

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2018

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.19024 to 19028 of 2017 and
W.P.Nos.24589 & 34916 of 2016
WMP NOS.21008 AND 21009 OF 2016
WMP NOS.20543 TO 20547 OF 2017
WMP NO.13457 OF 2017 AND
WMP NO.30059 OF 2016

1. Dr.M.S.P.Saravanan
 2. Dr.P.Murali
 3. Dr.Vidjeadevan
 4. Dr.A.Baby Praveena
 5. Dr.T.Sathish Kumar
 6. Dr.S.Usha
 7. Dr.R.Karpagavalli ... Petitioners in W.P.No.19024 of 2017
-
- 1 Dr.T.Arivazhagan
 - 2 Dr.Manobharathi.M
 - 3 Dr.Lakshmi
 - 4 Dr.P.Shunmuga Priya
 - 5 Dr.A.Aravinthkumar
 - 6 Dr.AK.Balasundaram
 - 7 Dr.S.Venkateswaran ...Petitioners in W.P.No.19025 of 2017
-
- 1 Dr.A.Syedali Fathima
 - 2 M.Ananda Kumar
 - 3 S.Prasanna Balaji
 - 4 Dr.G.K.Scindia ...Petitioners in W.P.No.19026 of 2017
-
- 1 Dr.K.Suresh Kumar
 - 2 Dr.D.Hannah
 - 3 Dr.P.Renuka
 - 4 Dr.J.Raghavenderan
 - 5 Dr.M.Balasubramanian
 - 6 Dr.M.S.Akila
 - 7 Dr. Ashok Ramkumar
 - 8 Dr. T. Senthakrishna
 - 9 Dr.Kiran
 - 10 Dr.Ajith Shankar PS
 - 11 Dr.Sangeetha
 - 12 Dr.V.Ramya
 - 13 Dr.Krishna Balaji
 - 14 Dr.M.Rajesh kumar ...Petitioners in W.P.No.19027 of 2017

1 Dr.Anbukumar D
2 Dr.G.Sivachandran
3 Dr.S.Ratheesh Anandh
4 Dr.C.Subathra
5 Dr.D.Sakthi Vignesh
6 Dr.G.Arul Venkadesh
7 Dr.I.Balaji
8 Dr.Sudha
9 Dr.K.Sunthari
10 Dr.G.Nivetha
11 Dr.S.Sravana Madhav
12 Dr.G.Surendiran
13 Dr.A.Abdul Hassan
14 Dr.D.Sankari
15 Dr.B.Mahalakshmi
16 Dr.M.Muralidharan
17 Dr.J.Raghul
18 Dr. Rakesh Sebastin.X
19 Dr.V.Sridhar
20 Dr.I.Gomathiponshankar
21 Dr.Pradeep Vel.M
22 Dr.Pearly Stephen
23 Dr.Tamilarasi.V
24 Dr.Sharath Kumar
25 Dr.C.Akilan
26 Dr.J.Kumaran
27 Dr.U.S.Arutselvan
28 Dr.V.Anandaraj
29 Dr.S.Vigneshwaran
30 Dr.J.Jayaganesh
31 Dr.T.Vinodhkannan
32 Dr.P.Vinoth
33 Dr.Shakthi Saravanan KV
34 Dr.G.Baskaran
35 Dr.G.Arun Chander
36 Dr.M.Devagi
37 Dr.J.Balaji Ganesh
38 Dr.Surendran.A
39 Dr.R.Abinaya
40 Dr.Y. Gnanavelu
41 Dr.A.Kavitha Devi
42 DR.M. Revathi
43 Dr.A.Kousalya Devi
44 Dr.S.Rajapriya
45 Dr.R.Bharathi
46 Dr.S.Chithra
47 Dr. A.Geetha

...Petitioners in W.P.No.19028 of 2017

1 Dr.Narayanan A.R
2 Dr.Anusuya Devi
3 Dr.Arun G.Behin
4 Dr.Aswin A.V
5 Dr.Jambukeswaran PST
6 Dr.Kalarani S
7 Dr.Kumaran M
8 Dr.Muthukrishnan K
9 Dr.Nagarajan G
10 Dr. Thillainachiyar
11 Dr.Nithyakumar V.R
12 Dr.Prakash D
13 Dr.S.Sankar
14 Dr.Sathish Kumar J.T
15 Dr.Shajitha Nasreen
16 Dr.Subapriya E.R
17 Dr.J.Prathap Kumar

...Petitioners in W.P.No.24589 of 2016

1 Dr.R.Renjith Singh
2 Dr.A.Sentamizh Selvan
3 Dr.R.Vasanthi
4 Dr.R.Balaji
5 Dr.T.Henry Denielraj
6 Dr.G.Dharani Sudha
7 Dr.S.Subbathra Devi
8 Dr.Prabakaran.B
9 Dr.V.James Sundar Singh
10 Dr.V.Uvaraj
11 Dr.B.Deniraja
12 Dr.S.Arvind Vimal
13 Dr.C.Jayaprakash
14 Dr.M.V.Pradeep Anand
15 Dr.E.Sheik Mohammed Raja
16 Dr.P.Mohana Priya
17 Dr.D.Kanagaraj
18 Dr.Jayaram Kosalram
19 Dr.M.R.Sakthivel
20 Dr.P.Senthil Murugan
21 Dr.M.Sivakami
22 Dr.R.Vasanthi
23 Dr.Priscilla Poornima
24 Dr.S.Senthil Kumar
25 Dr.Sivatha
26 Dr.Jayalakshmi Dhevi

27 Dr.Sathya Banu.V.C
28 Dr.Srinivasan.G
29 Dr.K.Selvi
30 Dr.V.Vahini
31 Dr.R.Arvinde Kumar
32 Dr.T.Sangeetha
33 Dr.V.Hari Babu
34 Dr.S.Sittaramane
35 Dr.Princy Email Josephin
36 Dr.V.Sasikala
37 Dr.D.Rathiga ...Petitioners in W.P.No.34916 of 2016

vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Health & Family Welfare Department,
Fort St. George, Chennai 600 009.
 2. The Government of Tamil Nadu,
rep. by its Secretary,
Higher Education Department,
Fort St. George, Chennai 600 009.
 3. The Director of Medical Education,
152, E.V.R. Periyar Salai,
Kilpauk, Chennai 600 010.
 4. The Secretary,
Selection Committee,
Director of Medical Education,
152, E.V.R. Periyar Salai,
Kilpauk, Chennai 600 010.
 5. The Registrar,
Annamalai University,
Annamalai Nagar, Chidambaram,
Cuddalore District.
 6. The Chairman,
Fee Fixation Committee for Medical Colleges,
Gandhi Mandapam Road,
Chennai 600 025.
 7. The Medical Council of India,
rep. by its Secretary,
Pocket 14, Phase I, Sector 8,
Dwarka, New Delhi - 110 077.
- ... Respondents in W.P.Nos.19024 of 2017

- 1 The State of Tamilnadu
Rep. by its Secretary Higher Education
Department Fort St. George
Chennai-600 009.
- 2 The State of Tamilnadu
Rep by its Secretary Health and Family
Welfare Department Fort St. George
Chennai-600 009
- 3 The Director of Medical
Education 152 EVR Periyar Salai Kilpauk
Chennai-10
- 4 The Medical Council of India
New Delhi.
- 5 The Annamalai university
Rep by its Registrar Annamalai Nagar
Chidambaram Cuddalore District.
- 6 The Raja Muthiah Medical
college Rep by its Dean Annamalai Nagar
Chidambaram Cuddalore District.
- 7 Fee Fixation Committee for
Medical Colleges Rep by its chairman
Gandhi Mandapam Road Chennai.
... Respondents in W.P.No.24589 of 2016
- 1 The Govt. of Tamil Nadu
Rep. by its Secretary Health & Family
Welfare Department Fort St. George
Chennai- 600 009.
- 2 The Govt. of Tamil Nadu
Rep. by its Secretary Higher Education
Department Fort St. George
Chennai-600 009.
- 3 The Director of Medical
Education 152 E.V.R Periyar Salai Kilpauk
Chennai-600 010.
- 4 The Secretary
Selection Committee The Director of Medical
Education 152 E.V.R. Periyar Salai Kilpauk
Chennai-600 010.

- 5 The Registrar
Annamalai University Annamalai Nagar
Chidambaram
Cuddalore District.
- 6 The Chairman
Fee Fixation Committee for Medical Colleges
Gandhi Mandapam Road
Chennai-600 025.
- 7 The Medical Council of India
Rep. by its Secretary Pocket 14 Phase I
Sector 8 Dwarka
New Delhi-110 077.
- 8 The Vice Chancellor
Annamalai University Annamalai Nagar
Chidambaram Cuddalore District.

...Respondents in W.P.No.34916 of 2016

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus to forbear the Respondents from demanding and collecting fees from the Petitioners, in excess of the fees fixed for Post-Graduation Course in Government Medical Colleges in the State of Tamil Nadu and/or by the Fee Fixation Committee for the period 2017-2018 and direct the 5th Respondent to refund the excess fee collected from the Petitioners for the academic year 2016-2017.

W.P.No.24589 of 2016 has been filed under Article 226 of constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the records of the G.O.Ms.No. 94 Health and Family Welfare Department dated 01.03.2016 issued by 2nd respondent and quash paras 7(b) and 7(c) of the G.O. and the consequential Notice dated 19.05.2016 issued by 5th respondent University and quash the same and consequently direct the 5th respondent University Chidambaram Cuddalore District and the Raja Muthiah Medical college Chidambaram Cuddalore District to apply the fee structure for various specialities in Post Graduation Programmes in the Raja Muthiah Medical College Chidambaram Cuddalore District in so far as the petitioners are concerned on par with the fee structure prescribed by the Fee Fixation Committee for the post Graduate Courses applicable to Government Colleges and Consequently to refund the excess fees paid by the Petitioners in the Year 2015-2016 and other such years, if so paid, with nominal interest.

W.P.No.34916 of 2016 has been filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus to forbear the Respondents from demanding and collecting fees from the petitioners in excess of the fees fixed for Post Graduation Course in Govt. Medical Colleges in the State of Tamil Nadu and direct the V Respondent to refund the excess fees collected from the petitioners for the academic year 2015- 16.

For Petitioners in W.P.Nos.19024 to 19028/2017 & W.P.No.34916/2016	Mr.M.K.Kabir, Senior Counsel, for M/s.J.Kingsly Solomon
For Petitioners in W.P.No.24589/2016	Mr.S.Silambanan, Senior Counsel for M/s.Kaavya Silambanan Associates
For Respondents 1 to 4 & 6 in W.P.Nos.19024 to 19028/2017 & W.P.No.34916/2016 and For Respondents 1 to 3 & 7 in W.P.No.24589 of 2016	Mr.A.Rajaperumal, Additional Government Pleader
For 5th Respondent in all W.Ps. and 8th Respondent in W.P.No.34916 of 2016	Mr.K.Sathish Kumar
For 7th Respondent in W.P.Nos.19024 to 19028/2017 & W.P.No.34916/2016 and 4th Respondent in W.P.No.24589 of 2016	Mr.V.P.Raman

For 6th Respondent in W.P.No.24589 of 2016 :Mr.K.Sathish Kumar

C O M M O N O R D E R

As the issue involved in all the above Writ Petitions is one and the same, they are taken up for disposal by a common order.

2. For the sake of convenience, facts in W.P.No.19024 of 2017 alone are discussed here:

2.1. Petitioners in W.P.No.19024 of 2017 joined Post-Graduation Course in Raja Muthiah Institute of Health Sciences, Annamalai Nagar, Cuddalore District affiliated to the 5th

Respondent-Annamalai University. According to the Petitioners, admission to all the seats in Annamalai University is through Entrance Examinations and counselling conducted by the Selection Committee, Directorate of Medical Education, Chennai. Though the Government of Tamil Nadu has taken over Annamalai University, the fee prescribed by Annamalai University as stated in the prospectus is Rs.9,80,000/- per year.

2.2. The grievance of the Petitioners is that though they were allotted to undergo Post-Graduation in Raja Muthiah Medical College and Hospital, Annamalai University, through selection process, the fee was demanded, as if the 5th Respondent is a private institution. The Petitioners were compelled to pay a sum of Rs.9,80,000/- towards the I year fee, on condition that if the fee is not paid within the stipulated period, they would stand the risk of forfeiting the seat. Left with no other option, Petitioners remitted the fees as demanded by the College for the I year, as they would otherwise stand to risk the seat earned by them through merit. As the fee for the II year is also exorbitant, Petitioners made a representation to the Respondents requesting them to fix a fee for Post-Graduate Courses in Raja Muthiah Medical College and Hospital, Annamalai University on par with the Government Medical Colleges and refund the excess fees collected.

2.3. Despite receipt of the said representation, no action has been taken by Respondents 1 to 4 and hence, the Petitioners are before this Court seeking a writ of mandamus to forbear the Respondents from demanding and collecting fees from them, in excess of the fees fixed for Post-Graduation Course in Government Medical Colleges in the State of Tamil Nadu and/or by the Fee Fixation Committee for the period 2017-2018 and direct the 5th Respondent to refund the excess fee collected from them for the academic year 2016-2017.

3. Today, Mr.M.K.Kabir, learned Senior Counsel appearing for the Petitioners in W.P.Nos.19024 to 19028 of 2017 and W.P.No.34916 of 2016 submitted that a similar issue is pending before the Apex Court in S.L.P.(C) No.30567 of 2016 and that the said matter has been reserved for judgment. Learned Senior Counsel submitted that if any decision is rendered by the Supreme Court, the same will be binding on the Petitioners in the present Writ Petitions. He further submitted that 50% of the tuition fee, as demanded by the Respondents has been paid and that the Petitioners may be permitted to pay the Examination Fee and obtain Hall Tickets in advance and that they are willing to pay the balance fee, in case the Apex Court decides the issue against the students.

4. Mr.S.Silambanan, learned Senior Counsel appearing for the Petitioners in W.P.No.24589 of 2016, produced a copy of the order dated 20.04.2017 passed by the Supreme Court in in S.L.P. (C) Nos.31078-31080 of 2016 and stated that the Apex Court, by means of the said order permitted the students to appear in the Examination and observed that if they lose the case, they shall pay the fees as determined by the University.

5. Taking note of the said submissions, this Court permits the Petitioners herein to take up their Examinations after paying the Examination Fee and the Respondents concerned are directed to furnish Hall Tickets to the Petitioners at least 48 hours in advance. It is made clear that the Petitioners will have to pay 50% of the total Tuition fees as determined by the 5th Respondent-Annamalai University, before payment of the Examination Fee. The parties will have to abide by the final verdict of the Apex Court, that is awaited.

In fine, the Writ Petitions are disposed of with the above direction and observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Aeb

07/06/2018

FOR BEING MENTIONED

This matter has been posted for being mention on Wednesday the Twenty Sixth day of July Two Thousand and Eighteen in pursuant to the order of this Court dated 07/06/18 and upon hearing the arguments of the above said counsel, this Cout made the following order:-

सत्यमेव जयते

These petitions are listed under the caption "for being mentioned" today.

2. These Writ Petitions have already been disposed of on 07.06.2018, wherein in paragraph 5, it was observed as follows:

"5. Taking note of the said submissions, this Court permits the Petitioners herein to take up their Examinations after paying the Examination Fee and the Respondents concerned are directed to furnish Hall Tickets to the Petitioners at least 48 hours in advance. It is made clear that the Petitioners will have to pay 50% of the total Tuition fees as

determined by the 5th Respondent-Annamalai University, before payment of the Examination Fee. The parties will have to abide by the final verdict of the Apex Court, that is awaited."

3. The Apex Court has passed the following order in Civil Appeal No.6654 of 2018, etc., dated 13.07.2018:

"19. We, therefore, allow these appeals and set aside the judgments and orders under appeal. We hold that the University was not entitled and competent to devise its own fee structure in the present matter without having the fee fixed by the Committee on Fixation of Fee as contemplated under 1992 Act. The matters shall therefore have to be referred to said Committee and the University is directed to place the entire material including its balance-sheet and accounts before the Committee on Fixation of Fee within two weeks from the date of this Judgment. The Committee shall thereafter bestow attention and fix appropriate fee structure for the academic year 2013-14 onwards. It goes without saying that if the fee structure fixed by the University is found by the Committee to be inappropriate, consequential benefit and advantage shall be given to each and every student. The Committee shall fix the appropriate fee structure for the current academic Session 2018-19 as well. The entire exercise shall be completed by 31.08.2018."

4. Since the Apex Court has passed the above order, the parties shall abide by the same, depending upon the conclusion that may be arrived at based on the order of the Supreme Court and the same yardstick will also be applicable to the case on hand.

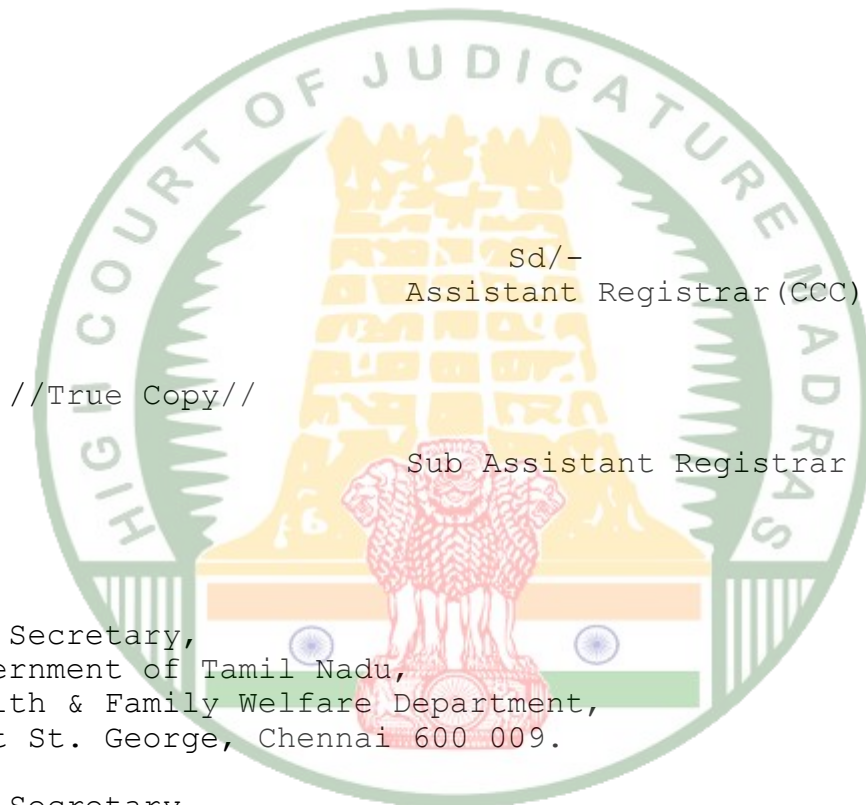
5. As the order of the Apex Court is clear and that the Supreme Court has made specific observations as extracted above, no further orders are required to be passed in these Writ Petitions. It is made clear that after 31.08.2018, the consequential relief that may be available to the petitioner(s)/ students(s) in accordance with law, will follow.

6. It is needless to state that the entire fees already fixed, be paid by the petitioners/candidates and that the declaration of results be made and the Certificate can be handed over to the petitioners/candidates in accordance with law and depending upon the Fee Committee's report, the collection of either the balance amount of fee or repayment of the excess amount of fee, can be decided thereafter in terms of paragraph 19 of the order of the Supreme Court extracted supra.

7. In other respects, this Court's order dated 07.06.2018 passed in these Writ Petitions, remains unaltered.

25.07.2018

cs



Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To:

1. The Secretary,
Government of Tamil Nadu,
Health & Family Welfare Department,
Fort St. George, Chennai 600 009.
2. The Secretary,
Government of Tamil Nadu,
Higher Education Department,
Fort St. George, Chennai 600 009.
3. The Director of Medical Education,
152, E.V.R. Periyar Salai, Kilpauk, Chennai 600 010.
4. The Secretary,
Selection Committee,
Director of Medical Education,
152, E.V.R. Periyar Salai, Kilpauk,
Chennai 600 010.

5. The Registrar,
Annamalai University,
Annamalai Nagar, Chidambaram,
Cuddalore District.
6. The Chairman,
Fee Fixation Committee for Medical Colleges,
Gandhi Mandapam Road, Chennai 600 025.
7. The Secretary, Medical Council of India,
Pocket 14, Phase I, Sector 8,
Dwarka, New Delhi - 110 077.
8. The Dean, Raja Muthiah Medical College,
Annamalai Nagar, Chidambaram, Cuddalore District.
9. The Vice Chancellor,
Annamalai University, Annamalai Nagar, Chidambaram,
Cuddalore District.

+1cc to Mr.K.Sathishkumar, Advocate **SR.49626**

+1cc to M/S.Kaavya Silambanan Associates, Advocate **Sr.50228**

+6cc to M/S.J.Kingsly Solomon, Advocate Sr.35554 to 35559

+1cc to the Government Pleader Sr.35892

+1cc to M/s.J.Kingsly Solomon, Advocate SR.No.51015(02/08/2018)

W.P.Nos.19024 to 19028 of 2017

and

W.P.Nos.24589 & 34916 of 2016

srg 13/06/2018

GN(27/07/2018)

सत्यमेव जयते

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