IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on : 04-02-2020

Order pronounced on : 04-06-2020

CORAM :

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Writ Petition No. 18117 of 2019
and
W.M.P. No. 17486 and 17488 of 2019
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The Central Law College
Represented by its Principal
Ms. Begum Fathima
Yercaud Main Road
Kannankurichi Post
Salem – 636 008 ... Petitioner

Versus

Committee on Fixation of Fee in respect of
Self-Financing Law Colleges
Rep. by its Special Officer
F-1, DOTE Staff Quarters
Gandhi Mandapam Road
Chennai – 600 025 ... Respondent

Petition filed under Article 226 of The Constitution of India praying for issuing a Writ of Certiorarified Mandamus to call for the records leading to the impugned order dated 28.05.2019 passed by the respondent in PROC.NO.CFF/ Law/The Central Law college/Fees/054/2019 and quash the same and consequently direct the respondent to fix a sum of Rs.1,03,000/- as the fee for the academic year 2019-2020, 2020-2021 and 2021-2022, for both five year B.A., L.L.B., Integrated Degree Course and three year L.L.B. Degree based course.

For Petitioner : Mr. Ar.L. Sundaresan, Senior Advocate for Mr. S. Prem Auxilian Raj

For Respondent : Ms. Narmada Sampath, Additional Advocate General V assisted by Mr. V. Kadhirvelu, Special Govt. Pleader

ORDER

R. SUBBIAH, J

The petitioner - Central Law College through its Principal, Salem, has come forward with this writ petition to quash the order dated 28.05.2019 passed by the respondent thereby fixing a sum of Rs.65,000/- as fee for the academic year 2019-2020, 2020-2021 and 2021-2022 for both five year B.A.L.L.B., Integrated Course and three year L.L.B. Degree course conducted by them and consequently to direct the respondent to fix a sum of Rs.1,03,000/- as fee for the said academic years.

2. The petitioner college was established in the year 1984 and it has got permanent affiliation from the University of Madras for conducting two courses namely Five years B.A. L.L.B., Integrated Degree Course and Three Year L.L.B. Course. Subsequently, after establishment of Tamil Nadu Dr. Ambedkar Law University, the petitioner got affiliated with the said University. It is stated that the petitioner institution is a self-financing un-aided private institution and it is functioning strictly as a non-capitation college without accepting any voluntary donation from the students. According to the petitioner institution, the students are admitted in their college only on merits. For the academic year 2018-2019, the petitioner institution fixed the fee of Rs.85,000/- per annum and a one time refundable caution deposit of Rs.10,000/- for the entire B.L. Degree course for both the three year and five year course. The petitioner college also had upgraded the infrastructural facilities during the year 2015 to a hi-tech level on par with the advanced law schools and the management of the college appointed a committee to fix the fees for the college consisting of a former High Court Judge of this Court, a former Vice-Chancellor of Tamil Nadu Dr. B.R. Ambedkar Law University, former Judge and Director of Tamil Nadu State Judicial Academy and a reputed Chartered Accountant in consonance with the Judgments passed by the Honourable Supreme Court. The said Committee visited the college and after personal inspection of the infrastructural facilities available at the petitioner's college and taking into account all economic factors, suggested an annual fee of Rs.77,000/- for the academic year 2015-2016 and a nominal revision for the subsequent years. The said committee again revised the fee for the academic year 2019-2020 to Rs.1,03,000/- per annum for both B.A., L.L.B. and L.L.B., degree course. While so, by the order dated 28.05.2019, the respondent committee, without taking note of various financial implications involved in running the petitioner institution, particularly the future increase in the cost of living, has directed it to fix the fee at Rs.65,000/- per annum,

both for the three year and five year courses. Challenging the same, the petitioner institution has come up with this writ petition.

3. Mr. Ar.L. Sundaresan, learned Senior counsel appearing for the petitioner institution would contend that to impart legal education to the students on par with leading law schools in the country, the petitioner institution has provided hi-tech infrastructural amenities, libraries besides appointed highly qualified teaching faculties. Further, the petitioner institution is bound to maintain the infrastructural amenities, pay salary to the teaching faculties and meet other expenses to run the institution. However, the fee fixation committee, without considering the same has directed the petitioner institution to collect only a sum of Rs.65,000/- per annum from the students towards tuition fees and other charges, which is grossly insufficient to run the institution by the petitioner. In fact, the petitioner institution itself has constituted a committee to fix the fee for the college. The committee consisted of a retired Judge of this Court, a former Vice-Chancellor of the Tamil Nadu Dr. Ambedkar Law University, former Judge and Director of the Tamil Nadu State Judicial Academy and a reputed Chartered Accountant as per the dictum laid down by the Honourable Supreme Court in various Judgments including the off quoted decision in P.A. Inamdar case. The Committee after personal inspection of the infrastructural amenities made in the petitioner institution and taking note of various other factors, suggested that an annual fee of Rs.77,000/- for the academic year 2015-2016 would be a fair fee to be collected from the students with nominal revision for the subsequent years. The said committee has once again revised the fee for the academic year 2019-2020 to Rs.1,03,000/- per annum for both B.A. L.L.B., and L.L.B., Degree course. While so, the respondent, fixed a sum of Rs.65,000/- as fee to be collected for the academic year 2019-2020. The learned Senior counsel for the petitioner also invited our attention to the fact that the Chairman and the Secretary of the petitioner institution appeared before the respondent committee and produced all the relevant records certified by a Chartered Accountant to show the reasonable expenses required to be incurred by the petitioner institution, particularly the capital expenditure for the future growth of the institution. It was particularly demonstrated before the respondent the need to maintain the infrastructural and other amenities provided by the petitioner institution, the rise in cost of living and the salary payable to the staff and faculties in the future, future plans proposed by the petitioner institution for betterment of the institution etc., At the time of the personal hearing, a statement of expenditure prepared by the Chartered Accountant has been handed over to the committee, however, without considering any of the aspects, the committee

has directed the petitioner institution to collect a total sum of Rs.65,000/- per annum from the student.

4. The learned Senior counsel appearing for the petitioner placed reliance on the decision of the Honourable Supreme Court in the off-quoted T.M.A. Pai Foundation case and contended that before fixation of the fee to be collected from the students, the need to generate funds to be utilized for the betterment and growth of the educational institution as well as education in that institution and facilities necessary to be provided for the benefit of the students and the expenses related thereto have to be taken into account. It was also held therein that more amenities will ensure better students to seek admission in that institution. Further, providing good amenities to the students in the form of competent teaching faculty and other infrastructure costs money and therefore, economic forces have a role to play. Thus, according to the learned Senior counsel for the petitioner, there can be a reasonable surplus which may be generated by the educational institution for the purpose of development and expansion of the institution however was not taken note of by the respondent while fixing the fee to be collected by the petitioner institution. The learned Senior counsel for the petitioner therefore prayed for allowing this writ petition and to permit the petitioner institution to collect a sum of Rs.1,03,000/- per annum from the students so as to ensure that the petitioner institution continues to maintain the amenities provided to the students pursing law degree in their institution.

5. Per contra, the learned Additional Advocate General appearing for the respondent would contend that the proposals submitted by the petitioner institution on 21.05.2019 were duly considered by the respondent based on the 20 major heads namely salaries and allowances including provident fund to teaching and non-teaching staff, welfare expenses, electricity charges, telephone expenses, postage and internet, equipment purchase, books and periodicals, printing and stationary, consumable, Research and Development, University affiliation fees, expenses towards conducting sports, meetings, functions, awards, scholarship, repairs and maintenance, depreciation, advertisement and miscellaneous expenses. In this regard, the income and expenditure statement submitted by the petitioner institution has been verified. Even though the petitioner institution requested the respondent to fix a sum of Rs.1,03,000/- as fee payable by the student per year, the committee declined to fix such a huge sum. The respondent/committee specifically concluded that the expenditure towards capital expenditure cannot be passed on to the students as it will have a bearing on the interest of the students pursuing the course. The respondent-committee has also duly

taken into account all the expenditure claimed by the petitioner institution except depreciation and arrived at a sum of Rs.65,000/- as reasonable fee payable by the student per year. Apart from this amount, the petitioner institution was also permitted to collect a sum of Rs.5,000/- per student as development fee. That apart, another sum of Rs.5,000/- was also permitted to be collected as a refundable one time caution deposit at the time of admission, which has to be subsequently refunded to the student at the time of leaving the institution. Thus, the fee fixed by the respondent cannot be said to be arbitrary and it was only in the interest and welfare of the institution as well as the students pursuing the course. The fee has been fixed by the respondent based on the facts and figures submitted by the petitioner college. The respondent committee has taken into account several factors before passing the order directing the petitioner institution to collect a sum of Rs.65,000/- as fee per year and such an order does not call for any interference by this Court. The learned Additional Advocate General therefore prayed for confirmation of the order passed by the respondent committee and to dismiss the writ petition.

6. We have heard the counsel for both sides and perused the materials placed on record. The learned Senior counsel appearing for the petitioner institution would vehemently contend that the sum of Rs.65,000/- fixed by the respondent as fee to be collected from a student for a year is grossly insufficient for the petitioner institution to run the show besides it is not befitting the infrastructure and other amenities provided by the petitioner institution. The fee fixed by the respondent has caused serious prejudice to the petitioner institution. The learned Senior counsel for the petitioner would further contend that the future growth and expansion plans submitted by the petitioner institution have been grossly ignored by the respondent while passing the impugned order and therefore he prayed for allowing the writ petition.

7. Before considering the rival submission, it is relevant to look into the constitution Bench decision of the Honourable Supreme Court in P.A. Inamdar and others vs. State of Maharashtra and others reported in AIR 2005 Supreme Court 3226. Useful reference can be made to the said decision which reads as follows:-

> "58. It is submitted that if the scheme as evolved in Islamic Academy of setting up of permanent Committees is not allowed, education which is already commercialized to some extent would be wholly inaccessible to students coming from middle classes, lower middle classes and poor sections of the society. To provide access to professional education even to weaker sections of the society in fifty percent quota of

seats to be filled up by the government, the reservation policy of the government has been applied. The fifth-five percent quota between government and management fixed by the government has been changed to twenty five-seventy five per cent by the Court. Similarly, the Court has struck down Regulation 11 framed by the State on the ground that the State cannot foist fee of students on the institution and it would be left to the management to make provisions for poor sections of the society through free-ships or scholarships.

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63. It is submitted that regulation of non-minority unaided professional institution is permissible under Article 19 (6) of the Constitution to prevent profiteering, levy of capitation fees and selection of non-meritorious candidates. Such regulation also does not violate right of minority professional institutions under Article 30, which this Court has repeatedly held, is not an absolute right but is merely a protection extended to minorities against oppression by the majority.

146. However, we would like to sound a note of caution to such committees. The learned counsel appearing for the petitioners have severely criticized the functioning of some of the Committees so constituted. It was pointed out by citing concrete examples that some of the committees have indulged in assuming such powers and performing such functions as were never given or intended to be given to them by Islamic Academy. Certain decisions of some of the Committees were subjected to serious criticism by pointing out that the fee structure approved by them was abysmally low which has rendered the functioning of the institutions almost impossible or made the institutions run into losses. In some of the institutions, the teachers have left their job and migrated to other institutions as it was not possible for the management to retain talented and highly qualified teachers against the salary permitted by the Committees. Retired High Court Judges heading the Committees are assisted by experts in accounts and management. They also have the benefit of hearing the contending parties. We expect the Committees, so long as they remain functional, to be more sensitive and to act rationally and reasonably with due regard for realities. They should refrain from generalizing fee structures and, where needed, should go into accounts, schemes, plans and budgets of an individual institution for the purpose of finding out what would be an ideal and reasonable fee structure for that institution."

8. In the light of the above decision of the Honourable Supreme Court, the decision taken by the respondent fixing the fee receivable by the petitioner institution has to be examined. The object of constitution of the fee fixation committee is to ensure that self-financed unaided private educational institutions should not indulge in a profit-spree thereby depriving deserving poor students access to the system of education. The committee should act as a watch guard and ensure that appropriate fee is fixed to be received by the educational institution. At the same time, imposing stringent restriction in the matter of receipt of fee would also result in loss and eventual closure of the educational institutions which may not be the object with which the fee fixation committees have been constituted. Therefore, a balance has to be struck by taking into account all appropriate and reasonable expenses that may be incurred by the educational institutions and thereby preventing them from indulging in profiteering.

9. In the present case, the petitioner institution is imparting a professional course - law degree to the students. It is claimed that the petitioner institution has provided hi-tech infrastructural amenities, libraries and efficient teaching faculties to impart quality educational to the students. According to the petitioner, they themselves have constituted a committee and such committee has fixed fee at the rate of Rs.77,000/- as annual fee for the academic year 2015-2016 with a nominal revision for the subsequent years. Based on the fee determined by the committee constituted by the petitioner institution, the petitioner claims that fixing a sum of Rs.1,03,000/- as fee would be appropriate. However, the respondent directed the petitioner institution to collect a sum of Rs.65,000/- per annum as fee, which according to the petitioner institution is grossly insufficient to run the show. We also feel that the sum of Rs.65,000/- fixed by the respondent would not be an appropriate fee for the petitioner to run the institution. In this context, the petitioner, in ground (F) of the affidavit filed in support of the writ petition has furnished the fee structure received by various other Private institutions in the State of Tamil Nadu for U.G. Law Courses per annum. Useful reference can be made to the fee structure and it is re-produced hereunder:-

VIT Chennai	:	Rs.1,50,000/-
Vels School of Law, Chennai	:	Rs.1,50,000/-
Saveetha Law College, Chennai	:	Rs.2,25,000/-
Bharath Institute of Law, Chennai	:	Rs.1,50,000/-
Sastra Law School, Tanjore	:	Rs.1,20,000/-
SRM School of Law, Chennai	:	Rs.1,50,000/-
T.Nadu National Law School, Trichy	:	Rs.1,26,000/-

10. Having regard to the above particulars furnished by the petitioner with respect to the fee structure of the other private institutions, we are of the view that for running a professional institution like the petitioner, fixing fee at the rate of Rs.65,000/- per annum may not serve the purpose. The petitioner institution has to incur expenses for repair and maintenance of the infrastructural amenities, future development, salary payable to the teaching and non-teaching staff etc., It is needless to mention that the salary payable to the teaching faculty has to be re-visited every year with a slight enhancement as per the prevailing cost of living and the salary payable must be akin to the cost of prices prevailing in the market, without which the morale of the teaching and non-teaching staff will be affected in efficient discharge of their duties. Furthermore, there may be a slight increase in the cost of living every year and the cost prevailing in the present year may not be the same the next year. Therefore, taking into account all the above factors, we are of the view that the sum of Rs.65,000/- fixed by the respondent is abysmally low. At the same time, it is seen that fixing a sum of Rs.1,03,000/- as claimed by the petitioner would be on the higher side and therefore, we are of the view that fixing a sum of Rs.85,000/- per annum to be collected by the petitioner institution from the students would meet the ends of justice.

11. In the result, the order passed by the respondent is set aside and the writ petition is allowed. The petitioner institution is permitted to collect a sum of Rs.85,000/- as fee per year from the student for the academic year 2019-2020, 2020-2021 and 2021-2022, for both five year B.A., L.L.B., Integrated Degree Course and three year L.L.B. Degree based course. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Special Officer
Committee on Fixation of Fee in respect of
Self-Financing Law Colleges
F-1, DOTE Staff Quarters
Gandhi Mandapam Road, Chennai – 600 025.

WP No. 18117 of 2019

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srg 14/07/2020