

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.19386 OF 2018

ORDER :

This Writ Petition is filed seeking writ of mandamus declaring the action of the 3rd respondent in notifying and collecting Rs.97,000/- as the tuition fee of the 2nd petitioner Institution from the students who opt for admission for the academic year 2018-19 as illegal and contrary to the orders in WAMP No.1554 of 2017 in WA No.798 of 2017 dated 27.06.2017 and consequently to direct the respondents to collect Rs.1,60,000/- as the fee for the 2nd petitioner institution from the students allotted in the academic year 2018-19.

2. Learned counsel for the petitioner submits that this Court quashed the G.O.Ms.No.3 Higher Education (TE/A2) Department, dated 04.02.2017 issued by the Government basing on the recommendations of AFRC fixing the fee at Rs.97,000/- in WP No.7596 of 2017 and fixed at Rs.1,60,000/- per student for the block period 2016-17 to 2018-19 and against the same, respondents filed W.A.No.798 of 2017 along with W.A.M.P.No.1554 of 2017, wherein the Hon'ble Division Bench of this Court passed orders on 27.06.2017 directing the respondents therein (petitioners herein) to collect Rs.1,60,000/- per student and also to furnish bank guarantee to an extent of Rs.20,000/- towards differential amount. He submits that the learned Single Judge in W.P.No.7596 of 2017 held that the petitioners are entitled to collect Rs.1,60,000/- and that inspite of the same, the

respondents again notified the fees to be collected at only Rs.97,000/- which is illegal as petitioners are permitted to collect Rs.1,60,000/- with certain conditions and that the action of the 3rd respondent is not in tune with the orders passed in the W.A.No.798 of 2017. He also submits that the petitioners approached this Court in several writ petitions on earlier occasions also and even the respondents have issued notifications fixing the fees at Rs.1,60,000/-, but the 3rd respondent again altered the same, which is impugned in the writ petition. He brought to the notice of this Court about the orders in W.P.M.P.No.42291 of 2017 in W.P.No.34007 of 2017 dated 11.10.2017 passed by the learned Single Judge and also the judgment of the Hon'ble Division Bench of this Court in Writ Appeal filed by the respondents in W.A.Nos.1699 and 1702 of 2017.

3. On the other hand, Sri A.Abhishek Reddy, learned Standing Counsel appearing for respondents 2 and 3 submits that the respondent has not notified any fees in view of the orders passed in the learned single Judge on earlier occasion and as such, order is suspended in all respects in W.A.No.798 of 2017 except permitting the petitioner's college to collect Rs.1,60,000/- and that by mistake it is mentioned as Rs.1,60,000/- in the notification and same was rectified later. He submits that in W.P.M.P.No.42291 of 2017 in W.P.No.34007 of 2017 filed by petitioner, the learned Single Judge issued direction to notify the fees at Rs.1,60,000/-, the same was set aside by the Hon'ble

Division Bench in W.A.Nos.1699 and 1702 of 2017 by Common Judgment dated 13.11.2017, as such, the 2nd and 3rd respondents cannot fix fee at Rs.1,60,000/-.

4. In this case, it is to be seen that the order of the learned Single Judge in WP No.7596 of 2017 dated 01.06.2017 was suspended in all respects by the Hon'ble Division Bench in W.A.M.P.No.1554 of 2017 in W.A.No.798 of 2017 dated 27.06.2017, except permitting the petitioners to collect fee at Rs.1,60,000/-. Even according to the learned counsel for the petitioners, petitioners are collecting the same and also producing the Bank Guarantees before the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh in pursuance to said order.

5. Learned Single Judge passed interim order in WPMP No.42291 of 2017 in WP No.34007 of 2017 on 11.10.2017 which reads as follows:

“Heard the learned counsel for the petitioners and the learned Additional Advocate General appearing for respondents.

Having regard to the order dated 27.06.2017 in W.A.M.P.No.1554 of 2017 in W.A.No.798 of 2017 passed by the Division Bench permitting the petitioners to collect fee of Rs.1,60,000/- from each of the students subject to the conditions mentioned therein, there shall be interim direction to the respondents to notify the same for the block period 2016-17 to 2018-19 under Rule 4 of the ‘Telangana Admissions and Fee Regulatory Committee (Professional Courses Offered in Private, Unaided Professional Institutions) Rules, 2006, subject to the conditions mentioned in that order of the Division Bench, within two weeks from today.”

6. Aggrieved by the same, respondents herein preferred W.A.Nos.1699 and 1702 of 2017, wherein the Hon'ble Division

Bench disposed of the same, by way of Common Judgment dated 13.11.2017 observing as follows:

“As noted hereinabove, among the directions issued by the Learned Single Judge, in the orders which were subjected to challenge in W.A.Nos.798 and 801 of 2017, was a direction to the appellant to notify the fee fixed in the order. This direction, along with others, was suspended in the Writ Appeals preferred against the aforesaid orders. In the present case, the interim orders under appeal were passed on the erroneous premise that the order of the Division bench, as aforementioned, required the appellants to notify the fee structure which, as noted hereinabove, was not what was directed by the Division bench. We are satisfied, therefore, that the interim orders, under appeal before us, could not have been passed as it falls foul of the directions of the Division bench in the interlocutory orders aforementioned.

Sri M. Ravindranath Reddy, Learned Counsel for the respondent-writ petitioners, would submit that the respondent-writ petitioners have moved an application in the Writ Appeals pending before the Division bench seeking a direction to the appellants herein to notify the fees as fixed in the interim order passed in the said Writ Appeals. Suffice it to make it clear that this order, now passed by us, would not disable the respondent-writ petitioners from seeking modification, of the interlocutory order passed in the aforementioned Writ Appeals, in accordance with law. The orders under appeal are set aside.”

It is pertinent to note that the petitioners have filed W.P.No.34007 of 2017 with similar prayer as was sought in the present Writ Petition in I.A.No.1 of 2018, which reads as follows:

“For the reasons mentioned in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased to direct the Respondents to collect Rs.1,60,000/- from the students who opt admission in the 2nd petitioner institution for the academic year 2018-19 and pass such other order or orders as this Hon’ble may deem fit and proper in the circumstances of the case.”

7. Learned counsel for the petitioners (respondents in the Writ Appeal), submits that they have already moved an application in the Writ Appeal before the Division Bench for clarification and instead of pursuing the same, filed the present writ petition. When the interim direction given by the learned Single Judge in W.P.M.P.No.42291 of 2017 in W.P.No.34007 of 2017 on

11.10.2017 was set aside by the Hon'ble Division Bench in W.A.Nos.1699 and 1702 of 2017, it is not proper for this Court to entertain this Writ Petition for same relief and grant relief as sought for by the petitioners.

In view of above facts and circumstances, I do not see any merit in this Writ Petition and same is liable to be dismissed and accordingly dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand dismissed.

12-06-2018.
kvs



A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY



W.P.No.19386 of 2018

Date: 12.06.2018

kvs