

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
&
THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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WRIT APPEAL Nos.544 and 545 of 2016
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PC: (Per Hon'ble the Acting Chief Justice Dilip B.Bhosale)

Heard Mr. E. Manohar and Mr. C.V. Mohan Reddy, learned senior counsel for the appellants; learned Advocate General for the State of Telangana for respondent Nos.1 and 3 and Mr. Abhishek Reddy, learned standing counsel for respondents 2 and 4.

2. These two writ appeals are directed against the following order passed in miscellaneous petitions in WP.Nos.22037 and 22186 of 2016:

“There shall be interim direction that the Convenor while giving admissions, shall notify to the students about their impending liability to pay the differential amount, if any, depending on the result of the writ petition. In addition to the same, the petitioner-managements are entitled to obtain an undertaking from each of the students to the same effect.

Post the WPMP after four weeks.”

3. The appellants filed writ petitions seeking similar relief.

The relief sought in WP.No.22037 of 2016 reads as follows:

“...to issue a Writ or Order or Direction, more particularly one in the nature of Writ of mandamus declaring the proceedings/ G.O.Ms.No.21 Higher Education Dept., dated 04-07-2016 of the 1st Respondent in fixing a fee of Rs.86,000/- for B.E., under graduate course to the 2nd Petitioner College for the block period of 2016-17 to 2018-19 instead of Rs.1,60,000/- as claimed by the petitioners as one without Jurisdiction, Violative of Principles of Natural Justice, Arbitrary and Illegal and consequently declare that the 2nd Petitioner College is entitled to charge and collect Rs.1,60,000/- for under graduate course of the block period of 2016-17 to 2018-19 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

4. We are informed by learned counsel for the parties that learned single Judge while passing the impugned order expressed his desire to decide the writ petitions itself on merits expeditiously. That seems to be the reason why

learned single Judge, in the impugned order, has not discussed merits of the case. None of learned senior counsel appearing for the appellants made any grievance in respect thereof.

5. Keeping that in view, we have perused the documents to which they invited our attention to, including the order passed by this Court in earlier round of litigation before this Court between the petitioners and the respondents.

6. It is contended on behalf of the appellants that if they are permitted to collect Rs.1.60 lakhs instead of Rs.86,000/- or Rs.91,000/- respectively fixed by AFRC, they would keep the excess fees in fixed deposit and shall refund the same to the students if the petitions are dismissed. On the other hand, learned single Judge has allowed the management to obtain an undertaking from each of the students to the same effect viz. to pay the difference of fees if the petitions are allowed. Thus, we have before us two options viz. one favours the institutions and other favours the students. We choose the option in favour of the students in view of the peculiar facts of this case and also in view of the fact that learned single Judge has expressed his desire to hear and decide the writ petitions finally at the stage of admission expeditiously.

8. In the circumstances, we dispose of these appeals by the following order:

“The respondents are directed to file counter affidavit in writ petitions within two (2) weeks from today with an advance copy thereof to learned advocates on record for the petitioners. The writ petitioners are allowed to file reply within one week from the date of service of counter affidavit. We request learned single Judge to decide the writ petitions expeditiously. We grant liberty to the appellants to seek revival of these appeals, if the writ petitions are not decided on or before 30.09.2016. We make it clear that we have not considered merits of the case.”

As a sequel, the miscellaneous applications, if any pending,
shall stand closed.

DILIP B.BHOSALE, HACJ

P. NAVEEEN RAO, J

July 15, 2016
DSK