

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.2748 of 2018

and

C.M.P.No.22624 of 2019

T.K.Priyarekha, D/o.T.Kalimuthu,
No.40, Senthil Nagar,
Vinayagapuram, Attur Taluk,
Salem District.

... Appellant

Vs

1.The Registrar,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Old No.40, Anna Salai, Guindy,
Chennai 600032.

2.The Academic Officer (F.A.C.),
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Old No.40, Anna Salai, Guindy,
Chennai 600032.

3.The Principal,
K.S.R.Institute of Dental Science and Research,
K.S.R.Kalvi Nagar, Kuchipalayam Post,
Tiruchengode 637 216 (Near Erode)
Namakkal District.

... Respondents

PRAYER : Appeal against the order dated 11.07.2018 in W.P.No.146 of 2018 passed by this Court.

WP.No.146 of 2018:-

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the relevant records relating to the impugned proceedings issued in Ref.No.ACII(1)/37546/2017 dated 22.11.2017 passed by Academic Officer (FAC), The Tamil Nadu Dr.M.G.R.Medical University, No.69 Old No.40, Anna Salai, Guindy, Chennai-600 032, the 2nd respondent herein and quash the same as arbitrary, unreasonable improper illegal, against the rules regulations of the respondent and thereby directing the respondents to permit the petitioner to pay a sum of Rs.18,000/- towards the earlier existed condonation of fees for the issuance of the orders for condoning the break of study from 01.04.2011 to 14.02.2017 without insisting to pay the Revision of fee of Rs.6,00,000/- thereby re-admit the petitioner to continue the course of 4th

year Bachelor of Dental Surgery and to complete the 4th year BDS Course, as per the time frame fixed by this Hon'ble Court.

For Appellant :Ms.G.V.Seetha Lakshmi

For Respondents:Mr.P.Dinesh Kumar (for R1 & R2)

Mr.C.Kulandaivelu (for R3)

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by a B.D.S., student who discontinued her studies in the year 2012 and intended to rejoin during February 2017 as against the dismissal of the writ petition filed by her challenging the order passed by Dr.M.G.R. University, directing her to pay a sum of Rs.6,00,000/- (Rupees six lakhs only) towards condonation charges, as per the new Rule which came into force on 10.05.2017.

2.Heard Ms.G.V.Seetha Lakshmi, learned counsel appearing for the appellant, Mr.P.Dineshkumar, learned counsel appearing on behalf of the University viz., 1st and 2nd respondents and Mr.C.Kulandaivelu, learned counsel appearing on behalf of the 3rd respondent.

3.The facts of the case are as follows:

The appellant joined the 3rd respondent/K.S.R. Institute of Dental Science and Research college to undergo B.D.S., course in the year 2007. Subsequently, she got married and delivered two children. Thereafter, due to marital dispute between the appellant and her husband, she discontinued the course on 01.04.2012. Subsequently, she intended to continue the course by giving a letter dated 14.02.2017 to the 3rd respondent/college. The request of the appellant was forwarded to the University. The University in turn allowed the appellant to join the course on payment of Rs.6,00,000/- as condonation charges. The said order has been challenged before the learned single Judge. The learned single Judge after hearing both the parties, dismissed the Writ Petition holding that the appellant was negligent and did not follow up the application given by her. The said order is being challenged before this Court.

4.As rightly pointed out by Ms.G.V.Seetha Lakshmi, learned counsel appearing on behalf of the appellant, on 14.02.2017 itself the appellant had filed an application before the 3rd respondent/college to continue her studies. At that point of time, the condonation charges was only Rs.3,000/- per year and if that is the basis, the appellant has to pay only a sum of

Rs.18,000/- . However, Mr.Dineshkumar, learned counsel appearing for the University would submit that only as per the old Rule, Rs.3,000/- had to be paid as condonation charges. However, the new Rule had come into force on 10.05.2017 and as per the said Rule, for condonation of break up period of study of UG and PG course, a sum of Rs.1,00,000/- per year has to be paid as condonation charges. Since the petitioner's break up period of study is six years, she was asked to pay a sum of Rs.6,00,000/- .

5.It is evident that on 14.02.2017 itself, the appellant gave a letter to the 3rd respondent expressing her willingness to join the course. Of course, the said application was not in the prescribed format. After complying with the format as per the norms, the appellant had submitted the application on 10.07.2017 which was after the commencement of the new Rule on 10.05.2017. Now it has to be decided whether the new Rule or the old Rule is applicable.

6.As admitted by all the parties, the application has been filed on 14.02.2017. Even though, it was defective, the date of filing of document is 14.02.2017. Though the application has been given in the format on 10.07.2017, it is deemed to have been on 14.02.2017, on which date only the old Rule was applicable. Therefore, the order passed by the University which is confirmed by the learned single Judge has to be set aside and the appellant has to be directed to pay a sum of Rs.18,000/- only.

7.This Court is also aware of the order passed by the earlier Division Bench of this Court directing the respondent/University to give some concession (at about 50%) to the appellant on condonation charges. Based on the direction of this Court, by minutes of the meeting dated 13.08.2019, the University has also recommended to accord 50% concession to the appellant. Since the final order has been passed now, fixing the date of application as 14.02.2017, the decision taken by the University to accord 50% concession to the appellant is set aside. Of course, this Court appreciates the University for having fixed 50% of the total charges to be paid by the appellant.

8.In view of this order, 50% charges fixed by the University is vacated and the appellant is directed to pay a sum of Rs.18,000/- only within a period of four weeks from the date of receipt of a copy of this order. On such payment, the University shall accept the charges and pass necessary orders directing the 3rd respondent to permit the appellant to rejoin the course.

9. Accordingly, the Appeal is allowed. Post the matter for reporting compliance by way of filing compliance report by the Appellant, University and the 3rd respondent/college on 14.10.2019. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sai

TO:

1.The Registrar,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Old No.40, Anna Salai, Guindy,
Chennai 600032.

2.The Academic Officer (F.A.C.),
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Old No.40, Anna Salai, Guindy,
Chennai 600032.

3.The Principal,
K.S.R.Institute of Dental Science and Research,
K.S.R.Kalvi Nagar, Kuchipalayam Post,
Tiruchengode 637 216 (Near Erode)
Namakkal District.

+1cc to Mr.C.Kulandaivelu, Advocate sr.78852
+1cc to Mr.E.Vijay Anand, Advocate sr.78681
+1cc to Mr.D.Ravichander, Advocate sr.79477

W.A.No.2748 of 2018

bp(co)
nr 27/09/2019