



W.P.No.28894 of 2025 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.09.2025

PRONOUNCED ON : 16.09.2025

CORAM:

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

W.P.Nos.28894, 32147, 32275, 32288, 32291, 32292,
32786, 32789, 32865, 32868 & 33512 of 2025
and

W.M.P.Nos.32429 to 32432, 36039, 36040, 36042, 36046, 36202, 36205,
36206, 36218, 36219, 36221, 36228, 36232, 36241, 36226, 36227,
36230, 36713, 36717, 36718, 36812, 36813, 36814, 36817, 36819,
36820, 37654, 37657 & 37658 of 2025

W.P.No.28894 of 2025 :-

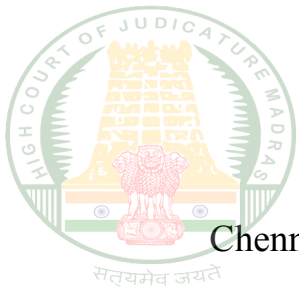
SNS Charitable Trust,
Rep. by its Secretary/Trustee,
Educational Agency,
SNS College of Allied Health Science,
Sathy Road, SNS Kalvi Nagar,
Saravanampatti Post,
Coimbatore – 641 035.

... Petitioner

Vs.

1. Union of India,
Rep. by the Secretary to Government,
Ministry of Health and Family Welfare,
Room No.402-D, Nirman Bhawan,
New Delhi – 110 011.

2. State of Tamil Nadu,
Rep. by the Secretary,
Health and Family Welfare Department,
Fort St. George,



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Chennai – 600 009.

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3. Tamil Nadu Dr.MGR Medical University,
Rep. by its Registrar,
69, Anna Salai,
Guindy, Chennai – 600 032.

4. The National Commission for Allied
and Helathcare Profession
Rep. by its Secretary,
2nd Floor, Academic Block,
NIHFW Campus, Munirka,
New Delhi – 110 067.

5. Tamil Nadu State Allied
and Healthcare council,
Rep. by its Secretary,
IIFL Towers, 7th Floor,
143, MGR Main Road,
Kandanchavadi,
Chennai – 600 096.

6. The Director of Medical Education,
Government of Tamil Nadu,
Kilpauk, Chennai – 600 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders passed by (a) the fourth respondent vide No.Z/103/2024-AHS-DOHFW DEPARTMENT dated 09.12.2024, F.No. Z/103/2024-AHS-DOHFW, FFS No.8309547 dated 10.06.2025 (b) the impugned letter issued by the fifth respondent State Council dated 10.06.2025 and (c) the impugned letter issued by the third respondent University in R.C.No.Affln.V(5)/16234/2025 dated 04.07.2025 (d) quash the same and direct the third respondent university to grant affiliation to



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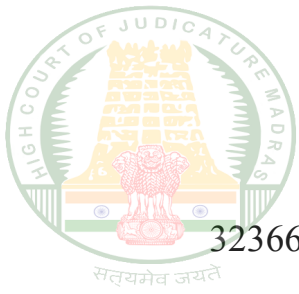
the petitioner college to start additional Allied Health Science Courses namely B.Sc. Respiratory therapy (20 seats) B.Sc. Dialysis Technology (20 seats) and B.Sc. Optometry (20 seats) Courses from the academic year 2025-26.

For Petitioners
in W.P.Nos.28894, 32147
& 33512 of 2025 : Mr.D.Prabhu Mukunth Arunkumar
in W.P.Nos.32865 &
32686 of 2025 : Mr.Kandan Duraisamy
in W.P.Nos.322275, 32288
32291, 32292 of 2025 : Mr.G.Masilamani, Senior Counsel
For Mr.Kandhan Duraisami
in W.P.Nos.32786
& 32789 of 2025 : Mr. Sathish Parasaran, Senior Counsel
For Mr.Rahul Balaji

For Respondents
For R1 & R4 in W.P.Nos.32147,
28894, 33512 of 2025
For R1 & R5 in W.P.Nos.32786 : Mr.AR.L Sundaresan
& 32789 of 2025 Additional Solicitor General of India
For R1 in W.P.Nos.32275, Assisted by Mr.R.Rabu Manohar
32288, 32291, 32292 of 2025 Senior Central Government Counsel
For R1 in W.P.Nos.32865 Mr.A.S.Vijaya Raghavan
32868 of 2025 Special Panel Counsel

For R2, R3 & R5 in W.P.Nos.
32275, 32288, 32291 &
32292 of 2025
For R2, R3 & R6 in W.P.Nos. : Mr.K.Tippu Sulthan
32786 & 32789 of 2025 Government Advocate
For R2, R3, R5 in W.P.Nos.
32865, 32868 of 2025

For R4 in W.P.Nos.32288,
32275, 32291, 32292, 32147 : Mr.G.Arumugam
28874,35512, 32786, 32789 Standing Counsel



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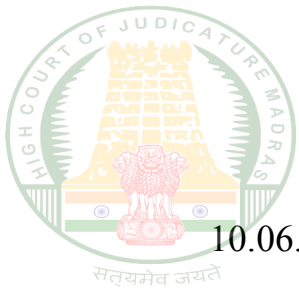
32366 & 32868 of 2025

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COMMON ORDER

The Writ Petition in W.P.No.28894 of 2025 has been filed challenging the orders passed by the fourth respondent vide No.Z/103/2024-AHS-DOHFW DEPARTMENT dated 09.12.2024, F.No. Z/103/2024-AHS-DOHFW, FFS No.8309547 dated 10.06.2025; the impugned letter issued by the fifth respondent State Council dated 10.06.2025 and the impugned letter issued by the third respondent University in R.C.No.Affln.V(5)/16234/2025 dated 04.07.2025 and also consequently direct the third respondent university to grant affiliation to the petitioner college to start additional Allied Health Science Courses namely B.Sc. Respiratory therapy (20 seats) B.Sc. Dialysis Technology (20 seats) and B.Sc. Optometry (20 seats) Courses from the academic year 2025-26.

1.1. The Writ Petition in W.P.No.32147 of 2025 has been filed challenging the orders passed by the fourth respondent vide No.Z/103/2024-AHS-DOHFW DEPARTMENT dated 09.12.2024, F.No. Z/103/2024-AHS-DOHFW, FTS No.8309547 dated 10.06.2025; the impugned letter issued by the fifth respondent State Council dated



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10.06.2025 and the impugned letter issued by the third respondent University in R.C.No.Affln.V(5)/16234/2025 dated 13.06.2025 and also consequently direct the third respondent university to receive application for increase of intake of seats in the existing courses namely B.Sc., Radiography and Imaging Technology (from 10 to 20 seats) B.Sc., Operation Theatre and Anaesthesia Technology (from 15 to 20 seats) B.Sc., Dialysis Technology (from 15 to 20 seats) B.Sc., Physician Assistant (from 10 to 20 seats) and B.Sc., Medical Laboratory Technology (from 15 to 20 Seats) for the academic year 2025-26 and grant continuance of provisional affiliation.

1.2. The Writ Petition in W.P.No.32275 of 2025 has been filed challenging the impugned orders in Ref.No.Z/103/2024-AHS-DOHFW Department dated 09.12.2025 of the first respondent, proceedings dated 10.06.2025 of the fifth respondent, Letter No.e5426/PME-2/2025-2 dated 26.06.2025 of the second respondent, proceedings in R.C.affln./III(2)/38325/2024 dated 30.06.2025 of the fourth respondent and the proceedings in Ref.No.064981/PEM/2/2025, dated 18.07.2025 of the third respondent and quash the same insofar as the petitioner is concerned and consequently directing the respondents to process the application of



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petitioner and issuing approval for starting new courses namely “Master of Physiotherapy” in “Sree Abirami College of Physiotherapy in Machegoundangalayam, Seer Abirami College of Physiotherapy n Machegoundanpalayam, Seerapalayam Village, Coimbatore District” with an annual total intake of 16 seats from the academic year 2025-26 onwards.

1.3. The Writ Petition in W.P.No.32288 of 2025 has been filed challenging the impugned orders in Ref.No.Z/103/2024-AHS-DOHFW Department dated 09.12.2025 of the first respondent, proceedings dated 10.06.2025 of the fifth respondent, Letter No.e5426/PME-2/2025-2 dated 26.06.2025 of the second respondent and the proceedings in Ref.No.064981/PEM/2/2025, dated 18.07.2025 of the third respondent and quash the same insofar as the petitioner is concerned and consequently directing the respondents to process the application of petitioner and issuing approval for starting new institution under the name and style “Excel College of Occupational Therapy, Komarapalayam, Namakkal” from the academic year 2025-26 onwards.

1.4. The Writ Petition in W.P.No.32291 of 2025 has been filed



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challenging the impugned orders in Ref.No.Z/103/2024-AHS-DOHFW

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Department dated 09.12.2025 of the first respondent, proceedings dated 10.06.2025 of the fifth respondent, Letter No.e5426/PME-2/2025-2 dated 26.06.2025 of the second respondent, the proceedings in Ref.No.064981/PEM/2/2025, dated 18.07.2025 of the third respondent and the proceeding in R.C.Affln./III(1)/16106/2025 dated 23.07.2025 of the fourth respondent and quash the same insofar as the petitioner is concerned and consequently directing the respondents to process the application of petitioner and issuing approval for starting new Course namely “Master of Physiotherapy” in “Maria College of Physiotherapy in Attoor, Thiruvatar Post, Kanyakumari District” with an annual total intake of 30 seats from the academic year 2025-26 onwards.

1.5. The Writ Petition in W.P.No.32292 of 2025 has been filed challenging the impugned orders in Ref.No.Z/103/2024-AHS-DOHFW Department dated 09.12.2025 of the first respondent, proceedings dated 10.06.2025 of the fifth respondent, proceeding in R.C.No. Affln.V(5)/16234/2025 dated 13.06.2025 of the fourth respondent, Letter No.e5426/PME-2/2025-2 dated 26.06.2025 of the second respondent and the proceedings in Ref.No.064981/PEM/2/2025, dated 18.07.2025 of the

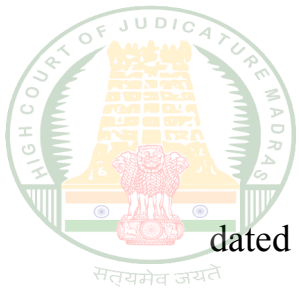


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third respondent and quash the same insofar as the petitioner is concerned and consequently directing the respondents to process the application of petitioner and issuing approval for starting new Course namely “Master of Physiotherapy” in “Excel College of Physiotherapy and Research Centre, Komarapalayam, Namakkal” with an annual total intake of 36 seats from the academic year 2025-26 onwards.

1.6. The Writ Petition in W.P.No.32786 of 2025 has been filed for direction directing the fourth respondent to permit the petitioner to commence the three courses viz., B.Sc. (Operation Theatre and Anaesthesia); B.Sc. (Medical Laboratory Technology) and B.Sc. (Radiography and Imaging Technology) with annual intake of 20 seats per course instead of 12 seats per course for the academic year 2025-26.

1.7. The Writ Petition in W.P.No.32789 of 2025 has been filed challenging the impugned order I dated 09.12.2025 issued by the fifth respondent vide No.Z/103/2024-AHS-DOHFW; impugned order II dated 10.06.2025 issued by the fifth respondent vide F.No.Z/103/2024-AHS-DOHFW, FTS No.8309547, the impugned consequential order issued by the sixth respondent on 10.06.2025, and the impugned communication



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dated 04.07.2025 issued by the fourth respondent vide communicate R.C.No.Affln.V(5))/16234/2025 and impugned communication dated 18.07.2025 issued by the third respondent vide Ref.No.064981/PEM/2025 and quash the same as being arbitrary, illegal, wholly without jurisdiction and consequently direct the fourth respondent to give effect to G.O.(Ms)No.144 dated 25.06.2024 and the order of this Court dated 28.12.2024 in W.P.No.37402 of 2024 and permit the petitioner to commence the three courses with an intake of 20 seats per course.

1.8. The Writ Petition in W.P.No.32865 of 2025 has been filed challenging the impugned orders in Ref.No.Z/103/2024-AHS-DOHFW Department dated 09.12.2025 of the first respondent, proceedings dated 10.06.2025 of the fifth respondent, proceeding in R.C.No. Affln.V(5))/16234/2025 dated 13.06.2025 of the fourth respondent, Letter No.e5426/PME-2/2025-2 dated 26.06.2025 of the second respondent and the proceedings in Ref.No.064981/PEM/2/2025, dated 18.07.2025 of the third respondent and quash the same insofar as the petitioner is concerned and consequently directing the respondents to process the application of petitioner dated 18.12.2019 and issuing approval for starting new



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institution under the name and style “Sree Sastha Paramedical Science College and Chennai-Bangalore Highways, Chembarambakkam, Tiruvallur District to enable the petitioner to commence Bachelor of Physiotherapy (BPT) degree Course from the academic year 2025-2026 onwards.

1.9. The Writ Petition in W.P.No.32868 of 2025 has been filed challenging the impugned orders in Ref.No.Z/103/2024-AHS-DOHFW Department dated 09.12.2025 of the first respondent, proceedings dated 10.06.2025 of the fourth respondent, Letter No.e5426/ PME-2/2025-2 dated 26.06.2025 of the second respondent and the proceedings in Ref.No.064981/PEM/2/2025, dated 18.07.2025 of the third respondent and quash the same insofar as the petitioner is concerned and consequently directing the respondents to process the application of petitioner dated 23.08.2023 and issuing approval for starting new institution under the name and style “Sree Sastha Paramedical Science College” at Chennai-Bangalore Highways, Chembarambakkam, Tiruvallur District to enable the petitioner to commence Diploma Course namely Diploma in Medical Laboratory Technology (DMLT) from the academic year 2025-2026 onwards.



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WEB COPY 1.10. The Writ Petition in W.P.No.33512 of 2025 has been filed challenging the impugned orders passed by the fourth respondent in No.Z/103/2024-AHS-DOHFW DEPARTMENT dated 09.12.2024, F.No. Z/103/2024-AHS-DOHFW, FTS No.8309547 dated 10.06.2025; the impugned letter issued by the fifth respondent State Council dated 10.06.2025 and the impugned letter issued by the third respondent University in R.C.No.Affln.V(5)/16234/2025 dated 04.07.2025 and also consequently direct the third respondent university to process application of the petitioner for increase of intake of seats in the existing courses in the petitioner college namely B.Sc., Accident and Emergency Cate Technology (15 to 20 seats) B.Sc., Radiography and Imaging Technology (15 to 20 seats) B.Sc., Cardiac Technology (15 to 20 seats) B.Sc., Dialysis Technology (15 to 20 seats) for the academic year 2025-26 and grant continuance of provisional affiliation.

2. All these writ petitions have been filed challenging the order passed by the Government of India, Ministry of Health and Family Welfare Department, dated 09.12.2024, subsequent proceedings of the Tamil Nadu State Allied and Health Care Council (hereinafter referred to



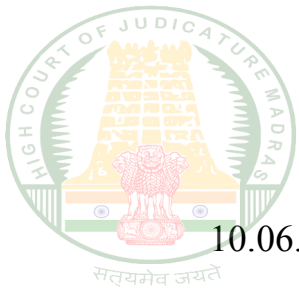
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as “the State Council”) dated 10.06.2025, letter dated 26.06.2025 on the

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file of the Government of Tamil Nadu, Health and Family Welfare Department, the proceedings of the Registrar, the Tamil Nadu Dr.MGR Medical University (hereinafter referred to as “the University”) dated 30.06.2025 and the proceedings of the Director of Medical Education and Research, Chennai, dated 18.07.2025, thereby issuing directions that the State Councils are allowed to grant permission for the proposal for granting permission for admission in the next academic year of an approved existing courses. However the State Councils are not allowed, till required regulations are in place, to grant permission to the proposal for opening of new allied and health care institutions with specific courses and intake capacity. The State Councils are not allowed to consider the proposal for increase of intake capacity in existing courses for an existing allied and health care institutes. The State Councils are not allowed to consider the proposal for additional courses from the existing allied and health care institutions.

3. Pursuant to the said order, the State Council communicated the above order to the Director of Medical Education, Chennai, on



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10.06.2025. Further the Health and Family Welfare Department by its communication dated 26.06.2025, informed about the order passed by the first respondent to the Registrar of the University. Further, by the communication dated 30.06.2025, the Registrar of the University communicated the order passed by the first respondent to the respective petitioners' colleges. Further by the communication dated 18.07.2025, the Director of Medical Education and Research, Chennai, communicated the order passed by the first respondent dated 09.12.2024, to all Dean of the Government Medical Colleges and the Head of the institutions of the private colleges who had proposed to conduct the allied and health science courses.

4. The writ petition in W.P.No.32786 of 2025 has been filed for direction directing the University to permit the petitioner to commence three years course viz., B.Sc. (Operation Theatre and Anaesthesia); B.Sc. (Medical Laboratory Technology) and B.Sc. (Radiography and Imaging Technology) with annual intake of 20 seats per course instead of 12 seats per course for the academic year 2025-26. Therefore, all the writ petitions are filed to challenge the very same impugned orders and for directions seeking permission to increase the



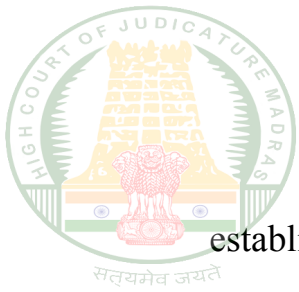
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annual intake capacity. Hence, this Court is inclined to pass common order in all the writ petitions.

5. The petitioners are running several colleges/departments including college for Pharmacy/Allied Health science, college for nursing etc. The petitioners were sought permission to start various courses under the pharmacy and allied health science. Accordingly, they were granted permission by several government orders to start their respective courses for allied health science courses such as B.Sc., Medical Laboratory Technology, B.Sc., Accident and Emergency care, B.Sc., Operation Theatre and Anesthesia, B.Sc., Physician Assistant B.Sc., Radiology and Imaging Technology, B.Sc., Cardiac Technology, B.Sc., Cardio Pulmonary Perfusion Care Technology, Bachelor of Physiotherapy, Master in Physiotherapy etc.

6. All the petitioners' institutions are bound by the provisions of Dr.M.G.R. Medical University Act, Statute and Regulations. While being so, the National Commission for Allied and Healthcare Professional Act (hereinafter referred to as “the Act”) the Central Act 14 of 2021 came into force with effect from 27.05.2021. It provides for



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establishment of a National Commission, State Council and other bodies governed by the Act. Under Section 64 of the Act, it shall have overriding effect not withstanding anything in consistent therewith contained in any other law for time being in force or any instrument having effect by virtue of any law other than this Act. The provision under Section 65 of the Act empowers the Central Government to make rules. It has framed the National Commission for Allied and Healthcare Professions Rule, 2021. The rules provide for qualification and other requirement of the members of the commission and allied matters. Further Rule 17 deals with establishment of new allied and helathcare institutions. Establishment of institutions should be in accordance with the scheme as stipulated by regulations to be framed by the National Commission. However till today, the regulations have not been framed by the Government of India.

7. While being so, the Government of India passed order dated 09.12.2024, stating that the Government of India notified the Act on 11.03.2024. However, the commission could not be made functional till date due to non-availability of required number of members. Only after functioning of the commission, the regulations for the functioning of State Council will be framed. Further the respective State Council are



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granting permission to the institution for opening of new allied and healthcare courses despite absence of required regulations. Therefore, the first respondent issued directions to be followed by the State Councils that the State Councils are not allowed to consider the proposal for opening of new allied healthcare institutes with specific courses and intake capacity. The State Councils are not allowed to consider the proposal for increase in intake capacity in existing courses and the State Councils are not allowed to consider the proposal for additional course. Pursuant to the said order subsequently, the consequential proceedings and communications were sent to the departments.

8. Mr.G.Masilamani, learned Senior Counsel appearing for some of the writ petitioners submitted that the petitioners could not be victimized for the fault on the part of the authorities in keeping the National commission for allied and health care professions non-functional for the reason of non availability of required number of members. Though the petitioners have satisfied all the requirements provided under the existing norms, the authorities are bound to grant permission to establish new colleges. Therefore, the impugned orders are causing grave prejudice, hardship and national waste of infrastructural



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and institutional facilities created by the petitioners. It is also in clear violation of Article 14 of the Constitution of India as no useful purpose will be achieved by postponing the starting of new college or course and also increasing the intake capacity especially after establishment of infrastructural and institutional facilities.

8.1. He further submitted that the National Commission shall only pass administrative order unless that are in conformity with the Act and Rules. The impugned orders are not only inconsistent with the Act & Rules but are also in clear violation of Articles 19(1)(g) and 19(6) of the Constitution of India. The University is an independent body and also has its own Statue. It can act in accordance with Statue until the regulations are framed under Section 66 of the Act. Though the petitioners' colleges were permitted to conduct allied and health science courses from the year 2021-22 and the University granted provisional affiliation, in view of the order passed by the Government of India, the petitioners' colleges could not increase the intake of the students for the respective courses. Hence, he prayed to allow all the writ petitions.

9. Mr. Sathish Parasaran, learned Senior Counsel appearing for the petitioner in W.P.Nos.32786 & 32789 of 2025 submitted that insofar



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as the petitioner Trust is concerned, it was granted permission to start three allied health science courses with annual intake of 20 seat for each and every academic year from 2024-25. However, the request for granting affiliation was rejected on the ground that the petitioners' institutions did not possess hospital facilities as required by the Government Order. Therefore, the petitioner approached this Court in W.P.No.37402 of 2024 and same was allowed by an order dated 28.12.2024. Thereafter the petitioners were granted permission to start three allied health science courses with intake of 20 seats. However, in view of the order passed by the Government of India, the petitioner Trust is not permitted to increase the intake to 20 seats from 12 seats per course. The right to establish an educational institution is a cherished constitutional and fundamental right. Such a right cannot be held hostage to the inaction of a non-functional National Commission. Therefore, suspending this right until regulations are framed would be to place a constitutionally protected right at the mercy of administrative lethargy which ought to be impermissible. Until National Commission frames regulations, the establishment of institutions would be rendered impossible, thereby nullifying a constitutional right.



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10. On perusal of the counter filed by the respondent 1 to 4 in

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Mr.AR.L.Sundaresh, learned Additional Solicitor General of India, it is revealed that the Government of India enacted the National Commission for Allied and Healthcare Professions Act, 2021 on 28.03.2021, which came into force with effect from 25.05.2021. Subsequently, it was notified on 27.05.2021. Under Section 3(1)(2) of the Act, the Government of India constituted the National Commission for Allied and Healthcare Profession vide notification dated 11.03.2024, consisting 47 members. As per the Act, the regulations are required to be made by the National Commission following with comments of the general public. Further all the States & Union Territories are required to constitute State Allied and Healthcare Councils under Section 22 of the Act. Insofar as the State of Tamil Nadu, the State Council has been constituted in conformity with the provisions of the Act. Further, the State Councils are empowered to implement the Regulations framed by the National Commission in the State to regulate and maintain standards of education and services rendered by allied and health care professionals and institutions. Therefore, the Government of India issued the orders impugned in these Writ Petitions for making interim arrangements to



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preserve the legality and consistency during this transition period.

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10.1. He further submitted that the object of the Act is to regulate and maintain uniform standards of education and services rendered to allied and health care professionals, to ensure the assessment and accreditation of institutions, to maintain a Central and State Register of such professionals and to establish a system to improve access, to promote research and development, to adopt scientific advancement and address matters connected therewith or incidental thereto. Under Section 40(5)(a) r/w Section 66(2)(r) of the Act, process of framing the regulations had been started by the National Commission. By an order dated 11.04.2025 & 11.06.2025, the National Commission had constituted two Committees with members from the professional council representing all ten broad categories of professions for drafting Regulations under Section 66 of the Act. These two Committees are in process of drafting the Regulations and are at advance stage of completion such as Regulations for registration of allied and healthcare professionals, Regulations for recognition of allied and healthcare institutions, Regulations for provisional registration and Regulations for members of the autonomous boards. Therefore, without finalizing the



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regulatory framework, the standards of education and recognition remain inconsistent. In order to ensure an orderly transition and prevent dilution of quality, the Commission has issued an order dated 09.12.2024. Therefore, the National Commission cannot be stopped from issuing orders or directives within its powers and the institutions are bound to obey the provisions of the Act. The restriction, if any, are temporary and once the regulatory framework as envisaged is enacted, then the petitioners can seek to start the courses mentioned in the schedule to the Act. Therefore, till then, the petitioners cannot claim any vested right. In the meantime, the University cannot permit the petitioners to start any new courses and also cannot permit to increase intake of students. Hence, he prayed for dismissal of all the petitions.

11. Heard the learned counsel appearing on either side and perused the material placed before this Court.

12. The Union of India enacted the National Commission for Allied and Healthcare Professions Act, 2021 on 28.03.2021, which came into force with effect from 25.05.2021. It was notified on 27.05.2021.



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Accordingly, the Government of India constituted National Commission for Allied and Healthcare Profession by the notification dated 11.04.2024. The National Commission is constituted to regulate and maintain uniform standards of education and services rendered to the allied and healthcare professionals, to ensure the assessment and accreditation of institutions, to maintain a central and state register of such professionals and to establish a system to improve access, promote research and development, to adopt scientific advancement and address matters connected therewith or incidental thereto. Accordingly, all the State and Union Territories are required to constitute State Allied and Healthcare Councils. However, the National Commission could not function till today and as such no regulations are framed for functioning of the State Councils. Therefore, the Government of India passed the order dated 09.12.2024 and issued directions whereby the State Councils are not allowed to approve any proposal for opening of new institutes for allied and healthcare professions and not to increase the intake capacity in existing courses in the allied and healthcare institutions.

13. It is relevant to extract the provision under Section 40(1) of the Act as follows :-



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“40. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, on and from the date of commencement of this Act,—

(a) no person shall establish an allied and healthcare institution; or

(b) no allied and healthcare institution shall—

(i) open a new or higher course of study or training (including post-graduate course of study or training) which would enable students of each course of study or training to qualify himself for the award of any recognised allied and healthcare qualification; or

(ii) increase its admission capacity in any course of study or training (including post-graduate course of study or training); or

(iii) admit a new batch of students in any unrecognised course of study or training (including post-graduate course of study or training), except with the previous permission of the State Council obtained in accordance with the provisions of this Act”

Thus it is clear that the previous permission is required from the State Councils in accordance with the Act to establish allied and healthcare institutions and also to increase the intake capacity and to introduce new course or training.

14. Even according to the Government of India, the National



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Commission could not be made functional even till today and as such it did not frame any regulations for the functioning of the State Councils in order to grant permission to establish new allied and healthcare institutions and also to increase the number of intake to the existing courses for the allied and healthcare science. Though the Act was enacted on 28.03.2021 and notified with effect from 25.05.2021, even till today, the National Commission is not functioning and no regulations are framed for functioning of the State Councils. It is well established that when the statute requires a thing to be done in a manner, it shall be done only in that manner and not otherwise. Therefore, the National Commission has no power to pass any administrative order unless the order is in conformity with the Act. It is clear violation of Article 19(1)(g) and 19(6) of the Constitution of India.

15. Further the University is an independent body and it has its own statutes viz., Tamil Nadu Dr.M.G.R. Medical University Affiliation of Allied Health Diploma/Degree Courses Statutes and it has to act in accordance with its statutes until the regulations are framed under Section 66 of the Act. When all the petitioners colleges were granted permission by the Government Orders thereby permitting them to conduct allied and



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healthcare science courses and the University granted provisional affiliation to the petitioners' colleges in respect of increasing the intake of seats for the respective courses, the petitioners are entitled to increase the intake of seats for their respective courses as per the permission granted by the government and also provisionally affiliated by the University.

16. The right to establish and administer an educational institution is a fundamental right and overriding effect under Section 64 of the Act will have effect only if the National Commission becomes functional as per the provisions of the Act. For the fault on the part of the authorities in non-functioning of the National Commission due to non-availability of required number of members, the petitioners cannot be victimized but sadly, that is their current situation right now. Therefore, if the petitioners satisfy all the requirements provided under the existing norms, the authorities are bound to grant permission to establish such institutions and also to take more intake in the respective courses. Hence, the impugned orders in these Writ Petitions are causing grave prejudice, hardship and national waste of infrastructural and institutional facilities created by the petitioners. No useful purpose will be achieved by simply postponing the starting of new college or course or increase in intake



especially after establishment of infrastructural and institutional facilities.

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17. The Constitutional Bench of the Hon'ble Supreme Court of India in the case of ***T.M.A.Pai Foundations and ors Vs. State of Karnataka and ors*** reported in ***AIR 2003 SC 355***, held that education as an occupation/vocation of life in the context of Article 19(1)(g) of the Constitution of India. The relevant portions are extracted hereunder:-

“20. Article 19(1)(g) employs four expressions, viz., profession, occupation, trade and business. Their fields may overlap, but each of them does have a content of its own. Education is per se regarded as an activity that is charitable in nature [See The State of Bombay v. R.M.D. Chamarbaugwala) Education has so far not been regarded as a trade or business where profit is the motive. Even if there is any doubt about whether education is a profession or not, it does appear that education will fall within the meaning of the expression "occupation".....

21. In Corpus Juris Secundum, Volume LXVII, the word "occupation" is defined as under:- "The word "occupation" also is employed as referring to that which occupies time and attention; a calling; or a trade..... It is described as a generic and very comprehensive term, which includes every species of the genus, and compasses the incidental, as well as the



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main, requirements of one's vocation., calling, or business. The word "occupation" is variously defined as meaning the principal business of one's life; the employment in which one engages, or the vocation of one's life; "

22. A Five Judge Bench in Sodan Singh and Ors. v. New Delhi Municipal Committee and Ors. at page 174, para 28, observed as follows:

".....The word 'occupation' has a wide meaning such as any regular work, profession, job, principal activity, employment, business or a calling in which an individual is engaged In a nutshell the guarantee takes into its fold any activity carried on by a citizen of India to earn his living.....".

23. In Unni Krishnan's case, at page 687, para 63, while referring to education, it was observed as follows:-

".....It may perhaps fall under the category of occupation provided no recognition is sought from the State or affiliation from the University is asked on the basis that its a fundamental right....."

24.

25. The establishment and running of an educational institution where a large number of persons are employed as teachers or administrative staff, and an activity is carried on that results in the imparting of knowledge to the students, must necessarily be regarded as an occupation, even if there is no element of profit



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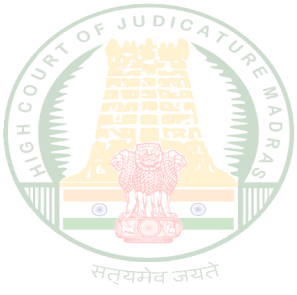


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generation. It is difficult to comprehend that education, per se, will not fall under any of the four expressions in Article 19(1)(g). "Occupation" would be an activity of a person undertaken as a means of livelihood or a mission in life. ”.

Thus it is clear that it is a fundamental right to establish educational institution to impart education at different levels, primary, secondary, higher, technical, professional etc. Education is essentially a charitable object and imparting education is a kind of service to the community, which can be read within the wide meaning accorded to the expression 'occupation' in Article 19(1)(g) of the Constitution of India and is subject to reasonable restrictions imposable under Article 19(6) of the Constitution of India.

18. Pursuant to the order passed by the Government of India dated 09.12.2024, the other respondents by their communications addressed to all the authorities concerned that the State Councils are not allowed to grant permission for starting new college and increasing in intake capacity until further orders. Therefore, all the impugned orders cannot be sustained and are liable to be quashed.

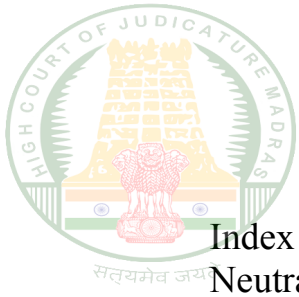


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19. Accordingly, all the impugned orders passed by the Government of India, Ministry of Health and Family Welfare Department, dated 09.12.2024 & 10.06.2025, subsequent proceedings of the Tamil Nadu State Allied and Health Care Council dated 10.06.2025, letter dated 26.06.2025 on the file of the Government of Tamil Nadu, Health and Family Welfare Department, the proceedings of the Registrar, the Tamil Nadu Dr.MGR Medical University dated 30.06.2025 and the proceedings of the Director of Medical Education and Research, Chennai, dated 18.07.2025, are hereby quashed. The respondents are directed to process the applications of the petitioners and issue approval for starting their respective new courses in their respective colleges. Further the petitioners are also permitted to apply before the University for increasing of intake of seats in their respective courses in the light of the respective Government Orders.

20. Accordingly, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

16.09.2025



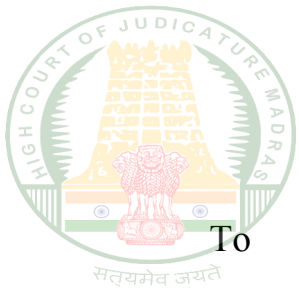
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Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order

rts



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To

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1. Secretary to Government,
Union of India,
Ministry of Health and Family Welfare,
Room No.402-D, Nirman Bhawan,
New Delhi – 110 011.
2. The Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George,
Chennai – 600 009.
3. The Registrar,
Tamil Nadu Dr.MGR Medical University,
69, Anna Salai,
Guindy, Chennai – 600 032.
4. The Secretary,
National Commission for Allied
and Helathcare Profession
2nd Floor, Academic Block,
NIHFW Campus, Munirka,
New Delhi – 110 067.
5. The Secretary,
Tamil Nadu State Allied
and Healthcare council,
IIFL Towers, 7th Floor,
143, MGR Main Road,
Kandanchavadi,
Chennai – 600 096.
6. The Director of Medical Education,
Government of Tamil Nadu,
Kilpauk, Chennai – 600 010.



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G.K.ILANTHIRAIYAN. J.

rts

Common Order in
W.P.Nos.28894, 32147, 32275, 32288, 32291, 32292,
32786, 32789, 32865, 32868 & 33512 of 2025

16.09.2025