

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.39326 of 2018

ORDER:

Heard Sri S.Niranjan Reddy, learned Senior Counsel appearing for Sri Tarun G.Reddy, learned counsel for the petitioner on record and Sri A.Abhishek Reddy, learned counsel for Respondents.

2. In the present writ petition, challenge is to the action of the 1st respondent-Convenor, TS EAMCET-2018 in withholding/not releasing the fee paid by the students admitted under 'A' category Convenor quota and for a consequential direction to the 1st respondent to remit/release the fee paid by the students admitted in the said category to the petitioner institutions.

3. Petitioners 1 to 3 herein are the educational societies and they have established petitioners 3 to 6 institutions respectively for imparting Engineering and Technical Education courses. In exercise of the powers conferred by Sections 3 and 15 of the A.P. Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983, the State Government framed the Rules called "A.P. Unaided Non-Minority Professional Institutions (Regulation of Admissions into Under Graduate and Pharm-D (Doctor of Pharmacy) Professional Courses through Common Entrance Test) Rules, 2011 and notified the same vide G.O.Ms.No.74 Higher Education (EC-2) Department dated 28.7.2011.

4. Vide G.O.Ms.No.33 Higher Education (TE/A2) Department dated 31.12.2014, the State of Telangana adopted the said rules. As per Rule 2(e), 'Convenor of EAMCET Admissions' means the Commissioner/Director of Technical Education or any other officer of such rank, nominated by the competent authority for selection and allotment of qualified candidates for

admission. As per Rule 2(d), the 'competent authority' means the Chairman, State Council of Higher Education. Rules 3 and 4 deal with the Allotment of Seats and Eligibility Criteria for Admission. Rule 5 deals with the Method of Admission and Rule 6 deals with Procedure of Admissions. In accordance with the said rules, the 1st respondent/Convenor issued a notification dated 24.5.2018 for counselling. In the writ petition, petitioners are concerned only with the payment made by 'A' category candidates (Convenor Quota) to the 1st respondent at the time of counselling.

5. The grievance of the petitioners in the present writ petition is the non-payment of the said fee collected from 'A' category candidates to the petitioner Colleges by the 1st respondent herein. The justification sought to be offered by the Respondents for non-release of the said amounts to the petitioner colleges is that the petitioner colleges did not pay affiliation fee. According to the learned counsel for the petitioners, the 1st respondent, on the instructions of the 2nd respondent University, is withholding the amounts payable to the petitioners herein. It is the further submission of the learned counsel that even the 2nd respondent University does not possess such power or jurisdiction to issue such instructions to the 1st respondent, asking to withhold the amounts. It is also the submission of the learned counsel that if the 2nd respondent has any issue pertaining to non-payment of affiliation fee by the petitioners herein, the 2nd respondent can take appropriate steps in accordance with the regulations, but cannot insist on the 1st petitioner to withhold the amounts payable by the petitioners.

6. On the contrary, it is submitted by Sri A.Abhishek Reddy, learned Standing Counsel for Respondents that the petitioners herein need to pay the affiliation fee, as such, the petitioners herein are not entitled for any indulgence of this Court.

7. In this context, it may be appropriate to note that for the last two academic years, the 2nd respondent University issued a Form, duly notifying the fee structure in respect of the institutions. The said Form also prescribes for payment of affiliation fee per candidate per year at the rate of 0.5% of tuition fee as recommended by AFRC. It is also pertinent to note that challenging the imposition of 0.5% and the regulations concerned, petitioners herein along with other institutions, filed W.P.Nos.33149/16 and 6123/17. At paragraph 17 of the instant writ affidavit, it is stated that when the said writ petitions came up for hearing, it was stated on behalf of the University that the affiliation fee may not be insisted upon. It is also brought to the notice of the Court that the petitioners herein were granted affiliation for the academic years 2017-18 and 2018-19 also and the AICTE granted approval also for the academic year 2017-18 and the petitioners were included in the counselling process for admission of students.

8. The principal contention, as mentioned supra, advanced by the learned counsel for the petitioners is that on the ground that the petitioners institutions failed to pay affiliation fee, which is the subject matter of W.P.Nos.33149/16 and 6123/17, the 1st respondent cannot withhold the amounts payable to the petitioners herein. It is also brought to the notice of the Court that sufficient safeguards are there under Regulation 12.7 of JNTU (Grant of Affiliations/Institutions) Regulations. It is also not in dispute that the 1st respondent is holding the fee paid by the students under 'A' category and the same is payable to the respective institutions. No regulation is brought to the notice of this Court which enables the respondents herein to withhold the amounts so payable by 'A' category candidates on the ground that the institutions failed to pay the affiliation fee. Therefore, this court does not find any justification on the part of the 1st respondent in refusing to

pay the amounts payable to the petitioner institutions, collected from the candidates belonging to 'A' category.

9. For the aforesaid reasons, the writ petition is allowed, directing the 1st respondent to release the fee paid by the students admitted under 'A' category through TS EAMCET in favour of the petitioners herein.

Date: 10.12.2018
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A.V. SETHA SAI, J



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10.12.2018

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