



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NOS.964, 966, 969 AND 1813 OF 2021

AND

W.M.P.NOS.1047, 1048, 1051, 1052, 1055, 1057, 2026
AND 2027 OF 2021

Sri Venkateshwara Medical College Hospital
and Rresearch Centre,
Represented by its Managing Director,
No.13-A, Pondy-Villupuram Main Road,
Ariyur, Puducherry - 605 102.

... Petitioner in
W.P.No.964 of 2021

Sri Venkateshwara College of Pharmacy,
Represented by its Managing Director,
No.13-A, Pondy-Villupuram Main Road,
Ariyur, Puducherry-605 102.

... Petitioner in
W.P.No.966 of 2021

Sri Venkateshwara Dental College,
Represented by its Managing Director,
No.13-A, Pondy-Villupuram Main Road,
Ariyur, Puducherry - 605 102.

... Petitioner in
W.P.No.969 of 2021

Pondicherry Institute of Medical Sciences,
Represented by its Chairman Mr.M.M.Philip,
Kalapet,
Puducherry - 605 014.

... Petitioner in
W.P.No.1813 of 2021

.Vs.

1. Government of Puducherry,
Represented by its Under Secretary (Health),
Health Department,
Chief Secretariat,
Puducherry.
2. The Fee Committee,
Represented by its Chairman,
Government of Puducherry,
Puducherry.



3. Centralized Admission Committee,
Rep.by Co-ordinator (Admission),
Government of Puducherry,
Pondicherry Engineering College Campus,
Puducherry - 605 014.

... Respondents
in W.P.No.964 of 2021
in W.P.No.966 of 2021
in W.P.No.969 of 2021

1. Government of Puducherry,
Represented by its Under Secretary (Health),
Health Department,
Chief Secretariat,
Puducherry.
2. The Fee Committee,
Represented by its Chairman,
Government of Puducherry,
Puducherry.
3. Centralized Admission Committee,
Rep.by Co-ordinator (Admission),
Government of Puducherry,
Pondicherry Engineering College Campus,
Puducherry-605 014.
4. The National Medical Commission,
Rep.by its Secretary,
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi - 110 077.

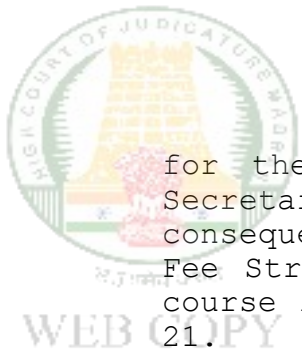
... Respondents in
W.P.No.1813 of 2021

Prayer in W.P.No.964 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in G.O.Ms.No.51 Chief Secretariat (Health) dated 22.12.2020, quash the same and consequently direct the 2nd respondent to issue orders fixing the Fee Structure to be paid by students admitted into the MBBS course in the Petitioner Institution for the Academic year 2020-21.

Prayer in W.P.No.966 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call



for the records of the 1st respondent in G.O.Ms.No.51 Chief Secretariat (Health) dated 22.12.2020, quash the same and consequently direct the 2nd respondent to issue orders fixing the Fee Structure to be paid by students admitted into the B.Pharm course in the Petitioner Institution for the Academic year 2020-21.

Prayer in W.P.No.969 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in G.O.Ms.No.51 Chief Secretariat (Health) dated 22.12.2020, quash the same and consequently direct the 2nd respondent to issue orders fixing the Fee Structure to be paid by students admitted into the BDS course in the Petitioner Institution for the Academic year 2020-21.

Prayer in W.P.No.1813 of 2021:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in G.O.Ms.No.51 Chief Secretariat (Health) dated 22.12.2020, quash the same and consequently direct the 2nd respondent to issue orders fixing the Fee Structure to be paid by students admitted into the MBBS course in the Petitioner Institution for the Academic year 2020-21.

For Petitioner : Mr.Abishek Jenasen
(in All WPs)

For Respondents : Mr.C.T.Ramesh
(in All WPs) Additional Government Pleader
Puduchery
For R1 to R3

(in W.P.No.1813/2021) : Mr.V.P.Raman
Standing Counsel
For R4

COMMON ORDER

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

2. The subject matter of challenge in all these Writ Petitions pertains to the Government Order issued by the



1st respondent in G.O.Ms.No.51, dt.22.12.2020 and for a consequential direction to the 2nd respondent to issue fresh orders fixing the Fee Structure to be paid by the students admitted in the MBBS Course for the academic year 2020-2021.

WEB COPY

3. The Petitioner Institution offers education in the field of medicine at both the under graduation and post graduation level in various specialities. The 2nd respondent is the Fee Committee that was established by the 1st respondent under the provisions of the Pondicherry Private Professional Educational Institutions (Provisions of Reservation, Admission of Students and Fixation of Fees) Regulations, 2006. These regulations were framed pursuant to the judgment of the Hon'ble Supreme Court in Islamic Academy case.

4. In an earlier round of litigation, the matter reached the Division Bench of this Court in W.P.Nos.23732 of 2017 etc., batch and the said batch of writ petitions were disposed of by an order dt.18.07.2019 and it was held that the Institutions cannot resort to discrimination in the fees to be charged between the students admitted against the State Quota and Management Quota.

5. The 2nd respondent Fee Committee had fixed the fees for the academic years 2017-2018, 2018-2019 and 2019-2020. For the academic year 2020-2021, a fresh Fee Structure had to be fixed for those students who are admitted during this academic year. Accordingly, the 1st respondent issued a circular dt.17.07.2020, calling upon the Educational Institutions to submit their proposal for fixation of the Fee Structure. This Fixation of Fees will be for a period of three years starting from the academic year 2020-2021 up to 2022-2023.

6. The Petitioner Institution also submitted their representation along with all the supporting documents and sought for fixation of fee for both Management and Government Quota seats. Thereafter, there was no development in the fixation of fees and the petitioner was also making repeated representations.

7. The 3rd respondent issued the common admission prospectus to undergraduate professional courses for academic year 2020-2021. The 3rd respondent gave a fee structure for the Government Quota Seats and Management Quota Seats and informed that it was only a tentative fee subject to revision. The Petitioner Institution was aggrieved by the fee structure fixed by the 3rd respondent since the 3rd respondent did not have the authority and that the fee structure was yet to be finalised by the 2nd respondent.



WEB COPY

8. After repeated requests, the 3rd respondent called upon a meeting of all the Private Self-Financing Colleges and requested them to submit their fee proposal. The Petitioner Institution also attended the meeting and submitted the proposal and also made it clear that there should be a uniform fees for all seats except the NRI seats.

9. It is at this point of time, the Impugned Government Order was issued wherein it is stated that the Government of Puducherry had decided that the fee fixed during the earlier period in the year 2018, will be extended for the current year also in view of the Covid pandemic. Aggrieved by this Government Order, all these writ petitions have been filed before this Court.

10. The Under Secretary to Government has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

"3.I respectfully submit that, the Fee Committee meeting was held on 04.12.2020 under the Chairmanship of Hon'ble Justice N.Authinathan (Retd.) Chairman, Fee Committee to discuss revision and fixation of fee structures for MBBS/BDS/B.Pharm courses. It was noticed by the petitioner in the meeting that a judgment dated 18.07.2019 rendered by a Division Bench of the Hon'ble High Court, madras in N.Naga Harihara Sudan Vs. the Secretary to Government (Health), Puducherry in the matter of fixation of fees in which decision was rendered. The relevant portion of the judgment having a direct bearing on the fixation of fee structure is as follows:

"70. Fees that can be approved by the Fees Committee and charged by the Colleges/Institution and notified by the Government have to be:

(a) A reasonable fee without profit motive while taking care of their reasonable requirement to meet the Administrative expenses and infrastructural need and future development.

(b) Without any discrimination between the candidates/students joining under the State Government quota and Management quota".

4. I most respectfully submit that, the Committee in its Proceeding dated 04.12.2020 has stated as follows:



WEB COPY

To fix fee separately for management quota and State quota is manifestly in conflict with the judgment of the Hon'ble High Court which does not provide for separate fee structure for management quota and State quota. It has also been expressed quite explicitly in the said judgment that, there should be no discrimination between the two categories of students in fixation of fee structure. In other words, a uniform fee structure would appear to have been contemplated for the two categories of students. This portion has to be clarified by the Government so as to enable the Committee to proceed further in the matter. Until the Government clarifies the issues, the exercise of the fixation could not be undertaken by the Committee.

5.I respectfully submit that the observation of the Committee was discussed with the Hon'ble Lieutenant Governor, the Lieutenant Governor has stated as follows:

"Since the recommendation of the Fee Committee for the current year is awaited and in view of the COVID situation, the fee for the year 2020-21 for Medical and Paramedical courses be fixed on par with that of the academic year 2019-20".

6.I most respectfully submit that, consequent to the direction of the Hon'ble Lieutenant Governor G.O.No.51, dated 22.12.2020 was issued and uploaded in the Government/CENTAC Website so that the student community cannot be left clueless as to the fee payable by them.

7.I respectfully submit that, the Chief Justice of the Hon'ble High Court, Madras, has recommended Thiru. T.Sudanthram Judge (Retd.) as the new Chairman for the Fee Committee. Based on the recommendation, Hon'ble Justice T.Sudanthram, Judge (Retd.), Hon'ble High Court, Madras was appointed as Chairman for the Fee Committee vide G.O.Ms.No.13 dated 07.06.2021, for a period of three years from the date of assumption of charge. The Chairman has assumed charge for fixation/determination of fee structure in unaided private professional College on 16th June 2021. Now the Government of Puducherry has taken action to fix the fee for the MBBS/BDS/Paramedical



Bench of this Court is in force, there can be only one uniform fee structure and the same ought to have been followed during the academic year 2020-2021. On this ground alone, the Impugned Government Order of the 1st respondent is liable to be interfered by this Court.

16. Accordingly, the Impugned Government Order in G.O.Ms.No.51 Chief Secretariat (Health) dated 22.12.2020 is hereby quashed. The Petitioner Institution had already collected the fees from the students in line with the Impugned Government Order. Therefore, as a consequence of quashing the Government Order, a right will enure in favour of the Petitioner Association to collect the difference in fees from the students. However, taking into consideration the interest of the students and also considering the pandemic situation, what ever fees has already been collected by the Petitioner Institution shall remain final and no further fees shall be collected from the students for the academic year 2020-2021, by virtue of quashing the Impugned Government Order. This direction is given by taking into account the interest of the students who have already joined the course during the academic year 2020-2021.

17. In the result, all the writ petitions are allowed with the above directions. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kp

To

1. Under Secretary (Health),
Government of Puducherry,
Health Department,
Chief Secretariat,
Puducherry.
2. The Fee Committee,
Represented by its Chairman,
Government of Puducherry,
Puducherry.



3. Centralized Admission Committee,
Rep.by Co-ordinator (Admission),
Government of Puducherry,
Pondicherry Engineering College Campus,
Puducherry - 605 014.

WEB COPY

4. The National Medical Commission,
Rep.by its Secretary,
Pocket-14, Sector-8,
Dwarka Phase-1,
New Delhi - 110 077.

+2ccs to Mr.Abishek Jenasenan, Advocate, S.R.No.38163

+2ccs to Mr.Abishek Jenasenan, Advocate, S.R.No.38164

+1cc to the Government Pleader for Puducherry, S.R.No.38239

W.P.NOS.964,966, 969
AND 1813 OF 2021

LN(CO)
PBS/26/08/2021