

***HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

+WRIT PETITION Nos.10655/2024 & 25920/2024

+WP No.10655/2024

Between:

#Sangamitra Educational Society

...PETITIONER

AND

\$State Of Andhra Pradesh and Others

...RESPONDENT(S)

JUDGMENT PRONOUNCED ON **13.03.2025**

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked to Law
Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see the fair
copy of the Judgment? - Yes -

DR.JUSTICE K. MANMADHA RAO

*** THE HON'BLE DR.JUSTICE K. MANMADHA RAO**

+WRIT PETITION Nos.10655/2024 & 25920/2024

% 13.03.2025

Between:

#Sangamitra Educational Society

...PETITIONER

AND

\$State Of Andhra Pradesh and Others

...RESPONDENT(S)

! Counsel for the Petitioner : Sri Kochiri Raja Shekar

Sri K. V. Raghuv eer

! Counsel for Respondents: GP for Medical Health & FW

<Gist :

>Head Note:

? Cases referred:

APHC010212402024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3310]

THURSDAY ,THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 10655/2024 & 25920 /2024

WP No.25920/2024 :

Between:

Sangamitra Educational Society

...PETITIONER

AND

State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.KOCHIRI RAJA SHEKAR

Counsel for the Respondent(S):

1.GP FOR MED HEALTH AND FAMILY WELFARE

The Court made the following:

COMMON ORDER:

WP No.10655 of 2024 is filed under Article 226 of the Constitution of India for the following relief:

“....to o issue any writ order or direction more particularly one in the nature of writ declaring theproceedingsin Rc No 2330354/NE/2024 dated 2.4.2024 issued by the 2ndrespondent in cancelling the clinical training/affiliation permission orders dated 5.2.2024 granted by the 2nd respondent himself without following due process of law as illegal violation of principles of natural justice and violative of Articles 14 and 19(l)(g) of the Constitution of India and consequently setaside the said proceedings and pass...”

2. WP No.25920 of 2024 is filed under Article 226 of the Constitution of India for the following relief:

“.....to o issue any writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing Lr No 2520583/C2/2024 dated 24.09.2024 and 2nd respondent proceedings vide Rc No 2526732/NE/2024 dated 17.09.2024 rejecting the consideration of the petitioner trust application for issuing NOC for the clinical affiliation with the KIMS Sai Sheshadri hospital Srikakulam basing on the MOD issued by the KIMS hospital in accordance with the guidelines issued by the Indian Nursing Council as illegal arbitrary against to the principles of natural justice and consequently set aside the Lr No 2520583/C2/202 dated 24.09.2024 of the 1st respondent and 2nd respondent proceedingsvide Rc No 2526732/NE/2024dated 17.09.2024by directing the 2nd respondent to issue afresh orders on the petitioner trust application to issue NOC for the clinical affiliation with the KIMS Sai Sheshadri hospital Srikakulam and Essentiality Certificate by 1st respondent and pass.....”

3. As the issue involved in both the writ petitions is one and the same, they are being taken up for hearing as well as disposed of by way of this Common Order.

4. Since the facts in both the writ petitions are similar and identical, therefore WP No.10655 of 2024 is taken as lead case, and the facts therein hereinafter will be referred to for convenience.

5. Brief facts of the case are that, the petitioner society submitted a proposal to the 1st respondent to start B.Sc. Nursing course in the name and style of "Sanghamitra College of Nursing". Accordingly, the petitioner's proposal was forwarded to the High Power Committee for its reports. Later the High Power Committee having satisfied with the infrastructure being provided and the teaching and non-teaching staff being appointed, forwarded its recommendations to the 1st respondent to grant essentiality certificate to the petitioner society. Pursuant to the recommendations, the 1st respondent

issued G.O.Ms.No.34 dated 11.3.2024 granting essentiality certificate for the petitioner society to start B.Sc Nursing (4 years Degree) Course with intake capacity of 50 seats per annum. The petitioner has also obtained permission from KIMS Hospital, Srikakulam vide letter bearing Ref.No.KIMSSSH-SKLM/HR/72/2024 dated 20.1.2024 for clinical attachment of the students of the proposed institution. The 2nd respondent having satisfied with the clinical undertaking, issued orders in Rc No.2330354/NE/2024, dated 5.2.2024 accorded permission to the petitioner society for clinical training/affiliation of the students at KIMS hospital. While the matter stood thus, the 2nd respondent issued proceedings dated 2.4.2024 cancelling the clinical permission orders dated 5.2.2024 issued by him and also requested the 1st respondent not to consider the proposals of the petitioner. Aggrieved by the same, the present writ petition came to be filed.

6. This Court vide order, dated 09.05.2024 in WP No.10655/2024 has granted interim stay of all further proceedings pursuant to the proceedings dated 02.04.2024 issued by the 2nd respondent, for a period of six(06) weeks.

7. The counter affidavit has been filed by the 2nd respondent in WP No.10655 of 2024. While denying the allegations made in the petition, inter alia, stated that, as per the INC Regulations, one of the prerequisite conditions to establish Nursing Institution is to have a parent hospital. The Trust/Society is required to have its own hospital or a hospital owned and controlled by the Trust, or a hospital managed and controlled by a member of the Trust and such hospital may function as a parent hospital. In furtherance of the same,

the trust/society should enter into a MOU with all its members including the Director of the Hospital who is also a member of the Society. In the present case, the petitioner society entered an MOU with the Superintendent of KIMS hospital instead of Director of the hospital and the same is contrary to the Rules, 1997 and the memo Dt:20-03-2023. It is further stated that, as per Rule 13(ii) Rules, 1997 the permission for affiliation of a Private College of Nursing shall be given only by the Director of Medical Education, AP and no Superintendent of the Hospital or any other authority is authorized to issue such permission. The 1st respondent issued Memo Dt:20-03-2023 reaffirming that the Superintendents of the Hospitals are not competent authority to attach clinical affiliation. The petitioner herein entered an MOU with the Superintendent, KIMS and the same is contrary to the Rules, 1997 and the Memo Dated 20.03.2023. In view of the said discrepancies, the 2nd respondent rightly cancelled the clinical training/affiliation permission orders Dated 05-02-2024 by way of proceedings in Rc.No.2330354/NE/2024 dated 02-04-2024. In view of the aforementioned facts and circumstances, the present writ petition lacks merit and is liable to be dismissed.

8. Reply affidavit has been filed by the petitioner in WP No.10655 of 2024 while reiterating the contents made in the petition, denied the allegations made in the counter. It is stated that the petitioner obtained the NOC/clinical affiliation from the 2nd respondent vide proceedings dated 5.2.2024 according clinical training in KIMS Hospital, Srikakulam, basing on the permission granted by the said hospital authorities. Therefore, the clinical affiliation

granted by the 2nd respondent is in accordance with the Government Orders and Memos. Thereafter, the Government issued G.O.Ms.No.34 dated 11.3.2024 granting essentiality certificate to start B.Sc. Nursing course, which is still in subsistence. None of the authorities raised any dispute with regard to the clinical training consent given by the KIMS Hospital. It is stated that, the Superintendent of KIMS hospital, Srikakulam has entered into MoU on behalf of the hospital for clinical affiliation. The allegation that the Director of KIMS informed the 1st respondent that they have not given their consent to any society/trust to consider KIMS as parent hospital is not correct. It is a fact that MoU was entered into for clinical affiliation only, not to treat the hospital as a parent hospital. The Superintendent is the head of the hospital administering its functioning. With regard to consent issued by the Superintendent, it is for their internal administrative process, whether he was permitted to issue such consent or not. If the clinical affiliation granted by the 2nd respondent is not set-aside, the petitioner would suffer hardship and irreparable loss. It is further stated that the parent hospital is not required to the petitioner society as the regulation is not applicable to the institutions established by societies. It is stated that when the 2nd respondent unilaterally issued the impugned cancellation of clinical training proceedings, the petitioner filed the present writ petition.

9. Insofar as WP No.25920 of 2024 is concerned, the Director of KIMS Sai Seshadri Hospital which is a unit of Arunodaya Hospitals Pvt Ltd had entered into a Memorandum of Understanding (MoU) on 5.3.2024 with the

petitioner trust. In the said MoU, the said director has agreed as parent hospital for clinical training of B.Sc for the students admitted into Kashyap College and School of Nursing under the petitioner trust for a period of 30 years. The Director who had executed the MoU is also a member in the petitioner trust. The said MoU was also submitted to the 2nd and 4th respondents for consideration of the same. The 2nd respondent, on receipt of the same, issued by the parent hospital, has to conduct an enquiry and submit a report recommending for issuance of Essentiality certificate on verifying the agreement by the petitioner trust with the parent hospital i.e., KIMS hospital for clinical affiliation. It is stated that after enquiry, the 3rd respondent submitted a report to the 2nd respondent stating that clinical affiliation given by the Medical Superintendent of KIMS hospital, Srikakulam is invalid. Basing on the said report, the 2nd respondent issued proceedings vide Rc No233354/NE/2024, dated 02.04.2024 cancelling the permission orders (NOC) issued vide proceedings dated 5.2.2024 to the said society for clinical training/affiliation of students at KIMs hospital.

10. The main grievance of the petitioner is that their application for issuance of NOC for clinical affiliation with KIMS hospital was pending with the 2nd respondent from the month of March 2024. The petitioner trust had addressed a letter to the 2nd respondent requesting to issue NOC, then the 2nd respondent vide Rc. No. 2526732/NE/2024 dated 17-09-2024 informed the petitioner trust that it is not possible to consider their request to treat KIMS hospital, Srikakulam as parent hospital to the proposed Kashyap College and

School of Nursing under the management of Trust till the WP No. 10655 of 2024 is finalized. Basing on the said proceedings the 1st respondent also addressed a letter to the petitioner trust vide Lr. No. 2520583/C2/2024 dated 24-09-2024 informing that action regarding the issuance of clinical affiliation with the KIMS hospital will be taken after finalization of the writ petition before the Hon'ble High Court. The said Writ petition is filed by Sanghamitra Educational Society challenging the cancellation orders of NOC issued by the 2nd respondent and the Hon'ble Court passed interim orders on 09.05.2024 staying the said cancellation orders. Questioning the proceedings dated 24.09.2024 the present WP No.25920 of 2024 came to be filed.

11. The counter affidavit has been filed by the 2nd respondent in WP No.25920 of 2024. While reiterating the contents made in the counter in WP No.10655 of 2024 stated that the petitioner application's for issuance of essentiality certificate is not viable due to the interim orders in IA. No.1 of 2024 in WP. No.10655 of 2024 Dt:09-05-2024. The said Writ Petition is pending for adjudication, which involves determining the legality of the NOC/permission for clinical affiliation to Sangamitra Educational Society by attaching KIMS as a Parent Hospital. As per the regulations, one of the essential conditions is that a hospital cannot simultaneously serve as a parent hospital for more than one trust or society. In view of the aforementioned facts and circumstances, writ petition lacks merit and is liable to be dismissed.

12. Heard Sri K. Rajasekhar, learned counsel appearing for the petitioner in WP No.10655 of 2024 and Sri K.V Raghuvver, learned counsel

appearing for the petitioner in WP No.25920 of 2024 and learned Government Pleader for Medical, Health & FW appearing for the respondents.

13. On hearing, Sri K Rajasekhar, learned counsel for the petitioner in WP No.10655 of 2024 while reiterating the contents made in the petition argued that the 2nd respondent has passed the impugned proceedings basing on the report dated 28.3.2024 said to have been submitted by the District Medical & Health Officer (DMHO) Srikakulam on the clinical affiliation of the petitioner with KIMS hospital, Srikakulam, wherein the DM&HO alleged that the clinical affiliation given by the Medical Superintendent of KIMS Hospital, Srikakulam is invalid. It appears that pursuant to the said report, the impugned proceedings have been passed. He submits that the 2nd respondent has not called for any explanation from the petitioner about the alleged report of the DM&HO. Without calling for explanation from the petitioner, the 2nd respondent cannot cancel the permission proceedings unilaterally. He further submits that the report said to have been submitted by the DM&HO is behind the back of the petitioner. Learned counsel further submits that KIMS Hospital granted permission on 20.1.2024, which was verified by the DM&HO with his check list dated 22.1.2024, therefore, the 2nd respondent ratified the said permission through his proceedings dated 5.2.2024. Pursuant to these proceedings, the High Power Committee forwarded its recommendations and in turn the 1st respondent granted essentiality certificate through G.O.Ms.No.34, dated 11.3.2024. He further submits that the petitioner has obtained the building on lease, provided the required infrastructure and

engaged the staff both teaching and non-teaching. At this juncture, if the clinical permission granted by the 2nd respondent is cancelled unilaterally by himself, would cause hardship and irreparable loss to the petitioner. In fact the Medical Superintendent of the hospital is the competent in managing and for smooth functioning of the hospital. Therefore, the impugned proceedings of the 2nd respondent is illegal and violation of principles of natural justice.

14. On the other hand, Sri K.V. Raghuvver, learned counsel appearing for the petitioner in WP No.25920 of 2024 also while reiterating the contents made in the petition, argued that, the 1st respondent earlier had issued a memo No. 2024902/C2/2023-2 dated 20-03-2023 directing the 2nd respondent to issue instruction that no Superintendent of the Hospital or any other authority is authorized to issue clinical affiliation to the institutions proposed for establishment of Nursing School/College. He submits that the petitioner trust had obtained MOU directly from the Director of the KIMS hospital who is also the member of the petitioner trust. When the petitioner trust had complied with all the requirements for issuance of NOC recommending for giving Essentiality Certificate for clinical affiliation of the petitioner trust with the KIMS hospital on the reason that a writ petition is pending which is not related to for consideration of writ petitioner application for issuing NOC is illegal, arbitrary and in violation of the guidelines issued by the Indian Nursing Council.

15. Sri K.V. Raghuvver, learned counsel for the petitioner trust further submits that the petitioner trust had developed infrastructure for establishing

the Kashyap College and School of Nursing in Srikakulam, KIMS hospital as the parent hospital by investing huge amounts to start college from the present academic year 2024-2025. Learned counsel mainly contended that the 2nd respondent issued revised Schedule notification dated 29-10-2024 calling for payment of registration fee and online submission of application for the academic year 2025-2026 for admission process of students into General Nursing and Midwifery Training Course (GNM) (Male & female) up to 20.11.2024 and that the selection process should be completed by 30.11.2024 for Govt. schools and private schools by the 3rd respondent and that the classes would commence from 2nd December, 2024. Until the NOC is issued by the 2nd respondent, the 1st respondent will not issue Essentiality Certificate. He submits that, after obtaining Essentiality Certificate, Indian Nursing Council, Andhra Pradesh State Nursing Council and NTR Health University will inspect the College to grant permissions and affiliation for commencing the Nursing college by admitting the students. The petitioner trust had started the process of establishing the Nursing College from the month of November 2023 but due to inaction of the 2nd respondent in proper consideration as per the Rules the same is getting delayed. Therefore, learned counsel for the petitioner requests this Court to issue a direction to the 2nd respondent to pass an order afresh on the petitioner trust application without taking into consideration of the pending of writ petition 10655 of 2024, pending disposal.

16. Per contra, learned Government Pleader appearing for the respondents argued that the Director of KIMS vide email dated 14.3.2024 informed the 1st respondent that they have not given their consent to any society/trust to consider KIMS as parent hospital and upon verifying the same, it was learnt that the Superintendent gave clinical affiliation. He submits that, in view of discrepancies, the 2nd respondent cancelled the clinical affiliation vide orders dated 2.4.2024. Aggrieved by the same, Sangamitra Educational Society filed WP No.10655 of 2024 before this Court and this Court had granted interim direction and in view of the interim orders, the issuance of essentiality certificate to the petitioner society in WP No.10655 of 2024 cannot be considered and the 1st respondent informed the same to the petitioner in WP No.25920 of 2024 vide Lr No.2520583/C2/2024, dated 24.09.2024. He further submits that the said writ petition i.e., WP No.10655/2024 is pending for adjudication, which involves determining the legality of the NOC/permission for clinical affiliation to Sangamitra Education Society by attaching KIMS as a parent hospital. He further submits that as per the regulations, one of the essential conditions is that a hospital cannot simultaneously serve as a parent hospital for more than one trust or society. Therefore, prayed to dismiss the writ petition.

17. Learned Government Pleader has furnished a copy of Guidelines and Minimum requirements to establish B.Sc (N) College of Nursing, wherein it is mentioned about parent hospital, reads as under:

Parent Hospital

Parent Hospital Parent Hospital for a nursing institution having the same Trust which has established nursing institution as well as the hospital.

For a nursing institution (managed by Trust) a Parent Hospital' OR would be a hospital either owned and controlled by the Trust or managed and controlled by a Member of the Trust. In case the owner continue to function as a Parent Hospital' till the life of the nursing institution. The undertaking would also be to the effect that the Member of the Trust would not allow the hospital to be treated as Parent/Affiliated Hospital' to any other nursing institution and will be for minimum 30 years [i.e. signed by all members of Trust) to the undertaking to be submitted from the Members of the Trust.

18. As seen from the G.O.Ms.No.134, Health Medical and Family Welfare (C2) department, dated 11.03.2024, wherein the essentially certificate has to be issued subject to the following the conditions :

1. That the Institute should obtain affiliation duly fulfilling all the conditions stipulated as per the statutes of Dr.YSR University of Health Sciences, Vijayawada and payment of annual affiliation fee as prescribed from time to time by Dr.YSRUHS and clearance from the Indian Nursing Council, New Delhl. In case of the aforesald Educational Society fails to fulfill the conditions or falls to start the B.Sc Nursing course within a period of one year, the permission now accorded will be cancelled.

II. The annual Intake of students should not exceed as specified above to the Institute and the Institute should fulfill and abide by the rules and regulations notified by Government in G.Os 1 and 2nd read above, and subsequent amendments Issued thereon from time to time.

19. As stated by learned counsel for the petitioner that, vide proceedings in Rc No2330354/NE/2024, dated 2.4.2024, the Director of Medical Education A.P., Vijayawada cancelled the permission orders issued by the Director of Medical Education to the petitioner in WPNo.10655of 2024. And further, as seen from the impugned letter in Lr.No.2520583/C2/2024, dated 24.09.2024issued to the petitioner in WP No.25920/2024, wherein *it is informed to the petitioner trust that, the matter is subjudice/pending before the Hon'ble High Court in WP No.10655/2024 regarding issuance of clinical affiliation with KIMS Hospital, Srikakulam as the parent hospital and further*

action will be taken on this issue after the finalization of the case by the Hon'ble High Court.

20. The contention of the petitioner counsel in WP No.25920 of 2024 is that the petitioner trust had started the process of establishing the Nursing college but due to interim order of this Court the same is getting delayed. It is observed from the material that, as per Parent Hospital rules, the director of KIMS Sai Sheshadri Hospital, Srikakulam, agreed as parent hospital for clinical training of BSC (M=Nursing and GNM Courses) for the students admitted into Kashyap Colleges and schools of Nursing under the petitioner trust for a period of 30 years. Further the Director who had executed the MOU is also a member in the petitioner trust.

21. So, it is an admitted fact that, as per the INC Regulations, one of the prerequisite conditions to establish Nursing Institution is to have a parent hospital. The Trust/Society is required to have its own hospital or a hospital owned and controlled by the Trust, or a hospital managed and controlled by a member of the Trust and such hospital may function as a parent hospital.

22. In view of the same, as per guidelines issued by Indian Nursing Counsel, the petitioner trust in WP No.25920 of 2024 treated as Parent/affiliated hospital to any other nursing institution and also having 30 years to the undertaking by the members of the Trust. Therefore, this Court deems fit to allow the WP No.25920 of 2024 while declaring the action of the 1st respondent in issuing proceedings dated 24.09.2024 as illegal and arbitrary.

23. Accordingly, the **WP No.25920 of 2024 is allowed**. The impugned proceedings in Lr No2520583/C2/2024 dated 24.09.2024 issued by the 1strespondent and the proceedings in Rc No.2526732/NE/2024, dated 17.09.2024 issued by the 2ndrespondent are hereby set aside. Further, the 2nd respondent is directed to consider the case of the petitioner afresh and issue NOC for clinical affiliation with KIMS as parent hospital and also issue Essentiality Certificate, and pass appropriate orders, in accordance with rules, within a period of two (02) weeks from the date of receipt of a copy of this order.

24. Insofar as WP No.10655/2024 is concerned, the contentions raised by the petitioner counsel are not acceptable as the Superintendent of the Medical Health is not a competent authority to issue any NOC. Therefore, finding no merit in the instant writ petition and devoid of merits, the same is liable to be dismissed.

25. Accordingly, the **WP No.10655 of 2024 is dismissed**. The interim order dated 9.5.2024 passed in IA No.1 of 2024 in WP No.10655/2024 is hereby vacated. There shall be no order as to costs;

27. As a sequel, all the pending miscellaneous applications shall stand closed.

DR. K. MANMADHA RAO, J.

Date : 13 -03-2025

Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITION Nos:10655 & 25920/2024

Date :13.03.2025

Gvl