

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P.No.32782 of 2019
and
WMP No.33205 of 2019

PSR Lakshmi Bhuvaneswari Preethi

... Petitioner

-Vs-

1. The Dental Council of India,
Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
Opposite to Mata Sundri College for Women,
Mandi House, New Delhi - 110 002.
2. The Registrar,
The Tamil Nadu Dr.M.G.R.Medical University,
No.69, Annasalai,
Guindy, Chennai 600 032.
3. Madha Dental college and Hospital,
Represented by its Principal Kundrathur,
Chennai 600 050.

(R3 impleaded as per order dated 22.01.2020
made in WMP No.1037/2020 in WP No.32782/2019 by PDAJ)

4. RAGAS Dental College and Hospital,
Represented by its Principal,
No.2/102, East Coast Road,
Uthandi.

(R4 impleaded as per order dated 04.02.2020
made in WMP No.35088/2019 in WP No.32782/2019 by PDAJ)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 1st respondent in its letter bearing No.DE-114-Misc-I/2019/4651 dated 18.09.2019 and quash the same as illegal, incompetent and ultravires and consequently direct the 1st respondent to issue No Objection Certificate for migration of

the petitioner from Madha Dental College & Hospital, Chennai to Ragas Dental College and Hospital, Chennai.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.Haja Mohideen Gisthi
for R1.
Mr.D.Ravichander for R2.
Mr.V.Stalin for R4

ORDER

By consent, this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 18.09.2019, informing the petitioner that the request made by her cannot be acceded, in view of the regulations of the Dental Council of India and consequently, the petitioner was not allowed to migrate from the 3rd respondent college to the 4th respondent college.

3. The petitioner joined the B.D.S. Course in the academic year 2014-2015 in the 3rd respondent college. The petitioner was facing regular problems with the college, since, according to the petitioner, the college was demanding an exorbitant amount apart from the actual fees that was fixed for the course. According to the petitioner, the 3rd respondent college had received nearly a sum of Rs.8,00,000/- as donation. Thereafter, even during the 2nd year, the petitioner was asked to pay a sum of Rs.4,25,000/-. Initially, it was not paid. Thereafter, the petitioner was not allowed to write the examination and thereby, the petitioner had no other go except to pay the fees. When the petitioner was about to appear in the 2nd year B.D.S. Examination, it is alleged that the 3rd respondent college once again demanded a sum of Rs.4.25 lakhs for the 3rd year as tuition fees.

4. The petitioner failed in two subjects and she thereafter wrote the arrears examination. Again, the 3rd respondent college demanded a sum of Rs.1,00,000/- (Rs.50,000/- for each subject) for re-appearing in the failed subjects. The petitioner filed a writ petition before this Court and an order was passed by this Court, directing the institution not to collect any fees. The petitioner wrote the examination and cleared the 2nd year. Thereafter, she entered the 3rd year BDS

Course. Once again, there was a problem with regard to the payment of tuition fees. According to the petitioner, the entire fees was paid by the end of the 3rd year examination. The petitioner again encountered a problem for writing the 3rd year examination.

5. In view of the above, the petitioner decided to shift/migrate to the 4th respondent college. The petitioner filed WP No.3572 and 8192 of 2019 before this Court. This Court disposed of the writ petitions by passing the following order on 20.07.2019 :-

2. The petitioner herein is a student of B.D.S course admitted in the 3rd respondent college during the academic year 2014-2015 under the management quota. Since she had some misunderstanding of the management on various issues, she has opted to leave the 3rd respondent's college and join some other college of her choice which offers B.D.S course. Therefore, when she approached the management of the 3rd respondent college to give Transfer Certificate, they refused to give Transfer Certificate without payment of the fees for entire course years. In such circumstances, the petitioner herein has approached this Court for the following relief:-

Permit the petitioner to take up her 3rd year examination as a special case and Mandamus directing the respondent to conduct 3rd year BDS course for the petitioner and direct the respondent to transfer her from the Madha Dental College to the Government Dental College, Chennai.

3. After notice, the learned counsel appearing for the private Dental College who is the 3rd respondent in W.P.No.3572 of 2019 and 5th respondent in W.P.No.8172 of 2019 submitted that, any student who wants to withdraw the course in the middle of the academic year is bound to pay the entire fees liable to be paid for the entire course. If the petitioner pay the fees, they have no objection for giving Transfer Certificate of the petitioner to get admission in any college and to continue her course. When the matter was pending, the petitioner has paid the fees demanded by the college and now the learned counsel appearing for the college states that they have already given No Objection Certificate for the petitioner to get admission in any other Dental College.

4. As far as the Dr.M.G.R. Medical University is

concerned which is the affiliating authority. They have submitted that the petitioner got admitted under the management quota in a private college and therefore she cannot be accommodated in Government college as she has prayed for in the writ petition in W.P.No.8192 of 2019.

5. In this regard the learned counsel for the petitioner was asked to ascertain whether the petitioner can get accommodation in any other private college in the State. For which, the learned counsel for the petitioner after ascertaining from few private Dental Colleges which have seats vacant in the third year B.D.S course, states that those private Dental Colleges are ready to admit the petitioner herein provided that the Dental Council of India approves the migration.

6. The learned counsel for the Dr.MGR Medical University would submit that if the candidate forwards consent letter from transferrer college and the transferee college, they will forward to the Dental Council of India for consideration and approval.

7. In the light of the above procedural aspect and considering the prayer of the petitioner herein, this Court is of the opinion that having obtained Transfer Certificate from Madha Dental College, the petitioner must be accommodated in any private college in Tamil Nadu under the management quota for the vacancy in the third year B.D.S course.

8. In such circumstances, this Court passed the following order:-

If the petitioner submits No Objection Certificate from the transferrer college and the transferee college and request for migration, Dr.M.G.R.Medical University shall consider the request for migration shall forward the same with recommendation to the Dental Council of India within 7 days from the receipt of the request. The Dental Council of India on receipt of the migration application shall process it and pass orders within a period of four weeks in accordance with the regulations of the Dental Council of India.

6. After the above orders were passed, the 4th respondent college gave a No Objection letter dated 05.05.2019 and agreed to admit the petitioner in the 3rd years B.D.S.Course, subject to the approval and No Objection Certificate from the 2nd

respondent university. The 3rd respondent also gave a No Objection Letter based on the above orders passed by this Court and agreed to relieve the petitioner from the institution to enable the petitioner to join the 4th respondent institution. The petitioner was also given a transfer certificate by the 3rd respondent college.

7. Thereafter, the petitioner made a representation to the 2nd respondent university seeking for No Objection Certificate and the same was forwarded to the Dental Council of India, 1st respondent herein. The 1st respondent by the impugned proceedings dated 18.09.2019 informed that the request made by the petitioner for transfer cannot be acceded. Aggrieved by the same, the present writ petition has been filed before this Court.

8. The learned Central Government Standing counsel appearing on behalf of the 1st respondent submitted that as per the Dental Council of India regulations, the migration can be considered from one college to another only in the beginning of the 2nd year B.D.S.Course. Since the petitioner had completed the 3rd year B.D.S and gone into the 4th year, the petitioner is not entitled for transfer. The learned counsel further submitted that only in exceptional cases on extreme compassionate ground, migration can be considered otherwise. The learned counsel submitted that the compassionate ground has also been defined in the regulation and the petitioner does not satisfy the said requirements. The learned counsel therefore submitted that there is no ground to interfere with the impugned proceedings of the 1st respondent and the present writ petition is liable to be dismissed.

9. The learned counsel appearing on behalf of the 2nd respondent submitted that the petitioner has already been given transfer certificate by the 3rd respondent college. The learned counsel further submitted that the 2nd respondent cannot independently take any decision and it has to comply only with the directions given by the Dental Council of India.

10. If this Court strictly goes by the regulations of the Dental Council of India, the petitioner cannot be allowed to migrate to the 4th respondent college. During the pendency of the writ petition, this Court had enquired the petitioner as to whether she is willing to undergo 2nd year course Once again. The learned counsel on instructions submitted that the petitioner has already completed the 2nd year course and has passed in all the subjects. Therefore, the learned counsel submitted that the petitioner is willing to again undergo from the 3rd year of the Course in the 4th respondent college.

11. The learned counsel appearing on behalf of the 4th respondent submitted they have already given a No Objection Certificate for the petitioner to migrate and join the 4th respondent college, in the 3rd year of the Course.

12. After the earlier orders were passed by this Court on 30.07.2019, the petitioner had proceeded further and had got a No objection certificate from the 3rd respondent college and she has also been relieved from the College by giving transfer certificate. The petitioner joined the Course during the academic year 2014-2015 and it is almost five years, since the petitioner is continuing with this Course. The petitioner has been facing repeated problems in the 3rd respondent college. Now the petitioner has also been relieved from the college with the bonafide belief that she can migrate to the 4th respondent college. If she is not allowed to join the 4th respondent college, she will be left in lurch and the course under gone by her will go waste. Precious time spent for the last five years will be set at naught. Therefore, in the interest of justice, this Court has to necessarily interfere with the impugned proceedings of the 1st respondent, taking into consideration the future of the petitioner.

13. In view of the above, the impugned proceedings of the 1st respondent dated 18.09.2019, is hereby quashed. The 1st respondent is directed to give permission to the petitioner to join the 4th respondent college from the 3rd year of the Course, starting from the academic year 2020-2021. Necessary orders shall be passed in this regard by the 1st respondent, within a period of four weeks from the date of receipt of copy of this order. Immediately after the orders are passed, the petitioner is directed to submit the same before the 4th respondent college and thereafter, the 4th respondent college shall admit the petitioner in the 3rd year BDS course. This Judgment should not be taken as a precedent in any other case and these directions are issued taking into consideration the peculiar facts and circumstance of the present case.

14. In the result, this writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

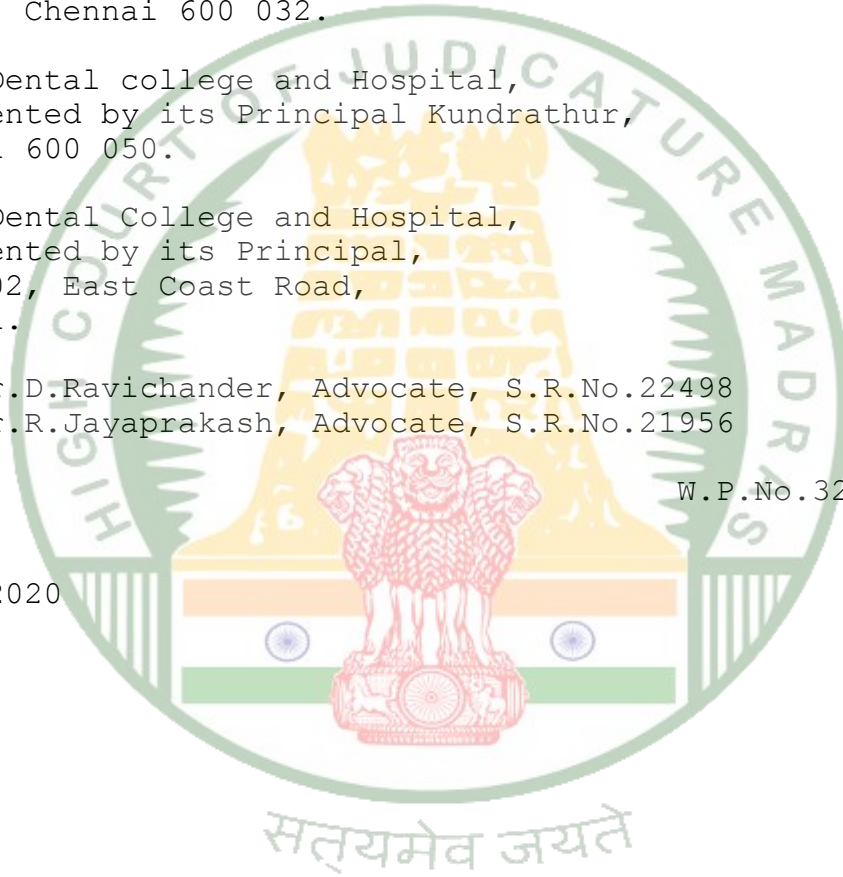
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+1cc to Mr.D.Ravichander, Advocate, S.R.No.22498

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.21956

W.P.No.32782 of 2019

AD(CO)
CS/18/03/2020



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