

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

and

The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.P.Nos. 4582 of 2018, 14232 of 2017 & 11701 of 2018
& Cont P.Nos. 1266 of 2019 and 1487 of 2019
& W.M.P.Nos. 5633 & 5634 of 2018, 9048 & 9306 of 2020, 12631 of
2018, 15736 of 2019, 15430 of 2017, 13672, 13673, 39308, 12080 of
2018, 9309 of 2020 & 13674 of 2019

W.P.No. 4582 of 2018

- 1 Dr.Euvalingam D.
S/o. Deivassigamani.C.
No.82 Saint Rozario Street
Muthialpet Puducherry- 605 003.
- 2 Dr.Kamireddy Arun Kumar
Reddy S/o. Kamireddy Srinivasa Reddy
No. 5-30/1 #104 Classic Pearl Residency
KPR Colony Manikonda Hyderabad
Telangana- 500 087.
- 3 Dr.Wadgaonkar Udi Rajendra
S/o. Wadganonkar Rajendra Digambar Anjali
Plot 158 N-3 CIDCO Aurangabad
Maharashtra- 431 003.
- 4 DR. Chilukala Siva Narashimha Reddy
S/o. Chilukala Reghunatha Reddy
ASS 32264 Ist line Om Shanthi Road

Vivekanandha Nagar Cuddapah
Andhra Pradesh- 516 001.

- 5 Dr. Duggirala Pujitha Chowdary
D/o. Duggirala Venkateswara Rao
Satyanarayanapuram Opposite
Kavirajkalamandir Krishna District
Andhra Pradesh- 301.
 - 6 DR.V.Priyadharshini Bala
W/o. Dr. Rajeswaran R.
No.13-A Savarirayalu Street,
Pondicherry- 605 001.
 - 7 Dr.Abinaya R.
D/o. Rajasekaran R.
No.A-14 Vadhumitha Vasudhara Complex
Agrini Residential Enclave Andalpuram.
Madurai Tamilnadu- 625 003.
 - 8 Dr. Yeruva Pouline Deepthi Reddy
D/o. Yeruva Chinnapa Reddy
House No. 86-6-1685 Geminis School
Gayathiri Nagar Second line KVP colony
Andhra Pradesh- 004.
 - 9 Dr.Mallikarjun N.H.
S/o. Hemabushanam N.S.
No.1/41 Devanga Street New Gummidipoondi
Gummidipoondi Post Thiruvallur District
Tamilnadu-201.
 - 10 Dr. Poluru Thrivikarama rao
S/o. Poluru Srinivasulu
House No. 3-125 Balapalapalli Bethamcheria Kurnool
Andhra Pradesh- 518 598.
 - 11 Dr. Alpoor Therun Tej
S/o. Alpoor Bhasker P.No. 480
Teachers Colony, Hasthinapuram Suroornagar
Ranga Reddy Telangana- 500 079.
- .. Petitioners

Vs

- 1 The Secretary to Government
Ministry of Human Resource Development
Shastri Bhawan Dr.Rajendra Prasad Road
New Delhi- 001.
 - 2 The Secretary
University Grants Commission,
Bahadur Shah Zafar Marg, New Delhi- 110 002.
 - 3 The Director
Department of Health and Family Welfare
Services (DHFWS) Victor Samuel Street
Puducherry- 605 001.
 - 4 The Convenor
Centralised Admission Committee (CENTAC)
PEC Campus ECR Road Pillaichavadi
Puducherry- 605 014.
 - 5 The Registrar
Aarupadai Veedu Medical College and Hospital
Pondu Cuddalore Main Road Kirumampakkam
Puducherry- 607 402.
- .. Respondents

W.P.No. 14232 of 2017

V.B.R.Menon

.. Petitioner

Vs

- 1 The Secretary to Government of Puducherry
Health and Family Welfare Services Department,
Secretariat, Beach Road, White Town,
Puducherry – 605 001
2. The Director,
Health and Family Welfare Services (DHFWS),

Victor Samuel Street,
Puducherry – 605 001.

3. The Convenor,
Centralised Admission Committee(CENTAC),
PEC Campus, ECR Road,
Pillaichavadi, Puducherry – 605 014.
4. The Secretary to Lt. Governor of Puducherry,
Raj Nivas, White Town,
Puducherry – 605 001.
5. The Secretary,
Medical Council of India,
Pocket – 14, Sector – 8, Dwaraka,
New Delhi – 110 077.
6. Union of India,
Secretary, Ministry of Human Resource
Development, Shastri Bhavan,
New Delhi.
7. University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi – 110 002.
8. Aarupadai Veedu Medical College,
Cuddalore Main Road, Kirumanpakkam,
Bahour Commune Panchayat,
Puducherry – 607 402.
9. Vinayaga Missions Medical College,
Keezha-Kasakudi Medu, Kottucherry,
Karaikkal – 609 609.
10. Mahatma Gandhi Medical College,
Cuddalore Main Road, Pillayarkuppam,
Puducherry – 607 402.
11. Sri Lakshmi Narayana Institute of Medical Sciences,
Osudu Agaram Village,

Villianur Commune,
Puducherry – 605 502

12. The Director General,
Directorate General of Health Services,
Room No.446-A, Nirman Bhawan,
Maulana Azad Road, New Delhi – 110 008.

[R6 to R11 suo motu impleaded vide order
dated 9.6.17 by CJ & MSJ in W.P.No.14232/17
in WMP No. 15430/17]

[R12 impleaded as per order dated 26.4.18
by CJ & AQJ in W.P. 14232/17] .. Respondents

W.P.No. 11701 of 2018

- 1 Dr.M.Harshitha
D/o.Dr.Madan Mohan Reddy No.19 5th Cross
Venkata Nagar Puducherry-605 011.
- 2 Dr.C.Ramakrishnan
S/o.R.Chakrapani No.27 1st Cross Street
D. R.Nagar Kosapalayam Puducherry-605 013.
- 3 Dr.P.sudhakar
S/o.N.Pitchumani No.5 Vallalar Street
Kosapalayam Puducherry-605 013.
- 4 Dr.K.Nandhini
D/o.T.Kangeyan No.18A 4th Cross
Rajajai Nagar Lawspet Puducherry-605 008.
- 5 Dr.Shyam Kumar
S/o.Dr.S.Nandhakumar Plot No.29 30
Kabilar Nagar ECR Main Road Lawspet
Puducherry- 605 008.
- 6 Dr.Alagammai.K
D/o.AL.Krishnappan

No.14 Kumaran Street
Kamaraj Nagar Puducherry-605 011.

7 Dr.K.Vinod
S/o.L.Krishnamurthy
No.41 Venkata Subba
Reddiar Street Ellaipillaichavady
Puducherry-605 005.

8 Dr.Venkatesh Kumar.P.
S/o.R.Paneer Selvam
No.131 6th Cross Street
LA France Villas Pillayarkuppam
Pillayarkuppam Puducherry-607 407.

.. Petitioners

Vs

1 The Secretary to Government
of India Ministry of Human Resource
Development Shastri Bhawan
Dr.Rajendra Prasad Road New Delhi-110 001.

2 The Secretary
University Grants Commission
Bahadur Shah Zafar Marg New Delhi-110 002.

3 The Secretary to Govt.of India
Ministry of Health & Family Welfare
Department Nirman Bhawan Maulana Azad Road
New Delhi-110 011.

4 The Director
Department of Health and Family Welfare
Services (DHFWS) Victor Samuel Street
Puducherry-605 001.

5 The Chairman
Mahatma Gandhi Medical College & Research
Institute Pondy Cuddalore Main Road
Pillayarkuppam Puducherry-607 402.

.. Respondents

Cont P. No. 1266 of 2019

V.B.R.MENON

.. Petitioner

Vs

- 1 R.SUBRAHMANYAM
THE SECRETARY MINISTRY OF HUMAN RESOURCE
DEVELOPMENT NO.127-C SHASTRI BHAWAN DR.
RAJENDRA PRASAD ROAD NEW DELHI-110001
- 2 PROF.RAJNISH JAIN
THE SECRETARY UNIVERSITY GRANTS COMMISSION
BAHADUR SHAH ZAFAR MARG NEW DELHI-110 002
- 3 AARUPADAI VEEDU MEDICAL COLLEGE
CUDDALORE MAIN ROAD KIRUMANPAKKAM
BAHOUR COMMUNE PANCHAYAT
PUDUCHERRY-607402
- 4 VINAYAGA MISSIONS MEDICAL COLLEGE
KEEZHA KASAKUDI MEDU KOTTUCHERRY
KRAIKKAL-609 609
- 5 MAHATHMA GANDHI MEDICAL COLLEGE
CUDDLORE MAIN ROAD PILLAYARKUPPAM
PUDUCHERRY-607 402
- 6 SRI LAKSHMI NARAYANA
INSTITUTE OF MEDICAL SCIENCES OUSUDU
AGARAM VILLAGE VILLIANUR COMMUNE
PUDUCHERRY-605 502

.. Respondents

Cont P.No. 1487 of 2019

D.EUVALINGAM

.. Petitioner

Vs

PROF.RAJNISH JAIN
THE SECRETARY

7/24

UNIVERSITY GRANTS COMMISSION
BAHADUR SHAH ZAFER MARG
NEW DELHI-110002.

.. Respondent

Prayer in W.P.No. 4582 of 2018: Writ petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records of 11 Nos of separate notices of 5th respondent dated 13.10.2017 demanding payment of Annual fees for the academic year 2018-19 from the petitioners 1 to 11 and to quash the same and consequently forbearing the respondent college from demanding and coercing the petitioners to pay further amounts towards annual fees for the academic year 2018-19 onwards and further directions by the Hon'ble Supreme Court of India in SLP(C) No. 19315 of 017.

Prayer in W.P.No. 14232 of 2017: Writ petition filed under Article 226 of the Constitution of India to declare that the fees payable for admission into Post Graduate Medical/Dental Courses in Self-Financing and Deemed Universities in Puducherry shall be as fixed to be fixed by the Puducherry Fee Committee, as the case may be, and consequently direct the respondents to finally fix the fees for the above admissions.

Prayer in W.P.No. 11701 of 2018: Writ petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records of Notices in Ref. No. MGMCRI/ Tuition Fee/ 2018-19/ 17010610022018001 MGMCRI/ Tuition - Fee/2018-19/ 17011010092018001 MGMCRI/ Tuition-Fee/ 2018-19/ 170111510012018001 MGMCRI/ Tuition-Fee/ 2018-19/ 17011010062018001 MGMCRI/ Tuition-Fee/ 2018-19/ 17010610012018001 MGMCRI/ Tuition-Fee/ 2018-19/ 17012010032018001 MGMCRI/ Tuition-Fee/ 2018-19/ 17012010012018001 MGMCRI/ Tuition-Fee/ 2018-19/ 7010910072018001 dated 24.03.2018 demanding payment of Annual fees for the Academic year 2018-19 from the petitioners 1 to 8 and to quash the same and consequently to restrain the 5th respondent college from demanding and coercing the petitioners to pay further amount towards Annual Fees for the Academic Years 2018-19 and 2019-20 until the Hon'ble First Bench of this Court in W.P.14232 of 2017 finally determines the Annual Fee amounts for P.G.Medical Courses to the 5th respondent college.

Prayer in Cont P.No. 1266 of 2019: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the Respondents for their willful and deliberate disobedience of the Interim Order passed by this Honourable Court on 26.04.2018 in W.P.No.14232 of 2017.

Prayer in Cont P No. 1487 of 2019: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent for the willful and deliberate disobedience of the Interim Order passed by this Court on 22.04.2019 in WP.No.4582 of 2018.

For Petitioners ... Mr.V.B.R.Menon
in all W.Ps

For Respondents ... Mr.B.Rabu Manohar for R1,R3
Mr.L.Swaminathan for R5
Mr.P.R.Gopinathan for R2
in W.P.Nos. 11701 & 4582 of 2018
Mr.Kumaresh Babu for R11
in W.P. No. 14232 of 2017
Mr.C.T.Ramesh,
AGP for R3,R4
in W.P.No. 4582 of 2018

COMMON ORDER

[Order of the Court was made by *M.M.SUNDRESH, J.*]

These three writ petitions and the contempt petitions are posted before us pursuant to the order passed by The Hon'ble Chief Justice on the administrative side. To be noted, W.P.No. 14237 of 2017 has been posted before us as the Bench hearing the matter declined to hear the same. Since the other two writ petitions were posted before the

learned Single Judge, in view of the commonality of the issue involved, they are accordingly posted before us after getting appropriate orders from the Hon'ble Chief Justice.

2. W.P.No.14232 of 2017 is a public interest litigation filed by the petitioner, who is a practising advocate. Incidentally, he as counsel filed other two writ petitions, namely, W.P.No. 4582 of 2018 and W.P.No.11701 of 2018 on behalf of the writ petitioners.

3. The issue involved pertains to the fixation of fee by the private respondents, namely, the deemed Universities. In W.P.No.14232 of 2017, the Honb'le First Bench was pleased to pass the following order:-

"21.The admission of students in medical institutions as also fee charged by such medical institutions are ex-facie the matters of immense public importance. This Court cannot shut its eyes to impediments in the way of individual litigation by young students. This Court can take note of the facts pleaded by a public spirited

citizen in a public interest litigation and suo motu pass orders to redress the grievances of the student community. Moreover, we are informed that separate writ petitions have also been filed by and/or on behalf of affected candidates.

22. We, therefore, deem it appropriate to pass an interim order directing the deemed Universities to admit the students provisionally selected and successful in the admission tests/counselling to the vacant seats in order of their merit, subject to the condition that the students shall each deposit Rs.10.00 lakhs at the time of admission towards the annual fee for the first year with CENTAC (third respondent) and subject to the further condition that in the event the fees determined by the Fee Committee that may be constituted by the University Grants Commission (seventh respondent) and Ministry of Human Resource Development (sixth respondent) to study the fee structure of the deemed Universities is higher, they shall pay the

differential amount. Needless to mention that those students who have already taken admission by depositing the full fees will, if necessary, be entitled to refund/adjustment of the difference between the fees that might be determined by the Committee and the amount paid by them. Such admission shall be effected within 5 P.M. on 19th June 2017 and the students will be allowed to provisionally attend their classes from 20th June 2017. Needless to mention that the admission of students pursuant to this interim order shall abide by the result of the writ petition.

23. We are informed that there are some non-clinical courses in the deemed universities for which the fees varies between Rs.3 to 4 Lakhs. In such case, the students will be required to pay the amount of fees charged and not Rs.10 Lakhs.

24. Considering that the future of the students who are admitted pursuant to this interim order

remains uncertain, there is an immense urgency and we expect that the University Grants Commission (seventh respondent) and Ministry of Human Resource Development (sixth respondent) shall forthwith constitute a Committee to regulate the fees chargeable by the self-financed deemed Universities, after giving all stakeholders including the Universities adequate opportunity of representation. The decision of the Fee Committee shall abide by the result of the writ petition."

4. This order was put to challenge by the Deemed Universities before the Apex Court. The Apex Court confirmed the order of the Division Bench referred supra. Thereafter, a further order was passed on 26.04.2018 by the Division Bench which is extracted hereunder:-

"3. The deemed universities filed a Special Leave Petition in the Supreme Court against the order of this Court dated 16.06.2017. There appears to have been some mis-statement at the time of hearing to the effect that the judgment and

order dated 16.06.2017 was a final judgment and order, as would be evident from the cause title of the order of the Supreme Court dated 16.04.2018, dismissing the Special Leave Petition and requesting the High court to decide the matter within a period of six months. The Supreme Court also gave liberty to the Committee to submit its report to this Court in accordance with law.

4. No Committee has yet been constituted, in view of the Special Leave Petition in the Supreme Court. We direct the University Grants Commission and the Ministry of Human Resources Development to forthwith constitute a Committee, to regulate the fees chargeable by self-financed deemed Universities, as directed by the order of this Court dated 16.06.2017, after giving all stakeholders including the deemed universities adequate opportunity of representation. The Fee Committee should be constituted within three (3) weeks from date and the Fee Committee shall take a decision within

*four (4) months from the date of its constitution,
which will abide by the result of the writ
petition."*

5. In W.P.Nos.4582 and 11701 of 2018, an interim order was passed by the learned Single Judge on 22.04.2019. The payment, as directed, was by way of consent restricted to the petitioners alone. Incidentally, the learned Single Judge has observed that the further payment would be made depending upon the decision of the Fee Committee, as directed to be constituted by the order of the Division Bench referred supra.

6. The petitioners in W.P.Nos. 4582 and 11701 of 2018 got their admissions for the PG Courses from the private respondents/Deemed Universities. They have, accordingly, paid the fees as demanded by them. It is this fixation which was questioned by the learned counsel appearing for the petitioner in W.P.No.14232 of 2017. The constitution of the Fee Committee has been challenged by the private Universities before the Hon'ble Apex Court. The earlier interim order granted was modified permitting the Fee Committee to proceed further while not publishing the final decision awaiting further orders.

7. In pursuance of the orders passed by the learned Single Judge, dated 22.04.2019, the petitioners in W.P.Nos. 4582 and 11701 of 2018 duly paid the agreed amount as fees for the II year. However, for the III year, no fee has been paid as the Fee Committee could not decide the issue in view of the challenge made by the Deemed Universities before the Apex Court.

8. Though various contentions have been raised by the learned counsel appearing for the parties, we are not inclined to go into the merits of the case. Insofar as W.P.No.14232 of 2017 is concerned, appropriate orders can only be passed awaiting orders from the Hon'ble Apex Court and based upon the same, the decision of the Fee Committee. Therefore, we are inclined to adjourn the said case awaiting orders from the Hon'ble Apex Court.

9. Insofar as W.P.Nos. 4582 and 11701 of 2018 are concerned, the petitioners will have to write the examinations. Pursuant to the interim order granted, they are allowed to continue. Even here, the question of appropriate fees would depend upon the final decision of the Fee Committee. Therefore, we made a suggestion to the learned

counsel appearing for the petitioners and the Deemed Universities to arrive at an agreed amount in this regard.

10. Ultimately, it has been decided that the petitioners can pay a sum of Rs.13.00 lakhs without prejudice to the contentions of both sides on or before 30 June 2020. On such payment, the petitioners will be permitted to write the examinations. The question of excess payment to be returned by the Universities or payment of further fees by the petitioners would obviously depend upon the decision of the Apex Court followed by that of the Fee Committee. Therefore, consciously, we leave all the issues open to be decided at the appropriate stage by the appropriate forum. However, we make it clear that the question of payment of stipend will have to be decided in the pending writ petitions.

11. We may note, even before the learned Single Judge, in the order dated 22.04.2019, there was a consent with respect to the payment of fees by way of an interim arrangement and the order of the Division Bench as confirmed by the Apex Court at least with respect to the constitution of the Fee Committee has become final.

Even there, the Division Bench has passed an interim order keeping in mind the interest of all the stakeholders.

12. In such view of the matter, we are inclined to dispose of the writ petitions, namely, W.P.No. 4582 of 2018 and W.P.No. 11707 of 2018 by directing each of the petitioner, as agreed upon by them through their respective counsel before us, to pay a sum of Rs.13.00 lakhs to the private respondents, namely, the deemed Universities on or before 30 June 2020. On such payment, the private respondents/deemed Universities will have to permit the petitioners to write the examinations. All the contentions on merits, are left open. The parties are at liberty to come for any other relief by way of a separate litigation, if they choose to do so.

13. W.P.No. 4582 of 2018 and W.P. No. 11707 of 2018 are disposed of accordingly. No costs. Consequently, connected W.M.P.Nos. 5633 of 2018, 9309 of 2020, 39308 of 2018, 13672 to 13674 of 2018 are closed.

14. W.P.No. 14232 of 2017 will be taken up awaiting orders from the Apex Court since in the pending matters, challenge has been made to the constitution of the Fee Committee. The other writ petition than those dealt with including the contempt petitions (Cont P.Nos. 1266 of 2019 and 1487 of 2019) are adjourned to be taken up along with W.P.No.14232 of 2017.

(M.M.S., J.) (K.R., J.)
12.06.2020

Index : Yes
raa/mmi/ssm

W.P.Nos. 4582 of 2018, 14232 of 2017 & 11701 of 2018
& Cont P.Nos. 1266 of 2019 and 1487 of 2019

M.M.SUNDRESH, J
and
KRISHNAN RAMASAMY, J.

(Order of the Court was made by M.M.SUNDRESH, J.)

Today, the matter has been posted under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioners.

2.Learned counsel appearing for the petitioners submitted that out of four candidates viz., the petitioners 1, 4, 9 and 10 in W.P.No.4582 of 2018, three of them would require 10 more days to comply with the order passed. One candidate viz., Petitioner No.4, by name Dr.Chilukala Siva Narashimha Reddy does not want the benefit of the order passed. Therefore, he would like to write the examination for the next year.

3.Learned counsel appearing for the Deemed Universities, on a query, fairly submitted that as sought for by the learned counsel appearing for the petitioners, petitioner Nos.1, 9 and 10 by names Dr.D.Euvalingam, Dr.N.H.Mallikarjun, Dr. Poluru Thrivikarama Rao would be permitted to pay the fees on or before 10.07.2020. On such payment, they would be permitted to write the ensuing examination. Learned counsel further submitted that by inadvertence, WPMP No.8906 of 2020 in W.P.No.11071 of 2018 for which the petitioners' counsel is stated to have filed a memo to withdraw and WPMP Nos.9036 of 2020, 5634 of 2018 and 15736 of 2019 in W.P.No.4582 of 2018 are yet to be closed.

4.As agreed upon, insofar as petitioner Nos.1, 9 and 10 in W.P.No.4582 of 2018 viz., Dr.D.Euvalingam, Dr.N.H.Mallikarjun, Dr. Poluru Thrivikarama Rao are concerned, the time already granted for payment of fees is extended by 10 days – on or before 10.07.2020. On such payment, they shall be allowed to write the ensuing examination. Insofar as the Petitioner No.4 in W.P.No.4582 of 2018 is concerned, in view of the statement made at the bar by the learned counsel appearing for the petitioners, the fourth petitioner does not want to write the examination. The statement made stands recorded.

5.This Court place it on record the able assistance given by the learned counsel appearing for the petitioners particularly the learned counsel appearing for the Deemed Universities.

(K.R., J.)

(M.M.S., J.)

16.06.2020

raa/mmi/ssm

Note: Registry is directed to issue corrected order copy and mark a copy to the The Registrar, Aarupadai Veedu Medical College and Hospital, Pondu Cuddalore Main Road Kirumampakkam,

Puducherry- 607 402.

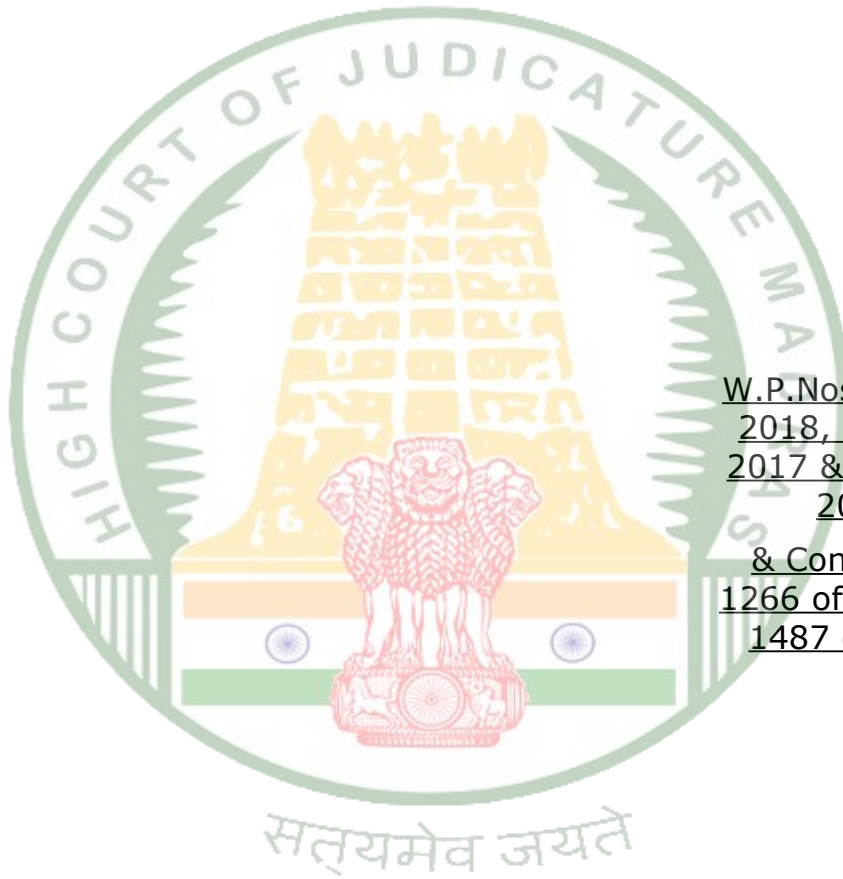
To

- 1 The Secretary to Government
Ministry of Human Resource Development
Shastri Bhawan Dr.Rajendra Prasad Road
New Delhi- 001.
- 2 The Secretary
University Grants Commission,
Bahadur Shah Zafar Marg, New Delhi- 110 002.
- 3 The Director
Department of Health and Family Welfare Services (DHFWS)
Victor Samuel Street
Puducherry- 605 001.
- 4 The Convenor
Centralised Admission Committee (CENTAC)
PEC Campus ECR Road Pillaichavadi
Puducherry- 605 014.
5. The Secretary to Govt.of India
Ministry of Health & Family Welfare
Department Nirman Bhawan Maulana Azad Road
New Delhi-110 011.
6. The Chairman
Mahatma Gandhi Medical College & Research
Institute Pondy Cuddalore Main Road
Pillayarkuppam Puducherry-607 402.

W.P.Nos. 4582 & 11701 of 2018 & 14232 of 2017

**M.M.SUNDRESH, J.
and
KRISHNAN RAMASAMY, J.**

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W.P.Nos. 4582 of
2018, 14232 of
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& Cont P.Nos.
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