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W.P.No.1070 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 14.02.2025**

CORAM

**THE HONOURABLE MRS.JUSTICE N.MALA**

**W.P.No.1070 of 2025**

Sree Bhaavani College of Pharmacy,  
Representated by its Chairman,  
J.Narayanan

...Petitioner

Vs.

1. The Registrar,

The Tamil Nadu Dr.MGR Medical University,  
69, Anna Salai, Guindy, Chennai-600 032.

2. The Government of Tamil Nadu,

Represented by its Secretary,  
Health and Family Welfare Department,  
Fort St. George, Chennai 600 009.

3. The Pharmacy Council of India,

Represented by the Secretary cum Registrar,  
NBCC Center, 3<sup>rd</sup> Floor, Plot No.2,  
Community Center, Maa Anandmani



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Marg Okhla Phase I, New Delhi-110 020

... Respondents

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**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus praying to direct the 1<sup>st</sup> respondent to process the application of the petitioner dated 15.10.2024 for starting the Pharm.D., and Phar.D.,(PB) with 30 seats and 10 respectively without insisting for the production of the NOC or Essentiality Certificate of the 2<sup>nd</sup> respondent, in line with the ratio of the order of the Hon'ble Division Bench of this Court in the case of Annai J.K.K. Sampoorani Ammal Charitable Trust Case in W.A.No.3534 of 2019 dated 16.06.2020 and pass orders within such time as may be fixed by this Court for starting the Courses from the Academic Year 2024-2025.

For Petitioner : Mr.R.Kannan

For Respondents : Mr.A.Mohamed Gouse for R1  
Mr.E.Sundram for R2  
Mr.M.T.Arunan for R3

### **ORDER**

The writ petition has been filed for writ of mandamus directing the 1<sup>st</sup> respondent to process the application of the petitioner dated 15.10.2024 for starting the Pharm.D., and Pharm.D.,(PB) with 30 seats and 10 seats respectively without insisting for the production of the NOC



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or Essentiality Certificate of the 2<sup>nd</sup> respondent, in view of the judgment of the Hon'ble Division Bench of this Court in the case of Annai J.K.K. Sampoorani Ammal Charitable Trust Case in W.A.No.3534 of 2019 dated 16.06.2020.

2.The petitioner's College was started in the year 2020 and is conducting B.Pharm Course with an intake of 60 students and increased to 100 students. While so, the petitioner's College after fulfilling the norms and standards as prescribed by the respondents, applied for the issuance of consent to affiliate for Pharm.D Course in two separate streams before the 1<sup>st</sup> respondent as it was a pre-requisite consideration of the application for affiliation before the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent refused to pass orders on the petitioner's application on the premise that the College had to obtain the Essentiality Certificate and No objection Certificate from the State Government.

3.According to the petitioner, the No Objection Certificate/Essentiality Certificate is not necessary, In view of the judgment of this Court in W.A.No.3534 of 2019 dated 16.06.2020. The petitioner therefore filed the above writ petition for the aforesaid relief.



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4.The 1<sup>st</sup> respondent filed a detailed counter stating that the said order passed in W.A.No. 3534 of 2019 dated 16.06.2020 was sub-judice before the Hon'ble Supreme Court. The 1<sup>st</sup> respondent submitted that in its letter dated 31.08.2018, the Government instructed that the permission should be obtained from the Government to start Allied Health Science and Paramedical Courses since all such Courses will have employment implications on subsequent dates and it will be inadvisable to start the course without the permission of the Government. The 1<sup>st</sup> respondent therefore submitted that the production of No Objection / Essentiality Certificate from the Government was mandatory.

5.Learned counsel for the petitioner relying on the judgement of the Hon'ble Division Bench of this Court in W.A.No.3534 of 2019 dated 16.06.2020, and submitted that the insistence / Essentiality / No Objection Certificate from the Government was redundant.

6.Heard learned counsel for the petitioner and learned counsel for the respondent and perused the materials available on record.



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7.The Hon'ble Division Bench in its judgment dated

16.06.2020 in W.A.No.3534 of 2019, held as follows:

*" 14.Thus, pharmacy Act, which is a Special Act, being the occupied field of pharmacy, there cannot be any insistence in the absence of any norms and regulations as to the submission of Essentiality Certificate.*

*17. The State Government lacks power to insist upon obtaining of Essentiality Certificate for the purpose of production before the first respondent/University for processing the Consent of Affiliation. Though heavy reliance has been placed upon the letter of the Principal Secretary to Government of Tamil Nadu, Department of Health and Family Welfare dated 31.08.2018 in Letter No.38630/PME2/2016-4, referred to supra, the said letter has no application to the case on hand for the reason that the said instructions came to be issued in the light of stand alone courses conducted by the first respondent/University, which do not have any affiliation with any of the Statutory Councils, namely MCI/DCI/PCI. Therefore, it is held that it is not obligatory on the part of the appellant to obtain Essentiality Certificate from the State Government and produce before the first respondent / University for processing the Consent of Affiliation."*



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8. Under the facts and circumstances of the case and in the light of the aforesaid judgment of the Hon'ble Division Bench of this Court. I am of the view that the writ petition deserves to be allowed. Accordingly, the impugned order is set aside with direction to the 1<sup>st</sup> respondent, to process the petitioner's application dated 15.10.2024, without insisting for the production of the Essentiality/No Objection Certificate from the State Government within a period of 12 weeks from the date of receipt of a copy of this order.

The writ petition stands allowed. There shall be no order as to costs.

**14.02.2025**

vsn

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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To

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2. The Secretary,

Health and Family Welfare Department,  
Fort St. George, Chennai 600 009.

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**N.MALA,J.**

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