THE HON'BLE SRI JUSTICE A.V. SESHA SAI

WRIT PETITION No.14616 of 2014

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking following relief:

> "to issue Writ of Mandamus by declaring the action of the 2nd respondent herein in demanding fee of Rs.92,500/- for the Pharm-D 6th year (Internship) from the petitioner herein without considering the proceedings, dated 28-01-2014 R.C.No.165/APSCHE/ Pharma-D/Clinical internship/Residency issued by the 1st respondent herein as arbitrary, illegal, ultravires and against the principles of natural justice and consequently direct the 2nd respondent herein not to insist for fee from the petitioner herein for completing his 6th year Pharma D Course (Internship) by following the proceedings, dated 28-01-2014 R.C.No.165/APSCHE/Pharma-D/Clinical Internship/ Residency issued by the 1st respondent herein in the interest of justice."

Heard the petitioner – party-in-person, Sri A. Abhisek Reddy, learned counsel for the 1st respondent,

Sri M. Surender Rao, learned counsel for the 2nd respondent and learned Government Pleader for Higher Education.

The only question that emerges for consideration of this Court in the present writ petition is whether the 2nd respondent – College is justified in demanding the petitioner herein to pay fee in the 6th year of Pharma-D course (Internship)?

The petitioner herein joined in the 2nd respondent college in Pharma D course and completed five years. On

25-09-2013, the 2nd respondent – college issued a notice, addressed to the father of the petitioner, informing that a sum of Rs.92,500/- towards tuition fee for the academic year 2013-14 for the 6th year Pharma D course is payable for the petitioner.

Calling in question the validity and legal sustainability of the order of the said action the present writ petition came to be filed.

A counter-affidavit is filed by the 2nd respondent, denying the averments in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action.

It is submitted by the party-in-person that the impugned action on the part of the 2nd respondent in insisting for payment of tuition fee in 6th year Pharma-D course (Internship) period is highly illegal, arbitrary, unreasonable, without jurisdiction and violative of Article 14 of Constitution of India. It is further stated that the impugned action is in contravention of the letter of the State Council of Higher Education vide Rc.No.165/APSCHE/Pharma-D/ Clinical Internship/Residency, dated 28-01-2014.

On the contrary, it is the submission of learned Senior Counsel Sri M. Srinivasa Rao, appearing for 2nd respondent that there is no illegality nor infirmity in the impugned action and in the absence of the same, the writ petition is not maintainable and the petitioner is not entitled for any relief under Article 226 of the

Constitution of India.

It is further stated that the letter of 1st respondent, dated 28-01-2014 is only an internal correspondence and since the 3rd respondent – State has not taken any decision pursuant to the letter of the 1st respondent – State Council, the letter of respondent No.1 cannot be the basis nor the same can be pressed into service by the petitioner for any relief from the Court. It is further stated that out of 30 students 21 students have already paid fee for the 6th year Pharma-D course (Internship) also, as such, there is no justification on the part of the petitioner herein to ask for exemption.

This Court, by way of an order, dated 23-03-2015, directed the 3rd respondent – State to take a decision in the matter after considering the grievance of the petitioner herein and the recommendations sent by the 1st respondent preferably within a period of four (4) weeks from the date of receipt of a copy of the order.

In the instant case, the complete thrust of the petitioner for claiming the relief is the letter addressed by the State Council of Higher Education vide Rc.No.165/APSCHE/ Pharma-D/Clinical Internship/Residency, dated 28-01-2014 to the State Government. As evident from the said letter, on the representation of the 1st batch of the students, requesting not to collect tuition fee in Pharma D courses to undergo clinical internship/Residency

training, the State Government vide letter No.409/Essential Commodities Act, 1955/A1/ 2014-01, dated 18-01-2014 directed the State Council of Higher Education to take action in the matter as per Rules. The said letter reads as under:

> *"This is to inform the Government that 6 year Pharma-D Course was introduced in the year 2008-09 in the State. The first batch of students admitted in the course in the same year have represented to the Government of A.P. requesting not to collect tuition fees for the period of internship training of the programme in 6th year and issue necessary orders to the managements of the colleges in this regard. The Government vide ref (1) cited, directed APSCHE to take necessary action in the matter as per rules.*
>
> *In this regard, it is submitted to the Government that:*
>
> *a) The duration of Pharma D course is 6 years which include one year of internship/residency training.*
>
> *b) The course was introduced in the year 2008 and the first batch of students of the course are now undergoing the internship training during year 2013-14. The managements of the Pharmacy colleges which have admitted the students in the said course are reported to be collecting tuition fees for the period of internship. Infact, the students are entitled for stipend during the period of internship.*
>
> *c) As per reference (3) cited, the managements of the pharmacy colleges have to enter MOU, with hospitals concerned, which are offering internship training and shall pay an amount of Rs.25,000/- per annum per student towards providing training in the hospitals, which the management of the colleges must have paid.*
>
> *As per the Gazettee of India, Pharma D course is of 6 years of which 5 years is of study and one year is of internship. As per rules governing Post Matrics/Ship that Scholarship will not be paid for the period of internship/houseman ship in the M.B.B.S. course or practical training in other courses. Further, AFRC, has fixed a uniform tuition fee of Rs.86,000/- per annum for the first batch of students and they were not entitled for reimbursement of tuition fee paid by them.*
>
> *In the light of above, it is evident that, the students of first batch of Pharma D course need not pay fees in any form towards the 6th year internship programme of the course to the management of the college, except paying tuition fee for*

first five years of the course as prescribed by AFRC. Thereby, the representation of the student appears to the genuine.

In this regard, I am by direction, submit remarks on the issue to the Government for issuing suitable orders with instructions to the management of pharmacy colleges offering Pharma D course, that collection of tuition fees for the 6th year of course (internship period) is not permissible."

Today, when the matter is taken up, learned Government Pleader for Higher Education has placed on record the letter bearing No.4665/TE/A2/2014-1, dated 27-06-2015, wherein the State Government issued a clarification in the issue. Paragraph No.5 of the said letter reads as under:

"To resolve this issue, Government have conducted a meeting with the officials concerned along with the representative of a Pharm.D College on 22-06-2015 and after careful examination of the entire matter and keeping in view the suggestions of Pharmacy Council of India, New Delhi, have decided that the Pharmacy Colleges must give stipend of Rs.5,000/- per month to the students during the period of Internship i.e., 6th year of Pharm D.Course to the batch of students who were admitted during 2008-09 in this Course and who have undergone the Internship programme (sixth year) as prescribed in the curriculum in the academic year 2013-14, out of the Tuition Fee of Rs.86,000/- collected by them."

As evident from the said letter a decision is taken by the Government that the Pharmacy Colleges must give stipend of Rs.5,000/- per month to the students during the period of Internship i.e., 6th year of Pharm D.Course to the batch of students who were admitted during 2008-09 in this Course and who did undergo the Internship programme (sixth year) as prescribed in the curriculum in the academic year 2013-14, out of the Tuition Fee of Rs.86,000/- collected by them. In the instant

case, the petitioner herein did not pay any amount towards tuition fee for the 6th year Internship.

In view of the above said letter and the decision taken by the Government, the petitioner herein is entitled to have deduction of Rs.60,000/- i.e., @ Rs.5,000/- per month towards 12 months out of the tuition fee of Rs.86,000/-.

For the aforesaid reasons and having regard to the nature of controversy, the writ petition is disposed of, directing the 2nd respondent – College to take action in accordance with the letter, dated 27-06-2015 addressed by the Principal Secretary to Government to Telangana State Council of Higher Education – 1st respondent herein. It is made clear that as per the above said letter the petitioner herein has to pay only a sum of Rs.26,000/- towards 6th year tuition fee. On payment of the said amount the petitioner herein is entitled to have the certificates returned from the college. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESHA SAI, J

July 01, 2015

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THE HON'BLE SRI JUSTICE A.V. SESHA SAI

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