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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.4319 of 2025

The Principal,
GRT Institute of Pharmaceutical Education and Research
GRT Mahalakshmi Nagar,
Chennai-Tirupathi Highway,
Tiruttani,
Thiruvallur District-631209.

...Petitioner

Vs.

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

2. The Pharmacy Council of India,
Represented by the Secretary Cum Registrar,
1-300 3rd floor, Tower-I, World Trade Centre,

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Nauroji Nagar, New Delhi-110 029.

3.The Government of Tamil Nadu,

Represented by its Secretary,

Health and Family Welfare Department

Fort St. George, Chennai-600 009.

4. The Director,

Directorate of Medical Education,

Kilpauk, Chennai-600 010.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus praying to call for the records of the first respondent in Lr.No.Affln.I(5)/43183/2023/dated 22.01.2025, quash the same and consequently direct the first respondent to issue the Letter of Consent to Affiliate the M.Pharm (Pharmaceutics) and M.Pharm (Pharmaceutical Analysis) without insisting for the NOC or Essentiality Certificate from the State Government for starting the Courses in the Academic Year 2025-2026.

For Petitioner : Mr.P.Srinivas

For Respondents : Mr.J.Selvaraja for R1

Mr.J.Arunan for R2

Mr.E.Sundaram

Government Advocate

for R3 & R4

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ORDER

The writ petition has been filed for writ of Certiorarified mandamus seeking to call for records of the 1st respondent in Lr.No.Affln.I(5)/43183/2023/dated 22.01.2025, quash the same and consequently direct the first respondent to issue the Letter of Consent to Affiliate the M.Pharm (Pharmaceutics) and M.Pharm (Pharmaceutical Analysis) without insisting for the NOC or Essentiality Certificate from the State Government for starting the Courses in the Academic Year 2025-2026.

2.The petitioner's College was established in the year 2019 and is a running institute. The petitioner's College is conducting B.Pharm Course with an intake of 100 students and D.Pharm with an intake of 60 students. The petitioner's college applied for issue of consent to affiliate for M.Pharm Course in two separate streams namely M.Pharm (Pharmacuetics) and M.Pharm (Pharmacuetical Analysis) to the 1st respondent as it was a pre-requisite for consideration of the application

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for affiliation before the 2nd respondent. The 1st 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 was 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.

4.The 1st 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 1st 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 had employment implications and it would be unadvisable to start the course without the permission of the Government. The 1st respondent therefore

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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 submitted that the insistence on 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.

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.*

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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."

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 1st respondent, to issue the letter of consent to affiliate the M.Pharm (Pharmacuitics) and

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M.Pharm (Pharmaceutical Analysis) 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

To

1.The Registrar,
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69, Anna Salai, Guindy,
Channai-600 032.

2. The Secretary Cum Registrar,
The Pharmacy Council of India
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3.The Secretary,
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