



W.P(MD)No.8435 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.8435 of 2016

S.Mohamed Sultan

Petitioner

Vs

- 1.The President,
Medical Council of India,
New Delhi – 110 077.
- 2.Indira Gandhi National Open University,
Rep by its Registrar,
Room No.16,
Block 4,
Administrative Division,
Maidan Garhi,
New Delhi – 110 068.
- 3.The Registrar,
Tamil Nadu Medical Council,
New No.194/Old No.569,
Poonthamalli High Road,
Arumbakkam,
Chennai – 6.



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4.The Regional Director,
Regional Centre,
Indira Gandhi National Open University,
Chikkandar Chavadi,
Alanganallur Road,Madurai – 625 018.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to recognize the Post Graduate Diploma in Clinical Cardiology by considering the proposal submitted by the second respondent University in F.No.IG/SOHS/2012/1011 dated 23.01.2012, so as to enable the petitioner to register his Post Graduate Diploma in Clinical Cardiology qualification in the third respondent Medical Council.

For Petitioner	:Mr.K.Hemakarhikeyan
For R1	:Ms.Shubharanjni Anand Standing Counsel
For R2 & R4	:Mr.V.Panneer Selvam
For R3	:Mr.C.Karthick

ORDER

This writ petition is filed for a Mandamus directing the first respondent to recognize the Post Graduate Diploma in Clinical Cardiology course, by considering the proposal of the second



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respondent University in F.No.IG/SOHS/2012/1011, dated 23.01.2012 and to register the petitioner's Post Graduate Diploma in Clinical Cardiology in the third respondent Medical Council.

2.The learned counsel appearing for the petitioner submits that the petitioner has persuaded his MBBS course at Chongqing Medical University, China in the year 2012. He cleared the Screening Test conducted by the National Board of Examinations in the year 2012 itself and registered as Medical Practitioner in the Medical Council of India as well as in the Tamil Nadu Medical Council. Thereafter, the petitioner has persuaded Post Graduate Diploma in Clinical Cardiology through the second respondent University. He completed the course successfully in the year 2015. However, this qualification of Post Graduate Diploma in Clinical Cardiology obtained by this petitioner through the second respondent University has not been entered by the third respondent in the Register. The first respondent has not recognized the course conducted by the second respondent University. Therefore, this writ



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petition is filed for a direction to the first respondent to recognize the course of Post Graduate Diploma in Clinical Cardiology conducted by the second respondent University.

3.The learned counsel appearing for the second respondent submits that an order has already been passed by the Delhi High Court in similar writ petition in WP (C)11819 of 2016, dated 17.09.2019, directing the Central Government to submit an application afresh to the first respondent and to consider the same. He has also produced the copy of the order passed by the High Court of Delhi.

4.The learned Standing Counsel appearing for the third respondent submits that the petitioner's qualification of Post Graduate Diploma in Clinical Cardiology has not been recognized hence the course was not registered with the third respondent. He further submits that the Tamil Nadu Medical Council is a statutory body under the Tamil Nadu Medical Registration Act (Act IV of



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1914) and the medical education is governed by the Central Act viz., the Indian Medical Council Act, 1956 and the degrees granted by the recognized Medical Institutions or degrees which are recognized in Schedules I, II and III of the Indian Medical Council Act, 1956 are alone can be registered under the State Council Medical Register. The petitioner herein is having a post graduate Diploma in Clinical Cardiology granted by the Indira Gandhi National Open University, which is not recognized and registrable qualification under the Indian Medical Council Act, 1956.

5.The learned counsel appearing for the first respondent by referring Section 10(a) of the Act submits that every University is expected to seek prior permission from the Central Government for establishing any Medical College or starting any higher course of study or for increase in its annual intake capacity. However, the second respondent/Indira Gandhi National Open University has not obtained any such prior permission for conducting Post Graduate Diploma in Clinical Cardiology and therefore, it was not duly



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recognized by the Medical Council of India. The learned counsel has relied on the Judgment of the Honourable Supreme Court in the case of ***State of Kerala Vs. T.P. Roshna*** reported in ***(1979) SCC 580*** submits that the Indian Medical Council Act, 1956 has constituted the Medical Council of India as an expert body to control the minimum standards of medical education and to regulate their observance. Obviously, this high-powered Council has power to prescribe the minimum standards of medical education. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. Thus, there is an overall invigilation by the Medical Council to prevent sub-standard entrance qualifications for medical courses. He also relied on the Judgment of the Honourable Supreme Court in the case of ***Medical Council of India Vs. State of Karnataka***, reported in ***(1998) 6 SCC 131*** in support of his contentions.

6. This Court considered the rival submissions made and also perused the materials placed on record.



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7.The petitioner, who has obtained a primary degree in MBBS has also persuaded Post Graduate Diploma in Clinical Cardiology course and has requested the first respondent to recognize the Post Graduate Diploma in Clinical Cardiology qualification, which he obtained through the second respondent University by considering the proposal submitted by the second respondent in F.No.IG/SOHS/2012/1011 dated 23.01.2012, so as to enable the petitioner to register his Post Graduate Diploma in Clinical Cardiology in the third respondent Medical Council. The first respondent has not recognized the course conducted by the second respondent University. Therefore the petitioner has filed this writ petition seeking a direction to the first respondent to recognize the course conducted by the second respondent. As per Section 10(A) of the Indian Medical Council Act, 1956, the Central Government has to recognize the course. It appears that in similar such circumstances, the Honourable Delhi High Court has also issued a direction in WP(C) No.11819 of 2016. It is not known,



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whether the second respondent University has made any such request as required under Section 10(A) of the Act before the Central Government. Even if the Central Government has granted any such recognition, it cannot be implemented retrospectively and therefore this writ petition is closed as no further order is required. No costs.

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Index : Yes/No
Internet: Yes/No
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B.PUGALENDHI, J

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Order made in
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