

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.6539 of 2020
and WMP No.7762 of 2020

Dr.S.R.Keerthanaa

...Petitioner

-Vs-

1. The Dean,
Venkateshwaraa Medical College Hospital
and Research Centre,
No.13-A, Pondicherry Villupuram Main Road,
Ariyur, Puducherry 605 102.
2. The Chairman,
Sri Venkateshwaraa Medical College Hospital
and Research Centre,
No.13-A, Pondicherry Villupuram Main Road,
Ariyur, Puducherry 605 102.
3. The Registrar,
The Pondicherry University,
R.V.Nagar, Kalapet,
Puducherry 605 014

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent herein to issue the University Examination Application Form counter signed by him to be submitted along with the remittance fees for the purpose of appearing for the final year Post Graduate Medical Examination to be conducted for the academic year 2019-2020 by the 1st respondent herein which is affiliated to the 3rd respondent herein and pass such further or other orders.

For Petitioner : Mr.T.T.Ravichandran

For Respondents: Mr.A.Jenasenan for R1 and R2
Mr.A.V.Bharathi for R3

O R D E R

This writ petition has been filed for the issue of writ of Mandamus directing the 1st respondent to issue the examination application form counter signed in order to enable the petitioner to apply for the examination and appear for the final year Post-graduation Medical examination, which is scheduled to be held in the Month of April 2020.

2. The case of the petitioner is that she is presently doing her Post Graduation in the 1st respondent college. The petitioner had got admission under the Management quota and there is already a dispute between the college and the petitioner, with regard to the fees payable by the petitioner. According to the petitioner, the 1st respondent college had determined a fees over and above the fees fixed by the Fees Committee. The petitioner claims that she has paid the Fee that has been fixed by the Fees committee.

3. The petitioner has already approached this Court and filed WP No.17744 of 2019, for a direction to the respondent college not to charge any fees, over and above the fees fixed by the Committee. This Court has entertained the said writ petition and based on the undertaking given by the Counsel for the respondent college that the petitioner will be permitted to continue in the Course, a date was fixed for hearing in the said writ petition.

4. In the meantime, the 3rd respondent has issued itinerary for the examination of the 3rd year Course and the on-line registration commences on 02.04.2020. According to the petitioner, the 1st respondent has issued a circular to the effect that no due form must be obtained from the 1st respondent, counter signed by the Head of the Department and after the remittance of the examination fees only, the application form will be issued. The petitioner has stated that she was not allowed to obtain the no due form. Therefore, she had made a representation in this regard on 02.03.2020 to the 1st respondent. Since the same has not been acted upon, the present writ petition has been filed before this Court, seeking for appropriate directions.

5. Mr.T.T.Ravichandran, learned counsel appearing on behalf of the petitioner submitted that the petitioner has given an undertaking even in the representation submitted to the 1st respondent on 02.03.2020 to the effect that the outstanding fee, if any, will be paid by the petitioner subject to the orders passed in the writ petition pending in WP No.17744 of 2019. The

learned counsel submitted that in spite of such an undertaking being given by the petitioner, the 1st respondent has not given the no due form till date. The learned counsel further brought to the notice of this Court that the petitioner has given a similar undertaking even in the affidavit that has been filed in support of the writ petition at paragraph No.11 of the affidavit. The learned counsel submitted that the 1st respondent must be directed to issue the application form along with the no due form.

6. The learned counsel appearing on behalf of the 1st and 2nd respondents submitted that an undertaking was already given before this Court to the effect that the petitioner will be allowed to continue in the Course, till the disposal of the writ petition in WP No.17744 of 2019. The learned counsel submitted that the petitioner has to pay the fees fixed by the 1st respondent college and according to the 1st respondent college no exorbitant fees has been charged and the petitioner is bound to pay the fees fixed by the College. Without doing so, the petitioner is not entitled for a no due from the 1st respondent college.

7. The learned counsel appearing on behalf of the Pondicherry University, submitted that the University has already issued the itinerary for the 3rd year examination and the on line registration commences from 02.04.2020. The learned counsel further submitted that the examination is scheduled to be conducted during the month of April 2020.

8. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

9. It is an admitted fact that the petitioner is continuing to do the course in the 1st respondent college and she is in her 3rd year. There is a dispute with regard to the fees payable by the petitioner to the 1st respondent college and the petitioner claims that the 1st respondent is demanding for fees in excess of the fee fixed by the committee. The said issue is pending before this Court in WP No.17744 of 2019. In the said writ petition, the 1st respondent has made a statement to the effect that the petitioner will be allowed to continue in the course till the disposal of the writ petition.

10. The petitioner has made a representation to the 1st respondent on 02.03.2020, seeking for the examination form and no due form. The petitioner has also given a specific undertaking that any outstanding fees will be paid subject to

the result of the said writ petition pending in WP No.17744 of 2019. A similar undertaking has also been given by the petitioner in the affidavit filed in support of the present writ petition. This undertaking is found at paragraph No.11 of the affidavit.

11. In the considered view of this Court, the petitioner will be put to grave hardship if she is not allowed to submit her application for the examination. The interest of the 1st respondent college is secured in view of the undertaking given by the petitioner. Therefore, there is no reason as to why the petitioner should not be allowed to take the examination conducted by the 3rd respondent university in the Month of April 2020. This Court has to ensure that the interest of both the petitioner and the 1st respondent is safeguarded. The undertaking given by the petitioner safeguards the interest of the 1st respondent and by directing the 1st respondent to enable the petitioner to get the application form with such undertaking, safeguards the interest of the petitioner.

12. In the result, this writ petition is disposed of with a direction to the 1st respondent to issue the necessary no due form to the petitioner to enable the petitioner to apply on-line for the examination, which opens on 02.04.2020. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

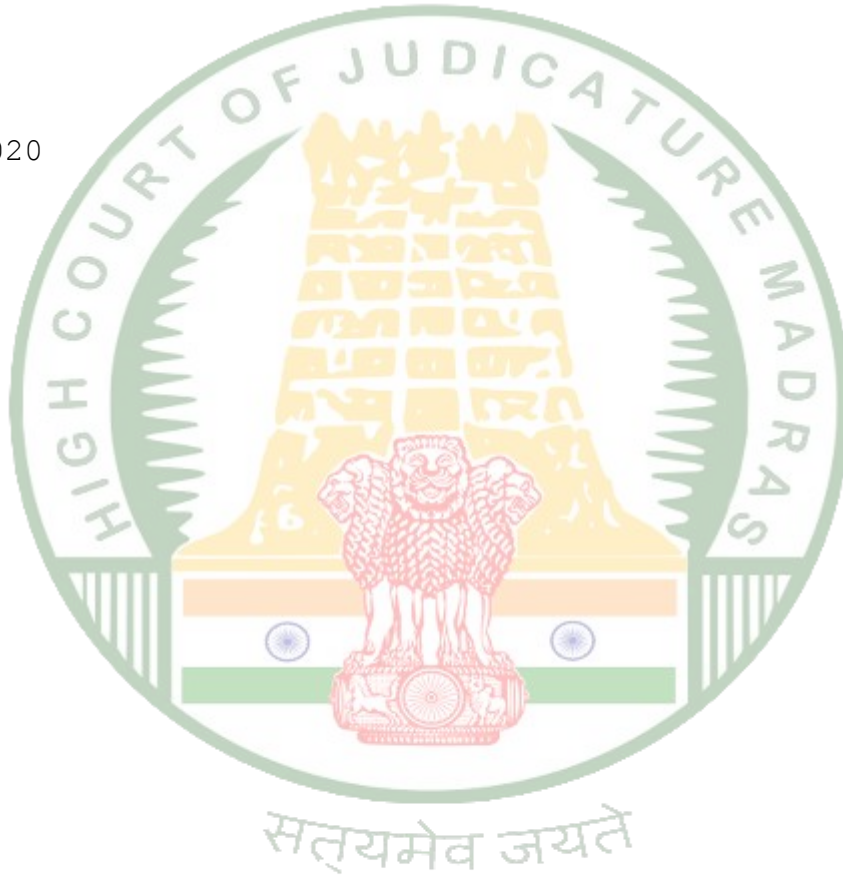
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+1 cc to M/s.A.V.Bharathi Advocate sr24163
+1 cc to Mr.A.Jenasenan Advocate sr24336
+1 cc to Mr.T.T.Ravichandran Advocate sr24435

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