

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23-5-2006

Coram

The Honourable Mr. Justice N. PAUL VASANTHAKUMAR
and

The Honourable Mr. Justice S. TAMILVANAN

Writ Appeal No. 619, 620 of 2006

W.A.M.P.No. 1265, 1266, 1267, 1268, 1269, 1315, 1316 of 2006

W.A.No. 619 of 2006

Vinayaka Mission's College of Nursing and
Para-Medical Sciences, Sponsored by
Thirumuruga Kirupananda Variyar Thavathiru
Sundara Swamigal Medical Educational and
Charitable Trust, Cuddalore Main Road,
Kirumambakkam, Bahour Commune Panchayat,
Pondicherry - 607 402,
rep. by its Registrar.

Appellant/Petitioner

Vs.

1. The Tamil Nadu Nurses and Midwives Council,
Santhome High Road,
Mylapore,
Chennai - 600 004.

2. Pondicherry university, सत्यमेव जयते
rep. by its Registrar,
Pondicherry.

3. The Government of Pondicherry,
Chief Secretariat (Health),
Pondicherry,
rep. by its Secretary.

4. The Indian Nursing Council,
Combined Council Building,
Kotla Road, Temple Lane,
New Delhi - 110 002,
rep. by its Secretary.

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Respondents

(R-4 impleaded as per the order of this Court dated 16.5.2006 in WAMP No.1296 of 2006)

This writ appeal is preferred against the order of the learned single Judge dated 3.4.2006 in W.P.No.5080 of 2006 presented to this court under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records of the 1st respondent comprised in the proceedings dated 7.2.2006 in Ref.No.36/NC/2006 and quash the same.

W.A.No.620 of 2006

Thirumuruga Kirupananda Variyar Thavathiru
Sundara Swamigal Medical Educational
and Charitable Trust, Salem, running
Vinayaka Mission's College of Paramedical Sciences
at Cuddalore Main Road, Kirumambakkam,
Bahour Commune Panchayat,
Pondicherry - 607 402
rep.by its Deputy Registrar

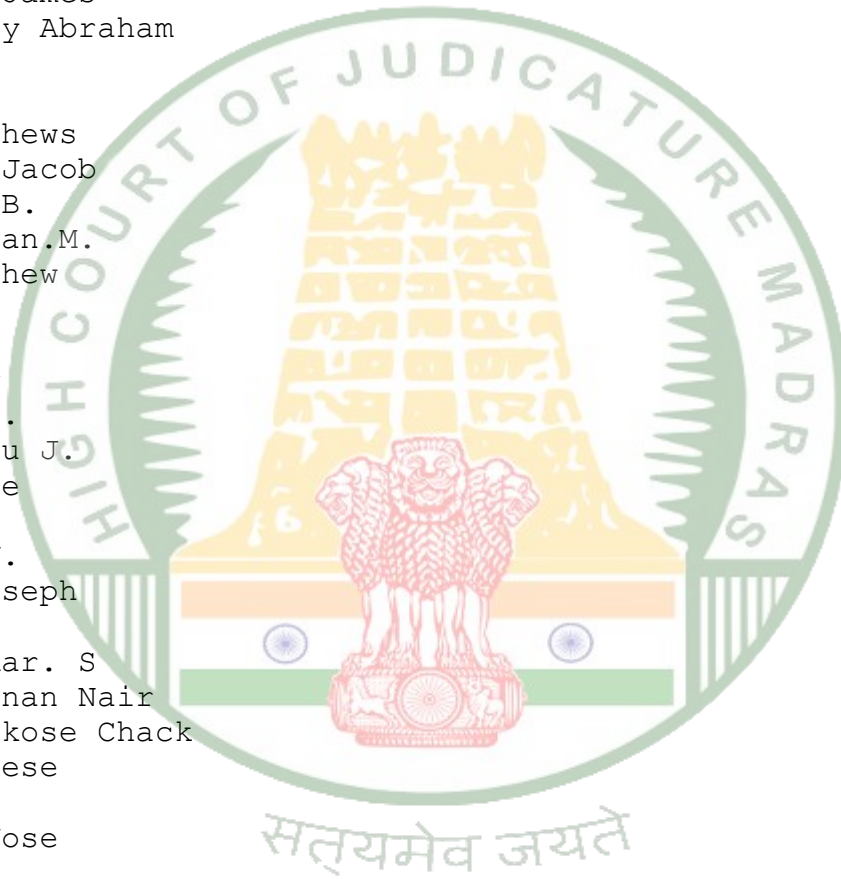
Appellant/Petitioner

Vs.

1. Pondicherry university,
rep.by its Registrar,
R.Venkataraman Nagar,
Kalapet, Pondicherry.
2. The Government of Pondicherry,
Chief Secretariat (Health),
Pondicherry,
rep.by its Secretary.
3. The Secretary (Health), सत्यमेव जयते
Government of Pondicherry,
Pondicherry.
4. Subi P.Jacob
5. Biji Thomas
6. Kalaivani.S.
7. Lida Thomas
8. Riya Paul
9. Riya Mary Mathew
10. Maria Zacharia
11. Jijimol
12. Pressy. K.R.
13. Romina Thomas

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14. Susan Johnson
15. Gigi T.S.
16. Ramya Ramakrishnan
17. Laijy John
18. Praveen L.S.
19. Binoop Gopi
20. Suhail T.P.
21. Rinu Francis
22. Tintu K.O.
23. Anniamma K.
24. Anoop P.
25. Cherish P.James
26. Jerry Sunny Abraham
27. Joo James
28. Kumar M
29. Sheeba Mathews
30. Charis V. Jacob
31. Lakshmi P.B.
32. Thirumurugan.M.
33. Jiji E.Mathew
34. Amitha V.
35. Shan Jose
36. Giba Koshy
37. Shethy C.T.
38. Rama Prabhu J.
39. Botina Jose
40. Chitra A.
41. Navaji T.V.
42. Jilumon Joseph
43. Ritesh Jha
44. Suresh Kumar. S
45. Hari Krishnan Nair
46. Giby Kuriakose Chack
47. Sanu Verghese
48. Sajin C.P.
49. Nishanth Jose
50. Johnson G.
51. Aneesh Issac
52. Baiju S.
53. The Indian Nursing Council,
Combined Council Building,
Kotla Road, Temple Lane,
New Delhi - 110 002,
rep.by its Secretary.



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Respondents

(R-53 impleaded as per the order of this Court dated 16.5.2006 in WAMP No.1297 of 2006)

This writ appeal is preferred against the order of the learned single Judge dated 3.4.2006 in W.P.No.15877 of 2003 presented to this court under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first Respondent University to forthwith process the application for affiliation in respect of the B.Sc. Nursing Courses and grant affiliation with effect from the academic year 2002-2003 by holding necessary inspection and observing other formalities in the light of the permission granted by the Govt. of Pondicherry and the recognition granted by the Tamil Nadu Nurses and Midwives Council and also the NOC issued by the University within such time as the Honourable Court may stipulate.

For Appellant in both appeals : Mr.T.R.Rajagopalan,
Sr.Counsel
for Mr.Satish Parasaran
For 1st Respondent in WA.619/2006 : Mr.A.R.Nixon
For 1st Respondent in W.A.620/2006 : Ms.G.Thilakavathi
& 2nd respondent in W.A.No.619/2006
For R-3 in W.A.No.619/2006 & : Mr.T.Murugesan
RR-2&3 in W.A.No.620/2006 Govt. Pleader (Pondicherry)
For RR-4 to 52 in W.A.620/2006 : Mr.Hari Shankar
for Mr.Srinath Sridevan
For R-4 in W.A.619/2006 & : Mr.T.Arunan, CGSC
R-53 in W.A.620/2006

COMMON JUDGMENT

N. PAUL VASANTHAKUMAR, J.

W.A.No.620 of 2006 has been directed against the order made in W.P.No.15877 of 2003. The prayer in the writ petition is to issue a writ of certiorarified mandamus calling for the records comprised in the proceedings of the first respondent University dated 18.2.2003, proceeding dated 11.4.2003 and proceeding dated 10.6.2003 and quash the same and consequently direct the first respondent to consider the grant of affiliation for the B.Sc (Nursing) Course offered by the petitioner for the academic years 2002-2003 and 2003-2004 in the light of the permission granted by the Government of Pondicherry, the recognition granted by the Indian Nursing council and the Tamil nadu Nurses and Midwives Council etc., to enable the students to continue their course and undertake all examinations until completion of the course.

2. W.A.No.619 of 2006 has been filed against the order in W.P.No.5080 of 2006, wherein the prayer is to issue a writ of certiorari calling for the records of the first respondent comprised in proceedings dated 7.2.2006 and quash the same.

3. Both the above writ petitions along with some other connected writ petitions were disposed of by the learned single Judge by the common order dated 3.4.2006, which is under challenge in the present writ appeals.

4. The brief facts necessary for disposal of these writ appeals with reference to W.A.No.620 of 2006 are that the Appellant Trust has established various Educational Institutions in Tamil Nadu and Pondicherry i.e., two medical colleges in the Union Territory of Pondicherry and one in Salem, Tamil Nadu. To consolidate the importance of medical education, petitioner Trust wanted to start another Paramedical course, pursuant to which, R.M.college of Paramedical sciences sponsored by Al Islamic Educational Trust at Pondicherry was purchased by a deed of transfer. The said R.M.College of Paramedical Sciences was offering various paramedical courses including B.Sc (Nursing). The appellant Trust, before entering into the agreement to take over the said R.M.College of Paramedical Sciences, desired to obtain permission from the Government of Pondicherry and accordingly made a representation to respondents 2 and 3. The Government of Pondicherry by letter dated 11.6.2002 intimated that the Government had no role to play in the proposed merger of both the institutions. However, it was informed that if the merger takes place the minority status given to the R.M.College of Paramedical Science would be treated as withdrawn and the management, which takes over the said Trust should protect the interest of the students already admitted and studying in various courses and it was also requested to send documents relating to merger for record purposes.

5. The appellant, pursuant to the said letter of the Government of Pondicherry, entered into a deed of taking over, dated 26.6.2002 and took over the control of the management of R.M.College of Paramedical Sciences to impart education in various paramedical courses including B.Sc (nursing) comprising of degree, diploma and certificate courses. On 3.7.2002, the appellant wrote to the first respondent University about the said fact of obtaining permission for taking over from the Government of Pondicherry and requested to grant affiliation for various paramedical courses run by the said R.M.College of Paramedical Courses, which the petitioner Trust had taken over in the name of 'Vijayaka Mission's College of Paramedical Sciences' sponsored by the petitioner Trust. On 5.7.2002, appellant submitted representation and reiterated that permission has been obtained from the Government of Pondicherry for taking over and requested to grant affiliation for eight courses including B.Sc (Nursing). According to the appellant, several further representations were made and the management proceeded to conduct various courses including B.Sc. (Nursing) degree course and students have been admitted from July, 2002 for the academic year 2002-2003. On 4.12.2002, the appellant submitted a

representation to the Registrar, Tamil Nadu Nurses and Midwives Council seeking its recognition for B.Sc (Nursing) degree course and based on the inspection conducted by the said Council, established under the Tamil Nadu Nurses and Midwives Act, it granted temporary recognition to the appellant institution by order dated 4.12.2002 to conduct degree programme in basic B.Sc (Nursing) for the academic year 2002-2003 with an annual intake of 50 students and also made it clear that the first batch of admission of students is permitted in July for the academic year 2002-2003. In the said recognition order, various conditions were laid down, which were also complied with by the appellant. The appellant pointed out the grant of recognition by the Tamil Nadu Nursing Council before the first respondent and requested the first respondent University to conduct examination for 50 students admitted. However, the first respondent University failed to process the application for affiliation, which resulted in appellant making further representation to the University. On 9.1.2003, the first respondent University requested the petitioner to furnish the original permission granted by the State Government for take-over of the R.M. College of Paramedical Sciences and also took note of the fact that students have been admitted without obtaining affiliation and also adverted to the fact that already a writ petition was filed by the Al Islamic Trust for grant of affiliation, which was subsequently withdrawn by the said institution on 21.3.2003. Appellant had informed the University about the withdrawal of the earlier writ petition filed by the erstwhile management and also furnished all the necessary particulars sought for by the University and also pointed out the grant of no objection by the first respondent University on 17.6.199 to the R.M.College of Paramedical Sciences for four courses. However, the University refused to pass any order on the request for affiliation of the petitioner Nursing College.

6. The appellant, initially filed the writ petition and prayed for a writ of mandamus seeking direction for the first respondent University to forthwith process the application for affiliation in respect of the B.Sc Nursing Course and grant affiliation with effect from the academic year 2002-2003 by holding necessary inspection and observing other formalities, in the light of the permission granted by the Government of Pondicherry and the recognition granted by the Tamil Nadu Nurses and Midwives Council and also the No Objection Certificate issued by the University.

7. A counter affidavit was filed in the said writ petition in which it is stated that taking note of the time frame under which the institution had approached the University for grant of affiliation and with reference to the relevant regulations, more particularly clause 5(a) of the academic ordinance under the Pondicherry University Act, 1985, appellant Trust was informed that its application for affiliation could be considered only for the academic year 2003-2004 vide University letters dated 18.2.2003 and 11.4.2003 and mentioned that the consideration of affiliation for the academic year 2003-2004 could be considered subject to the petitioner being able to provide the approval of competent authority

before the end of May, 2003 and the No Objection Certificate received from the Government of Pondicherry. Thereby the first respondent University contended that the affiliation request for 2002-2003 was negated by the said order.

8. Taking note of the said stand, the appellant filed amendment petition to amend the prayer in the writ petition to that of certiorari mandamus as stated supra.

9. The second writ petition was filed by the petitioner Trust to quash the order dated 7.2.2006 passed by the Tamil Nadu Nurses and Midwives Council, Chennai-104, wherein the appellant was directed to hand over the students' original certificates, other documents, files, registers, records and communications pertaining to these students to be allotted to other institutions.

10. The learned single Judge dismissed the writ petitions taking note of the submission made by the Pondicherry University that the application for affiliation for 2002-2003 was not submitted by the appellant Trust before the last date fixed under the affiliation norms i.e, 15th August of the preceding year and ultimately the learned single Judge held that the affiliation having not been granted to the petitioner's Nursing College, the order passed by the Tamil Nadu Nursing Council on 7.2.2006 is valid.

11. (a) The learned Senior counsel appearing for the appellant in both the writ appeals argued that the application submitted for affiliation before the Pondicherry University for B.Sc Nursing Course 2002-2003 was not considered by the University on merits and no inspection whatsoever was made to find out as to whether the appellant Nursing College had fulfilled the academic requirements and the infrastructural facilities for the grant of affiliation. The only reason stated for rejecting the request for affiliation for 2002-2003 is that the application for affiliation was submitted beyond the prescribed time. The learned Senior Counsel further submitted that the Indian Nursing Council has granted permission to the appellant Nursing College by letter dated 23.9.2003 to admit students for the academic year 2002-2003 with an annual intake of 50 students and the said Council also granted permission for the academic year 2003-2004 by letter dated 30.7.2004 with an intake of 60 students, and for 2004-2005 with an intake of 60 students. The said permission was granted by the Indian Nursing Council under section 10 of the Indian Nursing Council Act, 1947, after making inspection on compliance of the requirements for the grant of recognition.

(b) The learned senior Counsel also submitted that the Tamil Nadu Nurses and Midwives Council has also granted temporary recognition for 2002-2003 by letter dated 4.2.2003 for an annual intake of 50 students. The said Council also granted temporary recognition for 2003-2004 for an intake of 60 students on 4.6.2003 and also 60 students in the year 2004-25. In the year 2004-2005 the appellant was brought under the ambit of

Deemed University and therefore the only requirement now is to get affiliation for the academic year 2002-2003 and 2003-2004. The learned Senior Counsel further stated that 49 students admitted during 2002-2003 have written the 1st, 2nd, 3rd and 4th semester examinations and their results have been declared only for the 3rd and 4th semester examination by orders of the Court and 60 students admitted during 2003-2004 have written the 1st, 2nd, 3rd and 4th semester examinations and the results for the 1st and 2nd semester alone have been declared. The failed students have now been allowed by the Pondicherry University to take up the arrears examination to be held shortly. The learned counsel further submitted that in similar matter in W.P.No.10850 of 2004, a learned single Judge of this Court directed the University to conduct inspection and grant affiliation within a reasonable time in the interest of students. The Writ Appeal filed by the University in W.A.No.3393 of 2004 was also dismissed by a Division Bench of this Court.

(c) The learned Senior Counsel therefore submitted that the matter in issue is covered by the decision of this Court above referred and the learned single Judge has not considered the said decision and strictly construed the time limit prescribed by the University and dismissed the writ petitions on that sole ground. On the said background the learned Senior Counsel requested this Court to give direction to the first respondent University to inspect the appellant Nursing College based on which orders can be passed with reference to the grant of affiliation for the academic year 2002-2003 and 2003-2004 only, so that the interest of the students would be protected. The learned senior Counsel also argued that suppose the first respondent University inspected and rejected affiliation due to want of requirements, the appellant could not have admitted students and is not entitled to insist for affiliation. Here in this case, admittedly there is no inspection and only on technical grounds the request for affiliation was rejected and in fact the first respondent University is not strictly adhering to the cut of date for submitting the application and on earlier occasions the first respondent processed the application for affiliation even though institutions have submitted application for affiliation beyond the prescribed time. Hence the learned counsel prayed for suitable direction to the first respondent to inspect the petitioner Nursing College and pass orders on merits and if affiliation is granted, the order passed by the Tamil Nadu Nursing Council dated 7.2.2006 need not be given effect to.

12. The learned counsel for the University argued that because of the belated submission of the application for affiliation the appellant's request for affiliation was not considered on merits and as the University is strictly adhering to the time limit, no exception can be made against the order passed by the single Judge and prayed for dismissal of the writ appeals.

13. We have heard the learned counsel appearing for the Pondicherry

Government, learned counsel appearing for the Tamil Nadu Nurses and Midwives Council, Counsel for the students of the petitioner institution and also the learned counsel for the Indian Council for Nurses.

14. It is not in dispute that the application for affiliation was submitted by the appellant and recognition by the competent authorities viz., the Indian Nursing Council for the academic year 2002-2003 for 50 students and for the year 2003-2004 for 60 students were granted by orders dated 23.9.2003 and 30.7.2004 respectively. The Tamil Nadu Nurses and Midwives Council also granted temporary recognition for 50 students for the 2002-2003 and 60 students for year 2003-2004 by orders dated 4.12.2002 and 4.6.2003 respectively. It is also not in dispute that 49 students admitted during 2002-2003 and 60 students admitted during 2003-2004 have written their examinations. In the light of the above undisputed facts, the point to be considered is whether the University is justified in not considering the affiliation application on merits merely on the ground of delay in submitting the same.

15. A similar issue came up before this Court for consideration in W.P.No.10850 of 2004 and by order dated 2.9.2004 this Court taking note of the grant of affiliation to several courses to several institutions, irrespective of the belated submission of applications, held as follows,

"(vi) The reason for refusal to grant affiliation is not because that there was any deficiency or defect in the infrastructural requirements for running the Institution, in which case, public interest may be stated to be involved. In the present case, the only defect is not having forwarded the application on or before 15th of August of the Previous year.

(vii) The situation faced by the petitioner Institution is the outcome of defects in the very system, requiring the approval / permission from various authorities, one after the other. In this case, the petitioner has sought for Essentiality Certificate in the year 2001 itself. If only the applicants are entitled to approach all the authorities simultaneously, as they should be, such anomalous situations could be avoided.

For all the above-said reasons and bearing in mind the plight of the students who have been admitted on direction from the Government, the writ petition deserves to be allowed."

The Pondicherry University, viz., the first respondent herein challenged

the order of the single Judge made in W.P.No.10850 of 2004, in W.A.No.3393 of 2004 and the same was dismissed by this Court on 30.9.2004.

16. Mr.S.S.Subramani, J., in W.P.No.1270 of 1999 dated 22.2.1999 (Kousalya Ramamurthy and others v. Pondicherry University), relying on the observation that all the authorities concerned should take simultaneous decision and one authority cannot delay the process and that when once AICTE has granted permission, the Management would be legally entitled to admit the students. In W.P.No.23925 of 2001 by order dated 22.3.2002 (Aarupadai Veedu Medical College v. Pondicherry University), A. Kulasekaran, J. had observed that when once the Central Government has granted permission to admit the students, it was not right on the part of the University to prescribe a different period by rejecting the application for affiliation. In St.Xavier's Educational Trust v. Manonmaniam Sundaranar University and Others, W.P.No.20496 of 2000, by order dated 19.12.2000, K.Govindarajan, J. directed the University to grant affiliation for the academic year 2000-2001, though the judgment was rendered on 19.12.2000.

17. A similar issue arose before this Court in the decision reported in 2005 WLR 257 (Madras Education and Research, Integrated Trust v. The Periyar University represented by its Registrar, etc. & another) wherein also the Periyar University, Bharathidasan University and Madurai Kamaraj University refused to entertain applications for affiliation of B.Ed courses even after the grant of recognition by the NCTE on the ground that the affiliation application was submitted beyond the time prescribed by the respective Universities and also on the ground that no objection certificate/permission from the State Government was not obtained for establishment of B.Ed. Colleges. The learned single Judge in the above referred decision negated the said contention of the respective Universities and allowed the writ petitions and ordered to consider each of the applications submitted before each of the Universities for grant of affiliation, subject to the condition of affiliation, which are not inconsistent to the provisions of either NCTE Act or regulations and complete such exercise on or before 31.12.2004. The respective universities filed writ appeals against the said order of the learned single Judge and in the decision reported in 2005(2) CTC 182 (Bharathidasan University V. Dhanalakshmi Srinivasan Educational and Charitable Trust)(DB), this Court dismissed the writ appeals and directed the Universities to pass orders on the request of affiliation by the respective B.Ed Colleges, without insisting for NOC/permission from the State Government by sending necessary inspection team. All the institutions applied for affiliation before the respective Universities beyond the prescribed date, since recognition was granted for the said B.Ed Colleges after the last date prescribed for submitting application for affiliation for that academic year. Taking note of the said fact, the learned single Judge as well as the Division Bench directed the Universities to pass orders on the affiliation applications after making inspection. The said order of the Division Bench was also confirmed by

the Honourable Supreme Court in SLP (Civil) No.6241 of 2005, order dated 17.4.2006 following the judgment reported in 2006 (3) SCALE 675 (State of Maharashtra vs. Sant Davaneshwar Shikshan Shastra).

18. In the decision reported in 1993 WLR 965 (The Registrar, Pondicherry University, etc., v. Trustee, Dr.Alexandar Educational Foundations, etc.) a Division Bench of this Court directed to consider the affiliation without reference to the cut of date. Paragraph 6 of the said Judgment reads thus,

"For the reasons stated above, the writ appeal is allowed. The order dated 2.8.1993 passed in W.P.No.6294 of 1993 is set aside. The writ petition is disposed of in the following terms: The first respondent shall make an application in accordance with the provisions of the statutes with necessary fees on or before 15th October, 1993. If such an application for affiliation of the college for conducting courses leading to B.Pharm, B.Sc., (MLT) and B.Sc. (Nutrition) is filed, the same shall be considered by the University in accordance with the provisions of the relevant regulations, statutes and the Act, without raising an objection that the application has been filed beyond 15th August, 1993 and the University shall complete the procedure required by the statute and the Executive Council shall take a decision on the application for affiliation within 3 months from the date of filing of the application. In the facts and circumstances of the case, there will be no order as to costs."

19. In a recent decision of a Division Bench of this Court reported in 2006 (2) LW 346 (Dharma Medical and Research Charitable Trust v. Government of India and others) (DB) it is held that once the authorities competent to grant permission granted permission, the Dr.M.G.R. Medical University has no jurisdiction to reduce the student strength even though the University may not be precluded from carrying on the inspection with regard to the infrastructural facilities of the Institution.

20. Section 11 of the Indian Nursing Council Act, 1947, clearly states the effect of recognition granted by the Indian Nursing Council, which reads as under,

- "11. Effect of recognition.- (1) Notwithstanding anything contained in any other law,-
- (a) any recognised qualification shall be a sufficient qualification for enrolment in any State register;
 - (b) no person shall, after the date of commencement of this Act, be entitled to be enrolled in any State register as a nurse,

midwife auxiliary nurse-midwife, health visitor, or public health nurse unless he or she holds a recognised qualification:

Provided that any person already enrolled in any State register before the said date may continue to be so enrolled notwithstanding that he or she may not hold a recognised qualification: "

Admittedly the Indian Nursing Council and the Tamil Nadu Nursing and Midwives Council granted recognitions for the B.Sc (Nursing) course for the academic years 2002-2003, 2003-2004 and 2004-2005. Hence the first respondent is duty bound to consider the request of the appellant for the grant of affiliation, otherwise the grant of recognition by the competent authorities will be set at naught. The Central Nursing Council, State Nursing Council and the University must co-ordinate to carry out the object of smooth functioning of the Institutions, failing which the grant of recognition by the Competent authorities will not have any effect and the interest of the students and the Institution will be in jeopardy. The stand of the first respondent that the appellant should have applied before 15th August of the preceding year without the recognition by the competent authorities is an impossibility of performance. While disposing of W.P.No.10850 of 2004, K.P.Sivasubramaniam, J. in paragraphs 20 and 21 observed as follows,

"20. While parting with this case, it would be appropriate to place on record the total unsustainability of the methodology adopted by the various authorities who are involved in the grant of permission / sanction / affiliation, etc., for starting a professional college / courses, namely, Medical dental, Nursing, Teachers' Training, Engineering, Technical, etc. when the Government is not able to run such educational Institutions and the right of education being recognised as a fundamental right, the need of imparting education through private sector had become inevitable and a recognised feature. But, in order to see to it that the private sector does not exploit the situation commercially and in an unconscionable manner and to ensure proper standards, many regulations have been formulated to control the fee structure, to ensure all infrastructural facilities, staff pattern, etc., before and after the institution is allowed to admit the students and commence its functioning. In the said process, necessarily different authorities are involved such as Central and State Governments, Governing Councils like the Medical Council, Dental Council, AICTE, etc., and the University. No doubt, these authorities have to act independently in their own spheres and according to their own standards. But it should not be forgotten

that they are statutory authorities discharging the functions of one single entity, namely, the Sovereign Government. The various authorities above-mentioned are part and parcel of that single entity and they function differently only for administrative reasons and due to division of labour. But the unfortunate outcome of such division of labour is the impossible and impracticable situations and requirements which the applying institution has to face for establishing itself. Which authority is to be approached first, second third or last is a question which no one can answer. But one thing is sure. "A: authority would require the approval by "B", "C" and "D" authorities, while "B" authority would require approval /permission by the other three authorities and likewise in the case of "C" and "D" authorities. I ask myself the question as to how this could be possible at all and where is the need for such a requirement. The applying institution is expected to successfully complete this jugglery, after having invested several lakhs of rupees only to find at last being told that students cannot be admitted for the particular academic year. This situation inevitably leads to red-tapism, corruption, favouritism and inconsistent orders being passed in favour of and against different institutions by adopting different yardsticks. This rigmarole is going on for the past many years, flooding the Courts with petitions where it is also found that innocent students are caught in this confusion. They already have a frightening and competitive future ahead of them and even at the threshold of their professional education, they are subjected to painful suspense and many times, are forced to loose money and valuable years when they are told that the institution in which they are admitted is not yet recognised or affiliated. Take for instance this case itself where the Government of Pondicherry itself directs the College to admit the students, while the University states that they cannot affiliate, as the application was belated. If only simultaneous applications are made possible, this problem would not have arisen at all. When the petitioning College is required to approach the University only after the Essentiality Certificate is given by the Government, it results in unnecessary delay and the requirement that the application for affiliation should have been made on or before 15th of August of the previous year itself is rendered impossible. Further, it is also seen that while the Indian Nursing Council grants permission on 20.9.2003,

the Tamil Nadu Nursing Council points out certain defects and ultimately grants its approval only on 11.5.2004. It is baffling to find that both the Nursing Councils should be involved though they operate only on the same field, but both of them have different approach regarding the infrastructural requirements.

21. Who is responsible for this situation and is it such a complicated issue to evade solution by the educational authorities ? It should be certainly possible to evolve a methodology by which the applying institution would be required to present its application before all the authorities simultaneously, something in the nature of a single window system and a time limit for all the authorities to pass orders for directions to rectify the defects, if any, and to comply with the requirements."

21. Having perused the above referred judgments we are of the considered view that the stand taken by the first respondent University is unsustainable and the writ petitions filed by the appellant deserve to be allowed with a direction to the first respondent University to consider the request of the appellant Nursing College for the grant of affiliation for the academic years 2002-2003 and 2003-2004 after making necessary inspection. The first respondent University is consequently directed to make inspection of the appellant Nursing College and pass orders on the application for affiliation for the academic years 2002-2003 and 2003-2004, within four weeks from the date of receipt of copy of this order. On such inspection, if the appellant gets affiliation, the students need not be transferred to other colleges.

22. Insofar as W.A.No.619 of 2006 is concerned, the impugned order passed by the Tamil Nadu Nursing Council dated 7.2.2006 shall be kept in abeyance till the first respondent pass orders as per the directions stated supra.

23. In the result, the order of the learned single Judge is set aside and the writ appeals are disposed of in the above terms. No costs. Connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar &
Vacation Officer.

/true copy/

Sub Asst. Registrar.

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To

1. The Tamil Nadu Nurses and Midwives Council,
Santhome High Road, Mylapore, Chennai - 600 004.
 2. The Registrar, Pondicherry university, Pondicherry.
 3. The Secretary, Government of Pondicherry,
Chief Secretariat (Health), Pondicherry,
 4. The Secretary, Indian Nursing Council,
Combined Council Building, Kotla Road, Temple Lane,
New Delhi - 110 002.
- + 2 CC to Senior Govt. Pleader cum Senior Public Prosecutor
for Pondicherry, Advocate SR NO 23502 and 23503.
- + 1 CC to Mr.A.R.Nixon, Advocate SR NO 23499.
- + 1 CC to Ms.G.Thilakavathi Advocate SR NO 23495.
- + 1 CC to Mr.Srinath Sridevan, Advocate SR NO 23491.
- + 2 CC to Mr.S.Satish Parasuran, Advocate SR NO 11839.

W.A.No.619 & 620 of 2006
& Connected Miscellaneous Petitions

NG (CO)

RVL, GP, 23.05.2006

सत्यमेव जयते

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