

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6848 of 2016

P.Deepan

.. Petitioner

-vs-

1.The Registrar,
Dr.M.G.R.Medical University,
Chennai-32.

2.The Principal,
Chettinad Dental College and Research Institute,
Rajiv Gandhi Road,
Kelambakkam-603 103,
Kancheepuram District.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 2nd respondent to refund the entire tuition fee of Rs.3,22,000/- collected from the petitioner towards the II, III and IV year BDS course along with interest at the rate of 12% per annum from 29.07.2009.

For Petitioner : Mr.S.Kamadevan

For Respondents: R1 - Mr.P.Dinesh Kumar

: R2 - Mr.T.Balaji

ORDER

Heard Mr.S.Kamadevan, learned counsel for the petitioner, Mr.P.Dinesh Kumar, learned counsel for the 1st respondent and Mr.T.Balaji, learned counsel for the 2nd respondent.

2.With consent on either side, this writ petition is taken up for final disposal.

3.The petitioner seeks for issuance of Writ of Mandamus to direct the 2nd respondent to refund the entire tuition fee collected from the petitioner on the ground that the petitioner has not undergone the course of study for the 2nd, 3rd and 4th year BDS Course. The petitioner also wants the amount to be refunded to him together with interest at the rate of 12% per annum from 29.07.2009.

4.The petitioner was admitted to the BDS Course in the 2nd respondent college in a seat reserved for under the "Management Quota" for the academic year 2008-09. The petitioner joined the course and remitted the fee as demanded by the 2nd respondent college. However, the petitioner did not pass all the papers in the 1st year and as per the regulations, which were existing at the relevant time, the petitioner cannot move over to the 2nd year, unless and until he clears all papers in the 1st year. The petitioner was unsuccessful in clearing all the papers in the 1st year. Consequently, he could not move over to the 2nd year. Ultimately, the petitioner dropped out of the course and joined engineering course in the academic year 2013-14.

5.The case of the petitioner is that the 2nd respondent college, in advance have collected the fees for the 2nd, 3rd and 4th year, which is impermissible and since the petitioner has not undergone the course for study in the 2nd, 3rd and 4th year, the fee should be refunded.

6.The 2nd respondent college has taken a stand that the fee for the 2nd, 3rd and 4th year has not been collected and what was collected was the fees payable by the petitioner to redo the course in the 1st year and the reliance placed on the receipts filled up by the petitioner cannot be a basis for the writ petition. Apart from that, an objection has been raised stating that the writ petition is not maintainable because, it is purely a money claim made against the 2nd respondent, which is a private educational institution.

7.The learned counsel for the 1st respondent University submitted that the claim for refund of fee is a private dispute between the petitioner and the 2nd respondent institution and the University has got nothing to say in the said matter and if at all the petitioner's claim is sustainable, it is only a civil claim and the remedy is not by way of a writ petition and even assuming there is a civil claim, it is barred by limitation.

8.After elaborately hearing the learned counsel for the parties, I am of the considered opinion that the present writ petition is not maintainable in the form as couched by the petitioner because, the refund claim is against the 2nd

respondent, which is a private Dental College and if at all the petitioner seeks for any refund of fee, which is alleged to have been collected in excess of what is permitted, then the remedy of the petitioner is elsewhere.

9. In fact, the learned counsel for the 1st respondent submitted that even the petitioner goes before a different forum, the claim would be barred by limitation. This Court does not propose to express anything in the said matter and leaves the issue open.

10. Further, the learned counsel for the 1st respondent University has submitted that if a candidate is unsuccessful in the 1st year of study, as per the regulations then in force, the candidate has to redo and succeed so as to enable the candidate to move over the 2nd year.

11. In the light of the above, this writ petition is dismissed as not maintainable. However, it will not prejudice the petitioner from approaching appropriate forum for necessary relief. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

The Registrar,
Dr.M.G.R.Medical University,
Chennai-32.

+1cc to Mr.T.Balaji, Advocate SR.101414
+1cc to Mr.S.Kamadevan, Advocate SR.100972
+1cc to Mr.D.Ravichander, Advocate SR.100655

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SSD(CO)
CB(19/02/2020)

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