

**HIGH COURT OF JAMMU AND KASHMIR & LADAKH
AT JAMMU**

WP(C) No. 2115/2022 (O&M)

Jammu Institute of Ayurveda and Research
Nardani Jammu and anr.

...Petitioner(s)

Through :- Mr. Rahul Pant, Sr. Advocate with
Ms. Arushi Skukla, Adv.

v.

UT of J&K

...Respondent

Through:- Mr. Raman Sharma, AAG
Mr. K.D.S. Kotwal, Dy. AG

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

JUDGMENT
20.12.2023

Rajesh Sekhri-J

1. Petitioner no. 1 is an unaided private Educational Institution being run by petitioner No. 2-Trust, duly recognized by National Commission for Indian System of Medicine constituted under the National Commission for Indian System of Medicine Act, 2020. The case of the petitioners is that their institute is allotted 60 seats at the Under Graduate level and 15 at the Post Graduate level, out of which 25% seats fall under the management quota. It is contention of the petitioners that petitioner No.1-institute represented before the Fee Fixation Committee, constituted by the erstwhile State of J&K and as per the recommendation of the said Committee, the Government vide order dated 26.08.2019 fixed the fee structure of the petitioners institute for a period of three years.

2. The short grievance of the petitioners is that Government by virtue of aforesaid Order in order to fix fee structures for the colleges has adopted a

uniform standard for the Government seats as well as for the management quota seats at the under graduate level, whereas different fee structure was provided to MS/MD in the management quota and the government quota seats. Petitioners contend that fee structure which has been provided to the petitioners institutes under management quota and the government quota seats is same and is not sufficient to allow the petitioners to fully carry on the academic activities in the college as the same is highly deficient to meet the high teaching standards. Petitioners contend that their institutes do not receive any aid from the Government and are totally dependant upon their financial resources which are generated by them from the students. It is specific case of the petitioners that total expenditure being incurred by them annually runs into crores of rupees as the faculties in their institutes are required to be paid as per regulations framed by the University Grants Commission for Indian System of Medicine, but the fee structure which had been fixed for the petitioners college on the recommendation of the erstwhile Fee Fixation Committee was so low to meet the expenditures and to carry out the development activities in the college.

3. Petitioners have invoked writ jurisdiction of this Court seeking writ of Mandamus commanding the respondent-UT of J&K to immediately appoint a Fee Fixation Committee for providing/approving fee structure for the petitioner (unaided/self financing private Professional College). They also seek Mandamus to the respondents to forthwith permit them to enhance their fee structure appropriately so as to bring it at par with the fee structure provided for the same courses in similar colleges in other parts of the country including the neighboring States.

4. Heard arguments and perused the record.

5. Mr. Rahul Pant, learned Senior Counsel appearing for the petitioners submits that a rigid fee structure has been fixed by the earlier Fee Fixation Committee without looking into the infrastructure provided by the college. He submits that each institute must have freedom to fix its own fee structure taking into account the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students.

6. On the other hand, Mr. Raman Sharma, learned AAG appearing for the respondents has produced a communication dated 18.12.2023 issued by Under Secretary to Government, General Administration Department (GAD) and submitted that the proposal received from the Skill Development Department regarding appointment of Chairman for Fee Fixation Committee was processed and returned to Skill Development Department on 05.10.2023 in view of the scheduled review by the Chief Secretary and Skill Development Department has not re-submitted the proposal in the light of observation conveyed by the GAD. Copy of the aforesaid communication is taken on record.

7. In view of the above, the present petition is disposed of by providing that respondent No. 2-Skill Development Department shall re-submit the proposal to respondent No.1 for constitution of Fee Fixation Committee within a period of ten days from the date a copy of this order is made available to it and on receipt thereof, respondent No. 1 shall appoint a Fee Fixation Committee for fixation of fee structure of the petitioners institute within a fortnight.

(RAJESH SEKHRI)
JUDGE

(TASHI RABSTAN)
JUDGE

Jammu:
20.12.2023
(Paramjeet)