



W.P.Nos.2962 & 2965 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.2962 & 2965 of 2019

W.M.P.Nos.3232 & 3235 of 2019 and 5940 & 5942 of 2021

G.R.T. School of Nursing,
G.R.T. Mahalakshmi Nagar,
Chennai - Tiruppathi Highway,
Tiruttani - 631 209.
Thiruvallur District,
Rep by its Principal
Dr.Jain Vanitha

... Petitioner in W.P.
No.2962 of 2019

G.R.T. College of Nursing,
G.R.T. Mahalakshmi Nagar,
Chennai - Tiruppathi Highway,
Tiruttani - 631 209.
Thiruvallur District,
Rep by its Principal
Dr.Jain Vanitha

... Petitioner in W.P.
No.2965 of 2019

-Vs-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to
Government,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai - 600 009.



W.P.Nos.2962 & 2965 of 2019

2. The Registrar,
Tamil Nadu Nurses and Midwives Council,
Jayaprakash Narayanan Maligai,
No.140, Santhome High Road,
Mylapore, Chennai - 600 004.

3. The Registrar,
Tamil Nadu Dr.M.G.R. Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

4. The Secretary,
Indian Nursing Council,
8th floor, MBCC Centre,
Plot No.2, Community Centre,
Okhla Phase-I,
New Delhi - 110 020.

...Respondents in both
W.Ps.

Prayer in W.P.No.2962 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceeding issued by the fourth respondent in File No.18-29/4113-INC 5562 dated 24.12.2018 (served on 21.01.2019) relating to Auxiliary Nurse Midwife Training Course and to quash the same.

Prayer in W.P.No.2965 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned proceeding issued by the fourth respondent in File No.18-29/4113-INC 5563 dated 24.12.2018 (served on 21.01.2019) relating to B.Sc., (Nursing) Course dated 24.12.2018 and to quash the same.



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W.P.Nos.2962 & 2965 of 2019

In both WPs.

For Petitioner : Mr.G.Sankaran, Senior Counsel
For Mr.S.Nedunchezhiyan

For Respondents

For R1 : Mr.K.Tippu Sulthan
Government Advocate

For R2 : Mr.V.Jayaprakash Narayanan

For R3 : Mr.A.Mohammed Gouse
Standing counsel

For R4 : Mr.B.Deepak Narayanan

COMMON ORDER

These writ petitions have been filed challenging the proceedings issued by the fourth respondent dated 24.12.2018, thereby granted suitability to conduct Auxiliary Nurse Midwife Training Course and B.Sc. Nursing Course, in the petitioner college with an intake capacity of 20 and 60 respectively.

2. The petitioner college has been granted with recognition by the State Nursing Council viz., Tamil Nadu Nurses and Midwife Council, Chennai, for conducting B.Sc., Nursing course for the academic year 2008-09 with an annual intake of 50 students. The recognition has been extended with continuation of recognition for the subsequent years. As per the



W.P.Nos.2962 & 2965 of 2019

government order in G.O.Ms.No.162, Health and family Welfare

Department dated 02.06.2008, the petitioner was granted permission to conduct B.Sc., Nursing course. Further, the petitioner college was granted with affiliation by Tamil Nadu Dr. M.G.R. Medical University, Chennai, by the proceedings dated 26.05.2009 to conduct B.Sc., Nursing Degree Course with an annual intake of 50 students.

3. While being so, the petitioner submitted application for increase of seats from 50 to 60 in B.Sc., Nursing course from the year 2017-18. After due inspection of requisite infrastructural and instructional facilities, the government granted permission by G.O.Ms.No.279 Health and Family Welfare Department dated 29.11.2016, thereby increasing the seats from 50 to 60 in B.Sc., Nursing course from the academic year 20178-2018. Simultaneously, the second respondent also granted recognition for the said increase. It was also granted with affiliation for increased number of seats by the third respondent. Thereafter, as per the government order in G.O.Ms.No.406 Health and Family Welfare Department dated 16.11.2017, granted permission to increase B.Sc., Nursing course seats from 60 to 100



W.P.Nos.2962 & 2965 of 2019

from the academic year 2018-19. The second and third respondents granted affiliation to that extent to increase the seats from 60 to 100 in B.Sc., Nursing course.

4. Thereafter, the petitioner college has made an application for starting Auxiliary Nurse Midwife Training Course (hereinafter referred to as “ANM course”) with an annual intake of 40 students. On the said request, the Government of Tamil Nadu had conducted inspection and based on the recommendations of the Inspection Team and as per the proposal of the Director of Public Health and Preventive Medicine, the government issued G.O.Ms.No.402 Health and Family Welfare Department dated 15.11.2017, thereby granted permission to start ANM course with an annual intake of 40 students per year. Accordingly, the second and third respondents had granted recognition to ANM course for the academic year 2018-19 with an annual intake of 40 students. The fourth respondent is the apex body for establishment of a uniformed standard of training for nurses, midwives, health visitors etc. On Inspection, the fourth respondent issued orders for suitability of the institution for the purpose of conducting nursing course



W.P.Nos.2962 & 2965 of 2019

with an intake capacity of 60 students and suitability to conduct ANM

course with an intake capacity of 20 students for the academic year 2018-

19. Aggrieved by the same, the petitioners filed the present writ petitions.

5. The learned Senior Counsel appearing for the petitioner submitted that as per the impugned orders, the fourth respondent reduced the student strength from 100 to 60 for B.Sc., Nursing course and from 40 to 20 for ANM course for the academic year 2018-19. It is contrary to the procedure established by law and further in violation of principles of natural justice. The power of the fourth respondent is limited to the establishment of standards of education which include prescribing appropriate syllabus, norms of training, prescription of appropriate of infrastructure for conducting the course etc. The respondents 1 to 3 are the authorities to grant recognition for conducting nursing course and the petitioner is having right to continue to exist as a nursing training institution so long as the recognition granted by the respondents 1 to 3 is not withdrawn.



W.P.Nos.2962 & 2965 of 2019

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5.1. He further submitted that in fact, it is open to the fourth respondent to conduct inspection under Section 13(1) & (2) of the Indian Nursing Council Act, 1947 (hereinafter referred to as “INC Act”) and it contemplates that the report of the institution to the Executive Committee of the fourth respondent with regard to suitability of the institution for the purpose of training and adequacy of training therein or on the sufficiency of the examinations conducted by such institution. Likewise Section 14 of the INC Act, authorize the National Council to withdraw the recognition of the qualifications granted or impose restrictions on such qualifications after following the procedure. Therefore, recognition of an institution imparting training in nursing and ANM course with specified intake of students does not come under the purview of the fourth respondent.

6. The fourth respondent filed counter and the learned counsel appearing for the fourth respondent submitted that the fourth respondent has power to inspect any institution recognized as a training institution by the State authorities and in terms of Section 13(2) of the INC Act, report to the



W.P.Nos.2962 & 2965 of 2019

Executive Committee of the Council on the suitability of the institution for the purpose of training and on the adequacy of the training therein or as the case may be, on the sufficiency of the examination. If the Institution is found to be unsuitable, the fourth respondent can declare with effect from a date specified in the declaration any person holding a recognized qualification whose period of training and study preparatory to the grant to him of the qualification was passed at the institution which does not satisfy the requirements of the Indian Nursing Council in terms of Section 14(1)(b) of the INC Act, shall be entitled to be registered only in the State in which the institution is situated.

6.1. After inspection, inspection report was place before the Executive Committee and granted suitability to the petitioner college to conduct course with an intake capacity of 20 seats for ANM course and 60 seats for Nursing Court for the academic year 2018-19. The said decision was taken after complete assessment of the standards, conditions and facility of the petitioner college. The said information was forwarded to the petitioner. However, the respondents 1 to 3 have to consider with regard to



W.P.Nos.2962 & 2965 of 2019

the representation on the strength of the suitability. Hence, the writ petitions are pre-mature.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. It is relevant to extract the provisions under Sections 13 & 14 of the INC Act, as follows :-

13. Inspections.—(1) The Executive Committee may appoint such number of inspectors whether from among members of the Council or otherwise as it deems necessary to inspect any institution recognised as a training institution, and to attend examinations held for the purpose of granting any recognised qualification or recognised higher qualification.

(2) Inspectors appointed under this section shall report to the Executive Committee on the suitability of the institution for the purposes of training and on the adequacy of the training therein, or as the case may be on the sufficiency of the examinations.



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W.P.Nos.2962 & 2965 of 2019

(3) The Executive Committee shall forward a copy of such report to the authority or institution concerned, and shall also forward copies, with the remarks, if any, of the authority or institution concerned thereon, to the Central Government and to the State Government and State Council of the State in which the authority of institution is situated.

14. Withdrawal of recognition.—(1) When upon report by the Executive Committee, it appears to the Council—

(a) that the courses of study and training and the examinations to be gone through in order to obtain a recognised qualification from any authority in any State, or the conditions for admission to such courses or the standards of proficiency required from the candidates at such examinations are not in conformity with the regulations made under the Act or fall short of the standards required thereby, or

(b) that an institution recognised by a State Council for the training of nurses, midwives auxiliary nurse-midwives or health visitors does not satisfy the requirements of the Council,— the Council may send to the Government of the State in which the authority or



institution, as the case may be, is situated a statement to such effect and the State Government shall forward it, along with such remarks as it may think fit to the authority or institution concerned and, in a case referred to in clause (b) to the State Council also, with an intimation of the period within which the authority or institution may submit its explanation to the State Government.

(2) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of the period, the 4 [State] Government shall make its recommendations to the Council.

(3) The Council, after such further inquiry, if any, as it may think fit to make, and in a case referred to in clause (b) of sub-section (1), after considering any remarks which the State Council may have addressed to it, may declare,— (a) in a case referred to in clause (a) of that sub-section, that the qualifications granted by the authority concerned shall be recognised qualifications only when granted before a specified date, or (b) in a case referred to in the said clause (b), that with effect from a date specified in the declaration any person holding a recognised qualification whose period of training and study preparatory to the grant to him of the qualification was



W.P.Nos.2962 & 2965 of 2019

passed at the institution concerned shall be entitled to be registered only in the State in which the institution is situated.

(4) The Council may declare that any recognised qualification granted outside the States shall be a recognised qualification only if granted before a specified date.”

9. Therefore, the fourth respondent has power to inspect any institution recognized as a training institution by the State authorities and the inspection report to be submitted before the Executive Committee by the fourth respondent with regard to suitability of the institution for the purpose of training and on the adequacy of the training. If the institution is found to be unsuitable, the fourth respondent can declare any person holding a recognized qualification whose period of training and study preparatory to the grant to him of the qualification was passed at the institution which does not satisfy the requirements of the Act.

10. Admittedly, the petitioner institution has been duly recognized and affiliated by the State authorities as well as Dr.MGR Medical University,



W.P.Nos.2962 & 2965 of 2019

Chennai. Further the petitioner institution was granted recognition and affiliation to an intake capacity of 100 students in B.Sc. Nursing Course and 40 students in ANM course. Therefore, the fourth respondent is not an authority to recognize or de-recognize any training institution imparting training as that function falls within the jurisdiction of the State Council.

11. Further Section 11 of the INC Act, declares that any recognized qualification shall be a sufficient qualification for enrollment in any State register. Sub-section (1) of Section 13 of the INC Act authorises the National Council to inspect any institution which is recognised as a training institution. Sub-section (2) of Section 13 of the INC Act, contemplates a report of the inspection to the Executive Committee of the National Council regarding the suitability of the institution for the purposes of training and adequacy of the training therein or on the sufficiency of the examinations conducted by such institutions. Section 14 of the INC Act authorises the National Council to withdraw recognition of the qualifications granted or impose restrictions on such qualifications after following procedures specified in Section 14. Section 16 of the INC Act authorises the



W.P.Nos.2962 & 2965 of 2019

Council to make regulations generally to carry out the provisions of the Act.

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12. Thus it is clear that the fourth respondent may prescribe the physical and clinical facilities that may be provided in an institution. It is only for the purpose of deciding whether the training imparted in that institution is upto the marks to enjoy the recognition for the qualification awarded pursuant to the training. Recognition or approval of the institution is essentially the function of the State Nursing Council. Hence the recognition of an institution imparting in nursing and allied courses with specified intake of student does not come under the purview of the INC Act.

13. Further, the appropriate authority for granting permission is the State Council established under the Act. The State Council, while granting or declining permission or approval for commencement of any training course in nursing or allied courses, is bound by the norms and standards prescribed by the fourth respondent. Therefore, the fourth respondent has no jurisdiction to reduce the students intake to the course which was duly recognised and approved by the State Council.



W.P.Nos.2962 & 2965 of 2019

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14. In view of the above discussions, the impugned orders passed by the fourth respondent dated 24.12.2018 cannot be sustained and liable to be quashed. Accordingly, the orders dated 24.12.2018 passed by the fourth respondent in File Nos.18-29/4113-INC 5562 & 5563, are hereby quashed and both the Writ Petitions are allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

10.04.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts

To

1. The Principal Secretary to
Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Registrar,
Tamil Nadu Nurses and Midwives Council,
Jayaprakash Narayanan Maligai,
No.140, Santhome High Road,
Mylapore, Chennai - 600 004.

Page 15 of 17



WEB COPY



W.P.Nos.2962 & 2965 of 2019



WEB COPY



W.P.Nos.2962 & 2965 of 2019

G.K.ILANTHIRAIYAN. J,

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3. The Registrar,
Tamil Nadu Dr.M.G.R. Medical University,
No.69, Anna Salai, Guindy,
Chennai - 600 032.

4. The Secretary,
Indian Nursing Council,
8th floor, MBCC Centre,
Plot No.2, Community Centre,
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