

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.24446 of 2019

and W.M.P.No.24187 of 2019

R.Roynia

.. Petitioner

/versus/

- 1.The Secretary to Government,
Health and Family Welfare,
St.George Fort,
Chennai-600 009.
 - 2.The Secretary,
Selection Committee,
Directorate of Medical Education,
162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600 010.
 - 3.Karpagavinayaga Institute of Dental Sciences,
G.S.T.Road, Chinnakolambakkam,
Palayanoor (P.O),
Madhuranthagam (T.K)
Kanchipuram - 603 308.
 - 4.The Dental Council of India,
Aiwan E Galib Marg,
Kotla Road, Temple Lane,
New Delhi-110 002.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to return the original certificates of the petitioner submitted to the 3rd respondent College without insisting upon the penalty as stipulated under Clause 15 of the Prospectus for admission to MBBS/BDS Degree Course in Tamil Nadu Government Medical/Dental Colleges by considering the representation dated 15.08.2019.

For petitioner : Mr.A.Manojkumar

For Respondents : Mr.N.Inbanathan

Addl.Govt.Pleader for R1

Mr.Abdul Saleem, St.c for R2

Mr.S.Sureshkumar, GA for R3

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the 1st respondent, learned Standing counsel for the 2nd respondent and the learned Government Advocate for the 3rd respondent.

2. The petitioner herein was allotted BDS seat under Government quota in the private institute viz., Karpagavinayaga Institute of Dental Sciences, who is the 3rd respondent herein. A sum of Rs.3,70,000/- was paid for the tuition fee and hostel charges for the first year. While so, now the petitioner has decided to discontinue the course, but apprehend that the institute would demand penalty of Rs.10,00,000/-, which is the condition imposed by the Selection Committee in case of the candidates, who discontinue the course on or after the last date of allotment of seats. Hence, the petitioner has approached this Court seeking direction to the respondents to return the original certificates of the petitioner.

3. The 3rd respondent submitted that Clause 15 of the Prospectus for admission contemplates imposition of penalty if candidate discontinues after the last date of allotment of seats. The apprehension of the petitioner herein is unfounded for a simple reason the last date of allotment is not over. Clause 15 of the prospectus reads as under:

"15.DISCONTINUATION FEE:

(a) The candidates who discontinue the course on or after the last date of allotment of seats (which will be intimated later) should pay the Discontinuation Fee of Rs.1,00,000/- / Rs.10,00,000/- whichever is applicable as per the dates, by means of Demand Draft drawn in favour of "The Secretary, Selection committee, Kilpauk, Chennai-10" payable at Chennai.

(b) If a candidate selects a seat in final phase of counselling and does not join the course within the stipulated time, then the candidate has to pay the penalty as discontinuation fee by means of Demand Draft drawn in favour of "The Secretary, Selection committee, Kilpauk, Chennai-10" payable at Chennai and has to forfeit the Tuition fee also.

(c) The admission to MBBS/BDS Degree courses for 2019-2020 will close on the cut-off date of admission (i.e. On 18.08.2019) as per the guidelines issued by the Medical Council of India/Dental Council of India."

4. The prospectus envisages penalty of Rs.10 lakhs only when the candidates discontinues after the last date of seat allotment. So far as the current year selection process is

concerned, the last date of selection not yet over. The petitioner has already made a request to the 2nd respondent on 15.08.2019 and the same has been received by the Selection Committee on 16.08.2019.

5. The learned Standing counsel for Selection Committee also submit that the second round of counselling is in progress as on the date when the representation of the petitioner received by the Selection Committee. After completion of the second round of counselling, for the left over the seat they have to conduct mop up counselling hence, Clause 15 will not attract.

6. In view of the above legal and factual position, the petitioner apprehension that she will be imposed penalty of Rs.10 lakhs is unfound. In any event, the 3rd respondent is hereby directed to return the original certificates submitted by the petitioner on her request without insisting upon any penalty.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Secretary to Government,
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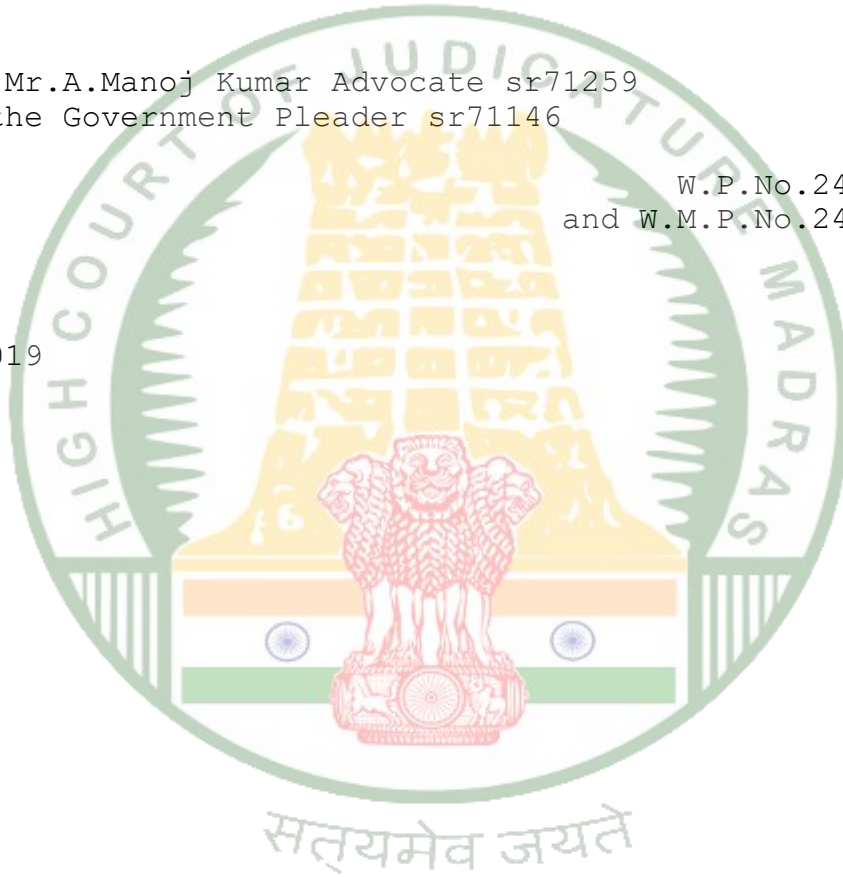
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+2 ccs to Mr.A.Manoj Kumar Advocate sr71259
+1 cc to the Government Pleader sr71146

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