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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.31485 of 2019

and

W.M.P.No.31661 of 2019

E.Chelsia

... Petitioner

-Vs-

1. The Chairman,
Fees Fixation Committee,
Anna University Staff Quarter,
Gandhi Mandapam Road,
Guindy, Chennai - 600 025.

2. The Secretary,
Selection Committee,
Directorate of Medical Examination,
Kilpauk, Chennai - 600 010.

3. The Chairman,
Madha Group of Academic Institutions,
Madha Nagar, Somangalam Road,
Kundrathur, Chennai - 600 069.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to consider and take necessary action on petitioner's representation dated 25.07.2019, 26.08.2019 and 04.10.2019 and direct the third respondent to receive the fees fixed by the Government and admit the petitioner in the MBBS course for the year 2019 and 2020.

For Petitioner	: Mr.R.Narendren
For R1	: Mr.V.Kathirvelu Special Government Pleader
For R2	: Mr.Abdul Saleem
For R3	: Mrs.Rita Chandrasekar for M/s.Aiyar & Dolia



ORDER

This writ petition has been filed for the issue of Writ of Mandamus directing the first and second respondents to consider the representations made by the petitioner and to direct the third respondent to receive the fees fixed by the Committee and admit the petitioner in the MBBS course for the academic year 2019-2020.

2. The case of the petitioner is that she appeared in the Higher Secondary Examination in March 2018 and secured 1053 marks and she also wrote the NEET examination. Since she did not secure enough marks, she decided to again take the examination for the second time in the year 2019. She secured 337 marks out of 720.

3. The petitioner submitted her application for the MBBS/BDS admission during June, 2019 and she appeared for the counselling before the second respondent on 13.07.2019. The petitioner was allotted the third respondent college and she was permitted to join the said college on or before 17.07.2019. The petitioner also paid a sum of Rs.25,000/- to the second respondent which was supposed to be adjusted towards the final fees to be paid to the third respondent college.

4. It is the further case of the petitioner that she went along with her father to the third respondent college to enquire about the fees and she was informed that a sum of Rs.4,75,000/- must be paid by way of Demand Draft and a further sum of Rs.3,00,000/- must be paid by way of cash. The petitioner and her father protested for the same and they informed the third respondent college that they will not pay any fees beyond what was fixed by the Government. It is the further case of the petitioner that a complaint was also given to the second respondent in this regard. The second respondent extended further time to the petitioner to join the third respondent college up to 24.07.2019. According to the petitioner, the third respondent was again demanding for an exorbitant fees. Ultimately the petitioner was constrained to make representations to the first and second respondents. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

5. The learned counsel for the petitioner submitted that the third respondent was illegally demanding for an exorbitant fee and even when a complaint was given to the first and second respondents, the same was not considered and therefore the petitioner was left with no other option but to knock the doors



of this Court and seek for the relief. The learned counsel submitted that the petitioner has now ultimately lost an opportunity to join the MBBS course in spite of getting a seat in the third respondent college during the counselling conducted by the second respondent.

6. The second and third respondents have filed counter affidavit in this case.

7. The second respondent has stated in the counter affidavit as follows:

"7. It is submitted that the petitioner, Ms.Chelsia has attended the counselling for Government Quota seat in Self-Financing Medical Colleges on 13.07.2019 and has been allotted MBBS seat at Madha Medical College & Hospital, Kundrathur, Chennai, on the same day. The father of the petitioner, Mr.J.Eswaran has submitted a representation to the Selection Committee on 17.07.2019 stating he is unable to remit the fees of Rs.8 lakhs demanded by the college authorities and they are able to remit the fee fixed by the Government. Hence, she could not pay the excess amount demanded by the college authorities and of the college authorities permit her to pay the fee as prescribed by the Government, she is willing to pay the amount. If not, to surrender the allotment order to the Government.

8. It is submitted that consequent on this, Ms.Chelsia has met the Secretary Selection Committee on 22.07.2019 and has requested to give extension of time. Accordingly, the date of joining has been extended and she was permitted to join MBBS course at Madha Medical College & Hospital Chennai on or before 24.07.2019.

9. It is submitted that though extension of time was given, the petitioner did not join MBBS course at Madha Medical College. The Clause 10 of the prospectus for admission to MBBS/BDS courses for the academic year 2019-2020 states that, "The candidates who have been allotted seats and failed to join the course with the stipulated time are not eligible to attend the subsequent phase of counselling for the academic year 2019-2020". Therefore, the seats in which the allotted candidates had not joined MBBS course have been filled in the subsequent phase of



counselling by the Selection Committee.

10. It is further submitted that again the petitioner, Ms.Chelsia has requested the Selection Committee in her letter dated 26.07.2019 that she is ready to pay the fee fixed by the Fee Fixation Committee and to issue suitable instruction to that college. Otherwise, she would surrender her MBBS allotment order to the Government.

11. It is further submitted that the petitioner in her representation dated 26.08.2019 has reiterated that as she is unable to pay the amount demanded by the college authorities and willing to pay the fee fixed by the Fee Committee. She has also mentioned that though she has complained the fact to the Secretary, Selection Committee till the time, no action has been taken against that college & no reply has been sent to her. So, she has lost the MBBS seat. Hence, she has requested to take action against that college and give her a chance to another counselling for re-allotment and provide her a MBBS seat in any one of the Self Financing College.

12. It is submitted that the fee for the Medical Colleges are fixed by the Committee on fixation of fee in respect of Self Financing Professional Medical and Dental College. The Selection Committee is entitled to perform the section and admission process of MBBS/BDS courses and other Medical/Para Medical courses only.

13. It is submitted that as per the order pronounced in I.A.No.7 & 8 in W.P.(C).No.760 of 2015 filed by Ashish Ranjan & Ors. "before the Hon'ble Supreme Court of India, the last date up to which students can be admitted/joined against vacancies due to any reason is 31st August". Therefore, the petitioner Ms.E.Chelsia would not be allotted a MBBS seat for the academic year 2019-2020."

8. The second respondent has also filed an additional counter affidavit. The relevant paragraphs are extracted hereunder:

"4. It is submitted that the Management of Madha Medical College has sent a proforma on Fee Fixation, through e-mail to the Selection Committee on 26.11.2019, vide Reference No.LAET/MMCRI/DME/004/2019



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dated 06.11.2019 whereby, they had fixed the Tuition fee for the academic year 2019-2020 as below:

Government quota seats	:	Rs. 4 lakhs
Management quota seats	:	Rs.12.5 lakhs
NRI quota seats	:	Rs.23.5 lakhs

5. It is submitted that but for the above letter, the Management of the 3rd respondent did not produce the proceeding of the Committee on Fixation of Fee in respect of Self Financing Professional Medical and Dental Colleges for the academic year 2019-2020.

6. It is submitted that the fee structure of the 3rd respondent College has not been mentioned in the prospectus for admission to MBBS/BDS courses for the academic year 2019-2020, as the college authorities had submitted the proforma with the required enclosures for inclusion of the name of the college in the seat matrix only on 01.07.2019. Based on this, the name of the college was included in the seat matrix at the verge of counselling."

9. The second respondent has filed one more counter affidavit. The relevant portions are extracted hereunder:

"7. It is submitted that the college authorities are also posting the details of their Colleges in their respective websites for the benefit of the candidates. The representatives of the Medical colleges are readily available in the counselling hall. So, the candidates and their parents are given ample opportunities to enquire the fee structure before choosing their seats at the terminal in the Counselling Hall. The candidates have been instructed by the Selection Committee to contact the College authorities about the fee structure and infrastructure of the Colleges before taking a Seat in any of the Medical/Dental Colleges. The same procedure has been followed by the Selection Committee for all the candidates for the academic year 2019-2020. The Selection committee is solely responsible for the selection and admission of the candidates.

9. It is submitted that the College authorities should also take keen interest in submitting the



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particulars with all required enclosures so that there should not be any lapse on their part. The college authorities are only held responsible for this lapse as the Committee on fixation of fee in respect of Self financing Professional Colleges fixes the fee. Hence, they should have taken necessary steps for fixation of fee in respect of their college before the publication of the prospectus. The college authorities are informed not to claim extra fee. But they claim more fee than prescribed by the Fee Committee, thereby causing mental agony to the candidates and their parents.

10. It is submitted that many candidates are unable to take up the seats due to unaffordable rates demanded by the college. Even though the Selection Committee insists not to get any exorbitant charges from the candidates, the college authorities do not abide the rules."

10. The third respondent has stated in the counter affidavit as follows:

"3. It is a fact that the Petitioner submitted application for MBBS admission 2019 for Government Quota. I state that in the 3rd phase of counselling conducted by the Selection Committee of the Director of Medical Education on 13.07.2019, Madha Medical College was 14 candidates including the petitioner who were to report for joining the college on or before 17.07.2019. The petitioner was one of the candidate with Rank No.10441 and A.R.No.2169. I submit that till 6.00 pm on 17.07.2019, out of 14 candidates, only 9 candidates reported and joined the institution and the remaining students including the petitioner did not join the college.

4. The allegation contained in Para 5 of the affidavit that this respondent demanded a sum of Rs.3.00 lakhs by way of cash apart from sum of Rs.4.75 lakhs towards the fees is wholly incorrect, misconceived and misleading. The deponent herein is in charge of the day to day administration of the affairs of the Medical College. I state and submit that no demand was made to the petitioner's father for payment of Rs.3.00 lakhs by cash. I state that the petitioner was called upon to remit a sum of



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Rs.1.75 lakhs towards hostel fees. Apart from the same, no amount as alleged was demanded from the petitioner. The allegation is per se false and the petitioner is put to strict proof of the same. Further allegation that this Respondent refused to receive only the fees and insisted to pay sum of Rs.3.00 lakhs by way of cash is incorrect and misleading. The allegation to the contra is vague besides being self serving. I submit that by making such false allegations, the petitioner is attempting to malign the name of the Institution.

5. The allegation contained in Para 6 of the affidavit that this Respondent never bothered to hear the petitioner and insisted for payment of Rs.3.00 lakhs in cash apart from the fees is incorrect and the petitioner is put to strict proof of the same.

6. I state that since the petitioner and 8 other candidates did not join the college on or before 17.07.2019, this respondent intimated about the same to the Selection Committee on 19.07.2019. I am given to understand that the Selection Committee filled up the above vacancies by mop up counselling held on 07.08.2019."

11. The third respondent has also filed an additional affidavit. The relevant portions in the additional affidavit is extracted hereunder:

"2. I state that by the order dated 15.03.2019, approval was accorded to this respondent by the Ministry of Health and Family Welfare Department, Government of India for the MBBS Course. On that basis, Contempt Petition No.1957 of 2018 filed by this respondent was closed by this Hon'ble Court.

3. I submit that by the letter dated 16.06.2019, this respondent requested the 1st respondent to fix the fee for the academic year 2019-2020 and the same is pending for consideration. I submit that since the Fee Fixation Committee had not fixed the fees, this respondent collected the fees at the rate of Rs.4.75 lakhs (Rs.4.00 lakhs towards Tuition fees, Rs.50,000/- towards caution deposit and Rs.25,000/- towards



developmental fees) as applicable for Self Financing Medical Colleges by following the fee structure adopted by the other existing Self Financing Medical Colleges.”

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12. The learned counsel appearing on behalf of the second respondent submitted that the third respondent cannot demand any exorbitant fees except the one which is fixed for the course. The learned counsel submitted that the third respondent intimated the second respondent that the tuition fees for the academic year 2019-2020 for Government quota seats is Rs.4,00,000/-. The learned counsel submitted that the third respondent could not have demanded anything more than this fees. It was further submitted that the representatives of the third respondent college were available in the counselling hall and the candidates had an opportunity to discuss with the representative and understand the fees structure. The learned counsel submitted that since the petitioner was finding it difficult to pay the fees, the time was extended. In spite of the extended time, the fees was not paid and ultimately the seat came to be surrendered and it was thereafter filled up during the mop-up counselling. The learned counsel concluded his arguments by submitting that the second respondent has got nothing to do with the fixation of fee and the same is only done by Fee Fixation Committee.

13. The learned counsel appearing on behalf of the third respondent submitted that the third respondent college did not demand anything more than the fee that was fixed by the Government. The learned counsel submitted that the petitioner was not in a position to pay even this fees and ultimately the seat had to be surrendered to the second respondent. The learned counsel submitted that by doing so, the third respondent college is not in anyway benefited and there was no occasion for the third respondent college to demand for exorbitant fees. The learned counsel concluded her arguments by submitting that the petitioner has made baseless allegations against the third respondent college and that the third respondent college has already submitted a representation dated 10.06.2019 before the first respondent requesting the first respondent to fix the fees and since the same was not considered, the third respondent collected fees at the rate of Rs.4,75,000/-. There was nothing illegal in the third respondent fixing this fees and as and when the first respondent fixes the fee the same will be adhered to by the third respondent college.

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



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15. The petitioner is a young girl who was aspiring to become a Doctor. She took the NEET examination in the year 2018 and she was not able to get the seat based on the marks secured by her. She therefore waited for one more year and took the examination again in the year 2019. She was able to get a very decent score and she got the Government Quota. During counselling, she was allotted a seat in the third respondent college.

16. The complaint made by the petitioner is that the third respondent college had demanded an excess fees of Rs.3,00,000/- by way of cash. This amount was refused to be paid by the petitioner and she along with her father were insisting that they will be able to pay only the amount that was informed to them during counselling as Rs.4,75,000/-. Since the third respondent was insisting for the payment, the complaint came to be given to the second respondent on 17.07.2019. It was made clear in his letter that the third respondent was demanding a sum of Rs.3,00,000/- as cash and it was also made clear that if this was insisted, they will not be able to pay the fees and they have to necessarily surrender the seat to the Government. This representation was also received by the second respondent. The second respondent thereafter had extended the time for the payment of the fees up to 24.07.2019. Thereafter since the petitioner did not join, the seat was surrendered to the second respondent and it was filled up during mop up counselling.

17. It is unfortunate that the second respondent at least after receiving the complaint from the father of the petitioner ought to have verified about the same and enquired whether the third respondent had demanded for any excess fees. It is not clear from the affidavits filed by the second respondent as to whether any such enquiry was even conducted. If the second respondent had effectively intervened in the matter, the second respondent could have ensured that the third respondent was only demanding the fees that was mentioned during counselling and nothing more. If the petitioner was not able to pay the fees fixed during the counselling, then it would have been proper for the second respondent to proceed further with the mop up counselling after the seat is surrendered by the third respondent college.

18. In the considered view of this Court, the second respondent completely failed in his duty and as a result of the same, the petitioner has lost an opportunity to join the third respondent college. Of course the third respondent has now taken a stand that no amount was demanded more than what was fixed during counselling. This Court finds it difficult to accept this



stand taken by the third respondent since the petitioner had no axe to grind against the third respondent college and utter a falsehood before this Court. The petitioner had put her heart and soul and took the NEET examination for the second time in the year 2019. Therefore there was no need for the petitioner to lose an opportunity to undergo the MBBS course, if the third respondent had demanded only the fees fixed by the Government during counselling.

19. It is clear from the letter given by the father of the petitioner on 17.07.2019 that the third respondent was demanding extra amount of a sum of Rs.3,00,000/- and he was expressing his helplessness to pay this amount. Therefore out of sheer frustration, he went to the extent of saying that he is surrendering the seat. This would not have happened if not for the apathy shown by the first and second respondents. The future of the petitioner has been spoiled and her dreams have been shattered. It is quite unfortunate that the seat got surrendered and it thereafter got filled up during the mop up counselling.

20. This Court is not in a position to give any positive directions to the respondents to allot a MBBS seat for the academic year 2019-2020 since the Hon'ble Supreme Court has made it very clear that students can be admitted against vacancies only up to 31st of August, under any circumstances.

21. The third respondent claims that they have already approached the first respondent by giving a letter dated 10.06.2019 to fix the fees and the same was not done for the academic year 2019-2020. Therefore, the third respondent on their own had fixed a fees of Rs.4,75,000/-. Till date the first respondent has not taken any decision on the letter submitted by the third respondent college.

22. This Court finds itself in a very helpless situation where this Court is not able to give any substantial relief to the petitioner in spite of finding that the petitioner has been deprived of her right to be admitted in the third respondent college after collecting the fees that was fixed during the counselling. It is rather unfortunate that the second respondent has taken a stand as if the college authorities are not abiding to the rules and they are demanding exorbitant fees from the candidates. It is the duty of the second respondent to identify such colleges and take action against them and ensure that they are not allowed during counselling if they charge exorbitant fees.

23. In view of the above discussions this writ petition is



disposed of with the following directions:

(a) The second respondent is directed to refund the sum of Rs.25,000/- collected from the petitioner forthwith;

(b) The first and second respondents are directed to make an enquiry on the complaint made by the petitioner and her father and if it is found that the third respondent had demanded for exorbitant fees, action shall be taken against the third respondent college in accordance with law. This process shall be completed after affording an opportunity to the third respondent college, within a period of six weeks from the date of receipt of copy of this order;

(c) The second respondent is directed to see if the name of the petitioner can be accommodated during counselling for the academic year 2020-2021, by taking into consideration the marks secured by the petitioner in the NEET examination during 2019-2020. This direction is being given since the petitioner was deprived of a seat to which she was legally entitled to and it was virtually taken away due to the helplessness expressed by the father of the petitioner to pay the exorbitant fees which was allegedly demanded by the third respondent college; and

(d) The first respondent is directed to immediately take up the application filed by the third respondent college and fix the fees for the academic year 2020-2021, after affording an opportunity to the third respondent college. The first and second respondents shall ensure that the third respondent collects only the fee fixed by the Fee Fixation Committee from the students during the academic year 2020-2021. This process shall be completed with a period of four weeks from the date of receipt of a copy of this order.

No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

rsi



To

1. The Chairman,
Fees Fixation Committee,
Anna University Staff Quarter,
Gandhi Mandapam Road,
Guindy, Chennai - 600 025.

2. The Secretary,
Selection Committee,
Directorate of Medical Examination,
Kilpauk, Chennai - 600 010.

3. The Chairman,
Madha Group of Academic Institutions,
Madha Nagar, Somangalam Road,
Kundrathur, Chennai - 600 069.

+1cc to Mr.V.Kadhirvelu, Advocate SR.21291

+1cc to Mr.Abdul Saleem, Advocate SR.21077

W.P.No.31485 of 2019
and
W.M.P.No.31661 of 2019

KJ(CO)
CB(02/07/2020)