

WP NO. 12048 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03-04-2025**

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP NO. 12048 of 2025

and

WMP.No. 13621 of 2025

SNS Charitable Trust

Rep By Its Secretary/Trustee, S.Nalin Vimal Kumar,
Established And Administering
SNS College Of Pharmacy And Health Sciences,
Sathy Road, SNS Kalvi Nagar,
Saravanampatti Post,
Coimbatore-641 035

..Petitioner

Vs

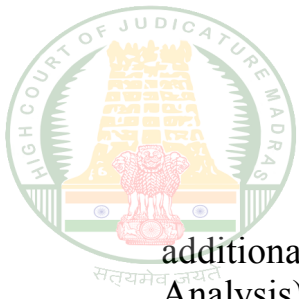
1. Tamilnadu Dr.MGR Medical University,
69, Anna Salai, Guindy,
Chennai-600 032

2. The Pharmacy Council Of India
Rep By The Secretary Cum Registrar,
NBCC Centre, 3rd Floor, Plot No.2,
Community Centre, Maa Anandamai Marg,
Okhla Phase I, New Delhi-110 020

3. The Government Of Tamilnadu
Rep By Its Secretary,
Health And Family Welfare Department,
Fort St.George, Chennai-600 009

..Respondents

Prayer : Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of writ of certiorari mandamus, calling for the records relating to the impugned orders passed by the 1st respondent vide R.No.Affln.I(4)/27341/2019 dated 14.3.2025 quash the same and direct the 1st respondent to grant consent of affiliation to the petitioner college to start



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additional course namely M.Pharm(Pharmaceutics) M.Pharm (Pharamaceutical Analysis)M.Pharam(Pharmacology) M. Pharam(Pharmacy Practice) and M.Pharm(Regulatory affairs) and Pharm.D course for the academic year 2025-26 without insisting Essentiality certificate from the Government.

For Petitioner: Mr. D.Prabhu Mukunth Arunkumar

For Respondents: Mr.A.Mohamed Gouse- R1

Mr.M.T.Arunan, Standing Counsel - R2

Mr.E.Sundaram, GA

ORDER

Writ Petition is filed challenging the impugned order dated 14.03.2025 passed by the 1st respondent rejecting the request to grant consent of affiliation to the petitioner college to start additional course namely, M.Pharm (Pharmaceutics), M.Pharm (Pharamaceutical Analysis) M.Pharam (Pharmacology) M. Pharam (Pharmacy Practice) and M.Pharm (Regulatory affairs) and Pharm.D course, for the academic year 2025-26 without insisting Essentiality certificate from the Government.

2. The petitioner-Trust applied to the Government of Tamil Nadu to start a four-year Bachelor of Pharmacy Degree Course (B.Pharm) at Sathy Road, SNS Kalvi Nagar, Saravanampatti Post, Coimbatore, under the name and style of SNS College of Pharmacy and Health Sciences, from the academic year 2019–20, with an intake of 100 seats. The Pharmacy Council of India/2nd respondent granted approval to the petitioner-Trust to start the B.Pharm course



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vide order dated 10.06.2019. Subsequently, the Government granted permission to start the four-year B.Pharm Degree Course from the academic year 2019–20 with an annual intake of 100 seats, vide G.O.Ms.No.312 dated 12.07.2019. Pursuant to the said Government order, the 1st respondent-University granted provisional affiliation to the petitioner-Trust vide order dated 12.09.2019. The petitioner-Trust had successfully completed one batch of the B.Pharm Degree Course from 2019–2020 to 2022–2023. The 2nd respondent/Pharmacy Council of India approved the said course under Section 12 of the Pharmacy Act, 1948, for the purpose of registration as a Pharmacist, vide order dated 30.05.2023.

3. The petitioner further stated that, as per the scheme framed under Regulation 4.1(b) of the Master of Pharmacy (M.Pharm) Course Regulations, 2014, dated 18.01.2021, and the scheme framed under Regulation 9 of the Pharm.D Regulations, 2008, institutions approved by the Pharmacy Council of India for the B.Pharm course under Section 12 of the Pharmacy Act, 1948, for the purpose of registration as a Pharmacist, were eligible to apply to the 2nd respondent/Pharmacy Council of India for starting M.Pharm and Pharm.D courses.



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4. The petitioner- trust, vide letter dated 24.02.2025, requested the 1st respondent/University to issue consent of affiliation/certificate of registration for M.Pharm (Pharmaceutics), M.Pharm (Pharmaceutical Analysis), M.Pharm (Pharmacology), M.Pharm (Pharmacy Practice), M.Pharm (Regulatory Affairs), and Pharm.D course for the academic year 2025–26. The 1st respondent, without considering the above statutory provisions for affiliation, simply rejected the request vide impugned order dated 14.03.2025, on the ground that the application was not accompanied by the Essentiality Certificate as mandated by G.O.(Ms) Nos. 228 & 2298, dated 04.05.2021, issued by the Health and Family Welfare (PME-2) Department, Secretariat, Chennai.

5. According to the petitioner, the 1st respondent-University, is an independent statutory body, and in the absence of any regulation, insistence on the essentiality certificate from the Government was unreasonable. The petitioner therefore prayed that the impugned rejection order passed by the 1st respondent be set aside.

6. Heard both sides and perused the materials available on record.



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7. 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.

8. The scheme framed under Regulation 9 of the Pharm.D Regulations, 2008, reads as follows:

“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



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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 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”*

9. 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



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of 300 bedded Hospital for Pharm.D courses. 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 mandate the Essentiality Certificate, the insistence on the same by the 1st respondent University on the basis of the aforesaid G.O's cannot be countenanced.

10. 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



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specified authorities under the Pharmacy Act would have to be 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.”

11. 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



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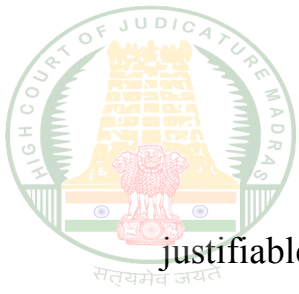


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before the first respondent/University for processing the Consent of Affiliation. Though heavy reliance has been placed upon the letter of the Principal Secretary to Government of Tamil Nadu, Department of Health and Family Welfare dated 31.08.2018 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.”

12. 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.

13. In the present case, the petitioner institution satisfies all the requirements mandated by the Pharmacy Council of India/2nd respondent. Therefore, rejection of consent of affiliation by the 1st respondent solely on the ground of non-submission of the Essentiality Certificate under G.O.(Ms).Nos. 228 and 229 dated 04.05.2021, is legally untenable. In my view, the above judgments squarely apply to the facts of the present case, and in the absence of



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justifiable grounds, I find no reason to deviate from the said decisions. Even, I had an occasion to deal with a similar case in W.P.No.5435 of 2025 dated 26.02.2025 (St.Joan's Educational Trust Vs. The Registrar, Tamil Nadu Dr.MGR Medical University, Chennai & 2 others). After elaborate consideration of the aforesaid decision of the Hon'ble Supreme Court and the decisions of the Hon'ble Division Bench of this Court, I held that Essentiality Certificate could not be insisted upon by the university, on the basis of G.O.Ms.No.228 and 229, dated 04.05.2021.

14. Accordingly, the impugned order passed by the 1st respondent in R.No. Affln.I(4)/27341/2019, dated 14.03.2025, is hereby quashed. The 1st respondent-University is directed to reconsider the petitioner's request and grant consent of affiliation to the petitioner college to start additional course namely M.Pharm (Pharmaceutics) M.Pharm (Pharmaceutical Analysis) M.Pharm (Pharmacology) M. Pharm(Pharmacy Practice) and M.Pharm(Regulatory affairs) and Pharm, D course for the academic year 2025-26, without insisting on the Essentiality certificate, within period of six (6) weeks from the date of receipt of a copy of this order.



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15. In the result, the writ petition is allowed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/No

Speaking Order/Non Speaking Order

Neutral citation: yes

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To

1. Tamilnadu Dr.MGR Medical University,
69, Anna Salai, Guindy,
Chennai-600 032

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

3. The Secretary,
Government Of Tamilnadu
Health And Family Welfare Department,
Fort St.George, Chennai-600 009



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N. MALA, J

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