

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.1816 of 2015

B.Thiruvikraman

... Petitioner

Vs

1. The Principal
Chettinad Dental College and Research Institute,
Rajiv Gandhi Road,
IT Highway, Kelambakkam,
Kancheepuram District 603 103

2. The Registrar
Tamilnadu Dr.M.G.R.Medical University
Guindy, Chennai 600 032

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of mandamus, directing the first respondent to refund the sum of Rs.7,36,100/- or thereabouts collected over and in excess of the amount determined by the Selection Committee Directorate of Medical Education at No.162, Periyar EVR High Road, Kilpauk, Chennai 600 010 to the petitioner forthwith.

For Petitioner : Mr.N.A.Ravindran
For Respondent-1 : Mr.Rahul Balaji
For Respondent-2 : Mr.D.Ravichander

O R D E R

The petitioner has filed the above Writ Petition praying for issuance of Writ of Mandamus directing the first respondent to re-fund the sum of Rs.7,36,100/- collected over and excess of the amount determined by the Selection Committee, Directorate of Medical Education, Kilpauk, Chennai 600 010 to the petitioner.

2. The petitioner gained a seat in B.D.S under category V (Government quota in Self-Financing Dental Colleges) and allotted a seat in the first respondent-College. The first respondent-College is said to have collected a sum of

Rs.2,60,000/- on 01.08.2014 under various heads as per communication dated 24.11.2014. It is further stated that though the MBBS/BDS bulletin 2014-2015 specified that the remittance of Rs.25,500/- made in favour of the Selection Committee would be adjusted towards the tuition fees to be paid to the College at the time of joining the course, it was not done so by the first respondent-College. A sum of Rs.30,000/- was also collected from the petitioner towards hostel fees for three months though the petitioner claimed to have stayed in the hostel only for two months.

3. It is alleged by the petitioner that though migration is permitted from the second year onwards of the B.D.S Course by the Dental Council Act, the respondent-College did not mention about the same in the prospectus. The petitioner was selected for BVSC and AH (Bachelor of Veterinary Science and Animal Husbandry) course and was allotted a seat in the Veterinary College and Research Institute, Tirunelveli and the last date for joining the course was 30.10.2014. Therefore, the petitioner had to collect the original certificates from the respondent-College to join the veterinary college. As the petitioner had to join the BVSC and AH course, the respondent College collected a sum of Rs.3,45,000/- under the head of tuition fees to compensate the first respondent-College on the basis that the seat would go unfilled. The first respondent-College which is affiliated to the second respondent-University had admitted the petitioner under Government quota. As the petitioner has now left the course in the midstream and joined BVSC and AH Course in Tirunelveli, the fees paid by the petitioner was not returned by the College. The respondent being a private Dental College and seat being filled under the Government quota, unless the same is made vacant to enable the College to fill the same by another suitable candidate, the College is entitled to retain the fees paid by the student for the loss suffered.

4. The Hon'ble Supreme Court has held that in professional institutions, which are unaided, there will be full autonomy in their administration. The admission to the petitioner was given under the Government quota without interfering with the autonomy of the respondent-College. As a private institution, the first respondent-College is free to devise its own fee structure except the fact that the same can be regulated in the interest of preventing profiteering. Admittedly, the petitioner had to leave the College in the midstream beyond the cut off date. After the cut off date, the College also cannot fill up the seat in the place of the petitioner. While so, the loss that may be caused to the College due to migration of the petitioner to another College has to be compensated. Can we make the College to return the fees that was paid by the petitioner? Therefore

the petitioner cannot take advantage of his own mistake. The non refund of the fees collected by the respondent, therefore, cannot be said to be unfair or exploitative and same also cannot be called as unfair practice. Hence, the petitioner is not entitled to refund of the amount as claimed by him. The discontinuance of the petitioner beyond the cut off date has also prevented another student's possibility of getting admission into B.D.S course. With the result, the first respondent-College would suffer a revenue loss. Therefore, the petitioner had to pay the fees for the entire duration of Course since the vacancy created by his discontinuance cannot be filled through any other alternative arrangement. Hence, the respondent is entitled to collect the entire tuition fees from the discontinued student for the remaining years of study. In fact, the petitioner has given an undertaking that he would be bound by the agreement dated 20.10.2015 and would also pay the penalty in due course. In view of the same, the claim of the petitioner to refund the fees is not possible.

5. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The Principal
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