

7. In view of the principle laid down in the aforesaid decision (supra 1), the contention of the learned counsel for the petitioner cannot be accepted.

8. The writ petition is devoid of merits and is accordingly dismissed. No order as to costs.

9. As a sequel, miscellaneous petitions, if any, pending in this writ petition stand closed.

2016 (5) ALT 687 (D.B.)

HIGH COURT OF JUDICATURE AT
HYDERABAD FOR THE STATE OF
TELANGANA AND THE STATE OF
ANDHRA PRADESH

V. RAMASUBRAMANIAN and
Smt. ANIS, JJ.

Writ Petition No. 25835 of 2016 –
Decided on 8-9-2016.

Mohd. Abdul Khader Memorial Educational
Society, Hyderabad and others

v.

Jawaharlal Nehru Technological University
(JNTU), Hyderabad rep. by its Registrar
and others

JAWAHARLAL NEHRU
TECHNOLOGICAL UNIVERSITY,
HYDERABAD, GRANT OF AFFILIATION
FOR THE COLLEGE/INSTITUTION
REGULATIONS — B. Pharmacy and M.
Pharmacy (Pharmaceutics) Course —
Refusal of University to grant affiliation
to B. Pharmacy and M. Pharmacy
(Pharmaceutics) Course for the
academic year 2016-17 — Writ petition
challenging the said refusal — Permitted
intake of students for B. Pharmacy is
360 and the number of faculties required
is 24 — Though, in the deficiency report
dated 20-5-2016, it was pointed out by

the 1st respondent-University that 24 numbers of faculty are available, it was indicated that, in respect of one specialization in pharmacognosy, the faculty with specialization in that group were not available — On that basis, affiliation for admission to the first year of B. Pharmacy for the current academic year was denied — So far as M. Pharmacy (Pharmaceutics) is concerned, the permitted intake of students is 48 and the number of faculties required is 4 — It was indicated in the very same deficiency report that all the four faculties for teaching M. Pharmacy (Pharmaceutics) were available — It was also indicated that there was one Ph.D., available as per the specifications — However, the University refused to grant affiliation even for M. Pharmacy (Pharmaceutics) on the sole ground that affiliation for admission to the first year of B. Pharmacy has been rejected — Held, so far as rejection of affiliation for B. Pharmacy for the current year is concerned, Court has no reason to interfere — Held, so far as M. Pharmacy (Pharmaceutics) is concerned, there are no deficiencies in respect of the faculty and there are no deficiencies in respect of doctorate degree-holders — In such circumstances, allowing the infrastructure provided in the college to go waste, for one full year on the ground that no affiliation was granted for the first year of B. Pharmacy Course, may not be appropriate — Therefore, Court cannot allow a college with infrastructure to remain closed, that too for a post-graduate course — Zero tolerance should be shown equally to the wastage of infrastructure, as it could be

shown to the lack of infrastructure — Hence, writ petition allowed directing respondents to grant affiliation to the petitioners for M. Pharmacy (Pharmaceutics) for the current academic year 2016-17. (Paras 5, 12, 13 and 14)

Quotable points: (1) *College with infrastructure – Court cannot allow a college with infrastructure to remain closed, that too for a post-graduate course.*

(2) *Zero tolerance – Zero tolerance should be shown equally to the wastage of infrastructure, as it could be shown to the lack of infrastructure.*

Mr. Tarun G. Reddy, Counsel for the Petitioners.

Mr. K. Ramakrishna Reddy, Advocate General for Mr. A. Abhishek Reddy, Counsel for Respondent Nos.1, 3 and 4.

G.P. for Higher Education (TG) for Respondent No.2.

Mr. K. Ramakanth Reddy, Counsel for Respondent No.5.

ORDER

(Per V.Ramasubramanian, J.)

The petitioners have come up with the above writ petition challenging the refusal of the University to grant affiliation to B. Pharmacy and M. Pharmacy (Pharmaceutics) course for the academic year 2016-17.

2. Heard Mr. Tarun G. Reddy, learned counsel for the petitioners and Mr. K.Ramakrishna Reddy, learned Advocate General appearing on behalf of Mr. A.Abhishek Reddy, learned counsel for the 1st respondent-University.

3. The college run by the petitioners was not granted affiliation for the current academic year for admission to the first year of B. Pharm course. The permitted intake of students for B. Pharm is 360 and the number

of faculties required is 24. Though in the deficiency report dated 20-5-2016, it was pointed out by the 1st respondent that 24 numbers of faculty are available, it was indicated that in respect of one specialisation in Pharmacognosy, the faculty with specialisation in that group were not available. On that basis, affiliation for admission to the first year of B. Pharm for the current academic year was denied.

4. Insofar as M. Pharm (Pharmaceutics) is concerned, the permitted intake of students is 48 and the number of faculties required is 4. It was indicated in the very same deficiency report dated 20-5-2016 that all the four faculties for teaching M. Pharm (Pharmaceutics) were available. It was also indicated that there was one Ph.D., available as per the specifications. However, the University refused to grant affiliation even for M. Pharm (Pharmaceutics), on the sole ground that the affiliation for admission to the first year of B. Pharm has been rejected this year.

5. Insofar as the rejection of affiliation for B. Pharm for the current year is concerned, we have no reason to interfere. But insofar as the refusal of affiliation for M. Pharm (Pharmaceutics) is concerned, we directed the learned Standing Counsel for the University to find out under which regulation, affiliation for M. Pharm could be rejected, even though there were no deficiencies.

6. In response to the above query made by us at the time of ordering notice in the writ petition, it is contended by Mr. K.Ramakrishna Reddy, learned Advocate General, that under Regulation 3.25 of the “Jawaharlal Nehru Technological University, Hyderabad, Grant of Affiliation for the College/Institution Regulations”, the

5] grant of affiliation for a postgraduate programme was subject to the grant of affiliation for the under-graduate programme, unless the institution is a standalone post-graduate college. Regulation 3.25 reads as follows:

“Affiliation to PG programs: The PG programme(s) proposed to be offered in a Department shall be affiliated, subject to the grant of affiliation of the UG program in the concerned department unless the college/institution is a standalone PG college as approved by AICTE/PCI/other statutory bodies.”

7. A careful look at Regulation 3.25 shows that the grant of affiliation for a post-graduate programme is subject to the grant of affiliation for the under-graduate programme in the concerned department. The only exception to this rule is that if the institution is a standalone post-graduate college, as approved by AICTE/PCI/other statutory bodies, then the grant of affiliation for a post-graduate programme would not depend upon the grant of affiliation for an under-graduate programme.

8. The college run by the petitioners is not recognised as a standalone post-graduate college as approved by AICTE/PCI/ other statutory bodies. Therefore, this college does not come within the exceptions.

9. But the contention of Mr. Tarun G. Reddy, learned counsel for the petitioners, is that the college run by the petitioners had affiliation for an under-graduate programme, in the past three academic years. Therefore, the college is lawfully running the 2nd, 3rd and 4th year of the 4-year B. Pharmacy course. There is no admission only to the first year for the current academic year and hence the learned counsel contends that the prescription contained in Regulation 3.25 may not apply to the case on hand.

10. We have carefully considered the above submissions. It is true that as per Regulation 3.25, the grant of affiliation for M. Pharm would depend upon the grant of affiliation for B. Pharm. But the question as to whether the grant of affiliation for admission to the first year of M. Pharm would depend upon the grant of affiliation for admission to the first year of B. Pharm course for the same academic year, is not very clear. Suppose a college happens to be a newly established institution which had applied for the first time for affiliation to both B. Pharm and M. Pharm courses, the application of the prescription contained in Regulation 3.25 is beyond any pale of doubt. **But there is no clarity in Regulation 3.25 as to what happens in cases where affiliation for the first year of the under-graduate programme alone is refused for the current academic year, but the affiliation for the 2nd, 3rd and 4th year of the undergraduate programme continues to be in force.**

11. Therefore, we may have to interpret Regulation 3.25 in such a manner as would advance the cause of education and subserve public interest. An interpretation to be given to Regulation 3.25 would not depend upon the benefit that accrues or the hardship that is caused to the petitioners/institution. The interpretation cannot also be pedantic.

12. Keeping the above in mind, if we have a look at the deficiency report recorded by the Inspection Team on 20-5-2016, it is seen that the permitted intake for M. Pharm is 48. The number of faculties required is 4 and the petitioners have 4 faculties in possession. There is also a doctorate degree holder.

13. This is why, it is found in the annexure to the letter dated 01-7-2016 issued by the

1st respondent-University that insofar as M. Pharmacy (Pharmaceutics) is concerned, there are no deficiencies in respect of the faculty and there are no deficiencies in respect of doctorate degree holders. In such circumstances, allowing the infrastructure provided in the college to go a waste, for one full year on the ground that no affiliation was granted for the first year of B. Pharm course, may not be appropriate. On the one hand colleges without infrastructure somehow manage to run with students. Therefore, we cannot allow a college with infrastructure to remain closed, that too for a post-graduate course. Zero tolerance should be shown equally to the wastage of infrastructure, as it could be shown to the lack of infrastructure.

14. Therefore, the writ petition is allowed directing the respondents to grant affiliation to the petitioners for M. Pharm (Pharmaceutics) for the current academic year 2016-17, if there are no deficiencies for the conduct of M. Pharm program and if the only ground on which affiliation was rejected was the non-grant of affiliation for the undergraduate programme for the current academic year. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

2016 (5) ALT 690

HIGH COURT OF JUDICATURE AT
HYDERABAD FOR THE STATE OF
TELANGANA AND THE STATE OF
ANDHRA PRADESH

A.V.SESHA SAI, J.

Writ Petition No.608 of 2008 –
Decided on 03-03-2014.

K.Varalakshmi and others

v.

**Government of A.P. rep. by the District
Collector, Chittoor and another**

**LAND ACQUISITION ACT, 1894,
Sections 4, 5-A and 6 — Powers of Land
Acquisition Authority — Limitation to
issue declaration — One year from date
of Notification under Section 4 (1) —
Mandatory.**

Held: The above provisions of law makes it abundantly manifest that it is incumbent and obligatory on the part of the authorities, exercising power under the provisions of the Act, to issue declaration under Section 6 of the Act within one year from the date of draft notification under Section 4 (1) of the Act i.e., the said provisions stipulate the outer limit of one year for causing Section 6 declaration from the date of draft notification under Section 4 (1) of the Act.

**LAND ACQUISITION ACT, 1894,
Section 6 (i) Explanation (1) —
Computation of exclusion of period of
interim suspension order.**

Held: Except the period covered by the order of suspension, no other period is liable for exclusion, as such the contention of the respondents that the period from the date of interim order till the date of receipt of the order in C.C.No.1237/2006 is liable for exclusion, *y not correct*

CASES REFERRED:

1. Padma Sundara Rao (Dead) and others v. State of T.N. and others: 2003 (1) An.W.R. 543 (SC).
(Para 18)