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W.P.No.14322 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM :

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.No.14322 of 2024
and
W.M.P.No.15553 of 2024

Cheran Foundation Trust
Having its registered office at
Cheran Towers
No.78, Government Arts College Road,
Coimbatore – 641 018
Rep. By its DGM-Operations and Authorised Signatory
Mr.K.Anand

.. Petitioner

VS

- 1.The Principal Secretary to the Government
Health and Family Welfare (PME) Department,
Government of Tamilnadu
Secretariat, Chennai – 600 009.
- 2.Directorate of Medical Education and Research
Rep. By its Director, No.162, EVR Periyar Salai,
Kilpauk, Chennai – 600 010.
- 3.The Vice Chancellor,
The Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai, Guindy,
Chennai – 600 032.
- 4.The Registrar
The Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai, Guindy,
Chennai – 600 032.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying (a) to issue a writ of certiorarified mandamus to call for the records and quash the impugned order dated 19 March 2024 issued by the 4th respondent and consequently (b) direct the 4th respondent to comply with the terms of 2023 GO and take necessary steps towards issuance of Certificate of Registration and Provisional Affiliation for starting of Allied Health Science degree courses at CCAHS; and (c) pass such further or other orders as this Court may deem to be just and equitable in the facts and circumstances in favour of the petitioner.

For Petitioner : Mr.AL.Somayaji, Senior Advocate
for Ms. Arva Merchant

For Respondents : Ms.M.Sneha (R1 & R2)
Mr.G.Arumugam (R3 & R4)

ORDER

The petitioner is a Trust that was established in the year 1988 for promotion of education at the collegiate level. It has been conducting Under-Graduate and Post-Graduate courses in Paramedical Sciences since 1994 in affiliation with the Tamil Nadu Dr.MGR Medical University (in short MGR University).

2. While this is so, the Trust proposed to expend the scope of its activities from Paramedical Sciences to Allied Health Sciences by establishing the Cheran College of Allied Health Science (“CCAHS”) that



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would offer five Bachelor of Science degrees in various niche, and specific sectors of Allied Health Sciences, as follows:-

S.No	Course	Student Intake
1	B.Sc Accident & Emergency Care Technology	20
2	B.Sc Cardiac Technology	20
3	B.Sc Operation Theatre & Anaesthesia Technology	20
4	B.Sc Physician Assistant	20
5	B.Sc Radiology Imaging Technology	20

3. G.O.(Ms).No.435 (Health) dated 30.09.2019 has been issued by the Health and Family Welfare (PME-2) Department relating to permission for commencement of B.Sc. Allied Health Sciences Courses. That G.O. provides for two methodologies for issuance of approvals under clause 16 thereof reading as under:-

16. Hospital Tie-up Arrangements

*100 – 150 Beds and Beds for Medical ICU – 15 nos,
Surgical ICU – 10 nos.*

<i>i. B.Sc.,-</i>	<i>Accident & Emergency Care Technology – Bed Strength – Tie-up with 100 bedded Hospital (Emergency bed 7 nos)</i>
<i>ii. B.Sc,</i>	<i>Cardiac Technology – Bed Strength – 100 bedded hospital with Medical ICU</i>
<i>iii B.Sc.,</i>	<i>Cardio Pulmonary Perfusion Care Technology Bed Strength – 100 required</i>
<i>iv. B.Sc.,</i>	<i>Critical Care Technology – Bed Strength – Tie-up with 100 bedded hospital (Surgical ICU – 5 beds, Medical ICU –</i>



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	7) beds)
v. B.Sc.,	<i>Dialysis Technology – Bed Strength – 100 beds with 1500 dialysis should be done per annum</i>
vi. B.Sc.,	<i>Operation Theater & Anaesthesia Technology – Bed Strength - 100 (should offer training in General Surgery, O & G, Ortho, Ophthal and ENT & other Specialities)</i>
vii. B.Sc.,	<i>Physician Assistant – Bed Strength – 100 bedded Hospital (multispeciality hospital)</i>
viii. B.Sc.,	<i>Radiology Imaging Technology – Bed Strength – Tie-Up with 100 bedded hospital</i>
ix. B.Sc.,	<i>Radiotherapy Technology – Bed Strength – Tie-Up with 100 bedded hospital</i>
x B.Sc.,	<i>Medical Records Science – Requirements of beds – 100 beds</i>
xi. B.Sc.,	<i>Respiratory Therapy – Bed Strength – Out of 300 beds, atleast 50 beds for free treatment & 20 beds for ICU</i>
xii. B.Sc.,	<i>Optometry Technology – Out Patient – 100 patient per day</i>

One method is for the Institution concerned to have its own tertiary facilities and the second enables the Institution to have tie-up tertiary facilities with neighbouring hospitals.

4. The petitioner's application was filed on 19.08.2022 and is governed by the stipulations and requirements under G.O.(Ms).No.435



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dated 30.09.2019, meaning that it is entitled to the benefit of upgradation as provided for under that G.O. The proposal was accepted by the State and G.O.(Ms).No.395 dated 18.12.2023 came to be issued accepting the proposal and granting permission. The relevant portion of the enabling Government Order is extracted below:

“Health and Family Welfare (PME.1) Department

G.O.(Ms).No.395

Dated : 18.12.2023

Sobakiruthu, Margazhi -2

Thiruvalluvar Aandu

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4.The Government have examined the case, in detail, in the light of the Inspection Report and the recommendation of the Director of Medical Education and Research. The Government hereby grant permission to the Managing Trustee, Cheran Foundation Trust, Coimbatore to start following 5 (five) Allied Health Science Courses of four years duration with 20 (Twenty) seats in each course at Cheran's College of Allied Health Sciences in Survey Nos. 593/2, 158/3, 158/2, 158/4, 165/1A, 165/1B, 165/2B, 165/2A at No.521, Perur Main Road, Telungupalayam Pirivu, Coimbatore – 641039 from the academic year 2023-2024, subject to fulfillment of the general conditions laid down in G.O.(Ms).No.435, Health and Family Welfare (PME2) Department dated 30.9.2019 as applicable to this proposal before admitting the students.



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S.No	Course name	Number of seats
1	B.Sc Accident and Emergency Care Technology	20
2	B.Sc-Cardiac Technology	20
3	B.Sc-Operation Theatre & Anaesthesia Technology	20
4	B.Sc-Physician Assistant	20
5	B.Sc-Radiology Imaging Technology	20

5. The Director of Medical Education and Research is directed to take necessary further action accordingly.”

5. Approval was thereafter sought from the MGR University and an application was filed on 05.01.2024 seeking appointment of an Inspection team to inspect the College and Infrastructure and issue a Certificate of Registration and Provisional Affiliation for starting of the Allied Health Science degree courses from academic year 2023 – 2024 onwards.

6. Pending that application, in fact, just four days after that application, G.O.(Ms).No.7 dated 09.01.2024 came to be issued which changed the extant procedure, to state that (i) only Institutions or hospitals with a minimum of three years of existence could commence Allied Health Science courses under the MGR University and (ii) Institutions without in-patient facilities will be barred from starting such courses. The shift is evidently to benefit those institutions which have



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their own hospitals.

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7. Clause 4 protected the interests of those Institutions functioning currently with tie-up arrangements providing for a grace period of two years of time to comply with the new Regulations. During such period, new courses or increase in intake will not be permitted.

8. This has lead to the issuance of impugned order dated 19.03.2024 wherein MGR University has proposed to reject the petitioner's application on the ground that it is impermissible to commence Allied Health Science courses with tie-up facilities. Hence this writ petition, seeking a quash of impugned order dated 19.03.2024.

9. Heard, Mr.AL.Somayaji, learned Senior counsel appearing on behalf of Ms.Arva Merchant, learned counsel on record for the petitioner, Ms.M.Sneha, learned counsel for R1 and R2 and Mr.G.Arumugam, learned counsel for R3 and R4.

10. After a detailed discussion, particularly bearing in mind the spirit and object of clause (iii) of the G.O.(Ms).No.7 dated 09.01.2024, the State has issued a letter bearing No.6929724/PME-1/2024-3 dated 06.06.2024 to the effect that the petitioner will be treated as an existing college with the benefit of clause (iv) of that G.O.



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WEB COPY 11. The question that was posed to the State at the hearing conducted on 12.06.2024 is as to whether G.O.(Ms).No.7 dated 09.01.2024 was to have retrospective effect or whether it would only apply prospectively. The answer provided for by the State is that it cannot be treated to be retrospective unless specifically stated. Thus, the benefit granted under clause (4) of 2023 G.O., is available to the petitioner in so far as its application dated 19.08.2022 has been accepted, by way of G.O.(Ms).No.395 dated 18.12.2023.

12. All that remains is for MGR University to fix a date for conduct of inspection and issue the Certificate of Registration and Provisional Affiliation, subject to the result of the inspection. Mr.G.Arumugam, learned counsel appearing for MGR University/R3 and R4 would confirm that the date for conduct of inspection will be fixed and inspection team will be deputed shortly for this purpose.

13. In light of the above, impugned order dated 19.03.2024 is quashed. A direction is issued to MGR University to depute a inspection team and complete the inspection on or before 16.07.2024 with all attendant consequences.



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14. This writ petition is allowed in the above terms. No costs.

Connected miscellaneous petition is closed.

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Index: Yes/No

Neutral Citation: Yes

Speaking Order: Yes

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To

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Secretariat, Chennai – 600 009.
2. The Director,
Directorate of Medical Education and Research
No.162, EVR Periyar Salai,
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