

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.14925 of 2017

Ms.Poornima Sivakumar

...Petitioner

Vs.

1. The Registrar
Annamalai University
Annamalai Nagar
Chidambaram - 608 002.
 2. The Secretary
Medical Council of India
Pocket -14, Sector-8, Dwaraka
New Delhi.
 3. The University Grants Commission
(CGC) Rep by its Chairman
Bahadur Shah Zafar Marg
New Delhi-110 002.
- [R2&R3 are suo motu impleaded as
per order dated 27.11.2017 by NKKJ
in W.P.No.14925 of 2017]

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to refund the full fee of Rs.5,54,370/- with interest at 12% per annum to the petitioner within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Ms.M.Vijayalakshmi

For Respondents : Mr.K.Sathishkumar [For R1]
Mr.V.P.Raman [For R2]
Mr.P.R.Gopinathan [For R3]

O R D E R

The petitioner, who was admitted in Rajah Muthiah Medical College, Chidambaram through Government counselling, joined the college on 11.07.2016 by paying the required fee. Subsequently, the petitioner was allotted to IRT Perundurai Medical College, Perundurai in Phase II counselling. At present, the petitioner is studying in the said college. Since the petitioner paid a sum of Rs.5,54,370/- and she has not undergone the course in the College of the first respondent/University, the petitioner sought for return of money. Since the money has not been returned by the respondent/University, the petitioner has come up before this Court.

2.Heard Ms.M.Vijayalakshmi, learned counsel for the petitioner, who would submit that even before the cut- off date, the petitioner vide her letter dated 31.08.2016, informed about her intention to get admission in other colleges, as she has been given admission in IRT Perundurai Medical College, Perundurai. The information was given on 31.08.2016, that is, even before 30.09.2016, the petitioner informed the first respondent/University about the cancellation of the MBBS seat. Hence, the learned counsel would submit that she is entitled to the entire amount.

3.However, Mr.Sathish Kumar, learned counsel appearing for the first respondent would submit that it is the condition that whenever a student leaves the course after admission, a sum of Rs.10,000/- would be adjusted towards service charges and Rs.5,00,000/- would be forfeited for violating the bond which the student would enter into with the University. That apart, there is a syndicate resolution to the effect that no amount would be paid to the students, if they leave the college.

4.Heard, Mr.V.P.Raman, learned counsel appearing for the second respondent and Mr.P.R.Gopinathan, learned standing counsel appearing for the third respondent.

5.Mr.P.R.Gopinathan, learned counsel has produced a notification dated 'Nil' December 2016, in which the refund of fees and other student-centric issues have been dealt with. According to the notification, the following is the amount which the students are entitled to be refunded in case they withdraw from the admission :-

Sl No.	Percentage of refund of Aggregate fees*	Point of time when notice of withdrawal of admission is served to HEI
(1)	100%	15 days before the formally -notified last date of admission
(2)	80%	Not more than 15 days after the formally-notified last date of admission
(3)	50%	More than 15 days but less than 30 days after formally-notified last date of admission
(4)	00%	More than 30 days after formally-notified last date of admission

*(Inclusive of course fees and non-tuition fees but exclusive of caution money and security deposit)

5.If UGC has already clarified the manner in which the amount has to be refunded, the first respondent/University cannot prescribe a separate procedure for deduction of amount from the fees unilaterally. The UGC notification is binding upon the first respondent/University.

6.In this case, the petitioner got admitted on 11.07.2016 by paying the required fees in the college of the first respondent/University and subsequently was allotted a seat in IRT Perundurai Medical College, which fact was also informed to the first respondent vide letter dated 31.08.2016, in which the petitioner sought for refund of fees paid by her.

7.Therefore, it is very clear from the letter dated 31.08.2016 that even before the course commences and even before the expiry of the cut-off date 30.09.2016, the time limit fixed for admission into the Medical College, the petitioner informed through her letter dated 31.08.2016 for withdrawal from the course. Therefore, the first respondent/University has got time for admitting the students through counselling and no prejudice would have been caused to the respondents. Hence, the first respondent/University is bound to return the entire amount except some processing fee namely, Rs.10,000/-.

8.As per the UGC notification, the petitioner is entitled to 100%, since even before the 30 days formally-notified last date for admission, the petitioner informed about her intention to withdraw from the admission. Hence, the petitioner is entitled to refund of the entire amount except Rs.10,000/-.

9.With the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

10.There shall be a direction to the first respondent/University to pay a sum of Rs.5,44,370/-. From the amount of Rs.5,44,370/-, it is stated that through bank account, a sum of Rs.44,370/- was already paid. In that event, if it is true, the petitioner is entitled to refund for a sum of Rs.5,00,000/-. The said amount is directed to be paid within a period of one (1) week from the date of receipt of a copy of this order.

11.Call the matter for compliance on 11.12.2017.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

may a

To

1. The Registrar
Annamalai University
Annamalai Nagar
Chidambaram - 608 002.
2. The Secretary
Medical Council of India
Pocket -14, Sector-8, Dwaraka
New Delhi.
3. The University Grants Commission
(CGC) Rep by its Chairman
Bahadur Shah Zafar Marg
New Delhi-110 002.
4. The Section Officer,
Writ Section,
High Court Madras.

+1cc to Mr.K.Sathish kumar, Advocate, S.R.No.84504
+2cc to Mr.R.Bharath Kumar, Advocate, S.R.No.84505

W.P.No.14925 of 2017

RRK(05/12/2017)