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Writ Petition No.42620 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.42620 of 2025

and

W.M.P.Nos.47669 & 47670 of 2025

The Principal,
RVS Padmavathi Ammal College of Pharmacy,
Kumaran Kottam,
Trichy Road, Kannampalayam, Sular,
Coimbatore – 641 402.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
represented by its Secretary,
Department of Health and Family Welfare,
Government of Tamil Nadu, Chennai.
- 2.The Director of Medical Education,
Directorate of Medical Education Campus,
Kilpauk, Chennai – 600 010.
- 3.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.



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4.The TN Dr.M.G.R.Medical University,
represented by its Registrar,
69, Anna Salai, Guindy,
Chennai- 600 032.

... Respondents

Writ Petition 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 proceedings issued by the fourth respondent Tamil Nadu Dr.M.G.R.University vide proceedings in Lr.No.Affln.I(4)/55632/2016 dated 22.04.2025, quash the same and further, direct the fourth respondent to grant Consent of Affiliation to start additional courses of 6 year Pharm.D course with 30 seats and 3 year Pharm.D (Post Baccalaurate) course with 10 seats in the petitioner college from the academic year 2025-26 without insisting on Essentiality Certificate from the first respondent State Government within a reasonable time as may be fixed by this Court.

For Petitioner : Ms.Abisha Isaac
for Ms.H.Mary Sowmi Rexi

For Respondents : Mr.K.Tippu Sultan,
Government Advocate [R1 & R2]
Mr.A.Mohamed Gouse [R4]

ORDER

This writ petition has been filed challenging the impugned order of the fourth respondent dated 22.04.2025, rejecting the petitioner's request for issuance of



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Letter of Consent of Affiliation to the petitioner college to start additional courses

viz., 6 year Pharm.D course with 30 seats and 3 year Pharm.D (Post Baccalaurate)

course with 10 seats in the petitioner college from the academic year 2025-26 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 second respondent, for starting M.Pharm and Pharm.D Courses. While so, the petitioner college which was eligible to start additional courses *viz.*, 6 year Pharm.D course with 30 seats and 3 year Pharm.D (Post Baccalaurate) course with 10 seats, applied to the fourth respondent University vide letter dated 24.03.2025, to grant certificate of registration/consent of affiliation to start the above courses from the academic year 2025-2026. The fourth respondent *vide* impugned order dated 22.04.2025, returned the application for non-production of Essentiality Certificate from the Government as per the guidelines issued under G.O.Ms.No.228 and 229,



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Health and Family Welfare Department, dated 04.05.2021. The petitioner, aggrieved by the impugned letter, has filed the above writ petition for the aforesaid relief.

3. 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 Dr.S.K.Toshniwal Educational Trust, Vidarbha Institute of Pharmacy and others*. Learned counsel, therefore, submitted that the impugned order was unsustainable and same deserved to be set aside.

4. Learned counsel for fourth respondent, on the other hand, 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 petitioner's request was rightly rejected on the said ground.



5. Heard both learned counsel and perused the materials available on record.

6. 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.

7. 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 with district headquarter hospital with available bed strength. The prescribed format of MOU is enclosed as **Annexure-IV.**”*

Therefore, it is very clear that the only requirement for approval of the new courses is the consent of affiliation of the examining authority along with MOU of 300 bedded 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 fourth respondent returned the petitioner's 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 fourth 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 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.



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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 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.”*



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8. 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.

9. 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, this Court is of the view that the impugned order has no legs to stand.

10. The contentions of the fourth respondent University that Essentiality Certificate was insisted on the basis of G.O.Ms.Nos.228 and 229, dated 04.05.2021, does not deserve merit. This Court is 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.

11. In view of the above discussions, the impugned order dated 22.04.2025, issued by the fourth respondent is set aside. The fourth respondent is



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directed to grant consent of affiliation to the Petitioner College to start additional courses, viz., 6 year Pharm.D course with 30 seats and 3 year Pharm.D (Post Baccalaurate) course with 10 seats in the petitioner college from the academic year 2025-26, 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.

Accordingly, writ petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

11.11.2025

Index:Yes/No
Neutral Citation:Yes/No
Speaking Order/Non-Speaking Order
gm



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N.ANAND VENKATESH, J.

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