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W.P.No.12737 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12737 of 2021

W.M.P.Nos.13534 & 13535 of 2021 and 17549 of 2022

Nandha Ayurveda Medical College and
Hospital rep. by its Principal,
Pitchandampalayam Post,
Erode – 638 052.

...Petitioner

-Vs -

1. The Government of India,
Rep. by its Secretary,
Ministry of Ayurveda, Yoga and Naturopathy,
Unani, Siddha and Homeopathy,
Ayush Bhavan, B- Block,
GPO Complex,
INA, New delhi- 110 023.
2. Central Council of Indian Medicine
Rep by its Secretary,
61-65, Institutional Area,
Janakpuri D- Block,
New Delhi- 110 058.
3. The Government of Tamil Nadu
rep by its Principal Secretary,
Health and Family welfare
(IM-2) Department,
Fort St. George,
Chennai- 600 009.
4. The Tamilnadu Dr.M.G.R. Medical University



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Rep by its Registrar,
69 Anna Salai,
Guindy, Chennai- 600 032.

5. The Commissioner of Indian Medicine
and Homeopathy,
Arumbakkam, Chennai- 600 106.

6. The Selection Committee,
Rep by its Secretary,
Directorate of Indian Medicine
and Homeopathy,
Arignar Anna Government
Hospital Campus,
Arumbakkam, Chennai- 600 106.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus, to call for the records of the respondents ending with the order of the first respondent in F.No. L.14014/253/2020- EP-1 dated 31.05.2021 and quash the same and directing the Respondents to grant approval for the admission of 60 students in BAMS Course in the petitioner college for the academic session 2020-2021 who were admitted through single window counseling conducted by the Government of Tamil Nadu.

For Petitioner	: Mr.Kandhan Duraisami
For Respondents	
For R1	: Mr.A.R.Sakthivel Senior Panel Counsel.
For R2	: Mr.K.Vellayaraj For M/s.V.K.Raj Law Chambers
For R3, R5 & R6	: Mr.K.Tippu Sulthan Government Advocate
For R4	: Mr.A.Mohammed Gouse Standing Counsel



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ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 31.05.2021, thereby denying permission to the petitioner for taking admission with 60 seats in UG (BAMS) course under Section 13C/13A of the Indian Medicine Central Council Act, 1970 (hereinafter referred to as “IMCC Act”) for the academic year 2020-21.

2. The petitioner college is offering Bachelor of Ayurvedic Medicine and Surgery (hereinafter referred to as “BAMS”) course from the academic year 2019-20. It is a 5½ years course including one year internship. The approved intake for the petitioner college is 60 seats. The second respondent deputed their officers for inspection of the institution during February/March of every year. During the Covid-19 pandemic situation the regular physical verification was not done by the second respondent. Instead of physical verification, the second respondent insisted all the institution to furnish the indemnity bond and affidavit of undertaking to process the grand of approval for the academic year 2020-21 in the light of the details uploaded by the institutions. Accordingly, the petitioner institution submitted all requirements on 15.07.2020 to the



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second respondent.

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3. On receipt of the same, the first respondent issued showcause notice to the petitioner on 06.01.2021, alleging that there were only eight eligible teachers are available against the requirement of 13 eligible teachers for grant of permission. 01HF is not available in Ayurved Samhita & Siddan, Dravyagun Vigyan, Rachana Sharir, Kriya Sharir & Rog Nidan Avum Vikriti Vigyan against the requirement of 01HF for grant of permission.

4. On receipt of the said showcause notice, the petitioner submitted detailed explanation along with all supporting documents. However, the first respondent by an order dated 12.02.2021 denied the permission to the petitioner for taking admission to BAMS course for the academic year 2020-21.

5. The learned counsel appearing for the second respondent submitted that the Regulation 3(1)(f) of the Indian Medicine Central Counsel (Requirements of Minimum Standard for under-graduate Ayurveda College and attached Hospitals) Regulations requires the



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respondents to certify that the teaching faculty present in a college is not working at any other place. Further, the second respondent introduced online Teacher Management System, wherein every teacher who employed with a college has to register himself and create a profile, on creation of the profile every teacher is provided with a Unique Teacher Code. The second respondent provides password to the teachers themselves who have to mandatorily keep their profile updated, mentioning therein the current employment, location, etc., which is mandatory. Further the teachers of the petitioner institution are registered practitioners with Maharashtra, Kerala, Karnataka, Andhra Pradesh and teaching in Tamil Nadu. Therefore, the petitioner college is not fulfilling the basic minimum requirement for the grant of permission for the academic year 2020-21.

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

7. Similar issue was dealt with by the Hon'ble High Court of Delhi in the batch of Writ Petitions in *W.P(C).No. 4033 of 2021 etc.*, batch in the case of *Vivek College of Ayurvedic Science and Hospital*



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Vs. Union of India and ors, which held by an order dated 31.05.2023 as

follows :-

“40. Viewed from this perspective, I am of the view that an order of remand at this stage would be unjustified. In the event the respondents hold in favour of the petitioners on remand, the exercise would be futile as further counselling, at this stage, is impossible. Conversely, if the respondents hold against the petitioner institutions, I am of the view that it would be a travesty of justice to unseat the students who have been admitted by virtue of interim orders passed by the Court, particularly because the impugned orders declining permission to the petitioner institutions have been set aside for the reasons outlined herein above. An earlier round of denial orders led to the Status Note, wherein the respondents undertook to reconsider the matters. Thus, there have already been two rounds of consideration by the respondent authorities, both of which have ultimately been infructuous.

41. In the meanwhile, in the light of the order of the Division Bench dated 04.02.2021 in LPA 49/2021, students were admitted to some of the institutions, and interim orders were passed following the said order of the Division Bench. In the decisions of the Supreme Court noted above, the position of students in similar situations has been protected despite findings against the colleges in question



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on merits. In the present case, in contrast, the finding on merits is that the impugned orders against the petitioner colleges are unsustainable in law.

42. In such circumstances, I am of the view that the petitioners can be granted a consequential order continuing the students who have already been admitted, but not to any further relief, whether by way of remand, further counselling, or otherwise.

E. Conclusion:-

43. In the light of the above, and following the decision of this Court in Anil Kumar Singh Bhadoria, the impugned decisions of the Union of India are set aside, and the petitioners are permitted to continue with the admission of the students who were admitted pursuant to the interim orders passed by this Court.

44. In the facts and circumstances of the case, no further relief is considered appropriate.

45. The writ petitions and all the pending applications are disposed of with these directions.”

In fact, from the academic years 2021-22, 2022-23 and 2023-24, the petitioner was granted permission for intake capacity with 60 seats UG (BAMS) course for the respective academic years.

8. Considering the above and also considering the similar issue



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dealt with by the Hon'ble High Court of New Delhi, the impugned order is liable to be set aside. Accordingly, the impugned order dated 31.05.2021, passed by the first respondent in F.No. L.14014/253/2020-EP-1, is hereby quashed. The petitioner/college is permitted to continue with the admission of the students, who were admitted pursuant to the interim orders passed by this Court. The respondents are directed to grant approval for the admission of 60 students in BAMS course in the petitioner college for the academic year 2020-2021, within a period of twelve weeks from the date of receipt of a copy of this Order.

9. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

01.04.2024

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

rts



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To

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