

**IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT: HYDERABAD**

**Delivered on: 23-04-2019**

**Coram :**

**The Honourable Mr. Justice V.RAMASUBRAMANIAN  
and  
The Honourable Mr. Justice P. KESHA VA RAO**

**Writ Petition No.29938 of 2018**

**Between:**

Dr. Y. Anil Reddy S/o. Sri Y Ramakrishna Reddy,  
aged 31 years, R/o H. No. 1203165C, 1<sup>st</sup> Ward,  
Markapur, Prakasham District, A.P. - 523 316

.. Petitioner

Vs.

1. The State of Telangana, rep by its Special Chief Secretary,  
Health, Medical and Family Welfare Department,  
Secretariat Buildings, Hyderabad and others.

.. Respondents

For Petitioner : Mr. Sama Sandeep Reddy

For Respondent No.1 : Govt. Pleader

For Respondent No.2 : Mr. A. Prabhakar Rao

For Respondent No.3 : Mr. A. Abhishek Reddy

For Respondent No.5 : Mr. K.K. Mahender Reddy

For Respondent No.6 : Mr. P. Pandu Ranga Reddy

For Respondent No.7 : Mr. Vivek Chandra Shekar

**HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN  
AND  
HONOURABLE SRI JUSTICE P. KESHA RAO  
WRIT PETITION No.29938 OF 2018**

**ORDER:** *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Challenging a Government Order issued by the State of Telangana enhancing the Tuition Fee for Post-Graduate Super Speciality Medical Courses under the Management Quota from Rs.5,85,000/- to Rs.25,00,000/-, with effect from the Academic Year 2018-19 in all Private Un-aided Minority and Non-Minority Medical Colleges in the State, the petitioner has come up with the above writ petition.

2. Heard Mr. Sandeep Reddy Sama, learned counsel for the petitioner, learned Government Pleader for Health, Medical and Family Welfare Department appearing for the 1<sup>st</sup> respondent, Mr. A. Prabhakar Rao, learned counsel for the 2<sup>nd</sup> respondent, Mr. A. Abhishek Reddy, learned counsel for the 3<sup>rd</sup> respondent, Mr. K.K. Mahender Reddy, learned counsel for the 5<sup>th</sup> respondent,, Mr. P. Pandu Ranga Reddy, learned counsel for the 6<sup>th</sup> respondent, Mr. Vivek Chandra Shekar, learned counsel for the 7<sup>th</sup> respondent.

3. The petitioner appeared for NEET-Super Speciality-2018 on 06.07.2018 and he was allotted a seat in M.Ch. Urology in the 5<sup>th</sup> respondent College. The petitioner reported immediately and joined in the Course.

4. It must be pointed out here that the 1<sup>st</sup> Phase of Counselling for admission to Super Speciality Courses was held during the period from

01.08.2018 to 05.08.2018 and the 2<sup>nd</sup> Phase of Counselling was held between 16.08.2018 and 19.08.2018.

5. At the time of commencement of the admission process, the fee payable for Super Speciality Courses in Private Medical Un-aided Minority and Non-minority Professional Institutions, was governed by G.O.Ms.No.167, dated 18.06.2011. As per the same, the fee payable per annum was Rs.5,85,000/- for Private Un-aided Minority Medical Colleges. The fee payable by students admitted under the quota for Competent Authority in Non-minority Institutions was Rs.3,70,000/- and the fee payable by those admitted under the Management Quota was Rs.7,50,000/-.

6. But, all of a sudden, immediately after the conclusion of the 1<sup>st</sup> phase of the counselling but before commencement of the 2<sup>nd</sup> phase of counselling, the Government issued an Order in G.O.Ms.No.78, Health, Medical and Family Welfare, dated 14.08.2018, enhancing the fee payable by those admitted under the Management Quota to Rs.25,00,000/-. Therefore, challenging the Government Order, the petitioner has come up with the above writ petition.

7. In its judgment rendered on 12.08.2005, in **P.A. Inamdar & others v. State of Maharashtra & others**<sup>1</sup>, the Supreme Court directed the Government to constitute a Committee headed by a retired Judge of the High Court for fixation of fee. Accordingly, the Government constituted a Committee under G.O.Rt.No.371, Higher Education, dated

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<sup>1</sup>. (2005) 6 SCC 537

17.05.2007. The Committee comprised of two retired Judges of this Court.

8. Pursuant to the recommendations made by the Committee so constituted, the Government of Andhra Pradesh issued G.O.Ms.No.167, dated 18.06.2011, fixing the fee for Private Un-aided Minority Medical Colleges and Private Un-aided Non-minority Medical Colleges.

9. But, while passing the impugned order in G.O.Ms.No.78, dated 14.08.2018, the Government never consulted the Fee Regulatory/Fixation Committee.

10. In fact, the constitution of the Fee Regulatory/Fixation Committee was pursuant to a judicial mandate issued in **Islamic Academy of Education and another v. State of Karnataka and others**<sup>2</sup>. But, the decision rendered in **Islamic Academy of Education and P.A. Inamdar**, have now been thrown to the winds by the Government while passing the impugned order.

11. The Government of Telangana has filed a counter affidavit, conceding the fact that G.O.Ms.No.167, dated 18.06.2011, was issued pursuant to the recommendations of Fee Regulatory Committee. Very strangely, the Government has taken a stand in paragraph No.6 of the counter affidavit that the 6<sup>th</sup> respondent herein (a Minority Medical College) sent a representation, dated 07.06.2018, seeking revision of fee from Rs.5,85,000/- to Rs.25,00,000/-. According to the counter affidavit of the Government of Telangana, the 1<sup>st</sup> respondent immediately addressed a letter to the Telangana Admission and Fee Regulatory

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<sup>2</sup>. (2003) 6 SCC 697

Committee, requesting them to examine the representation of the 6<sup>th</sup> respondent and to submit a report. But, even before the report could be received, the Government took note of the financial burden on the Colleges with regard to the actual cost and passed the impugned Government Order.

12. One portion of the counter affidavit of the 1<sup>st</sup> respondent is sufficient to allow the writ petition and hence paragraph No.6 of the counter affidavit of the 6<sup>th</sup> respondent is reproduced as follows:

“6. In reply to paras 8-12, it is submitted that 6<sup>th</sup> respondent herein i.e., Deccan College of Medical Sciences has made a representation dt.7/6/2018 to the 1<sup>st</sup> respondent herein for revision of fee from Rs.5,85,000/- to Rs.25,00,000/- P.A. for Super Speciality Courses as it has become burden to the Medical Colleges as the colleges has to pay stipend of Rs.30,000/- P.M. to Super Speciality Residents. The 1<sup>st</sup> respondent vide letter No.7695/C1/2017, dt.23/6/2018 addressed the Telangana Admission & Fee regulatory Committee requesting to examine and furnish a report to the Government for revision of fee structure for the academic year 2018-19 for PG Super Speciality Courses, as the tuition fees are not enhanced since 2011. Though the above said letter was addressed on 23/6/2018, the report is yet to be received from TAFRC. It is submitted that in pursuant to representation made by 6<sup>th</sup> respondent, dt.7/6/2018, the 1<sup>st</sup> respondent after taking into consideration of the financial burden of the colleges with regard to actual cost involved in imparting quality education and escalations in cost, the Government of Telangana has issued G.O.Ms.No.78, HM&FW (C1) Dept. dt.14/8/2018 enhancing the tuition fee in respect of Super Speciality Courses. Apart from above G.O. issued by the Government of Telangana, the Govt. of A.P. have also issued G.O.Ms.No.149, HM&FW (C1) Dept, dt.6/9/2017, enhancing the tuition fee as Rs.24.00 lakhs P.A. for Super Speciality Courses from the academic year 2017-18 onwards. It is submitted that other States also fixed the fee similarly to that of fee fixed by the Govt. of Telangana & Govt. of A.P. in respect of Super Speciality Courses.”

13. It is clear from the above that the judgment of the Supreme Court has been totally thrown to the winds by the Government. Hence, the impugned order is liable to be set aside.

14. Interestingly, the 6<sup>th</sup> respondent College has filed a counter affidavit attempting to justify their claim for enhancement of fee. Even

according to their counter affidavit, the enhancement of fee was not ordered on the basis of the recommendations of the Fee Regulatory Committee.

15. In their counter affidavit, the 6<sup>th</sup> respondent has attempted to make a comparison with Institutions in the neighbouring States. But, we cannot assume the role of Fee Fixation Committee to find out whether the enhancement was justified or not. We are merely concerned in this case with the question whether the procedure prescribed by Law was followed before revising the fee structure or not. Since the procedure has not been followed, the impugned order is liable to be set aside.

16. In view of the above, the Writ Petition is allowed, the impugned order is set aside and if any fee in excess of what was already fixed by the Government under G.O.Ms.No.167, dated 18.06.2011 had been collected, the same shall be refunded by the concerned college to the petitioner within 4 weeks. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

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**V. RAMASUBRAMANIAN, J**

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**P. KESHA RAO, J**

**April 23, 2019**  
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