATHAN, J.

SKM

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