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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.04.2021

PRONOUNCED ON : 28.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

REVIEW APPLICATION NOS.194 TO 198 OF 2019
AND 8 OF 2020

(THROUGH VIDEO CONFERENCING)

- 1 THE CHAIRMAN,
SRI VENKATESHWARAA MEDICAL COLLEGE
HOSPITAL AND RESEARCH CENTRE,
ARIYUR, PUDUCHERRY - 605 102.
... PETITIONER IN REV.APPLN.NO.194 OF 2019
- 1 THE REGISTRAR
PONDICHERRY INSTITUTE OF MEDICAL SCIENCE AND RESEARCH
NOW REP.BY INTERIM CHAIRMAN
NO.20, GANAPATHICHETTIKULAM
KALAPET, PUDUCHERRY-605 102.
... PETITIONER in REV.APLW No.195 of 2019
- 1 THE REGISTRAR
PONDICHERRY INSTITUTE OF MEDICAL SCIENCES
NOW REP. BY ITS INTERIM CHAIRMAN
NO.20 GANAPATHICHETTIKULAM
KALAPET PUDUCHERRY-605 014.
... PETITIONER in REV.APLW No.196 of 2019
- 1 THE CHAIRMAN,
SRI VENKATESHWARAA MEDICAL COLLEGE
HOSPITAL AND RESEARCH CENTRE,
NO.13-A PONDY-VILLUPURAM MAIN ROAD
ARIYUR PUDUCHERRY-605 102.
... PETITIONER in REV.APLW No.197 of 2019



1 THE REGISTRAR
PONDICHERRY INSTITUTE OF MEDICAL SCIENCE AND RESEARCH
NO.20 GANAPATHICHETTIKULAM
KALAPET PUDUCHERRY 605 014

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... PETITIONERS in REV.APLW No.198 of 2019

1 THE REGISTRAR
PONDICHERRY INSTITUTE OF MEDICAL SCIENCES
NOW REP. BY ITS INTERIM CHAIRMAN KALAPET
PUDUCHERRY (UT) - 605 014.

... PETITIONER in REV.APLW No.8 of 2020

VS.

- 1.N.NAGA HARIHARA SUDAN
- 2.R.SWETHA
- 3.R.KEERTHIGA
- 4.C.ARCHANA DEVI
- 5.V.SUBASHREE
- 6.T.RAJASUDHAKAR
- 7.T.VEVA SWAAN
- 8.A.LEKA
- 9.A.INIYAN
- 10.N.DEEPIKAA
- 11.G.POURNIMA
- 12.R.ARUNKUMAR
- 13.K.PRINYANKA
- 14.R.PRIYADHARSHINI
- 15.A.BHARATH
- 16.V.T.ADHIYAN
- 17.S.LEELA FLAVIA
- 18.M.GOKULNATH
- 19.A.JEAN ASWIN LOURDE
- 20.V.RASHWIN RAJ
- 21.P.HIMALNI
- 22.THE SECRETARY TO GOVT.(HEALTH)
GOUBERT AVENUE, CHIEF SECRETARIAT,
PUDUCHERRY-1.
- 23.THE DIRECTOR OF HEALTH & FAMILY WELFARE SERVICES,
GOUBERT AVENUE, CHIEF SECRETARIAT, PUDUCHERRY-1.
- 24.THE PRINCIPAL,
SRI VENKATESHWARA MEDICAL COLLEGE
HOSPITAL AND RESEARCH (SVMCH & R)
PUDUCHERRY (U.T.).



25. THE REGISTRAR,
PONDICHERRY INSTITUTE OF MEDICAL SCIENCES,
KALAPET, PUDUCHERRY (UT)
PUDUCHERRY (U.T.) 605 014.

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26. JUSTICE S.RAJESWARAN
THE CHAIRMAN,
FEE COMMITTEE,
NO.AA-67, 1ST STREET, NEAR ROUNTANA,
NALLI SILK HOUSE, ANNA NAGAR,
CHENNAI 600 040.

.. RESPONDENTS IN REV.APPLN.NO.194 OF 2019

- 1 ARULKAVI.A
D/O.G.ARUMUGAM NO.3/2 BASHYAM STREET
MANJAKUPPAM CUDDALORE-1.
- 2 ATHITYAN SIVA
S/O.DR.R.SIVAKUMAR
- 3 GLORIYA AISHWARYA BARMAN.P.J.
D/O.DR.PARTHO PROTIM BARMAN
- 4 THE GOVERNMENT OF PUDUCHERRY
REP. BY UNDER SECRETARY TO GOVERNMENT (HEALTH)
GOUBERT AVENUE, CHIEF SECRETARIAT
PUDUCHERRY-605 001.
- 5 THE DIRECTOR OF HEALTH AND FAMILY WELFARE SERVICES
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY-605 001.
- 6 THE FEE COMMITTEE
REP. BY ITS CHAIRMAN
UNION TERRITORY OF PUDUCHERRY
NO.AA-67 I STREET
NEAR ROUNTANA NALLI SILK HOUSE
ANNA NAGAR CHENNAI-600 040.

... RESPONDENTS in REV.APLW No.195 of 2019

- 1 D.SUSHMITHA
D/O.S.DASHNAMOORTHY
- 2 THE GOVERNMENT OF PUDUCHERRY
REP. BY UNDER SECRETARY TO GOVERNMENT (HEALTH)
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY-605 001.



3 THE DIRECTOR OF HEALTH & FAMILY WELFARE SERVICES
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY-605 001.

4 THE FEE COMMITTEE
REP. BY ITS CHAIRMAN
UNION TERRITORY OF PUDUCHERRY
NO.AA-67 I STREET NEAR ROUNTANA
NALLI SILK HOUSE ANNA NAGAR
CHENNAI-600 040.

5 THE DIRECTOR / PRINCIPAL
PONDICHERRY UNIVERSITY
ADMINISTRATIVE BUILDING R.V.NAGAR
KALAPET PUDUCHERRY-605 014.

... RESPONDENTS in REV.APLW No.196 of 2019

1 M.BALAMURUGAN
S/O.R.MURUGASAMY

2 THE GOVERNMENT OF PUDUCHERRY
REP. BY UNDER SECRETARY TO GOVERNMENT (HEALTH)
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY-605 001.

3 THE DIRECTOR OF HEALTH AND FAMILY WELFARE SERVICES
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY-605 001.

4 THE PUDUCHERRY FEE COMMITTEE
REP. BY ITS CHAIRMAN
UNION TERRITORY OF PUDUCHERRY
NO.AA-67 I STREET NEAR ROUNTANA
NALLI SILK HOUSE ANNA NAGAR
CHENNAI-600 040.

... RESPONDENTS in REV.APLW No.197 of 2019

1 HARISHWAR.I

2 ROHIT ROY.V

3 YERRA RUCHITA RAO

4 KANMANI A.S.

5 VIGNESHWARAN.P

6 SUHASINI.S

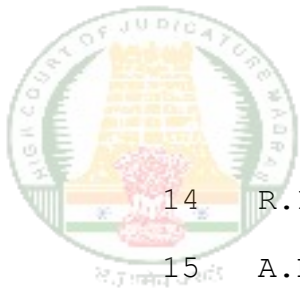


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- 7 LIZ CATHERINE BABU
- 8 THE GOVERNMENT OF PUDUCHERRY
REP BY UNDER SECRETARY TO GOVERNMENT (HEALTH)
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY 605 001
- 9 THE DIRECTOR OF HEALTH AND FAMILY WELFARE SERVICES
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY 605 001
- 10 THE PUDUCHERRY FEE COMMITTEE
REP BY ITS CHAIRMAN
UNION TERRITORY OF PUDUCHERRY
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY 605 001
- 11 THE REGISTRAR
PONDICHERRY UNIVERSITY
ADMINISTRATIVE BUILDING R.V.NAGAR
KALAPET PUDUCHERRY 605 014

... RESPONDENTS in REV.APLW No.198 of 2019

- 1 N.NAGA HARIHARA SUDAN
- 2 R.SWETHA
- 3 R.KEERTHIGA
- 4 C.ARCHANA DEVI
- 5 V.SUBASHREE
- 6 T.RAJASUDHAKAR
- 7 T.VEVASWAAN
- 8 A.LEKA
- 9 A.J.INIYAN
- 10 N.DEEPIKAA
- 11 G.POURNIMA
- 12 R.ARUNKUMAR
- 13 K.PRINYANKA



14 R.PRIYADHARSHINI

15 A.BHARATH

16 V.T.ADHIYAN

17 S.LEELA FLAVIA

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19 A.JEAN ASWIN LOURDE

20 V.RASHWIN RAJ

21 P.HIMALNI

22 THE SECRETART TO GOVERNMENT (HEALTH)
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY-1

23 THE DIRECTOR OF HEALTH AND FAMILY WELFARE SERVICES
GOUBERT AVENUE CHIEF SECRETARIAT
PUDUCHERRY-1

24 THE CHAIRMAN
SRI VENKATESHWARA MEDICAL COLLEGE HOSPITAL
AND RESEARCH CENTRE ARIYUR
PUDUCHERRY-605 102

25 THE PRINCIPAL
SRI VENKATESHWARA MEDICAL COLLEGE HOSPITAL
AND RESEARCH (SVMCH AND R)
PUDUCHERRY (U.T)

26 MR.JUSTICE S.RAJESWARAN
THE CHAIRMAN FEE COMMITTEE NO.AA-67
I STREET NEAR ROUNTANA NALI SILK HOUSE
ANNA NAGR CHENNAI-600040.

... RESPONDENTS in REV.APLW No.8 of 2020

Prayer:-

Review Application filed under Order 47 Rule 1 and Section 114 Code of Civil Procedure, praying to review Common Order passed by this Court on 18.07.2019 in W.P.Nos.23732 of 2017, 9472, 10550, 13039, 16924 of 2018.



WP.NO.23732 OF 2017:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing 1st and 2nd respondent to direct the 3rd and 5th respondents to implement prescribed fee filed by the fee fixation committee 6th respondent proceedings dated 23.03.2017 as accepted by the Government of Pondicherry in Order No.983/H5/Health/2015-2016 dated 19.05.2017 and consequently direct 3rd & 5th respondents by either refunding or adjusting the excess fee payments already received in the coming academic years and also without insisting any further fee. (Rev.Application No.194 of 2019 and 8 of 2020)

WP.NO.9472 OF 2018:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to call for the records of the Circular No.PIMS/UG/CIR/2018(01) dated 09.04.2018 issued by the 3rd respondent College prohibiting the petitioners from attending the lectures/practicals/clinics with effect from 09.04.2018 and the same in respect of the petitioners alone and consequently to direct the 3rd respondent college to refund within a prescribed time limit the excess amounts collected from the petitioners so far towards Annual fees after adjusting the amounts due towards the prescribed Annual fees for the Academic years 2016-17 and 2017-18 as approved and notified by the 1st and 4th respondents vide the fee order dated 19.05.2017 for MBBS courses at the 3rd respondent college. (Rev.Appl.No.195 of 2019)

WP.NO.10550 OF 2018:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the Notice No.PIMS/UG/STU/2018(60) dated 09.04.2018 issued by the 3rd respondent College prohibiting the petitioner herein from attending the lectures/practicals/clinics with effect from 09.04.2018 and to quash the same and consequently to direct the 3rd respondent college to refund within a prescribed time limit the excess amounts collected from the petitioner so far towards Annual fees after adjusting the amounts due towards the prescribed Annual Fee for the Academic years 2016-17 and 2017-18 as approved and notified by the 1st and 4th respondents vide the Fee order dated 19.05.2017 for MBBS courses at the 3rd respondent college. (Rev.Appl.No.196 of 2019)



WP.NO.13039 OF 2018:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the Circular Ref.No.616/ME1(B)/SVMCH&RC/2018 dated 16.04.2018 issued by the 3rd respondent College demanding further payment of Annual fees for the Academic year 2018-19 from the petitioner herein and to quash the same and consequently to direct the 3rd respondent college to refund within a prescribed time limit the excess amount already collected from the petitioner towards Annual fees after adjusting the amounts due towards the prescribed Annual fees for the Academic years 2016-17, 2017-18 and 2018-19 as per the Annual fee amounts approved and notified by the 1st and 4th respondents for MBBS courses for the 3rd respondent College. (Rev.Appl.No.197 of 2019)

WP.NO.16924 OF 2018:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the E-mail notices dt 20.06.2018 issued by the 3rd respondent College demanding payment of Annual Fees for the academic year 2018-19 and to quash the same in respect of the petitioners alone and consequently to direct the 3rd respondent College to refund within a prescribed time limit the excess amounts already collected from the petitioners during the academic years 2016-17 and 2017-18 towards Annual Fees after adjusting the amounts due towards the prescribed Annual Fees for the academic years 2016-17 2017-18 and 2018-19 as approved and notified by the 1st and 4th respondents vide the Fee Order dated 19.05.2017 for MBBS Courses at the 3rd respondent College. (Rev.Appl.No.198 of 2019)

For Petitioner : Mr.A.R.L.Sundaresan,
Senior Counsel for
Mr.Abishek Jenasanen(in all)

For Respondents : Mr.V.B.R.Menon
(in Rev.Appln.Nos.8/2020
194 and 195/2019
For R1-Rev.Appln Nos.196
& 197/2019
For R1 to R7-Rev.Appln.No.198/2019)

For R3 & R4
(in Rev.Appln.No.195/19)



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For R3 & R43
(in Rev.Appln.No.197/2019)
For R8 & R9
(in Rev.Appln.No.198/2019)

For R22 & R23
(in Rev.Appln.No.194/2019) : Mr.D.Ravichander
Addl.Govt.Pleader (Pondy)

C O M M O N O R D E R

C.SARAVANAN, J.

These review applications are directed against the common order dated 18.7.2019 passed by this Court in W.P.Nos.23732 of 2017, 9472, 10550, 13039, 16924 of 2018. These review applications are filed by the Private Medical Colleges which were the respondents in the above writ petitions. These review petitions are predicated on the ground that the Fee Fixation Report dated 23.03.2017 related only to Government Quota Seats available in these colleges/institutions and therefore there was a necessity for a separate fee fixation under the Management Quota.

2. It is submitted by Mr.M.Ravi, learned counsel for the review petitioner in Rev.Appln.Nos.194 & 197 of 2019 that these writ petitions were filed by the respondents/petitioners after an order came to be passed in W.A.Nos.996 and 997 of 2017 on 24.08.2017 wherein it was clarified that the said order would not form a binding precedent as it was passed in the peculiar facts of the said case.

3. It is the case of the review petitioners that even as per the consistent stand of the Government of Puducherry, no fee was fixed for the students under the Management Quota up to the year 2016-17 and therefore it ought to have been held that the Fee fixed by the Fee Committee vide its report dated 23.3.2017 was applicable only to the students admitted against Government Quota.

4. It is further submitted that the respondent/petitioner students joined these institutions knowing fully well about the fees and therefore cannot after joining the college question the fee that fixed and charged from them. It is submitted that the respondents who joined the colleges against Management Quota are not entitled for the subsidy applicable to students admitted



against Government Quota. It is further submitted that the collection of separate fee under the Management Quota makes the college self-reliant and to impose the lesser fees payable against Government Quota will render the review petition institutions unviable. A reference was also made to the decision of the Honourable Supreme Court in T.M.A Pai Foundation's and Others vs State of Karnataka and Others (2002) 8 SCC 481 wherein the Honourable Supreme Court has emphasised that one cannot lose sight of the fact that providing good amenities to the students in the form of competent teaching faculty and other infrastructure costs money and effort is left to the institutions, if it chooses not to seek any aid from the Government, to determine the scale of the fees that it can charge from the students. It is therefore submitted that the order of this court dated 18.7.2019 is liable to be reviewed.

5. Mr.A.R.L.Sundaresan, learned Senior counsel submitted that there is an error apparent on the face of record inasmuch as fees fixed vide proceeding dated 23.03.2017 did not make any difference between the students who were admitted under the Management Quota and students who were admitted in the Government Quota, as before.

6. It is further submitted that the Government of Puducherry, Health Secretariat, by letter dated 23.06.2017, informed the Committee that so far, the fee for the students admitted under the Management Quota for the UG Medical/Dental Courses in Private Self-financing Medical/Dental Colleges in the Union Territory of Puducherry was not fixed. Therefore, a request was made to the Fee Committee to fix the fee for the students to be admitted in UG Medical/Dental Courses in Private Self-Financing Medical/Dental Colleges of the Union Territory of Puducherry from the Academic Year 2017-18 onwards, under the Management Quota.

7. It is submitted that a copy of the letter dated 03.06.2017 of Government of Puducherry, Health Secretary was not filed and therefore there is an error apparent on the face of record as is evident from a reading of para 16 of the order in W.P.No.23732 of 2017 and batch , which reads as under :-

"16. Though copy of the letter dated 3.6.2017 is not available, from the proceeding dated 23.3.2017 of the Fee Committee pursuant to which the 2nd mentioned G.O came to be issued, it appears that the Government of Puducherry



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sought to persuade the Fee Committee to fix a separate fee for the students admitted under the Management quota/NRI quota as the previous recommendation and 1st G.O. did not make any

distinction between the students admitted under the Government/State quota and under the Management quota/NRI quota."

8. We have heard the learned Senior counsel for the review petitioners , the Government of Puducherry and the learned counsel for the respondents .

9. While passing the order on 18.7.2019, we had considered all the aspects and the law as clarified by the Honourable Supreme Court in T.M.A.Pai Foundation and Others vs State of Karnataka and Others (2002) 8 SCC 481 and other decisions which clarified the position later. We have taken cognizance of paragraph 69 in the above decision of the Honourable Supreme Court when it was clarified as under:-

" 6. A Rational the structure should be adopted by the management, which would not be entitled to charge the capitation fee. Appropriate machinery can be devised by the State or University to ensure that no capitation fees charged and there is no profiteering, though a reasonable surplus for furtherance of education is permissible. Conditions granting recognition or affiliation can broadly cover academic and educational matters including welfare of the students and teachers."

10. While there is no doubt that private institutions are entitled to fix their own fees however it is regulated and therefore Fee Fixation Committee was any envisioned for the aforesaid purpose. The court emphasised that Government can provide regulations that will ensure excellence in education, while forbidding charging of capitation fee and profiteering by institutions. The court merely recognised the right of the Management to select students, their quota, either on the basis of common entrance test to be conducted by an Association of all Colleges of a particular type in that area. It is nowhere recognised a dual system of collection of fees.



11. We have also considered the decision of the Hon'ble Supreme Court in Islamic Academy of Education and Another Versus State of Karnataka (2003) 6 SCC 697. The court recognised that there is no fixed meaning to the expression "capitation fee". As a matter of fact the court also took note of the provisions of the Tamil Nadu Educational Institution. (Prohibition of Collection of Capitation the Fees) Act, 1992. The court recognised the menace of capital fees and noted the underlying ground reality. The Court recognised that the infrastructure in relation to every college must be determined separately keeping in view several factors, including facilities available, infrastructure is made available, the age of the institution, investments may, future plan for expansion and betterment of educational standards etc.

12. The Court held that for the aforesaid purpose even the books of accounts maintained the institutions may have to be looked into and whatever is determined by the committee by way of fee structure having regard to relevant factors, the management of the institution would not be entitled to charge anything more. The court also recognised that while determining the fee structure, safeguard is to be provided for so that the professional institutions do not become auction houses for the purpose of selling seats.

13. This Court has also taken note of the decision of the Honourable Supreme Court in P..A.Indamadar versus State of Maharashtra (2005) 6 SCC 537. The court further emphasised that the State can provide for reservation in favour of financially or socially backward section of society. In paragraph 131, the court recognised the practice of grant of admission to certain number of students under the NRI quota by charging higher amount of fees. The Court noted the reality and stated that not more than 15% of the seats can be reserved for NRI, subject to the condition that the amount of money, in whatever form that is collected from such NRIs, should be used/utilised for benefiting students such as economically weaker section of the society, whom, on well defined criteria, the educational institution may admit on subsidised payment of fees. To prevent mis-utilisation of such quota or any malpractice, a suitable legislation or regulation needs to be framed. So long as state does not do it, the Committee constituted pursuant to the directions of the Hon'ble Supreme Court Islamic Academy was to given the same.

14. From paragraph 65 onwards this court has clearly brought out distinction in law as per the fees. They are reproduced below:-



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65. The only discrimination that is permissible is regarding fees that can be charged from the students admitted against the seats allocated under the NRI quota which has been pegged at 15% of the total seats. Even here the minimum modicum of merit has to be maintained as observed in paragraph 131 by the Hon'ble Supreme Court in P.A. Inamdar and others Versus State of Maharashtra (2005) 6 SCC 537.

66. Secondly, within this quota, merit should not be given a complete go by. The amount of money, in whatever form collected from such NRIs, should be utilised for benefiting such students who are from economically weaker section of the society, whom, on well-defined criteria, the educational institutions may admit on subsidised payment of fee. To prevent misuse/mis utilisation of such quota or any malpractice referable to NRI quota seats, suitable legislation or regulation needs to be framed. So long as the state does not do it, it will be for the committee constituted pursuant to the directions in Islamic Academy to regulate.

67. Barring the above discrimination in the manner of fixing the seats and fees, neither the policy of the reservation can be enforced by the State nor any quota or percentage of admissions can be carved out to be apportioned by the State in a minority or non minority unaided educational institution as observed in paragraph 132 of in P.A.Inamdar and others vs State of Maharashtra (2005) 6 SCC 537.

68. Thus, the distinction brought out by the 2nd and 3rd GO's of Government of Puducherry qua State/Government Quota vis a vis management quota insofar as far as fixation of fees are concerned, may run contrary to the decisions of the Hon'ble Supreme Court in T.M.A.Pai Foundation and Others vs State of Karnataka and Others (2002) 8 SCC 481 , Islamic Academy of Education and Another vs State of Karnataka and Others (2003) 6 SCC 697. and in P.A.Inamdar and others vs State of Maharashtra (2005) 6 SCC 537. This aspect will be separately dealt in the connected writ petitions which were delinked.



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unsustainable. This is so particularly in the light of the 2nd mentioned G.O/Letter No.C.983/H5/2017- 18 dated 19.7.2017 of Government of Puducherry wherein it has been specifically stated that the Tentative Fee Fixed by the Committee for the academic year 2017-18 will not apply to students already admitted before the academic year 2017-18. It has been clearly stated that the students already admitted during the academic year 2016-17 will be governed only by the fees fixed by the Fee Committee on 23.3.2007 only.

73. Further, the subsequent Fee Committee has also not revised the fees fixed on 23.3.2017 for the students admitted during the academic year 2016-17. That being so, we are of the view that the fees collected in excess of the fees fixed on 23.3.2017 by the fee committee as notified by Letter/GO Ms. No. No.C.983/H5/2015-16 dated 19.5.2017 is liable to be adjusted against the fees for the subsequent academic years and excess if any should be refunded back to the petitioners.

74. Excess fee paid by the students admitted against the Management quota so far should be adjusted against the fees payable by them for the succeeding academic years and if any there is any surplus after adjustment should be refunded back to them by the respective colleges without further delay.

75. In view of the above, we are of the view that the fee fixed by the fee committee headed by Mr. Justice S. Rajeswaran (Retd.), High Court, Madras for the academic year of 2015-16, 2016-17 and 2017-18 shall be applicable to the students admitted during the academic years 2016-2017 and excess fees paid by the petitioners if any shall be refunded to the petitioners.

15. The arguments advanced by the learned counsel for the review petitioner in Rev. Appln. Nos. 194 and 197 of 2019, based on the decision of the Division Bench of this Court in N. Lakshana Shree vs. Union Territory of Puducherry Rep. the Secretary to Government Health Department O/o. The Chief Secretariat, Puducherry 605 001 and 7 Others, W.A. Nos. 996 & 997 of 2017 vide order dated 24.08.2017 was argued for the first time now in the Review Applications and was not the basis on which, the case was earlier argued by the learned counsel for the review petitioner



before us when we passed the order under Review dated 18.07.2019. Therefore, Review Applications cannot be entertained based on such submission for us to draw the interference that there was an error apparent on the face of records.

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16. As far as the submission of the learned Senior counsel only appearing in the other review petitions that the content of communications dated 03.06.2017 of the Government of Puducherry is concerned, we are not convinced that our decision would have been different even if it was placed before us before we passed the order under review.

17. The review applications would arise only there is an error apparent on the face of record as per the decision of the Hon'ble Supreme Court in Kamlesh Verma vs. Mayawati and Others, 2013(8) SCC 320, wherein, it has been held as under:

"19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XL VII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned Judgment in the guise that an alternative view is possible under the review jurisdiction."

18. Therefore, fresh hearing of the case cannot be entertained on merits in the guise of the review applications. Hence, we are of the view that the present review applications are liable to be dismissed. They are therefore dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kkd



To

1. The Secretary to Govt.(Health)
Goubert Avenue,
Chief Secretariat,
Puducherry-1.
2. The Director of Health & Family Welfare Services,
Goubert Avenue, Chief Secretariat,
Puducherry-1.
3. The Chairman,
Sri Venkateshwara Medical College
Hospital and Research Centre,
Ariyur, Puducherry 605 102.
4. The Principal,
Sri Venkateshwara Medical College
Hospital and Research (SWMCH & R)
Puducherry. (U.T.)
5. The Registrar,
Pondicherry Institute of Medical Sciences,
Kalapet, Puducherry (UT)
Puducherry (U.T.) 605 014.
6. Justice S.Rajeswaran
The Chairman, Fee Committee,
No.AA-67, 1st Street, Near Rountana,
Nalli Silk House, Anna Nagar,
Chennai 600 040.

+1cc to Mr.V.B.R.Menon, Advocate, Sr.No.26439, 26437
+5cc to Mr.Abishek Jenasenan, Advocate, Sr.No.26161 to 26165
+2cc to Mr.Abishek Jenasenan, Advocate, Sr.No.26064
+1cc to Mr.V.B.R.Menon, Advocate, Sr.No.26438

Review Application Nos.194 to 198/2019
and 8 of 2020

KV(CO)
CS/26/07/2021
CS/27/07/2021