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W.P.No.27339 of 2022 etc.,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.27339, 27340, 27345, 27383, 27385
& 27395 of 2022 and 27081 of 2025

W.M.P.Nos.26528, 26529, 26530, 26532, 26538, 26540, 26582, 26584,
26585, 26588, 26590, 26601 & 26603 of 2022 and 30376, 30377 of 2025

W.P.No.27339 of 2022 :-

Maria Siddha Medical College & Hospital,
Rep. by its Principal,
Dr. S.Soundararajan,
Moovatrumugam (P.O)
Kanyakumari Distrcit - 629177

...Petitioner

-Vs-

1. The Secretary,
Union of India,
Ministry of Ayush,
Ayush Bhavan,
'B' Block, GPO Complex,
INA New Delhi – 110 023.

2. The Principal Secretary to the
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariate, Chennai – 600 009.

3. The Director,
Directorate of Indian Medicine and
Homeopathy,
Arumbakkam, Chennai.



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4. The Registrar,
The Tamil Nadu Dr.M.G.R. Medical University,
No.69, Annasalai,
Guindy, Chennai – 600 032.

5. The Secretary,
Section Committee,
Indian System of Medicine and Homeopathy,
Anna Hospital Campus,
Arumbakkam,
Chennai – 600 106.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Ceriorarified Mandamus, calling for the records pertaining to the order of the 2nd respondent in letter No.46158/IM1-2/2021-5 dated 12.05.2025 and quash the same and consequently direct the respondents to regularize the admission of 6 students who have been admitted in the 1st year BSMS Course in their college in lapsed seat for the academic year 2020-2021.

For Petitioner
in all W.Ps. : Mr.L.Chandrakumar
For Mr.C.K.M.Appaji

For Respondents in W.P.Nos.27339, 27340, 27345,
27385, 27395 of 2022

For R1 : Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India
For R2, R3, R5 : Mr.K.Tippu Sulthan
Government Advocate
For R4 : Mr.A.Mohammed Gouse
Standing Counsel



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For Respondents in W.P.No.27383 of 2022

For R1 & R2 : Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India

For R3, R4, R6 : Mr.K.Tippu Sulthan
Government Advocate

For R5 : Mr.A.Mohammed Gouse
Standing Counsel

For Respondent in
W.P.No.27081 of 2025 : Mr.A.Mohammed Gouse
Standing Counsel

COMMON ORDER

The Writ Petitions in W.P.Nos.27339, 27340, 27345, 27385, 27395 of 2022 have been filed challenging the order passed by the Principal Secretary to Government, Government of Tamil Nadu dated 12.05.2022, thereby forwarding the request made by the petitioners colleges to the Government of India, Ministry of AYUSH to regularize the admission of the students, who have been admitted in the lapsed seats for the academic year 2019-2020 & 2020-2021.

2. The Writ Petition in W.P.No.27383 of 2022 has been filed challenging the order passed by the National Commission for Homeopathy, New Delhi, dated 22.09.2022, thereby rejecting the request made by the petitioner's college to regularize the admission of the students,



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who have been admitted in the lapsed seats for the academic year 2019-2020.

3. The Writ Petition in W.P.No.27081 of 2025 has been filed for direction directing the respondent to allow the petitioner's college students to undergo 4th year U.G. Bachelor of Homeopathic Medicine and Surgery (hereinafter referred to as “BHMS”) degree examinations which is scheduled to be held from 24.07.2025 to 05.08.2025 and publish the result.

4. The issues involved in all these Writ Petitions are similar in nature and therefore this Court is inclined to pass a common order.

5. All the petitioners' colleges are under the control of the Maria Educational and Charitable Trust (hereinafter referred to as “the Trust”) and it had applied before the Ministry of AYUSH viz., Ayurveda, Yog, Naturopathy, Unani, Siddha and Homeopathy for establishing a Homeopathy Medical Colleges in the State of Tamil Nadu. On 10.06.2014, the Trust obtained No Objection Certificate for establishing



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the Homeopathy Medical College in Kanyakumari District. Thereafter the Trust had applied before the respondents to grant an approval of the affiliation to set up the Homeopathy Medical College with a strength of 60 students. Accordingly, all the petitioners' colleges were granted approval and admitted the students.

6. While being so, the Secretary, Ministry of AYUSH, issued a communication dated 14.12.2018, stating that there shall be an uniform examination to the under graduate courses of BHMS viz., National Eligibility Entrance Test (hereinafter referred to as “NEET”) and it shall be necessary for a candidate to obtain minimum marks of 50 percentile in the NEET held for the academic year. Thereafter, the Central Council of Indian Medicine and Central Council for Homeopathy, issued notice prescribing NEET entrance and eligibility for admissions to under graduate courses of BHMS, BUMS, BAMS, BSMS as well. The NEET was challenged before various High Courts in India and on 06.09.2019, the Hon'ble High Court of Punjab and Hariyana had passed an interim order permitting the admission of the students in the under graduate courses without insisting on the students getting the minimum percentile marks in



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the NEET examination and finally all the writ petitions were dismissed. It was challenged before the Hon'ble Supreme Court of India in Civil Appeal No.603 of 2023 and the Hon'ble Supreme Court of India by an order dated 20.02.2020, by considering the large number of the seats and the precious time of the students, ordered that the students, who were admitted prior to the last date of admission ie., on 15.10.2019, may be permitted to proceed with the course.

7. The learned counsel appearing for the petitioners in all the petitions submitted that insofar as the petitioners' colleges are concerned, out of the total intake strength of 60 students, the State quota is of 85% and all India quota is of 15%. Under the 15% quota for all India, no student has been admitted and the said quota has not been filled up. Insofar as the 85% of State quota is concerned, 65% of the seats have to be reserved for government quota and 35% of the seats have to be reserved for management quota, and certain number of students have been admitted under both the quotas. The remaining lapsed seats have to be filled up as against the total strength of 60 students. Therefore, the petitioners' colleges had filled up the remaining lapsed seats before the



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cutoff date fixed by the Hon'ble Supreme Court of India viz., 15.10.2019.

Most of the students who were admitted in the lapsed seats had appeared in NEET examination.

7.1. Therefore, the petitioners' colleges made representations to the respondents to approve admission of the students, who were admitted in the lapsed seats before 15.10.2019. However, it was not considered and as such, the petitioners were constrained to approach this Court. The petitioners' colleges also filed another writ petition in W.P.(MD). No.14059 of 2020, restraining the respondents from disturbing the students of the petitioners' colleges who were admitted in the lapsed seats before 15.10.2019. In view of the interim order passed by this Court, the students who were admitted in the lapsed seats were permitted to write their examinations and their results were also published. Now the students are undergoing internship. Insofar as the Writ Petition in W.P.No.27081 of 2025 is concerned, the results of some of the students were withheld.



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8. On perusal of the counter filed by the National Commission for Homeopathy and on the submission made by the Deputy Solicitor General of India, it is revealed that those who did not even appear for NEET examination and those who were rejected as not eligible were admitted by the petitioners' colleges. However, the selection of the students to the colleges shall be based solely on the merit of the candidates. All the admissions to under graduate courses for the academic year 2019-2020 in all categories had to be conducted through NEET. No authority or institution shall admit any candidate to the under graduate course in contravention of the criteria or procedure laid down in the regulations.

8.1. He further submitted that the petitioners' colleges failed to follow the regulations. It malafidely, intentionally admitted the candidates without following the provisions of the Act and Regulations. Only in view of the interim order passed by this Court, the students, who were admitted illegally were permitted to write their examinations and thereafter their results were also published. If the colleges give admissions to NEET not qualified students and without common counselling authority, this will



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destroy the credibility of the medical sector. He further submitted that the Hon'ble Supreme Court of India categorically held that such judgments shall be treated as one time measurement and the same shall not be considered as a precedent.

9. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

10. On perusal of the records, it is revealed that the request made by the petitioners' colleges was rejected by the National Commission for Homeopathy, by the communication dated 22.09.2022, on the ground that the admissions were made by the colleges on their own without following the procedure. Further the recommendation/consent/ approval of State Admissions Regulatory Authority was not taken by the colleges for admission of these students and the colleges admitted non NEET qualified and non NEET appeared students.



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11. It is seen that similarly placed colleges, those who have admitted the students without fulfilling the eligibility of NEET, were approved by the National Commission for Homeopathy for the academic year 2019-2020. Admittedly, the petitioners' colleges had given admission to the students before the cutoff date fixed by the Hon'ble Supreme Court of India i.e., on 15.10.2019. The students of the petitioners' colleges alone were not granted approval.

12. This Court in the similar matters in W.P.Nos.693 of 2022 etc., batch by a common order dated 13.05.2022, issued directions to number of students who were admitted before 15.10.2019. The relevant portion is extracted hereunder :-

“7. I am not persuaded by the aforesaid submission made by the learned Special Government Pleader. Mr.Sricharan Rangarajan, learned counsel appearing for some of the writ petitioners pointed out that the Hon'ble First Bench arrived at such a conclusion by following the decision of the Hon'ble Apex Court reported in (2017) 8 SCC 627 (Dar-Us-Slam Educational Trust vs. Medical Council of India). But then it would apply only for admission to MBBS course. The decision in Dar-Us-Slam Educational Trust was subsequently explained by the



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Hon'ble Supreme Court in the decision in Christian Medical College Vellore Association Vs. Medical Council of India.

8. *The Hon'ble Supreme Court clarified that the restriction laid down in Dar-Us-Slam Educational Trust case would apply only for admission to UG courses and it would not apply even to PG courses. Here we are concerned with admission to courses imparting Indian Medicine and Homeopathy. Therefore, on this ground, I hold that the decision made in Venkateshwaraa case (cited supra) will not have any application.*

9. *On the other hand, in my view, the issue raised in these writ petitions is no longer res integra. The Hon'ble Supreme Court in the decision reported in 2021 SCC Online 318 [Index Medical College, Hospital and Research Centre Vs. State of Madhya Pradesh and Others] had held as follows:*

26. *The right to admit students which is a part of the management's right to occupation under Article 19 (1) (g) of the Constitution of India stands defeated by Rule 12 (8) (a) as it prevents them from filling up all the seats in medical courses. Upgradation and selection of subject of study is pertinent only to postgraduate medical course. In so far as undergraduate medical course is concerned, the upgradation is restricted only to a better college. Not filling up all the medical seats is not a solution to the problem.*



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Moreover, seats being kept vacant results in huge financial loss to the management of the educational institutions apart from being a national waste of resources. Interest of the general public is not subserved by seats being kept vacant. On the other hand, seats in recognised medical colleges not being filled up is detrimental to public interest. We are constrained to observe that the policy of not permitting the managements from filling up all the seats does not have any nexus with the object sought to be achieved by Rule 12 (8) (a). The classification of seats remaining vacant due to non-joining may be based on intelligible differentia but it does not have any rational connection with the object sought to be achieved by Rule 12 (8) (a). Applying the test of proportionality, we are of the opinion that the restriction imposed by the Rule is unreasonable. Ergo, Rule 12 (8)(a) is violative of Articles 14 and 19 (1) (g) of the Constitution.”

Therefore, the petitioners were well within their rights to fill up the vacant seats in the respective courses. Though the Hon'ble Supreme Court of India held that the such orders shall not be treated as precedent, it fixed the cutoff date to grant approval as 15.10.2019. The petitioners' colleges had given admission to the students before 15.10.2019 and it is well within the time frame.



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13. It is relevant to extract the judgment of the Hon'ble Supreme Court of India reported in **2020 SCC OnLine SC 226** in the case of ***Union of India Vs. Federation of Self-Financed Ayutvedic Colleges Punjab & ors.***, as follows :-

“12. Prescribing a minimum percentile for admission to the Under Graduate courses for the year 2019-2020 was vehemently defended by the Central Council and the Union of India by submitting that the minimum standards cannot be lowered even for AYUSH courses. We agree. Doctors who are qualified in Ayurvedic, Unani and Homeopathy streams also treat patients and the lack of minimum standards of education would result in half-baked doctors being turned out of professional colleges. Non-availability of eligible candidates for admission to AYUSH Under Graduate courses cannot be a reason to lower the standards prescribed by the Central Council for admission. However, In view of admission of a large number of students to the AYUSH Under Graduate courses for the year 2019-2020 on the strength of interim orders passed by the High Courts, we direct that the students may be permitted to continue provided that they were admitted prior to the last date of admission i.e. 15th October, 2019. The said direction is also applicable to students admitted to Post Graduate courses before 31st October,



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2019. This is a one-time exercise which is permitted in view of the peculiar circumstances. Therefore, this order shall not be treated as a precedent.

13. The notification dated 14.12.2018 pertaining to the Homeopathy courses is similar to that of the AYUSH courses. It was contended on behalf of Homeopathy colleges that the procedure prescribed In Section 20 (2) of the Homeopathy Central Council Act, 1973 (for short, '1973 Act') was not followed before the amendment was carried out to the Regulations. In view of the paucity of time, no response was filed by the Central Council of Homeopathy or by the Union of India clarifying the factual position pertaining to the non-compliance of the procedure prescribed under the 1973 Act for making Regulations. In view of the same, we are not in a position to decide the Issue raised by the Petitioners In Writ Petition (C) No. 1461 of 2019. We leave it open to the Petitioners to raise these issues before the High Court, If they deem it fit and proper. It is not necessary to deal with various submissions made by the Appellants in view of the order passed by us permitting the students to continue their studies.”

14. In fact, the National Commission for Homeopathy by its proceedings dated 27.09.2021 regularized the admission of the students who were admitted in the first year under the lapsed seats for the academic



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year 2019-2020 in respect of the college viz., White Memorial Homoeo Medical College. However, though the petitioners' colleges are similarly placed, the request made by the petitioners for regularization of the students was rejected . Therefore, the order impugned in the writ petition in W.P.No.27838 of 2022 is discriminative and violates Article 14 of the Constitution of India. More over, in view of the interim order passed by this Court, all the students were permitted to write their examinations and their results were also published. Now they are undergoing internship.

15. In view of the above discussions, the impugned order passed by the National Commission for Homeopathy cannot be sustainable and is liable to be dismissed. Accordingly the impugned order dated 22.09.2022 passed by the National Commission for Homeopathy is hereby set aside. The respondents are directed to regularize the admissions of the students who have been admitted in the lapsed seats in the petitioners' colleges for the academic year 2019-2020. Further The Registrar, Tamil Nadu Dr.MGR Medical University is directed to publish the results of the petitioners' students in accordance with law.



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16. With the above directions, the Writ Petitions in W.P.Nos. 7383 of 2022 & 27081 of 2025 stand allowed. In view of the above order, the Writ Petitions in W.P.Nos.27339, 27340, 27345, 27385, 27395 of 2022 are closed. Consequently, connected miscellaneous petitions are also closed. There shall be no order as to costs.

06.10.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts

Note : Registry is directed to
incorporate cause title for all
the cases and issue order copy.



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To
WEB COPY

1. The Secretary,
Union of India,
Ministry of Ayush,
Ayush Bhavan,
'B' Block, GPO Complex,
INA New Delhi – 110 023.
2. The Principal Secretary to the
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariate, Chennai – 600 009.
3. The Director,
Directorate of Indian Medicine and
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G.K.ILANTHIRAIYAN. J.

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