

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Contempt Petition No.1964 of 2017

Miss B.K.Vidhya Petitioner

-vs-

Mr.V.G.Rajendran,
The Chairman,
Priyadharshini Dental College & Hospital,
V.G.R.Gardens,
Pandur-631 203,
Thiruvallur Taluk and District. ... Respondent

Petition filed under Section 11 of the Contempts of Court Act, 1971, to initiate action against the respondent for disobeying the directions issued by this Court in W.P.No.16872 of 2010 dated 10.02.2015 which was confirmed by judgment in W.A.No.1089 of 2016 dated 25.04.2017.

For Petitioner :: Mr.G.Anand for
Mr.T.P.Kathirraavan

For Respondent :: Ms.Kavitha Deenadayalan

ORDER

(Made by HULUVADI G.RAMESH, J.)

Alleging contempt of the order passed by this Court in W.P.No.16872 of 2010 dated 10.02.2015 which was confirmed by judgment in W.A.No.1089 of 2016 dated 25.04.2017, this contempt petition has been filed by the petitioner.

2.The petitioner herein got admitted to the B.D.S.Course in the respondent-college under the Management quota, on the undertaking that she will produce equivalence certificate from the Government of Tamil Nadu, since she completed the Vocational Higher Secondary Examination in the State of Kerala. Subsequently, since she could not produce the said certificate, the Tamil Nadu Dr.M.G.R.Medical University has discharged her from the course. The respondent-College filed a writ petition before this Court in W.P.No.16872 of 2010 to direct the Vice Chancellor, Tamil Nadu Dr.M.G.R.Medical University to grant Eligibility Certificate to the petitioner to complete the BDS Course in the respondent-College and to permit the petitioner to write II year BDS examination which was to be held in August 2010. After considering the matter in detail, the learned single Judge passed an order on 10.02.2015 directing the College to return all the original certificates to the petitioner and also to refund the entire fees paid by the petitioner during the course of study and to pay a sum of Rs.2,00,000/- as compensation.

3.Against the said order, an appeal has been preferred by the College in W.A.No.1089 of 2016 in which this Court has passed the judgment on 25.04.2017 confirming the order passed by the learned single Judge with an observation that

it is for the College to look into the matter and settle the issue before the end of May 2017, without giving any room for further orders.

4. Now the present contempt petition has been filed stating that the order passed by the learned single Judge in the writ petition which was confirmed by the Division Bench of this Court in the writ appeal, has not been complied with.

5. The petitioner was admitted to the B.D.S. Course and thereafter in the usual course, fees were collected and first year examinations were written by the petitioner. Thereafter, the Tamil Nadu Dr.M.G.R. Medical University has insisted for Equivalence Certificate. The learned counsel for the petitioner submits that the candidate has not given such an undertaking that she will produce equivalence certificate, but on the other hand, the college authorities obtained the signature of the candidate in a blank paper.

6. Since the petitioner had not obtained the Equivalence Certificate and produced before the authorities, the learned single Judge had not given a direction permitting to write the II year examination. As such, the petitioner was not qualified to study

B.D.S. Course in view of the non-production of such

certificate to the authorities. The petitioner is not eligible to pursue B.D.S.Course as she has pursued the Vocational Course in the State of Kerala. In these circumstances, the learned single Judge ordered for payment of a sum of Rs.2,00,000/- by the college to the petitioner as compensation and to refund the entire fees already collected. The said order passed by the learned single Judge has also been confirmed in the writ appeal, however, observing that it is for the College to look into the matter and settle the issue.

7.The learned counsel for the respondent-College has produced a cheque bearing No.297446 dated 20.01.2018 drawn on Karnataka Bank Limited, Anna Nagar Branch, Chennai for Rs.2,00,000/- (Rupees Two Lakhs Only) to be given to the petitioner, as ordered by this Court. But the learned counsel for the petitioner wants to have the entire fees refunded.

8.Upon verifying the documents produced by the contemnor, it is clear that admission of the students to a Course in the college, has to be approved by the University. It need not be envisaged or communicated to the petitioner and it is a common understanding that any admission has to be approved by the concerned University.

In the instant case, it is the stand of the learned counsel

for the college that they have no intention to exploit and admit the student, and on the other hand, they have incurred a loss of Rs.7 lakhs because of non-filling up of one B.D.S.seat.

9.It is seen that the Vocational Course pursued by the student in the State of Kerala, is shown as not equivalent to the Course prescribed as per the norms of the University. The learned counsel for the college has submitted that the candidate has been studying for the past 1½ years in the college, for which they have provided hostel accommodation and it is not proper to direct them to refund the tuition fees, since the petitioner was admitted only pursuant to the undertaking given by her. The submission of the learned counsel for the petitioner that the college authorities have obtained the signature of the petitioner in a blank paper, has also been refuted by the counsel for the college.

10.Considering the veracity of the matter, we have directed earlier by order dated 25.04.2017 in W.A.No.1089 of 2016 to settle the issue. We find that there is no deliberate contempt committed by the contemnor, in view of the fact that the petitioner has already given an undertaking to produce equivalence certificate. It is no doubt true that any admission by the college is subject to approval by the concerned University. When such being the

case, the candidate cannot say that she has been forced to give a blank paper duly signed by her. Unnecessarily, the college authorities would not have admitted the petitioner if she was not eligible. If one seat is left unfilled, the college would incur loss. Secondly, they have to pay salary to the teaching faculties. Thus, non-filling of a seat amounts to only a loss to the Management. Since the candidate has studied only Vocational Course, that too in the State of Kerala, Tamil Nadu Dr.M.G.R. University has rejected the case of the petitioner on the ground that she has not produced the Equivalence Certificate from the competent authority. Thus the petitioner cannot harp upon the contemptor seeking to refund all the fees collected, without understanding the fact that the admission has to be approved by the University. The non-compliance of the undertaking given by the candidate is a lapse committed on the part of the candidate. Further, there is nothing on record to show that the petitioner was forced to join the college.

11. In view of the above stated circumstances, we are of the considered view that ends of justice would be met if the amount of Rs.2,00,000/- which has been ordered to be given by this Court to the candidate by the college, towards damages, is given to the petitioner. No relief could be granted to the petitioner in respect of the refund of fees, as it has to be seen that the college has also

incurred a loss of Rs.7 lakhs in view of the vacation of one seat. In this regard, we make our emphasis on the fact that any admissions made by the college, have to be ultimately approved by the University as per the Regulations. The candidate pursued the Vocational Course in the State of Kerala and hence, the contention of the college that the admission of the petitioner has to be approved by the University, cannot be brushed aside.

12.Since we have observed that ends of justice would be met if the amount of Rs.2,00,000/- which has been ordered towards damages, is given to the petitioner by the college, no further contempt would lie against the respondent-college.

13.With the above observations, the contempt petition is closed.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)
km

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

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CO/21/02/2018

one cc to Ms. Kavitha deenadayalan, SR.No.1710.