

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.SUNDAR

Contempt Petition No.1040 of 2017

V.B.R.MENON

.. Petitioner

Vs.

- 1 DR.S.SHARAVANAN
VICE CHAIRMAN
AARUPADAI VEEDU MEDICAL COLLEGE
CUDDALORE MAIN ROAD, KIRUMANPAKKAM
BAHOUR COMMUNE PANCHAYAT
PUDUCHERRY - 607 402.
- 2 DR.ANNABELLE RAJASEHARAN
DEAN, VINAYAGA MISSION MEDICAL COLLEGE
KEEZHA-KASAKUDI MEDU
KOTTUCHERRY, KARAIKKAL - 609 609.
- 3 M.K.RAJAGOPALAN
CHAIRMAN
MAHATHMA GANDHI MEDICAL COLLEGE
CUDDALORE MAIN ROAD, PILLAYARKUPPAM
PUDUCHERRY - 607 402.
- 4 DR.JAYALAKSHMI
DEAN/PRINCIPAL
SRI LAKSHMI NARAYANA INSTITUTE OF MEDICAL SCIENCE
OUSUDU AGARAM VILLAGE
VILLIANUR COMMUNE
PUDUCHERRY - 605 502.

5 DR.V.GOVINDARAJ
CONVENOR
CENTRALISED ADMISSION COMMITTEE (CENTAC)
PEC CAMPUS, ECR ROAD
PILLAICHAVADI
PUDUCHERRY - 605 014.

(The name of the 4th respondent is substituted as per order dated 28/06/2017 in Cont. P.No.1040/17.

.. Respondents

PRAYER: Petition under Section 11 of the Contempt of Courts Act, 1971 read with Rule 6(1) of the Contempt of Courts Rules to punish the respondents for their wilful disobedience of the interim order of this Court dated 16.6.2017 in W.P.No.14232 of 2017.

For Petitioner : Mr.V.B.R.Menon
Party-in-Person

For Respondents : Mr.R.Parthasarathy
for respondents 1 and 2

Mr.R.Vijaynarayan
Senior Counsel
for M/s.Menon, Karthik,
Mukundan Neelakantan
for 3rd respondent

Mr.K.Kumaresh Babu
for 4th respondent

Mr.A.Gandhiraj
Government Pleader
(Puducherry)
for 5th respondent

ORDER

(Order of the Court was made by the *Hon'ble Chief Justice*)

The question before us is whether the alleged contemnors, impleaded as respondents, are in wilful and deliberate violation of the order dated 16.6.2017 passed by

this Bench in the writ petition, being W.P.No.14232 of 2017, filed by Mr.V.B.R.Menon, advocate, as a public interest litigation.

2. The writ petition pertains to admission of students to the Post Graduate Courses in Medical Colleges, which are self-financed deemed universities. Considering that the medical colleges which were self-financed deemed universities were charging exorbitant fees ranging from Rs.40 to 50 lakhs per annum, this Bench directed that a Fee Committee be constituted by the University Grants Commission and the Ministry of Human Resource Department to study the fee structure of the deemed universities and determine the fees that should be charged. Pending such determination, we passed an interim order directing the deemed universities to admit the students provisionally selected and successful in the admission tests/counselling to the vacant seats in order of their merit, subject to the condition that the students shall each deposit Rs.10 Lakhs at the time of admission towards annual fee for the first year with the Centralized Admission Committee (hereinafter referred to as "CENTAC") and subject to the further condition that in the event the fees determined by the Fee Committee that might be constituted by the University Grants Commission and the Ministry of Human Resources Department to study the fee structure of the deemed universities was higher, they would pay the differential

amount.

3. It appears that the seats in all the deemed universities were filled up before the date of the interim order save and except one seat in Radiology; two seats in Orthopaedics; and one seat in E.N.T. in Sri Lakshmi Narayana Institute of Medical Science, Puducherry.

4. Mr.V.B.R.Menon argued and may be rightly that the admissions were not in accordance with law and were liable to be set aside. However, in proceedings for contempt, the scope of scrutiny by Court is restricted. The Court can neither go behind its earlier order nor alter or modify its earlier order. The Court is only to see if there is wilful and deliberate violation of an order of Court which tarnishes the majesty and/or dignity of the Court and or its processes.

5. Since there were no vacant seats as on 16.6.2017 except for the four seats in Sri Lakshmi Narayana Institute of Medical Science, Puducherry, referred to above, it cannot be said that the contemnor respondents have deliberately flouted any order of this Court.

6. So far as Sri Lakshmi Narayana Institute of Medical Science, Puducherry is concerned, it appears that the CENTAC, being the authority which admits students, has

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admitted two students against one vacant seat in Radiology Department. Accordingly, the authorities of Sri Lakshmi Narayana Institute of Medical Science, Puducherry, have been in dilemma as to the course of action to be taken by them. It is submitted that they had even sought clarification from CENTAC.

7. The learned counsel appearing on behalf of the fourth respondent, being the Dean/Principal of Sri Lakshmi Narayana Institute of Medical Science, Puducherry, agrees to admit the student who ranked higher in the selection test. The learned counsel appearing on behalf of CENTAC also agrees to our suggestion that the candidate who ranked higher may be admitted to the available vacant seat.

8. The learned counsel appearing for the fourth respondent submits that two candidates were recommended by the CENTAC for the two vacant seats in Orthopaedics after counselling. One of the candidates has been admitted, but the other has not taken admission as the candidate has got admission elsewhere. Similarly, there are no candidates for the vacant seat in the ENT Department.

9. As observed above, it cannot be said that any of the respondents, impleaded as alleged contemnors, are in wilful or deliberate violation of any order of this Court.

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The contempt proceedings are dropped with a direction on

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the respondents to permit the candidate who ranked higher in the selection test out of the two candidates recommended by CENTAC to join the course in Radiology forthwith, subject to the conditions stipulated in our order of 16.6.2017.

10. The disposal of the contempt proceedings will not prevent Mr.V.B.R.Menon or any of the candidates from initiating fresh writ petitions in accordance with law, if so advised.

SD/-
JOINT REGISTRAR(OS) (i/c)
sasi

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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SS/CO/13/07/2017

To:

- 1 VICE CHAIRMAN
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one cc to Mr.V.B.R.Menon, P-in-P sr.No.7415/17

one cc to Mr.K.Kumaresh Babu, Advocate, Sr.No.7397/17

one cc to the Govt Pleader sr.No.7441/17

one cc to Mr.Menon Karthik, Advocate sr.No.7512/17



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