



W.P.No.5435 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 26.02.2025

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.5435 of 2025

and

WMP.No.5987 of 2025

St.Joan's Educational Trust
Established and Administering
P.S.V. College of Pharmaceutical Science and Research
Orappam, Bangalore- Chennai High Way (NH-46)
Krishnagiri District – 635 108.
Represented by its Chairman and Managing Trustee
Dr.P.Selvam

... Petitioner

Vs.

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

2. The Pharmacy Council of India,
Represented by the Secretary cum Registrar
NBCC Centre, 3rd Floor, Plot No.2,
Community Centre, Maa Anandamai Marg,
Okhla Phase I, New Delhi- 110 020.

Page No.1/16



W.P.No.5435 of 2025

3. The Government of Tamil Nadu

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

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st Respondent in Lr.No. Affln.1(1) /01334/2025 dated 27.01.2025 quash the same and direct the 1st Respondent to grant consent of affiliation to the Petitioner College to start additional courses namely M.Pharm. (Pharmaceutical analysis), M.Pharm. (Pharmacy practice) and Pharm. D. (Post Baccalaurate)., without insisting Essentiality Certificate from the Government.

For Petitioner : Mr.D.Prabhu Mukunth Arunkumar

For Respondents : Mr.G.Arumugam,
Standing Counsel for R1
Mr.M.T.Arunan
for R2
Mr.E.Sundaram,
Government Advocate for R3

ORDER

Writ petition is filed challenging the impugned order of the 1st respondent dated 27.01.2025, rejecting the petitioner's request for consent of affiliation to the



W.P.No.5435 of 2025

petitioner college to start additional courses namely M.Pharm. (Pharmaceutical analysis), M.Pharm. (Pharmacy practice) and Pharm. D. (Post Baccalaurate), on the ground of non production of Essentiality Certificate from the Government.

2. According to the petitioner, as per the scheme framed under Regulation 4.1b of the Master of Pharmacy (M.Pharm.) Course Regulation, 2014, dated 18.01.2021, and the scheme framed under Regulation 9 of the Pharm.D Regulations 2008, institutions which are approved by the Pharmacy Council of India for B.Pharm. Course under Section 12 of the Pharmacy Act, 1948, are eligible to apply to the 2nd respondent, for starting M.Pharm and Pharm.D Courses. While so, the petitioner college which was eligible to start additional courses namely M.Pharm. (Pharmaceutical analysis), M.Pharm. (Pharmacy practice) and Pharm. D. (Post Baccalaurate), applied to the 1st respondent University vide letter dated 13.01.2025, to grant certificate of registration/consent of affiliation to start the above courses from the academic year 2025-2026. The 1st respondent vide impugned order dated 27.01.2025, returned the applications for non production of Essentiality Certificate from the Government as per the guidelines issued under G.O.Ms.No.228 and 229, Health and Family Welfare Department, dated



W.P.No.5435 of 2025

04.05.2021. The petitioner aggrieved by the impugned letter has filed the above

WEB writ petition for the aforesaid relief.

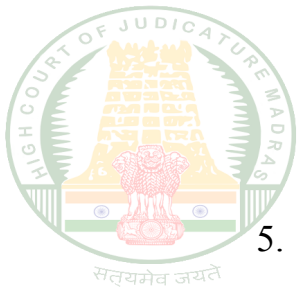
3. The 1st respondent filed counter stating *inter alia* that the petitioner did not submit the essentiality certificate of the State Government for starting M.Pharm. (Pharmaceutical analysis), M.Pharm. (Pharmacy practice) and Pharm. D. (Post Baccalaureate) as prescribed in the G.O.Ms.No.228 and 229, issued by the Health and Family Welfare (PME-2) Department, dated 04.05.2021. According to the 1st respondent, the University acted only on the basis of the above notifications issued by the 3rd respondent and also on the basis of the provisions of the Tamil Nadu Dr.MGR Medical University, Chennai Act, 1987 (Tamil Nadu Act 37 of 1987). The respondent stated that the Government issued G.O.Ms.Nos.228 and 229 of the Health and Family Welfare Department, dated 04.05.2021, laying guidelines for starting M.Pharm. and D.Pharm. courses. As per the said G.O's, prior permission of the State Government was mandatory to start / increase seats of M.Pharm and D.Pharm. courses. The respondents submitted that as the petitioner was going to start new courses in new speciality, the petitioner was bound to obtain Essentiality Certificate as per G.O.Ms.Nos.228 and 229, dated 04.05.2021. The respondent



W.P.No.5435 of 2025

therefore submitted that there were no merits in the writ petition and hence the same deserved to be dismissed.

4. The facts are undisputed. The petitioner college is imparting B.Pharm. Degree Course from 2017-2018, and on successful completion of the first batch of B.Pharm. Degree Course (2017-2018 to 2020-2021) the 2nd respondent Pharmacy Council of India granted approval under Section 12 of the Pharmacy Act, 1948, for the purpose of registration as Pharmacist vide order dated 20.07.2021. The petitioner therefore as an eligible institution applied to the 2nd respondent, Pharmacy Council of India for starting additional courses namely M.Pharm. (Pharmaceutical analysis), M.Pharm. (Pharmacy practice) and Pharm. D. (Post Baccalaurate), on 13.01.2025 for the grant of certificate for registration/ consent of affiliation to start the above courses for the academic year 2025-2026. The 1st respondent University vide impugned order dated 27.01.2025, returned the applications for non production of the Essentiality Certificate by the Government as per guidelines issued in G.O.Ms.Nos.228 and 229, issued by the Health and Family Welfare Department, dated 04.05.2021, the said rejection order is now challenged before this court.



W.P.No.5435 of 2025

5. The learned counsel for the petitioner referring to the scheme framed under Regulation 4.1b of the Master of Pharmacy Course Regulation, 2014 dated 25/26.06.2022 and the scheme framed under Regulation 9 of the Pharm.D Regulations, 2008, of the Pharmacy Council of India, submitted that the mandatory documents required by Pharmacy Council of India under the above Regulations, was a consent of affiliation of Examining Authority for M.Pharm. Course (for each specialization) and for Pharm.D. course, the requisite mandatory documents to be submitted were consent of affiliation of examining authority (1st respondent University) and a MOU with 300 bedded hospital.

6. The learned counsel for the petitioner submitted that the petitioner college was approved by the Pharmacy Council of India, under Section 12 of the Pharmacy Act, 1948, for the purpose of registration as Pharmacist and therefore eligible to apply for starting M.Pharm. course for M.Pharm. (Pharmaceutical analysis), M.Pharm. (Pharmacy practice) and Pharm.D course for Pharm. D. (Post Baccalaurate). The learned counsel further submitted that the issue in the writ petition is no longer res integra and settled by a catena of Judgments of this court and the Hon'ble Supreme Court judgment in *Pharmacy Council of India vs*



W.P.No.5435 of 2025

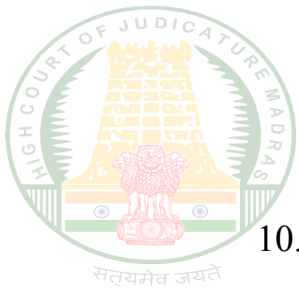
Dr.S.K.Toshniwal Educational Trust, Vidarbha Institute of Pharmacy and others.

WEB COPY The learned counsel therefore submitted that the impugned order was unsustainable and same deserved to be set aside.

7. The learned counsel for the first respondent on the other hand reiterated the submissions made in the counter affidavit and submitted that, as per G.O.Ms.Nos.228 and 229, issued by the Health and Family Welfare Department, dated 04.05.2021, the production of Essentiality Certificate was mandatory and therefore the petitioners request was rightly rejected on the said ground.

8. I have heard both the learned counsels and perused the materials available on record.

9. The core issue to be decided in this writ petition is whether the insistence on the Essentiality Certificate from the Government as per the G.O.Ms.Nos.228 and 229, issued by the Health and Family Welfare Department, dated 04.05.2021, is justified or not.



WEB COPY 2008, reads as follows:

10. The scheme framed under Regulation 9 of the Pharm.D Regulations,

“2. Qualifying Criteria:

c) Pharm.D. (Post Baccalaureate) course will be permitted only in those institutions which are permitted to run Pharm.D. Course.

3. Pre-requisite mandatory documents to be submitted:

a) The institution shall submit the following documents for starting of new pharmacy institution / introduction of new Pharm.D course by existing institution -

For Private institutions / Government institutions

For Pharm.D course

i) Consent of affiliation of Examining Authority.

*ii) MOU with 300 bedded hospital as per prescribed requirements under regulation 2) of Appendix-B of Pharm.D Regulations, 2008 except in North Eastern States and hilly regions of India where hospital with 300 beds strength are not available, the institutions desiring to seek approval of Pharm.D course are permitted to sign a Memorandum of Understanding with district headquarter hospital with available bed strength. The prescribed format of MOU is enclosed as **Annexure-IV.**”*

Similarly for the Master of Pharmacy (M.Pharm.), the Scheme framed under



regulation 4.1b) of the Master of Pharmacy (M.Pharm.) Course Regulations, 2014

WEB reads as follows:

“2. Qualifying Criteria:

c) M.Pharm course shall be permitted only in those institutions which are approved by the Pharmacy Council of India for B.Pharm course under section 12 of the Pharmacy Act, 1948 for the purpose of registration as a pharmacist. The B.Pharm institutions approved for conduct of B.Pharm course are not eligible to start M.Pharm course. However, the institutions established by the Central Government/State Govt. for the purpose of imparting postgraduate education shall be eligible for starting M.Pharm course directly.

3. Pre-requisite mandatory documents to be submitted:

a) The institution shall submit the following documents for starting of new pharmacy institution/ introduction of new M.Pharm course by existing institution -

For Private institutions / Government institutions

For M.Pharm course (for each specialization)

- *Consent of affiliation of Examining Authority”*

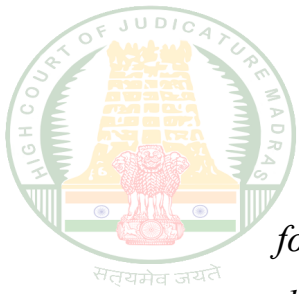
Therefore, it is very clear that the only requirement for approval of the new courses is the consent of affiliation of Examining Authority for M.Pharm. courses and consent of affiliation of the examining authority along with MOU of 300 bedded



W.P.No.5435 of 2025

Hospital for Pharm.D. It is undisputed that the petitioner college has been approved by the Pharmacy Council of India for B.Pharm. courses under Section 12 of the Pharmacy Act, 1948, for the purpose of registration as Pharmacist. Therefore, as per the Pharmacy Council of India Regulations, the petitioner college is fully eligible for starting the said new courses. The 1st respondent returned the petitioners request for consent of affiliation, on the ground that the petitioner did not produce the Essentiality Certificate from the Government as per G.O.Ms.Nos. 228 and 229, issued by the Health and Family Welfare Department, dated 04.05.2021. When the Pharmacy Council of India Regulations do not insist on Essentiality Certificate, the insistence on the same by the 1st respondent University on the basis of the aforesaid G.O's cannot be countenanced. The Hon'ble Supreme Court in the case of *Pharmacy Council of India vs Dr.S.K.Toshniwal Educational Trust, Vidarbha Institute of Pharmacy and others*, reported in 2020 SCC OnLine SC 296, held as follows:

“87. In view of the above and for the reasons stated above, it is held that in the field of Pharmacy Education and more particularly so far as the recognition of degrees and diplomas of Pharmacy Education is concerned, the Pharmacy Act, 1948 shall prevail. The norms and regulations set by the PCI and other specified authorities under the Pharmacy Act would have to be



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followed by the concerned institutions imparting education for degrees and diplomas in Pharmacy, including the norms and regulations with respect to increase and/or decrease in intake capacity of the students and the decisions of the PCI shall only be followed by the institutions imparting degrees and diplomas in Pharmacy. The questions are answered accordingly.”

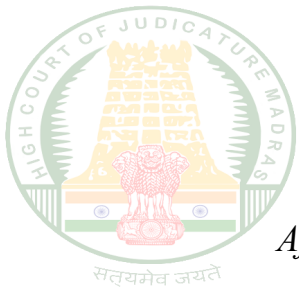
A Division Bench of this Court following the aforesaid Judgment of the Hon'ble Supreme Court in W.A.No.3534 of 2019, dated 16.06.2020, held as follows:

“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.

15. The counter affidavit of the first respondent in the writ petition as well as in this writ appeal do not throw any light as to the power of the State Government to insist upon obtaining of Essentiality Certificate and it appears that the first respondent/University merely heeded to that though it does not have any statutory backing.

16. It is also a well settled position of law that if a Statute prescribes a thing to be done in a particular manner, it can be done only in that manner and not in any other manner.

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



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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.”

11. It is pertinent to note here that the above said order was challenged before the Hon'ble Supreme Court in Special Leave to Appeal No(s). 16085/2020, and the same was dismissed vide order dated 12.01.2021.

12. The aforesaid judgments squarely apply to the facts of the case and hence in view of the categorical statement of law laid down by the Hon'ble Supreme Court and also Division Bench of this court, I am of the view that the impugned order has no legs to stand.



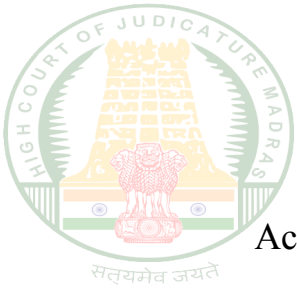
W.P.No.5435 of 2025

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13. The contentions of the 1st respondent University that Essentiality Certificate was insisted on the basis of the G.O.Ms.Nos.228 and 229, dated 04.05.2021, does not deserve merit, I am of the view that the G.O's cannot override the statutory regulations of the Pharmacy Council of India. The said G.O's. have to pave way to the Regulations of Pharmacy Council of India, which governs the field.

14. In view of the above discussions, **the impugned order dated 27.01.2025, issued by the 1st Respondent is set aside and the writ petition is allowed.**

15. The 1st respondent is directed to grant consent of affiliation to the Petitioner College to start additional courses namely M.Pharm. (Pharmaceutical analysis), M.Pharm. (Pharmacy practice) and Pharm. D. (Post Baccalaurate), without insisting on Essentiality Certificate from the Government, within a period of six (6) weeks from the date of receipt of a copy of this order.



W.P.No.5435 of 2025

Accordingly, writ petition is allowed. No costs. Consequentially, connected

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26.02.2025

Index: Yes/No

Neutral Citation: Yes/No

Speaking Order/Non-Speaking Order

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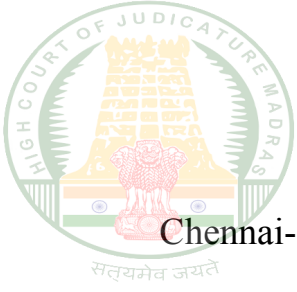
To

1. The Registrar,

Tamil Nadu Dr.MGR Medical University

69, Anna Salai, Guindy,

Page No.14/16



W.P.No.5435 of 2025

Chennai- 600 032.

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2. The Secretary cum Registrar,
The Pharmacy Council of India,
NBCC Centre, 3rd Floor, Plot No.2,
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3. The Secretary,
Health and Family Welfare Department
Fort St.George, Chennai- 600 009.

N.MALA, J.

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Page No.15/16



WEB COPY



W.P.No.5435 of 2025

W.P.No.5435 of 2025

26.02.2025

Page No.16/16