

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.12396 of 2018
and W.M.P.No.14536 of 2018

Divya Ramya K.R

... Petitioner

Versus

- 1.The University Grants Commission,
Represented by its Chairman,
Bahadur Shah Zafar Marg,
New Delhi-110002.
- 2.The Medical Council of India,
Represented by its Secretary,
Pocket-14, Sector-8, Dwaraka,
New Delhi-110077.
- 3.Tamil Nadu Medical Council,
Represented by its Registrar,
New No.914, Old No.569,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.
- 4.Shri Sathya Sai Medical College & Research Institute,
Represented by its Dean,
Thiruporur Guduvancherry Main Road
Ammappettai, Nellikuppam-603 108,
Chengalpet Taluk, Kanchipuram District.
- 5.The Registrar, (Deemed University)
Sri Balaji Vidyapeeth,
Pillaiyarkuppam,
Pondicherry-Cuddalore Road,
Pondicherry-607 403.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Mandamus directing the fourth and fifth respondents to handover the original academic certificates to the petitioner forthwith and further issue direction to the fourth respondent to refund the fees for a sum of Rs.21,00,000/- that been collected much in

advance for the second year (2017-2018) for which the petitioner has not studied in the institution.

For Petitioner	: Mr.C.Kasirajan
For R1	: Mr.P.R.Gopinathan
For R2	: Mr.V.P. Raman
For R3	: Mrs.V. Annalakshmi Government Advocate
For R4 & R5	: Mr. P. Sundararajan for C. Swaminathan

O R D E R

The Writ Petition has been filed for issuance of a Writ of Mandamus, directing the fourth and fifth respondents to handover the original academic certificates to the petitioner forthwith and further to direct the fourth respondent to refund the fees, a sum of Rs.21,00,000/- that has been collected from the petitioner for the second and third year of MBBS Course.

2 The Petitioner herein got admission in the fourth respondent college pursuant to the Counselling dated 18.9.2016. The petitioner has paid the annual tuition fees viz., a sum of Rs.18,90,000/- and other fees including the annual hostel fees to the tune of Rs.1,25,000/-. The Petitioner also paid the application fee of Rs. 2,500/- and handed over all the academic certificates, Birth Certificate, 10th and 12th Mark sheet, Transfer Certificate and community certificate etc., to the fourth respondent on the counselling date. It is stated by the petitioner that after the first year, the petitioner was also directed to pay a sum of Rs.21,00,000/- for the next academic year.

3 However, it is stated by the petitioner that the petitioner could not continue his studies in the fourth respondent university due to some personal discomfort, which has not been disclosed even in the affidavit filed in support of the petitioner. Later, the petitioner approached the respondents 4 and 5 for return of certificates as well as the fees collected from the petitioner by fourth respondent for the subsequent academic year. Since, the respondents 4 and 5 did not return the certificates and the fees, the writ petitioner has filed this petition.

4 During the pendency of the writ petition, it is admitted that the petitioner received the certificates pursuant to the interim order passed by this Court on 19.07.2018. The learned counsel for the petitioner submitted that as per the instructions of University Grants Commission, no institutions of higher education shall insists the students to submit the

original academic and personal certificates. It is further stated by the petitioner that the fourth respondent has collected the money from the petitioner contrary to the norms formulated by the University Grants Commission. It is further submitted by the petitioner that the fourth respondent has collected the amount from the petitioner by force and compulsion even before completing the semester examination for the first year. Since, the collection of amount is contrary to the norms prescribed by the University Grants Commission, the amount cannot be allowed to be retained by the institution.

5 The learned counsel appearing for the respondent has filed a detailed counter. The respondent also relied upon the notification dated 06.12.2016 issued by the University Grants Commission and pointed out that as per clause 4.2.3, the petitioner is not entitled to any amount. Clause 4.2.3 read as follows:-

"4.If a student chooses to withdraw from the program of study in which he/she is enrolled, the institution concerned shall follow the following four-tier system for the refund of fees remitted by the student.

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

6 In this case, it is further stated that the petitioner has withdrawn from the course in the middle after one year of commencement and therefore, the petitioner is not entitled to get refund of fees . The respondents 4 and 5 further stated that once a candidate has signed the declaration at the time of admission, the petitioner is bound by the prospectus and the regulations of the University. In view of the fact that the petitioner has discontinued the course in the middle, it is further stated that the fourth respondent college is entitled to collect the full fees for the entire MBBS course and such a right is also reserved in the counter.

7 Going by the facts narrated and pleaded by both parties, this Court has no hesitation to hold that the petitioner is liable to pay the fees for the full term even though, she discontinued the course in the middle. A learned Single Judge of this Court has considered a similar issue in a judgment in the case of R.Gowthami Vs. Regional Officer and others in W.P.No.3977 of 2009 dated 09.03.2012. After considering the issue, whether the discontinued student is entitled to get refund of the entire money held that the college, which would lose the revenue in case a student discontinues his/her studies in the middle of the course is entitled to collect the full fees and that the student is liable to pay the entire course fees and it is not necessary for the institution to return the fees collected from the student. The same principle is also followed by the learned single judge of this Court in W.P.No30993 of 2012 and batch in the order dated 9.1.2015 in the case of Sasthra University Vs. District Consumer disputes.

8 Having regard to the admitted position in this case, the petitioner discontinued her studies in the middle of the course after completion of the first year. It is not the case of petitioner in this Writ petition that the fourth respondent has given admission to another candidate for the next academic year. However, the learned counsel for the petitioner submitted that the fourth respondent also has not stated the position in the counter affidavit that the seat was not utilized by the institution in the second year.

9 Be that as it may, the fact remains that the petitioner discontinued the course after the first year and as per UGC norms, the petitioner is not entitled to get refund of fees. It is also a well accepted principle that the private institutions are not entitled to make profit out of a situation like this. Hence, this court find that there is no material to show that the petitioner's seat which fell vacant for the next year, was utilized by the management by admitting either by way of transfer or by other means another student in the place of petitioner. Hence, this court is inclined to pass the following order:

(a) The fact that the respondents 4 and 5 have returned the certificates to the petitioner is recorded. The petitioner is not entitled to the fees paid for the first year. The respondents 4 and 5 are entitled to retain the amount paid by way of tuition fees by the petitioner in case, the fourth respondent has not utilized the seat by giving admission to any other candidate or student for the next academic year. The petitioner may approach the fourth respondent for refund of the amount. The fourth respondent has utilized the petitioner's seat

for the second year and the fourth respondent shall decide the application of the petitioner on merits and in accordance with law in the light of the directions and the observations in this order within a period of three weeks from the date of receipt of a copy of this order.

(b) In case, the fourth respondent has not admitted any other student and seat is not filled up any other mode, the fourth respondent is entitled to retain the fees and entitled to pursue for collecting further fees. While fixing the fees payable by the petitioner as per prospectus, the portion of fees collected towards cost of consumable or incurred on account of physical presence of a student shall be deducted. The petitioner is liable to pay only the fees as per the norms of the university or the norms of University Grants Commission. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

rpl/mpa

To

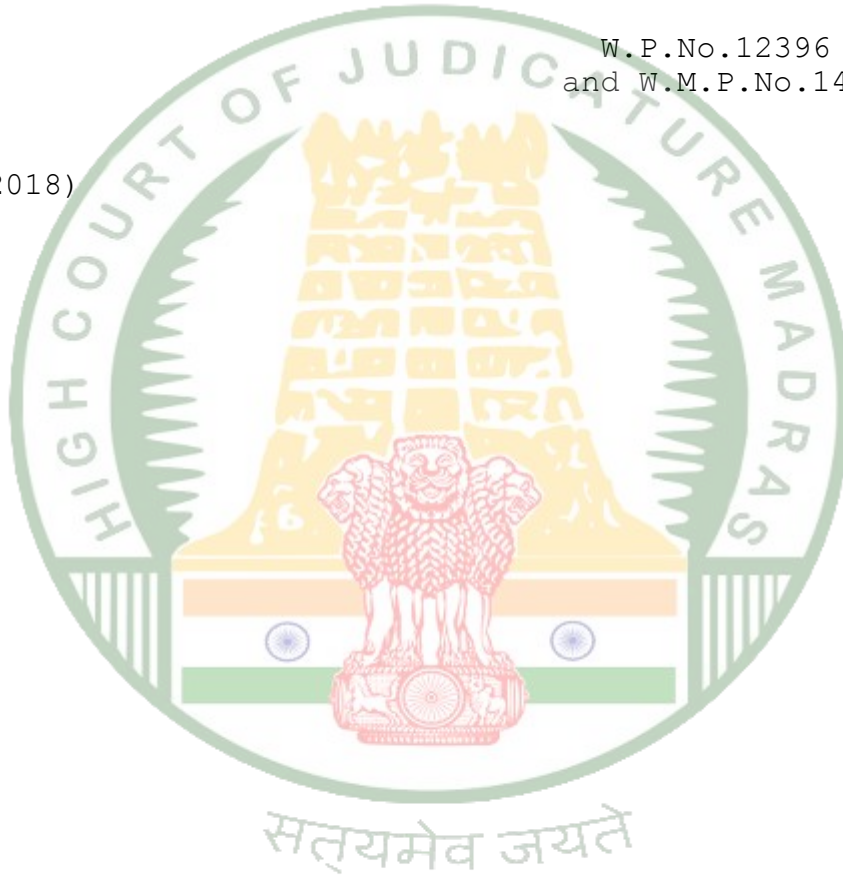
- 1.The Chairman,
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- 2.The Secretary,
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- 3.The Registrar,
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+1cc to Mr. L.Swaminathan, Advocate, S.R.No.68713
+1cc to Mr. P.r.Gopinathan, Advocate, S.R.No. 68740
+1cc to Mr. C.Kasi Rajan, Advocate, S.R.No. 69351
+1cc to the Government Pleader, S.R.No. 69675

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GP(CO)
GN(01/11/2018)



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