

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.12.2020

PRONOUNCED ON : 04.12.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

WP NOS.13932, 12352, 12835, 14772 OF 2020
AND WMP NOS.15845, 15203, 15201, 15202, 18351, 18352, 18350,
15846 17307, 17308 OF 2020

1. G.Sampath
2. Suresh Babu
3. Nabadwip Kumar Chowdhury
4. Babul Chandra Das
5. Harpreet Singh Basra
6. K.Sivakumar
7. Kumar A.S
8. Mukesh Prajapat
9. Dr.Nibas Kumar Saha
10. Yeleti Raja
11. Krishna Mohan Kuchi
12. T.Chandra Sekhar Reddy
13. Mahesh Kumar Sanghavi
14. L.Krishnakumar
15. A.Venkateswaran
16. Dr.Janardan Khamaru
17. D.Suresh Kumar
18. J.Vinod Pillai
19. Bileesh P Babu
20. Krishna Talukdar
21. Shehnaz Begum Mohammed
22. Umesh Sarkar
23. Thamarai Selvi
24. Dr.Niteen Vishwanath Dhepe
25. Anantaram Mahapatra
26. Mr.Mahesh Kumar Sharma
27. P.Ram Mohan
28. Saba Nishat

...Petitioners in WP No.13932 of 2020

- 1.M.Sheik Dawood
- 2.A.Subramani
- 3.T.Isaiah Kumar
- 4.Dr.T.Pugazhenth

5.J.Sudhakar
6.Dr.Venugopal
7.S.Lakshmanan
8.Dr.Murugesh Babu

...Petitioners in WP No.12352 of 2020

1. G.V.Kumaravelu
2. P.K.Udayashankar
3.Mahesh kumar
4.Abdul Rasheed
5.N.Sivakumar
6.M.Arasu
7.V.P.Kannan
8.K.Srihari
9.Dr.Venkatesh.Y
10.C.Rajarajan
11.Jayamani Manickam
12.Dr.S.Kannan
13.A.S.Krishnamurthy
14.M.Arumugam
15.Sunil Goyal
16.Dr.S.Malarkodi
17.Adil Shah
18.Dr.R.Govindarajan
19.U.Sridevi
20.M.Jeyaraman
21.K.Mehanathan
22.D.Ramesh
23.K.Suganthan
24.V.Chelladurai
25.Mohammed Abdul Tazeem
26.Dilip Todi
27.Bhala Chandra Mohanty
28.S.S.Manoharan
29.V.K.Sree Kumar
30.R.Madeswaran
31.C.H.Varalakshmi
32.Justus A.Devadas
33.Balaji V.K.
34.Vijayakumar T.S.
35.P.Senthil Velan
36.Vinodan Kunnumpurath
37.Mahesh Chandak
38.Jayadip Biswas
39.Debadrata Datta

...Petitioners in WP No.12835 of 2020

1.Shaukath Ali
2. E.Arunachala Vadivu

3. D.Usha
4. S.Mahamutha
5. T.Mohan
6. Dr.P.P.George
7. K.M.Muhammed Salim
8. Dr.R.Selvan
9. A.B.Devaprasad
10. Samiya Ahmed

...Petitioners in WP No.14772 of 2020

Vs.

1. Union of India,
Rep. By Secretary to Government,
Ministry of Home Affairs,
Jai Singh Marg, Hanuman Road area,
Connaught place,
New delhi - 110 001.
2. Union of India,
Rep. By Secretary to Government,
Department of Human Resource and development,
New Delhi
3. University Grant Commission,
Rep. By its Chairman Bhahadur,
Sha Zafar Marg, New Delhi
110 002.
4. National Medical Commission,
Medical Council of India,
Pocket 14, Sector - 8, Dwarka,
Phase, New Delhi - 110 077.
5. Chief Secretary to Government,
The Office of Revenue and Disaster Management Department
(Disaster Management Wing, DM II Section),
Fort St. George,
Chennai 600 009.
6. SRM Institute of Science and Technology
(Deemed to be University u/s.3 of UGC Act, 1956)
Rep. By its Registrar,
SRM Nagar, Potheri,
Kattankulathur,
603 203.
Kanchipuram District.

7. SRM Medical College Hospital and Research Centre,
Rep. By its Dean SRM Nagar, Potheri,
Kattankulathur,
603 203.
Kanchipuram District.

..Respondents in all
Writ petitions

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of 7th respondent relating to circular bearing No. 357/Dean/MC/2020 dated 18.05.2020 and the circular bearing No.434/Dean/MC/2020 dated 02.07.2020 and the circular bearing No.483/2020 dated 06.08.2020 and quash the same and direct the respondents 1 to 4 to invoke the Disaster Management Act, 2005 and fix the tuition fee and hostel cum Mess fee for the academic year 2020-2021 for M.B.B.S students of the 6th and 7th respondents based on the representations of the parents dated 05.09.2020 to the 1st and 2nd respondents and the representation dated 07.08.2020 (in WP Nos. 13932, 12352, 12835 of 2020) 21.07.2020, 28.07.2020, 17.09.2020, 18.09.2020, 19.09.2020, 29.09.2020 and 30.09.2020 (in WP No.14772 of 2020) respectively to the 3rd respondent UGC.

For Petitioners : M/s.R.Vaigai, Senior Counsel
in WP Nos. 13932, 12352, 12835 of 2020

For Petitioner : Mr.S.S.Rajesh for Mr.R.C.Paul Kanagaraj
in WP No.14772 of 2020

For Respondents: Mr.Rabu Manohar,
in all WPs Senior Central Government
Standing Counsel for respondents 1 to 3
Mr.V.P.Raman, Standing counsel
for 4th respondent
Mr. E. Balamurugan,
Special Government Pleader
for 5th respondent
Mr. T.V Ramanujam,
Senior counsel for
Dr.V.Venkatesan for 6th respondent and
Mr. A.R.L Sundaresan,
Senior Counsel for
Dr.V.Venkatesan for 7th respondent.

COMMON ORDER

The issues involved in all these Writ Petitions are common and hence, all these writ petitions are taken up together, heard and disposed of through this common order.

2. The petitioners in all these writ petitions are students or their parents/guardians, undergoing MBBS course in the 6th respondent institution, who have approached this Court challenging the impugned circulars issued by the 6th and 7th respondents, directing the students to pay the tuition fees and hostel cum mess fees for the academic year 2020-2021.

3. The petitioners made a request to the 6th and 7th respondents to consider their representations and scale down their tuition fees payable for this academic year considering the pandemic situation and the institution remaining closed from the month of March 2020 and also permit the petitioners to pay the scaled down fees in installments. This request made by the students and parents was not considered by the 6th and 7th respondents and they were insisted to pay the entire tuition fees and left with no other option, the present writ petitions were filed before this Court, challenging the impugned circular and seeking for consequential directions.

4. When the matter came up for admission, this Court after taking into consideration the pandemic situation and also the financial constraints faced by the students and their parents and also the fact that the institution had remained closed due to lock down from April 2020, requested the learned Senior counsel appearing on behalf of the 6th and 7th respondents to persuade the institution to consider the request made by the petitioners. This Court also suggested that the fees can atleast be collected in installments on a case to case basis, considering the financial constraints faced by each of the student. The petitioners were also asked to give individual representations to the institution explaining their financial position in order to enable the institution to consider their request.

5. The 6th and 7th respondents filed a common counter affidavit on 23.09.2020, explaining the various facilities provided by the institution to the students and the cost incurred by them for maintaining the infrastructure. In the said counter affidavit, it was also stated that considering the financial difficulties faced by the parents, the institution is willing to collect the tuition fees in three installments.

6. When the matter came up for hearing on 28.09.2020, this Court took into consideration the common counter affidavit filed by the 6th and 7th respondents and also the submission

made on either side and passed the following order:

Pursuant to the orders passed by this Court on 11.09.2020 and 15.09.2020, a common counter has been filed by the 6th and 7th respondents. In the said counter affidavit, the respondents have listed the various facilities provided by them to the students and also the cost incurred by them for running the institution. It is further stated at paragraph No.30 of the counter affidavit that the representations given by the petitioners was considered on a case to case basis and it was decided to facilitate the payment of the fees in three instalments, for the petitioners. The first instalment of 40% of the fees has to be paid by 10.10.2020, the second instalment of 30% of the fees must be paid by 25.11.2020 and the third instalment of 30% of the fees must be paid by 10.01.2021.

2. Ms.R.Vaigai, learned Senior Counsel appearing on behalf of the petitioners submitted that the total fee payable for each year amounts to a sum of Rs.22.5/- lakhs. Out of this amount, Rs.19.5/- lakhs alone represents the actual tuition fees and the balance fees is payable with regard to facilities which were not put to use by the petitioners during this pandemic situation. The learned Senior counsel further submitted that the fee payable by the students is yet to be determined by the fee Committee and the same will also have a bearing with regard to the actual fees that is payable by every student ultimately to the Institution. By taking into consideration these two factors, the learned Senior Counsel suggested that for the current academic year, the total fee can be determined at 75% of Rs.19.5/- lakhs, which is the actual tuition fees, and this can be directed to be paid in instalments as suggested by the 6th and 7th respondents. The learned Senior counsel further submitted that some more time can be extended for the payment of the first instalment. The learned Senior counsel concluded her arguments by submitting that the Medical Council of India [MCI] can also be directed to take a specific stand as to whether the on-line classes conducted by the 6th and 7th respondents for the MBBS Course, is recognised by the authority. The learned Senior counsel wanted MCI to take a stand since it will bring more clarity both to the institution as well as the students, who are undergoing the course.

3. Mr.T.V.Ramanujam, learned Senior counsel appearing on behalf of the 6th respondent and Mr.A.R.L.Sundaresan, learned Senior counsel appearing on behalf of the 7th respondent submitted that immediately after the institution start conducting physical classes, the students will automatically utilise all the facilities and therefore, the fees that is chargeable under those heads cannot be deducted from the total fees payable by each student. Therefore, it was submitted that the total fees must be taken to be Rs.22.5/- lakhs for each student. The learned Senior counsel further submitted that the expenses incurred by the Institution towards payment of salaries to teaching and non-teaching staff will have to be paid irrespective of whether the college is functioning through on-line mode or physical mode. Therefore, it does not really make a difference insofar as the institution is concerned. The learned Senior counsel further submitted that the facility to pay the fees in instalments, cannot be applied across the Board and it can be decided only on a case to case basis, depending upon the financial wherewithall of every student approaching the institution. Therefore, it must be made very clear in the order that all the students cannot take advantage of this order and such payment of fees in instalments should be made only as an exception and not as a rule in this case. Only by ensuring such a certainty, the institution will be able to maintain a balance, failing which the institution will face hardship in meeting its day-to-day expenditure under various heads.

4. This Court has carefully considered the submissions made on either side.

5. The 6th and 7th respondents have seriously considered the opinion expressed by this Court during the previous hearings. They have considered the representations made by the petitioners on a case to case basis and decided to facilitate the payment of fees in instalments. Insofar as the suggestions made by Ms.R.Vaigai, learned Senior counsel, who appeared for the petitioners, the 6th and 7th respondents shall consider the same and come up with their stand in the next date of hearing by filing an affidavit. For the present, this Court has to tread a middle path by taking into consideration both the interest of the institution as well as the deserving students. There are students who are facing genuine financial

problems due to the economic aftermath of the Covid-19 pandemic. Their grievance is that they do not have the financial wherewithall to pay the fees in one go. This financial constrain cannot be assumed to be faced by every student undergoing the course in the 6th and 7th respondents institution. Therefore, as rightfully contended by the learned Senior counsel, payment of fees in instalments will be considered by the institution only on a case to case basis and it cannot be made applicable across the Board.

6. The 6th and 7th respondents have permitted the petitioners to pay 40% of the fees on or before 10.10.2020. For the present, the petitioners shall pay 40% of the fees out of Rs.22.5/- lakhs. Considering the difficulties expressed by the petitioners, this Court is inclined to extend the time for the payment of the first instalment by 29.10.2020. The first instalment shall be paid on or before the date fixed by this Court.

7. The 6th and 7th respondents shall take a stand on the suggestion made by the learned Senior counsel appearing on behalf of the petitioners and accordingly, the amount of fees that is payable towards the second and third instalments will be considered during the next date of hearing. This order is passed without prejudice to the rights of either of the parties and it is purely done as an interim measure considering the prevailing situation.

8. Post this case under the caption for orders on 02.11.2020.

7. The 6th and 7th respondents thereafter filed an additional counter affidavit on 20.11.2020. This additional counter affidavit was filed in order to justify as to why the tuition fees cannot be reduced. For proper appreciation, the relevant portions in the additional counter affidavit are extracted hereunder:

3. We humbly submit that the expenses and cost involved in running of a medical college is in the increasing phase. The various facilities provided in the hospital and medical college is also updated in par with the day-to-day development in the medical field. To create these facilities, it consumes lot of funds. The college would be able to meet these updates only through fee collection from the

students.

4. We humbly submit that at present the institution is charging Rs.22.5 lakh per MBBS students to meet out various expenses towards salary, maintenance, creation of new facilities like laboratory, library, IT infrastructure etc., only by utilizing all these full-fledged facilities a medical students can become a meritorious medical physician in the future. By reducing the present tuition fee, we fear that the standard of medical education may end up in compromising on the quality of imparting standard medical education.

5. We humbly submit that the respondents are aware of the financial difficulties of each and every parent during the COVID-19 Pandemic. At the same time the respondents have to meet the commitments of the doctors, teaching & non teaching, staffs, nurses, supporting staff and day-to-day expenses of the institution. The parents are very well aware of the cost for Medical Education at the initial admission itself. The equipment's, Laboratory, Infrastructure Facilities, classrooms cannot be left unattended citing reasons of COVID-19, Pandemic. The answering respondent would become responsible for the effective maintenance and usage of the above on the date of re-opening of the college. The contention of petitioners to collect 75% of 19.5 lakhs is the medical field. To create these facilities, it consumes lot of funds. The unacceptable and will not meet the commitments of the Institution. It would sabotage the interest of institution and would indirectly affect the students at large in due course. Therefore the submission of the petitioners on reduction of tuition fees is unacceptable to the respondents.

6. We humbly submit further that the tuition fee for the student of MBBS is charged at Rs. 22.5lakhs per year, which includes tuition fee of Rs.19.5 lakhs, co-curricular fee of Rs.2 lakhs and development fee of Rs.1 lakh. The tuition fee is split into the above three categories but in general it is always referred as tuition fee, which would include co-curricular fees and development fees. Since the petitioners had raised the contention by stating that during COVID-19 pandemic the students are not attending classes in person therefore there is no co-curricular activity and there is no development, therefore co-curricular fee and

development fee should not be charged under the heads of tuition fees. This is stoutly denied by the answering respondents and state that co-curricular fees would include (A) simulation lab of training in skills. (B) Basic life support training (C) E-Access to library (D) Wi-Fi in campus including hostels and common areas etc.. and development fees would include (A) Equipment and teaching aids, (B) Modification and additional classroom, laboratory etc... (C) Hardware, computer IT-infrastructure (Bio metrics face recognition software etc..) therefore the contention of the petitioner that co-curricular fee and development fee should not be charged could not be accepted in the best interest of the students.

10. We humbly submit that during COVID-19 pandemic the classes for the students are conducted as per the instructions, Notifications, Guidelines, Circulars of State Government, MCI, UGC from time-to-time. Institution is conducting online classes as per the MCI guidelines. A contention was raised by the petitioners during the hearing of this case before this Hon'ble court on 28.09.2020 about recognition of online classes for MBBS course during Pandemic COVID-19. National Medical Commission (NMC) previously known as Medical Council of India (MCI) has clarified through their circular dated 30.09.2020 stating online classes are valid and are approved for teaching during current pandemic COVID-19. Therefore, it is crystal clear that online classes for MBBS course are very much valid. The petitioners are misled by wrong communications in the social media and had filed this writ petition, which does not hold any merit.

11. We humbly submit that during COVID-19 the institution has covered most of the theory classes for the entire MBBS course of various years through online College is conducting online classes, Seminars, Periodical Tests, so that the practicals can be conducted soon after re-opening of the physical classes. Therefore the students are engaged in their academic curriculum and are regularly trained for MBBS Course despite of their absence for personal regular classes. The central and state governments are in the verge of deciding and declaring the date of re-opening of physical classes

very soon. The institution has almost completed all the preparatory protocols to accommodate the students inside the college. Hence it is absolutely not necessary to panic or misled about online classes or missing practical classes during pandemic.

12. We humbly submit that the respondents are always abiding by the order of this Hon'ble court on all previous occasions and are continuing to consider the representation of the parents as per the UGC circular dated 27.05.2020 in providing all support to the parents on case-to-case basis. The petitioners at the same time should not be allowed to take advantage of the pandemic situation and make unequal as equal in terms of situation and financial background and delay the fee payment further. The respondents are managing the financial commitment so far only through the tuition fee made by the students. Until and unless petitioners make the remaining payment in full the institution would have to face dire financial difficulty to meet out its commitments like salary etc.,

In consideration of the above the petitioners should come forward whole heartedly to co-operate with their institution in making the full fee payment as per the fourth circular dated 23.9.2020 by making second instalment of 30% fees by -25-11-2020 and 3rd installment of 30% fees by 10-01-2021, and those who have not paid the first installment of 40% of the fees by 29.10.2020 even after the order of this Hon'ble Court shall make payment immediately for smooth and effective functioning of the Institution.

8. Heard Ms. R.Vaigai, learned Senior counsel appearing on behalf of petitioners in WP Nos.13932, 12352, 12835 of 2020 and Mr. R.C. Paul Kanagaraj, learned counsel for petitioner in WP No.14772 of 2020. This Court also heard Mr.Rabu Manohar, learned Senior Central Government Standing Counsel for respondents 1 to 3, Mr.V.P.Raman, learned Standing Counsel for 4th respondent, Mr. E. Balamurugan, learned Special Government Pleader for 5th respondent, Mr. T.V Ramanujam, learned Senior counsel for 6th respondent and Mr. A.R.L Sundaresan, learned Senior Counsel for 7th respondent.

9. The main thrust of the arguments advanced by Ms. Vaigai, learned Senior counsel appearing on behalf of the petitioners was that the present case should not be viewed as an adversarial litigation and it should be a combined effort of

all concerned to find a solution for the parents of the students and students, who are studying in the 6th and 7th respondent institution and who are having genuine problems in paying the tuition fees for the current academic year 2020-21. The learned Senior counsel submitted that the annual tuition fees has been fixed as Rs. 22.5 lakhs per year and this fees has been paid regularly by the students, who are at various stages in the MBBS course. The very nature of the course involves practical training which is possible only if there are physical classes. Admittedly, there were no physical classes from the month of April 2020 till date, due to the pandemic situation and the lock down announced by the Government. The students are only attending the on-line classes till date. On a careful scrutiny of the fees structure, it can be seen that only Rs. 19.5 lakhs is directly traceable to the tuition fees and the rest of Rs. 2 Lakhs is collected towards co-curricular activities and Rs. 1 lakh is collected towards development fees. In the absence of any physical classes, the institution can atleast consider the reduction of this Rs. 3 lakhs from the total fees and also scale down the balance Rs. 19.5 lakhs, since there were no physical classes and the classes were conducted only through on-line. The learned Senior counsel further submitted that the institution can take into consideration the financial constraints faced by the students on a case to case basis and permit them to pay the scaled down fees in installments. The learned Senior counsel in order to substantiate her submissions, also brought to the notice of this Court the Division Bench order of the Kolkata High Court in Vineet Ruia and Ors. dated 13.10.2020 and impressed upon this Court to take cue from this judgment and pass orders in the interest of the students.

10. Mr. V.P. Raman, learned Standing counsel appearing on behalf of the National Medical Commission submitted that the commission has already sent a communication dated 12.11.2020 to the Ministry of Health and Family Welfare giving its recommendations for re-opening of the medical colleges and the way forward. For proper appreciation, the entire letter is extracted hereunder:

"NATIONAL MEDICAL COMMISSION

No. NMC/Secy/2020/03

Dated 12th Nov.2020

To,

The Secretary
Ministry of Health & Family Welfare
Nirman Bhawan,
New Delhi

Sub: Re-opening of Medical Colleges

Ref: Our e-mail dated 3-11-2020

Sir,

The National Medical Commission considered the representations from students and the Medical Colleges for re-opening of medical colleges for undergraduate MBBS students as the Colleges are closed for UG class room teaching, tutorials / practical classes /laboratory and clinical training due to the COVID 19 pandemic. The Commission noted the following:

1. The current batch of interns (2020) have not completed their required clinical training and unless the same is completed, they would not be eligible for appearing for the PG-NEET exam.
2. The PG-NEET exam for academic year 2021-22 has been delayed, as the eligible candidates (interns) will be completing their training late . Their training is required to be completed at the earliest , so that the PG NEET exam for the Academic year 2021-22 can be held in accordingly.
3. Delay in resuming the training, would have a cascading effect on training of next PG and Super-specialty courses in the coming years.
4. The academic session for the fresh MBBS students' for the AY 2020-21 has already been delayed by 4 months and as the UG counselling has started it is imperative that the new MBBS session should also be initiated at the earliest.
5. Further, it was noted that the students today (would-be doctors tomorrow) should also be familiar with the inherent threats and opportunities in health care system which they would eventually handle themselves . It should not become a missed opportunity for medical students to learn the skills of epidemic management as a public health professional.
6. Delaying re-opening of medical colleges has the potential of a null year for the academic year 2021-22 which could result in non-availability of about 80,000 doctors five years later.

After carefully considering all factors, the Commission recommends the following:

1. Medical colleges across the country must re-open on or before 1st December 2020 for the MBBS students already pursuing their course.
2. The delayed new academic session for 2020-21 should commence from 1st February 2021.
3. The new PG session for the academic year 2020-21 should begin from atleast 1st July 2021 and therefore the PG-NEET exam for the AY 2021-22 would need to be scheduled around March-April 2021.
4. The Commission also noted that hospitals attached to teaching hospitals have been converted to complete COVID hospitals in several states. However, with opening of the medical colleges, and to facilitate UG training, all medical college affiliated hospitals would need to have sufficient number of beds for non-COVID patients and hence facilities for both outpatient and inpatient management for non-COVID patients must be re-started, if not already done.

It is requested that the Central Government may issue necessary directions to all State Governments for re-opening of medical colleges and also making available non-COVID beds in the affiliated medical college hospitals to facilitate undergraduate medical training. The Colleges shall abide with the COVID 19 reopening guidelines issued by the Competent authorities in Central/State/UT Govts. The proposed schedule of medical training commencing on or before 1st December 2020 as approved by the National Medical Commission is annexed.

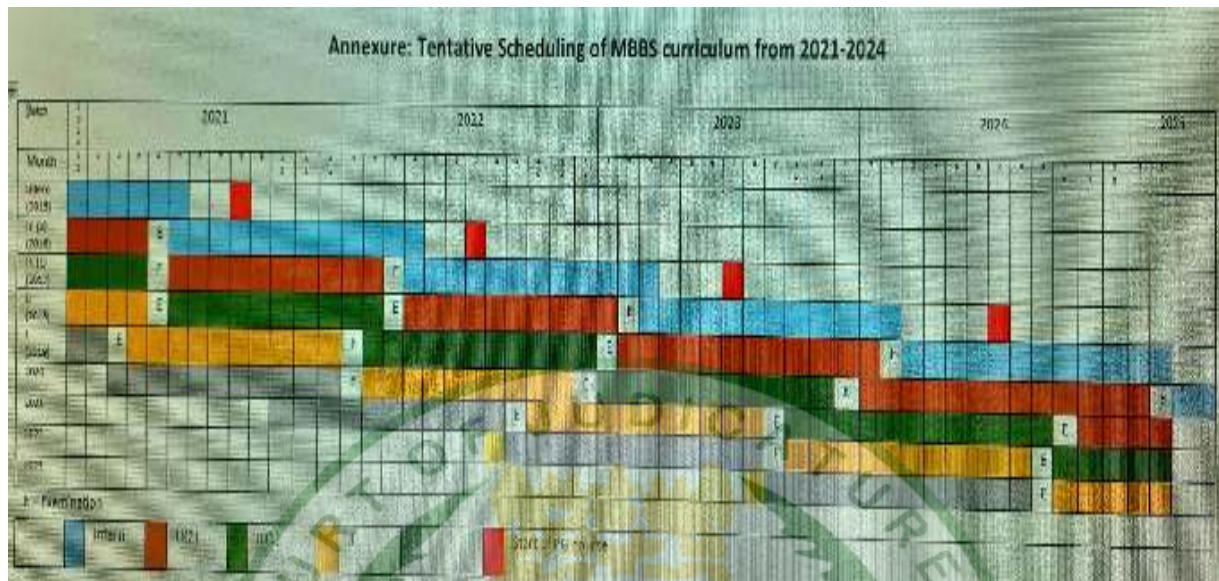
Yours faithfully

(R. K. Vats)

Secretary

NMC"

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11. The learned Standing Counsel further submitted that the Ministry of Health and Family Welfare on the basis of the recommendations made by the National Medical Commission has issued a circular dated 25.11.2020 to all the State Governments giving instructions for the opening of medical colleges and the schedule for completion of courses and conducting the examinations.

12. Mr. Rabu Manohar, learned Senior Central Government standing counsel appearing on behalf of University Grant Commission (UGC) submitted that the UGC has already considered the various representations received from the affected parties and a communication has been issued to the Vice-Chancellors of all universities and Principals of all colleges on 27.05.2020 and has directed the institutions to take into account the extraordinary difficult circumstances and sympathetically consider the payment of the fees including alternative payment options to students till the situation returns to normal. The learned standing counsel submitted that there is already an agreement between the concerned institution and the students with regard to the payment of annual fees fixed at Rs. 22.5 lakhs and this fees cannot be reduced and at the best, only alternative payment options can be considered by taking into account the financial constraints faced by the students and parents on a case to case basis.

13. Mr. ARL Sundaresan, learned Senior counsel appearing on behalf of the 7th respondent exhaustively drew the attention of this Court to the various averments made in the counter and additional counter affidavit and explained as to why the fees cannot be scaled down. The learned senior counsel submitted that huge infrastructure facilities have been provided and it has to be maintained irrespective of whether the physical classes are conducted or not. The facilities will have to be maintained only from the fees paid by the students. The institution has taken into consideration the communication given by the UGC as well as the request made by the parents and decided to collect the fees in three installments. This is the maximum extent upto which the institution can accommodate the students and beyond that, the institution itself will breakdown if the fees is not paid by the students. The learned Senior counsel further submitted that the entire theory portions have been completed on-line and the physical classes are gong to commence from December 2020. The period of course will get extended and during this extended period, the practical classes will also be completed and therefore, the students are not going to loose anything and they are going to be provided with all the facilities immediately after the physical classes commences. The learned Senior counsel concluded his arguments by submitting that even as among the petitioners, nearly 11 of the petitioners have not even paid the 40% fees that was directed to be paid by this Court and therefore, the students who can afford to pay the fees, should not take advantage of the situation and keep postponing the payment of the fees. Such an attitude will have an adverse impact on the financial front and it will become impossible for the institution to maintain the infrastructure and facilities.

14. Mr. T.V. Ramanujam, learned Senior counsel appearing on behalf of 6th respondent, apart from reiterating the contentions raised in the counter affidavit, also submitted that the college has an attached hospital, which has to be necessarily maintained only through the fees paid by the students. The learned Senior counsel further submitted that the institution also incurred emergency expenses and additional costs during this pandemic period for setting up of COVID-19 vaccine center, creating on-line medical facility etc. Therefore, the learned Senior counsel submitted that there is no question of reduction of any fees and none of the institutions across India have reduced the tuition fees during this academic year.

15. The learned Senior counsel further submitted that the physical classes are going to be commenced during December 2020 and the duration of the course is going to get extended and for this extended period, the institution is not going to charge any extra fees and the students are going to be provided with all the facilities after the physical classes are started. Any reduction in the tuition fees will set a very bad precedent and the institution will be put to untold hardship.

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

17. The entire world is going through a very extraordinary situation caused by the COVID-19 virus, which has been declared as a pandemic. Every Country, Governments and institutions are trying to find ways and means to manage the situation and survive during these difficult times, until the normalcy is restored. In the normal circumstances, this Court would not have spent so much time on the issue of payment of fees, since it is a matter exclusively within the domain of the academic bodies. This Court is not an expert to determine the fees or to fix the mode of payment of fees and those are issues, which are beyond the jurisdiction of this Court under Article 226 of Constitution of India. However, the pandemic situation has virtually expanded the scope of exercise of the jurisdiction under Article 226 of the Constitution of India and the Courts are also trying to pitch-in and find ways and means to help the litigants during this difficult period. This Court has in fact issued various directions with regard to payment of tuition fees to the self-financing schools and other private institutions. These types of directions under normal circumstances is unthinkable but however extraordinary situations requires out of box thinking and hence, this Court to meet the situation is forced to go that extra yard and grant the reliefs.

18. The present case cannot in a strict sense be considered as an adversarial litigation. This Court is not trying to find which party is right and which party is wrong. This litigation is more in the nature of finding a solution to get over an extraordinary situation that has been created by this pandemic. That is the reason why this Court even ventured to pass an interim order on 28.09.2020, directing the payment of the fees in installments and further directing the payment of 1st installment of 40% out of the total tuition fees.

19. A sum of Rs.22.5 lakhs has been agreed to be paid towards tuition fees every year and the same has been paid without fail by the students until this academic year 2020-21. The petitioners are seeking for reduction of tuition fees more on the ground that only on-line classes have been conducted from April 2020 till date and there were no physical classes and the students have not undergone the practical training during the entire year. The further ground raised is that except for the on-line classes, there were no other facilities provided to the students and therefore, the fees must be scaled down.

20. A careful reading of the counter affidavit filed by the institution shows that there are so many heads mentioned in the counter affidavit, which involves maintenance irrespective of whether it is put to use or not. The institution has to necessarily maintain the facilities and infrastructure even though the physical classes did not take place. Admittedly, there were on-line classes and the teaching faculty and also the non-teaching staffs will have to be paid their salary even in the absence of the physical classes. That apart, on the directions given by this Court, the learned standing counsel appearing for the National Medical Commission received written instructions to the effect that the course period will get extended by 3 months across the board. This only means that after the physical classes are commenced during December 2020, the students are going to get an extended period of 3 months in order to complete the practicals and their main exams and the institution has to accommodate the students for this extended period also and for which, the institution is not going to charge any fees. Immediately after the commencement of the physical classes, the students are going to get all the facilities even during the extended period.

21. Therefore, taking into consideration the over all facts and circumstances of this case, this Court does not find any ground to direct the institution to reduce the tuition fees from Rs. 22.5 lakhs. Even though, the situation is extraordinary, that does not mean that this Court can exceed its limits and give directions which are not sustainable in the eye of law. Therefore, this Court does not find any scope for the reduction of the tuition fees payable by the students.

22. The only other issue that requires consideration of this Court is with regard to the installments proposed by the respondent institution and as to whether, any further period must be extended for the payment of the installments. This

exercise cannot be done with mathematical precision and it obviously involves some guess work, considering the extraordinary situation that is prevailing due to the pandemic. There are many who have lost their jobs, there are many whose business has come to a standstill, there are professionals who are struggling even to maintain themselves and there is another section, who are receiving only half the salary every month. These are only illustrations and there are many who are facing untold hardships due to lack of income. This Court cannot turn a blind eye to the hardships faced by the institutions, which are dependent only on the fees collected from the students in order to maintain the facilities and infrastructure and pay the salaries of the teaching and non-teaching staffs. Therefore, at the best, this Court can only do a balancing act by safeguarding the interest of both the students as well as the institutions.

23. In view of the above, this Court is inclined to issue the following directions:

- a. The pattern of installments suggested by the institution viz., 1st installment of 40%, 2nd installment of 30% and 3rd installment of 30%, is found to be reasonable and the fees can be collected accordingly.
- b. For all those students, who can afford to pay the entire tuition fees, they are directed to pay the entire fees on or before 31.12.2020, if not already paid.
- c. All those students whose representations have been considered by the institution and permitted to pay the tuition fees in installments, shall pay the 1st installment of 40% on or before 15.12.2020, without fail.
- d. In so far as the 2nd installment of 30% fees is concerned, the same shall be paid on or before 04.01.2021.
- e. The balance 30% of the fees shall be paid on or before 08.02.2021.
- f. The time granted by this Court for the payment of fees in installments will not be extended under any circumstances. No leverage is granted by

this Court since the time extended by this Court by itself amounts to stretching the limits from the angle of the institution and

g. In the event of non-payment of fees as per the directions issued by this Court, it is left open to the institution to proceed further in accordance with law.

24. All the writ petitions stands disposed of with the above directions. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CJ CONF)

//True Copy//

Sub Assistant Registrar

rka

To

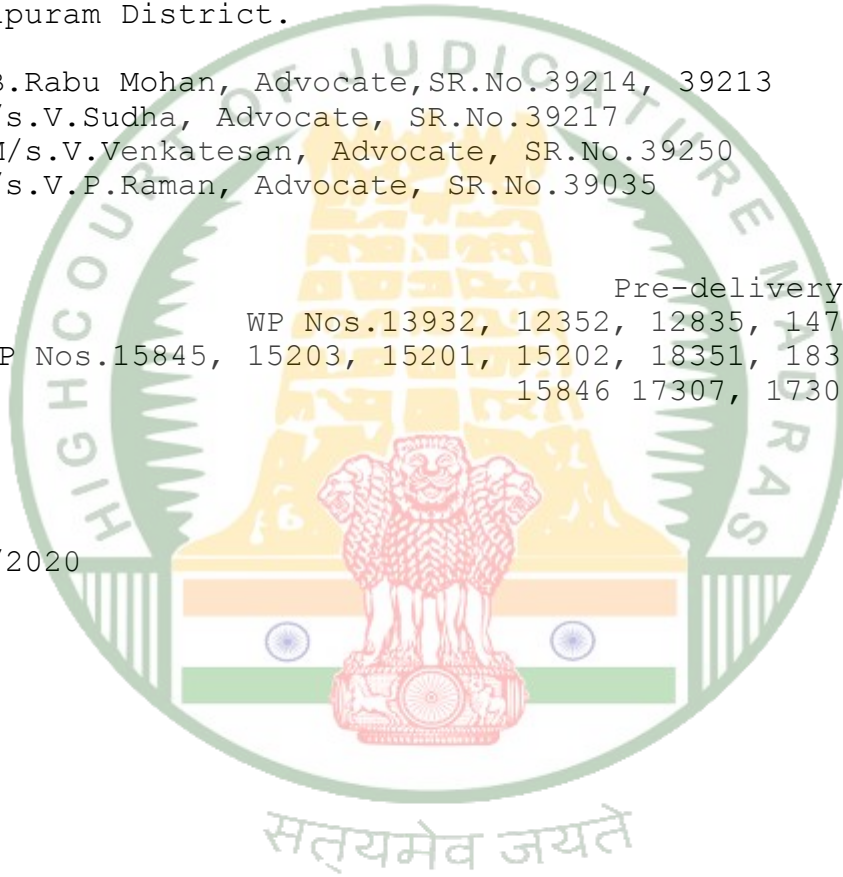
1. The Secretary to Government ,
Union of India,
Ministry of Home Affairs,
Jai Singh Marg, Hanuman Road area,
Connaught place,
New delhi - 110 001.
2. The Secretary to Government,
Union of India,
Department of Human Resource and development,
New Delhi
3. The Chairman Bhahadur,
University Grant Commission,
Sha Zafar Marg, New Delhi
110 002.
4. National Medical Commission,
Medical Council of India,
Pocket 14, Sector - 8, Dwarka,
Phase, New Delhi - 110 077.
5. Chief Secretary to Government,
The Office of Revenue and Disaster Management Department
(Disaster Management Wing, DM II Section),
Fort St. George, Chennai 600 009.

6. The Registrar,
SRM Institute of Science and Technology
(Deemed to be University u/s.3 of UGC Act, 1956)
SRM Nagar, Potheri,
Kattankulathur,
603 203.
Kanchipuram District.
7. SRM Medical College Hospital and Research Centre,
The Dean SRM Nagar, Potheri,
Kattankulathur,
603 203.
Kanchipuram District.

+2ccs to B.Rabu Mohan, Advocate, SR.No.39214, 39213
+1cc to M/s.V.Sudha, Advocate, SR.No.39217
+2ccs to M/s.V.Venkatesan, Advocate, SR.No.39250
+1cc to M/s.V.P.Raman, Advocate, SR.No.39035

Pre-delivery Order in
WP Nos.13932, 12352, 12835, 14772 of 2020
and WMP Nos.15845, 15203, 15201, 15202, 18351, 18352, 18350,
15846 17307, 17308 of 2020

JP (CO)
KKV/22/12/2020



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