

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No. 146 of 2018

and

W.M.P.No.210 of 2018

T.K.Priyarekha

.. Petitioner

Vs.

1.The Registrar

The Tamil Nadu Dr.M.G.R. Medical University
No.69, Old No.40
Anna Salai, Guindy,
Chennai-600032.

2.The Academic Officer (F.A.C.)

The Tamil Nadu Dr.M.G.R. Medical University
No.69, Old No.40
Anna Salai, Guindy,
Chennai-600032.

3.The Principal

K.S.R Institute of Dental Science and Research
K.S.R. Kalvi Nagar, Kuchipalayam Post,
Tiruchengode-637216 (Near Erode)
Namakkal District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for all relevant records relating to the impugned proceedings issued in Ref.No.ACII (1)/37546/2017 dated 22.11.2017 passed by Academic Officer (FAC), The Tamil Nadu Dr.M.G.R Medical University, No.69 Old No.40 Anna Salai, Guindy, Chennai 600 032, the 2nd respondent herein and quash the same as arbitrary, unreasonable, improper, illegal against the rules regulations of the respondents and thereby directing the respondents to permit the petitioner to pay a sum of Rs.18,000/- towards the earlier existed condonation of fees for the issuance of the orders for condoning the break of study from 01.04.2011 to 14.02.2017 without insisting to pay the revision of fee of Rs.6,00,000/- thereby re-admit the petitioner to continue the course of 4th year Bachelor of Dental Surgery and to complete the 4th year BDS Course, as per the time frame fixed by this Court.

For petitioner : Mr.Venkataraman, Senior Counsel
for Mr.S.Srinivasan

For respondents : Mr.P.R.Gopinathan - for R1 & R2
Mr. C.Kulanthaivel

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ORDER

The petitioner has come forward with the prayer to issue writ of mandamus to call for all relevant records relating to the impugned proceedings issued in Re.No.ACII (1)/37546/2017 dated 22.11.2017 passed by the Academic Officer (FAC), The Tamil Nadu Dr.M.G.R Medical University, No.69 Old No.40 Anna Salai, Guindy, Chennai, the 2nd respondent herein and quash the same as arbitrary, unreasonable, improper, illegal and against the rules/ regulations of the respondents and thereby directing the respondents to permit the petitioner to pay a sum of Rs.18,000/- towards the existed condonation of fees for the issuance of the orders for condoning the break of study from 01.04.2011 to 14.02.2017 without insisting to pay the revision of fee of Rs.6,00,000/-, thereby, re-admit her to continue the course of 4th year Bachelor of Dental Surgery and to complete the 4th year BDS Course, as per the time frame fixed by this Court.

2. The case of the petitioner is that she was selected to join Bachelor of Dental Surgery Course between 2007-2012. She got married and in the 4th year, due to her health condition, she could not continue her studies and thereafter she gave birth to two children and also underwent Laproscopic surgery for acute calculascholecystitis. Now after getting fitness certificate, she is willing to pursue her 4th year BDS Course.

3. On 14.02.2017, the petitioner made an application to the 3rd respondent to continue her studies. They stated that there were proceedings by the college forwarding application process fee for condonation. On 11.07.2017, she has remitted the processing fee. The petitioner submitted that she made representation again on 02.08.2017 along with medical certificate dated 10.07.2017 and fitness certificate dated 11.07.2017 to condone the break of period and to permit her to continue her studies. On 14.09.2017 another proceedings were issued by the University, whereby the petitioner was directed to pay a sum of Rs.6,00,000/- as fees for condonation of break of study from 01.04.2011 to 10.07.2017.

4. On 05.10.2017, the petitioner has made representation stating that a sum of Rs. 18,000/- may be accepted as existed on the date of submission of application i.e. on 14.02.2017 and she is not liable to pay the revision of processing fee for condonation, which came into effect w.e.f. 03.04.2017, which is much prior to her claim to continue to study i.e. on 14.02.2017.

The petitioner submitted that it is a special case and her case may be considered as had remitted the processing fee.

5. In the counter affidavit filed on behalf of the respondents 1 & 2, it is stated that the order under challenge is arbitrary, illegal and against the rules and regulations of the respondent's University. According to the respondents 1 & 2, in Resolution No.20 passed at the 252nd Governing Council Meeting held on 03.04.2017, the respondent university had revised the Fee structure for condonation of break of study as Rs.1,00,000/- for every year w.e.f 03.04.2017 and the same was intimated to all the Affiliated Institutions by the Respondent/University on 10.05.2017.

6. On 10.07.2017, the 3rd respondent college forwarded the following documents in respect of the petitioner herein

- i. Condonation proforma for re-admission after break of study
- ii. NEFT Challan for Rs.2100/- as processing fee
- iii. First Year Mark Sheet
- iv. Second Year Mark Sheet
- v. Third year Mark Sheet
- vi. Request letter of the petitioner Ms. Priya Rekha T.K
- vii. Medical Certificate dated 05.04.2012 (period not mentioned)
- viii. Fitness certificate dated 13.02.2017
- ix. Discharge summary dated 17.06.2012 along with Ultra Sound Scan Report
- x. Discharge summary dated 11.09.2013 along with Ultra Sound Scan Report.
- xi. Consolidated attendance from October to December 2010
- x. Consolidated attendance from January to March 2011

7. Based on the 2nd respondent /University's letter dated 24.07.2017 to the 3rd respondent, the 3rd respondent was requested to instruct the petitioner to submit a fresh medical certificate and fitness certificate for the entire period of break from 01.04.2011 to 10.07.2017. The Application for condonation of break of study of the petitioner was received on 10.07.2017 from the 3rd respondent institution and on 14.09.2017, the 2nd respondent/ University requested the 3rd respondent/Institution to remit a sum of Rs.6,00,000/- towards the condonation of break of study. The candidate was directed to remit a sum of Rs.6,00,000/- for issuance of condonation off break of study from 01.04.2011 to 10.07.2017 in terms of the Resolution of the Governing Council, mentioned supra.

8. The petitioner again requested the 2nd Respondent / University vide email dated 04.10.2017, stating that she may be permitted to pay the old condonation fee of Rs.18,000/- quoting the reason that she had applied for the said condonation to the Principal of the 3rd respondent/Institution on 14.02.2017, on

which date, the old fee for condonation of break of study was in force as per the University's requirement. But the petitioner was directed to remit a sum of Rs.1,00,000/- (Rupees One lakh Only) which has been revised as per the Resolution dated 03.04.2017 i.e after the date of her requisition.

9. The 3rd respondent has filed counter, wherein it has been stated that the petitioner has joined BDS Course in August 2007 and discontinued her studies from 01.04.2011. The father of the petitioner presented an undated letter on 14.02.2017 to the 3rd respondent, which was signed by the petitioner, expressing her desire to continue her studies, stating that "Due to my health condition I unable to continue my IV-BDS during 2010-2011. Kindly I request you to continue my studies."

10. The 3rd respondent received the said letter and further instructed the petitioner's father to obtain prescribed Proforma for re-admission from the office of the 3rd respondent and submit the same for enquiry along with medical certificate and necessary process fee. The father of the petitioner received the prescribed proforma for re-admission and thereafter, it was submitted on 10.07.2017 along with medical certificate dated 13.02.2017 and processing fee was also paid. The petitioner has also stated that she has paid a sum of Rs.2,100/- on 10.07.2017 for the condonation of break of study from 01.04.2011 to 10.07.2017. The petitioner has also stated that in addition to that proforma for readmission for break of study, she has also submitted a letter dated 05.10.2017 to the University as follows:

"...I request to permit to pay the condonation fee for the break of study from 01.04.2011 to 10.07.2017 in old condonation fee of Rs.18,000/- (Eighteen Thousand). Because I have submitted my requisition letter for the condonation on Feb 14/2017 in the KSR institute of Dental College & Research, Tiruchengode and also I am living under the poverty line. I am from very poor family. My parents are daily wages, so I unable to pay fee Rs.6,00,000/- (Six Lakhs). Kindly I request to permit to pay the old condonation fee Rs.18,000/- (Eighteen Thousand)..."

11. Heard all the parties and perused all the documents available on record.

12. It is not in dispute that the petitioner had joined BDS Course in August 2007 and thereafter got married. Due to her ill health, she could not continue her studies from 01.04.2012. It is also not in dispute that the petitioner has presented an undated letter on 14.02.2017 to the 3rd respondent through her father to pursue her studies from the 4th year. The issue in the writ petition is as to whether the petitioner would be entitled to pay a sum of Rs.3,000/- per annum as fees or condonation of

break of study, to enable her to pursue her studies.

13. On 10.05.2017, there is a communication by the 2nd University to all the institutions with regard to the amount to be paid for condonation of break up study for all UG and PG courses and the relevant portion is as follows:

Courses		Existing Fees inRs.	Revised Fee
Medical/ Dental AYUSH/ AHS	1).Upto - 6 months	No Fee*	No Fee*
	2). 6 Months to 1 year	Processing Fee (Rs.) 2,100/-	2,100/-
		Condonation fee for 6 months & 1 year Rs.3,000/-	Medical/Dental -Rs.25,000/- AYUSH/AHS Rs.15,000/-
	3). More than a year	Processing Fee (Rs.) 2,100/-	2,100/-
		Condonation fee More than a year Rs.3,000/- per year	Medical/Dental -Rs.1,00,000/- every year.
			AYUSH/AHS 50,000/- every year

14. On a reading of the affidavit, more particularly with regard to paragraphs 3 and 5 of the affidavit filed in support of the writ petition, it is clear that the petitioner has paid processing fee of Rs.2,100/- only on 10.07.2017 and on such payment, the University had advised the petitioner's father to get Medical Certificate and fitness certificate and the same was submitted to the University only on 02.08.2017. The petitioner has taken time to make representation, by which time, there was an amendment for processing fee. It was originally Rs.1,000/- per annum and it was revised to Rs.3,000/- per annum and was further increased to Rs.1,00,000/- per annum. The request of the petitioner dated 14.02.2017 to take into account the purpose of remitting the old existing fee of Rs.3,000/- cannot be accepted. If the request for condonation of break of study of the petitioner is accepted, it shall be against the decision taken in the Resolution No.20 passed at the 252nd Governing

Council Meeting held on 03.04.2017, which is not under challenge . The petitioner will have to pay the entire amount as required in terms of the said Resolution i.e to pay a sum of Rs.1,00,000/- every year for the purpose of condonation of break of study. Fortunately, the period of condonation has not been restricted, but the petitioner has to pay a sum of RS.1,00,000/- per annum.

15. When there is slackness on the part of the petitioner, her request cannot be accepted. When the college wanted to come to rescue the petitioner, wherein, by an undated letter presented by the petitioner's father, she was asked to produce necessary documents and till 10.07.2017, no steps have been taken by the petitioner. With regard to the revised payment which come into force, there being no error on the part of the respondents in passing the impugned order, the University has rightly directed the petitioner to pay a sum of Rs.6,00,000/- for condonation of break of study from 01.04.2011 to 14.02.2017. In view of the fact that one year is gone from 10.07.2017, the petitioner will have to pay an additional sum of Rs.1,00,000/-, if she is willing to continue her studies by condoning the break up study.

Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

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+1 CC to Mr.S. Srinivasan, Advocate sr 45527.

+1 CC to Mr.C. Kulanthaivel, Advocate sr 45224.

W.P.No. 146 of 2018

and

W.M.P.No.210 of 2018

AK (CO)
SP(30/08/2018)

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