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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 26.03.2021

Order delivered on 05.05.2021

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P.Nos.14388, 7959 & 7778 of 2020
and

WMP Nos.9398, 9399, 9171 & 9172 of 2020

W.P.No.14388 of 2020

1. Dr.D.Rajasree

2. Dr.N.Krithiga Lakshmi

... Petitioners

Vs.

1.The Registrar,
Mahatma Gandhi Medical College & Research Institute,
Pondy Cuddalore Main Road,
Pillayarkuppam,
Puducherry - 607 402.

2.The Dean,
Mahatma Gandhi Medical College & Research Institute,
Pondy Cuddalore Main Road, Pillayarkuppam,
Puducherry - 607 402.

3.The Secretary General,
Board of Governors,
Medical Council of India,
Pocket -14, sector-8, Dwarka Phase-1,
New Delhi - 110 077

4.The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marge,
New Delhi - 110 002.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st and 2nd respondents to pay the overdue monthly stipend amounts immediately to the Petitioners for the whole Academic years 2017-18, 2018-19 and 2019-20 in accordance with Clause No.13.3 of the MCI Post-graduate Medical Education Regulations, 2000.



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For Petitioners : Mr.V.B.R.Menon
For Respondents : Mr.L.Swaminathan
for R1 & R2
Ms.Subharanjani Ananth for R3
Mrs.V.Sudha,
for R4

W.P.No.7959 of 2020

1. Dr.Chilukala Siva Narashimha Reddy
2. Dr.Euvalingam.D
3. Dr.Kamireddy Arun Kumar Reddy
4. Dr.Wadgaonkar Udit Rajendra
5. Dr.Duggirala Pujitha Chowdary
6. Dr.V.Priyadharshini Bala
7. Dr.Mallikarjun N.H
8. Dr.Poluru Thrivikrama Rao
9. Dr.Alpoor Tharun Tej

... Petitioners

Vs.

1.The Dean,
Aarupadai Veedu Medical College and Hospital,
Pondy Cuddalore Main Road,
Kirumampakkam,
Puducherry - 607 402.

2.The Secretary General,
Board of Governors,
Medical Council of India,
Pocket -14, sector-8
Dwarka Phase-1,
New Delhi - 110 077

3.The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marge,
New Delhi - 110 002.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to pay the overdue monthly stipend amounts to the Petitioners for the part of Academic year 2017-18 and for the whole Academic years 2018-19 and 2019-20 in accordance with Clause No.13.3 of the MCI Post-graduate Medical Education Regulations, 2000.



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For Petitioners : Mr.V.B.R.Menon
For Respondents : Mr.L.Swaminathan
for R1
Ms.Subharanjani Ananth for R2
Mrs.V.Sudha,
for R3

W.P.No.7778 of 2020

1. Dr.K.Vinod
2. Dr.M.Harshitha
3. Dr.P.Sudhakar
4. Dr.K.Nandhini
5. Dr.Shyam Kumar
6. Dr.Alagammai.K.
7. Dr.Venkatesh Kumar.P.

... Petitioners

Vs.

1.The Registrar,
Mahatma Gandhi Medical College & Research Institute,
Pondy Cuddalore Main Road,
Pillyarkuppam,
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2.The Secretary General,
Board of Governors,
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Pocket -14, sector-8
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New Delhi - 110 077

3.The Secretary,
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New Delhi - 110 002.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to pay the overdue monthly stipend amounts immediately to the Petitioners for the whole Academic years 2018-19 and 2019-20 in accordance with Clause No.13.3 of the MCI Post-graduate Medical Education Regulations, 2000.



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For Petitioners : Mr.V.B.R.Menon
For Respondents : Mr.L.Swaminathan
for R1
Ms.Subharanjani Ananth for R2
Mrs.V.Sudha,
for R3

COMMON ORDER

These writ petitions have been filed to issue a Writ of Mandamus directing the 1st respondent to pay the overdue monthly stipend amounts to the Petitioners in W.P.No.14388/2020 for the whole Academic years 2017-18, 2018-19 and 2019-20; to the Petitioners in W.P.No.7959/2020 for the part of Academic year 2017-18 and for the whole Academic years 2018-19 and 2019-20 and to the Petitioners in W.P.No.7778/2020 for the whole Academic years 2018-19 and 2019-20, in accordance with Clause No.13.3 of the MCI Post-graduate Medical Education Regulations, 2000.

2.The facts and the issues that are raised in these writ petitions are common to each other and therefore, all these writ petitions are heard and disposed of by a common order as under.

3.The case of the petitioners is that they are 3rd year Post-graduate Medical students and pursuing P.G.Medical Degree Course in the 1st respondent Medical College. The P.G. Medical students are required to work in the hospitals attached to the Medical Colleges and shall be available for 24 x 7 emergency medical duties in the College hospitals. Therefore, they are expected to stay within the College premises and it is a part of the PG Medical Course. Therefore, the PG medical students are provided with monthly stipend equal to the amount paid by State or Central Government Medical Colleges. The petitioners in W.P.No.7778/2020 have received the monthly stipend for the whole academic year 2017-18. Insofar as the petitioners in W.P.No.7959/2020 are concerned, they have received only part of the stipend amount for the academic year 2017-18. There is overdue monthly stipend amount to the Petitioners in all the three writ petitions for the whole Academic years 2018-19 and 2019-20. Therefore, the petitioners have filed these Writ Petitions seeking payment of arrears of stipend amounts due to them from the respondent Medical Colleges in accordance with Clause No.13.3 of the MCI Post-graduate Medical Education Regulations, 2000.

4.In response to the writ petitions, the respondent Medical Colleges have filed the counter affidavits.

a) In the counter affidavit filed by the respondent Medical College in W.P.No.14388 of 2020, it is averred as follows:



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i) The petitioners were admitted based on the interim order granted by the Division Bench of this Court dated 16.06.2017 on the vacant seats on deposit of Rs.10,00,000/- at the time of admission in 2017-2018 towards the annual fee for the first year subject to further condition that in the event the fees determined by the Fee Committee that may be constituted to study the fee structure of the deemed Universities is higher, they shall pay the differential amount. The said order does not stipulate that the students who got admitted in PG Medical Course need to pay only Rs.10,00,000/- for second and third year course.

ii) The respondent Medical College had collected only Rs.10,00,000/- for the second and third year courses as against the notified tuition fees of deemed Universities. The Writ Petitioners, pursuant to the directions of the Division Bench of this Court in W.P.No.14232 of 2017 and W.P.No.8331 of 2020 dated 15.09.2020 have executed individual affidavit of undertaking in favour of the Medical College that they undertake to pay the differential fee which may be fixed by the Fee Committee.

iii) The writ petitioners have affirmed that they have effected tuition fee of Rs.10,00,000/- for the first year (2017-2018), Rs.10,00,000/- for the second year (2018-2019) and Rs.10,00,000/- for the third year (2019-2020) by way of interim arrangement pursuant to the order dated 16.06.2017 made in W.P.No.14232 of 2017 and they have suppressed all these facts in the present writ petitions. The Division Bench of this Court in the order dated 12.06.2020 in W.P.No.11701 of 2018 has stated that W.P.No.14232 of 2017 will be taken up awaiting orders from the Hon'ble Apex Court, since in the pending matters, challenge has been made to the constitution of the Fee Committee. Thus, as the issue of payment of Stipend is having direct relevance to the tuition fees payable by the writ petitioners, the Division Bench of this Court has made it clear that all the other writ petitions are adjourned to be taken up along with W.P.No.14232/2017. Therefore, the present writ petitions cannot be entertained as on date till a decision is taken in W.P.No.14232 of 2017. These facts have been conveniently omitted in the present writ petitions and hence, it has to be dismissed on the sole ground of suppression of facts.

iv) This Court has made it clear while deciding a batch of Writ Petitions along with W.P.No.31921 of 2017 on 7.10.2020 that the payment of tuition fee to the Medical Colleges of the Deemed to be Universities is an issue pending before the Division Bench of this Court and before the Hon'ble Supreme Court in W.P.(Civil) Nos.973/2018, 949/2018 & 1004/2018. As per the common orders of this Hon'ble Court dated 22.04.2019 and 12.06.2020 and as affirmed in the individual affidavit of



undertaking dated 17.9.2020 the writ petitioners have to await the decision of the fee committee for claiming stipend as the writ petitioners have not effected the entire tuition fees inspite of accepting the fees structure at the time of joining the PG Medical Course for the academic year 2017-18 in the respondent Medical college. The Hon'ble Supreme Court by order dated 7.9.2018 had directed the parties to maintain status quo and by order dated 15.04.2019 has made it clear that the recommendations of the fee committee shall however not be implemented till further orders of the Hon'ble Supreme Court. Thus, the claim of the petitioners cannot be adjudicated at this point of time since the entire issue on determination of fees for Medical Colleges of the deemed Universities as subjudiced.

v) The writ petitioners themselves have admitted in para No.4 of the affidavit that rendering services to the hospital attached to the Medical College forms the main part of PG Medical curriculum. Therefore, payment of tuition fees in full for the entire duration of the course becomes mandatory as stipend is also part of the tuition fees, since the Medical Colleges are providing opportunities for the PG Medical students to learn the area of specialization from the hospital attached to the Medical College. The petitioners are aware of the fact that their payment of Rs.10,00,000/- (2017-2018), Rs.10,00,000/- (2018-2019) and Rs.10,00,000/- (2019-2020) was only an interim arrangement, as ordered by this Court, which is subject to the outcome of the final decisions of the Hon'ble Supreme Court. Therefore, the writ petitions had to be dismissed since faults cannot be attributed on the respondent Medical Colleges for the commissions and omissions of the writ petitioners who had not effected the entire tuition fees of their entire PG curriculum.

b) In the counter affidavit filed by the respondent Medical College in W.P.No.7959 of 2020, it is stated as follows:

i) The writ petitioners have approached this Court by suppression of various material facts including the common decision rendered by this Court in W.P.No.4582 of 2018 filed by the same writ petitioners. They are claiming stipend without effecting the entire tuition fees for the academic years 2018-2019 & 2019-2020. Pursuant to the directions of the Hon'ble Division Bench made in W.P.No.14232 of 2017 and W.P.No.8331 of 2020 dated 15.09.2020, the writ petitioners have executed individual affidavit of undertaking in favour of the Medical College and Hospital on 17.09.2020 that they undertake to pay the fee (differential fee) which may be fixed by the fee committee.



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ii) The writ petitioners have effected tuition fee of Rs.20,34,000/- for the 2nd year (2018-2019) and Rs.13,00,000/- for the third year (2019-2020) by way of interim arrangement pursuant to the common order dated 22.04.2019 & 12.06.2020 respectively in W.P.No.4582 of 2018. Thus, the issue of payment of stipend is having direct relevance to the tuition fees payable by the writ petitioners and the present writ petition cannot be entertained as on date till a decision is taken in W.P.No.14232 of 2017.

iii) The petitioners have accepted the fee structure for the entire 3 years of PG Medical Course and have paid the first year tuition fee in full as per the University fee structure and stipend was also paid for the first year and the petitioners knowing fully well that they have not effected the stipulated tuition fees for the academic years 2018-2019 and 2019-2020 for the first time have chosen to claim the payment of stipend for these two academic years through letters dated 21.05.2020. The petitioners are aware of the fact that their payment of Rs.20,34,000/- (2018-2019) and Rs.13,00,000/- (2019-2020) was only an interim arrangement ordered by this Court which is subject to the outcome of the final decisions of the Hon'ble Supreme Court. Moreover, the first petitioner had not effected Rs.13,00,000/- as ordered by this Court.

iv) The issue of payment of stipend for the petitioners who have not effected the full tuition fees notified by Vinayaka Missions Research Foundation - Deemed to be University for the academic year 2018-2019 and 2019-2020 cannot be entertained till the outcome of the connected writ petitions and the recommendations of the fee committee.

c) In the counter affidavit filed by the respondent Medical College in W.P.No.7778 of 2020, it is stated as follows:

i) The writ petitioners have not effected the entire tuition fees for the academic years 2018-2019 & 2019-2020 as prescribed by Sri Balaji Vidyapeeth, Deemed to be University and claiming stipend for the second and third academic years, contrary to the decisions of this Court, cannot be entertained.

ii) The petitioners have executed individual affidavit of undertaking in favour of Mahatma Gandhi Medical College and Research Institute on 17.09.2020 and 18.09.2020 that they undertake to pay the differential fee which may be fixed by the fee committee, pursuant to the directions of the Division Bench made in W.P.No.14232 of 2017 and W.P.No.8331 of 2020. The petitioners have effected tuition fee of Rs.20,34,000/- for the second year (2018-2019) and Rs.13,00,000/- for the third year (2019-2020) by way of interim arrangement pursuant to the common



order dated 22.4.2019 and 12.06.2020 respectively in W.P.No.11701/2018.

iii) The payment of tuition fee to the Medical Colleges of the Deemed to be Universities is an issue pending before the Division Bench of this Court and the Hon'ble Supreme Court in W.P.(C)Nos.973/2018, 949/2018 & 1004/2018. The petitioners have to await the decisions of the fee committee for claiming stipend as the petitioners have not effected the entire tuition fees inspite of accepting the fee structure at the time of joining PG Medical Course for the academic year 2017-2018 in the respondent college. The petitioners have accepted the fee structure for the entire 3 years of PG Medical Course and have paid the first year tuition fee in full as per the University fee structure and stipend was also paid for the first year to these petitioners. After completing the entire 3 years duration of their course, they were aware of the fact that their payment of Rs.20,34,000/- (2018-2019) and Rs.13,00,000/-(2019-2020) was only an interim arrangement as ordered by this Court which is subject to the outcome of final decision of the Hon'ble Supreme Court and to the recommendations of the Fee Committee. Hence, the writ petition has to be dismissed.

d) Common Additional Counter affidavits have been filed by the respondent Medical Colleges wherein it is stated as follows:

The Division Bench has passed a common order in W.P.No.14232 of 217 and W.P.No.8331 of 2020 on 11.01.2021. Pursuant to the common order dated 11.01.2021, the Mahatma Gandhi Medical College and Research Institute had preferred Special Leave Petition before the Hon'ble Supreme Court of India under S.L.P. (C).Nos.1935, 1936, 1918 and 1919 of 2021 and the Hon'ble Supreme Court was pleased to issue notice returnable by 15.04.2021 and granted an order of stay of further proceedings of the directions contained in para 69(i), (ii) and (iv) of the impugned judgment of the High Court dated 11.01.2021. Paragraphs 69(i), (ii) and (iv) of the said judgment reads as follows:

69. In the result, the writ petitions are disposed of with the following directions:-

(i) The Puducherry Fee Committee shall fix the fee for the respondent /Deemed to be Universities for the Post Graduate Medical and Dental courses from the academic year 2017-18 onwards till 2020-21.

(ii) The fixation shall be an ad-hoc fixation and shall abide by the fixation to be done under the UGC Regulations which is in the process of



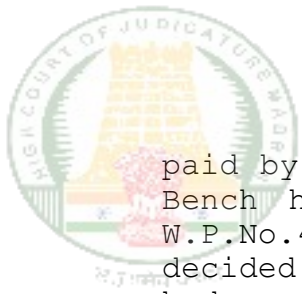
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finalization subject to the approval and orders of the Hon'ble Supreme Court in W.P.(C) No.949 of 2018 pending before the Hon'ble Supreme Court wherein, an order has been passed on 15.04.2019 and while directing the UGC Committee to determine the fee structure, direction has been issued not to implement the same until further orders of the Hon'ble Supreme Court;

iv) Upon fixation of the fee by the Puducherry Fee Committee, the adjustment, i.e., making good and deficit or granting refund, shall be carried out in terms of the directions issued in paragraph 2e of the order dated 16.06.2017. No costs.

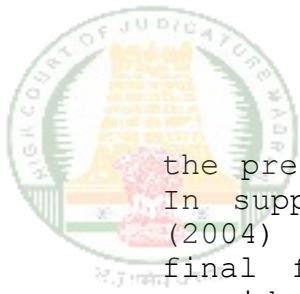
5. Mr.V.B.R.Menon, learned counsel for the petitioners would submit that the prayers of the petitioners seeking payment of the statutory stipend amounts due to them by the respondent Medical Colleges are in no way connected to W.P.(C).No.949 of 2018 and S.L.P.(C).No.1935-1936 of 2021. The only dispute in the above cases are about the jurisdiction of the UGC Fee Committee and the Puducherry Fee Committee respectively to determine the Annual fees of PG Medical Courses for the respondent Colleges. The Hon'ble Apex Court has upheld the order of the First Bench on 16.06.2017 to constitute the UGC Fee Committee vide judgment dated 16.04.2018 in SLP(C).No.19315 of 2018 and has not set aside the judgment dated 11.01.2021 passed by the subsequent Division Bench except staying the proceedings by the Puducherry Fee Committee. Learned counsel would further submit that the respondent Colleges have already collected fees from the petitioners far in excess to the fee amounts approved by the Puducherry Fee Committee for other affiliated private Medical colleges in Puducherry. Hence, the respondent Colleges will have to refund to the petitioners, the excess amounts already collected from them towards fees over and above the final fee amounts which are yet to be decided by UGC Fee Committee or Puducherry Fee Committee.

6. Learned counsel for the petitioners further submitted that the statutory stipend amounts cannot be withheld. Stipend amounts are basically subsistence amounts paid to meet the essential expenses of the petitioners similar to pension etc. and denial of the same shall be violative of the right to life guaranteed under Article 21 of the Constitution of India. The respondent Colleges have no legal right to withhold the statutory stipend amounts due to the petitioners especially, when no amounts have been lawfully determined as due from the petitioners as on date. The petitioners have also executed bonds to meet the unlikely event of the proposed fee committee determining the fee amount in excess of what has already been



paid by the petitioners to the respondent Colleges. The Division Bench had made it clear in the Judgment dated 12.06.2020 in W.P.No.4582 and 11701 of 2018 that the writ petitions shall be decided independent of the fee dispute because the petitioners had agreed and paid Rs.13 lakhs each to write the final examinations in July 2020 and the respondent Colleges were parties to the above decision. The Division Bench was well aware of the pendency of the writ petitions and the fee dispute before the Hon'ble Apex Court, while passing the above final judgment on 12.06.2020. The petitioners are entitled to receive stipend every month for all the three academic years of their PG Medical Courses as notified by the respondent Colleges in their admission brochures.

7. Learned counsel appearing for the 1st respondent Medical Colleges would submit that entitlement of stipend is directly relatable to the payment of full fee and therefore, the issue raised in the writ petitions may not be decided till the outcome of the final decisions of the Hon'ble Supreme Court in W.P.(C). Nos.949, 973 & 1004 of 2018 and S.L.P.Nos.1918-1919, 1935-1936 and 1998-1999 of 2021 which all pertains to determination of fee for the Medical Colleges of the Deemed to be Universities. He would further submit that all the admissions to PG Medical Courses were completed by 31.05.2017 as per norms and thus, the writ petitioners having fully understood about the fee structure of the first respondent Medical Colleges had effected the entire first year Tuition fee without any remorse and stipend was paid to the writ petitioners in W.P.No.7778 of 2020. He would further submit that this Court in W.P.No.11701 & 4582 of 2018 had passed an order to the effect that the petitioners can pay Rs.13 lakhs without prejudice to the contentions of both sides on or before 30 June,2020, and on such payment, the petitioners will be permitted to write the examination. The question of excess payment to be returned by the Universities or payment of further fees by the petitioners would obviously depend upon the decision of the Hon'ble Apex Court followed by that of the Fee Committee. Therefore, till the final fixation of fee, the petitioners are not entitled for payment of stipend. He would further submit that payment of tuition fees in full for the entire duration of the course becomes mandatory as stipend is also part of the tuition fees, since the Medical Colleges are providing opportunities for the PG Medical Students to learn the area of specialization from the hospital attached to the Medical College. Students are required to pay fee to the medical college against their PG course and in the same capacity they are required to work as a Full Time Resident and thus, entitled to stipend. Once the first respondent Medical College is entitled to a certain financial claim, the same cannot be ignored by the students while demanding its own financial claim. Such competing financial claims are liable to be set-off against each other. In



the present case, the principle of equitable set-off be applied. In support of his contention, learned counsel would rely on (2004) 3 SCC 504 (Union of India v. Karam Chand Thapar). The final fee is yet to be fixed by the Hon'ble Supreme Court considering the fee paid so far by the petitioners and even if the fee structure of the self-financing medical colleges as fixed by the Puducherry Fee Committee is concerned, still the students are liable to pay fee more than what they are entitled by way of stipend. It would be extreme difficult for the Medical College to recover the balance fee from the writ petitioners/ students, since they have already finished the course and left the colleges and they may go to any part of the country or even abroad for their career progression.

8. This Court considered the submissions of the learned counsel for the petitioners, the submissions of the learned Counsel appeared on behalf of the respondents and perused the materials placed before this Court.

9. Admittedly, PG Medical Courses are required to be conducted strictly in accordance with MCI Regulations. Regulation 13 of the MCI Regulations reads as follows:

13. Training Programme:

13.1. The training given with due care to the Post Graduate students in the recognised institutions for the award of various Post Graduate medical degrees/diplomas shall determine the expertise of the specialist and/or medical teachers produced as a result of the educational programme during the period of stay in the institution.

13.2. All the candidates joining the post graduate training programme shall work as full time residents during the period of training, attending not less than 80% (Eighty percent) of the training during each calendar year, and given full time responsibility, assignments and participation in all facets of the educational process.

The above sub-clause 13.2 is substituted in terms of Gazette Notification published on 20.10.2008 and the same is as under:-

Clause 13.2



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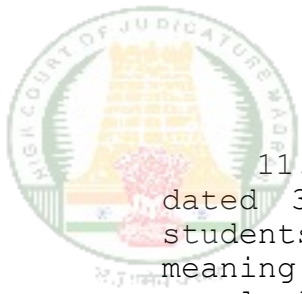
All the candidates joining the Post Graduate training programme shall work as 'Full Time Residents' during the period of training and shall attend not less than 80% (Eight percent) of the imparted training during each academic year including assignments, assessed full time responsibility and participation in all facets of the educational process.

13.3 The Post Graduate students of the institutions which are located in various States/Union Territories shall be paid remuneration at par with the remuneration being paid to the Post Graduate students of State Government medical institutions/Central Government Medical Institutions, in the State/ Union Territory in which the institution is located. Similar procedure shall be followed in the matter of grant of leave of Post Graduate students.

The above sub-clause 13.3 is substituted in terms of Gazette Notification published on 20.10.2008 and the same is as under:-
Clause 13.3.

"The Post graduate students undergoing Post Graduate Degree/ Diploma/ Super-Specialty course shall be paid stipend on par with the stipend being paid to the Post Graduate students of State Government Medical Institutions/ Central Government Medical Institutions, in the State/ Union Territory where the institution is located. Similarly, the matter of grant of leave to Post graduate students shall be regulated as per the respective State Government rules."

10. It is not in dispute that all the candidates joining the Post Graduate Medical Course in various disciplines are required to work as "Full Time Residents" during the training period. It is true that the candidates admitted to Post Graduate Medical Course are not recruited to any post and remain student pursuing the course of studies involving practical training. But the fact remains that the 'stipend' which as per sub-clause 13.3 of the Regulations as it was existing prior to substitution of the said clause vide notification dated 20.10.08 was referred as 'remuneration', is paid to students pursuing the PG Course for services rendered. Therefore, the payment of stipend made to the students pursuing PG Medical course, being remunerative in character, is no more res integra.



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11. The State Government has also issued Government Order dated 30.09.2015 fixing the stipend to be paid for the PG students of Diploma/Degree/ Super Specialty Course. Dictionary meaning of 'Stipend' is an amount of money that is paid regularly to someone, especially for work or training, in other words, it is a fixed sum of money paid periodically for services or to defray expenses. As per Regulation 13.3, Stipend should be paid on par with the stipend being paid to the Post Graduate students of State Government Medical Institutions/ Central Government Medical Institutions, in the State/ Union Territory where the institution is located.

12. The dispute in W.P.(C).No.949 of 2018 and S.L.P.(C). No.1935-1936 of 2021 is with regard to the jurisdiction of the UGC Fee Committee and the Puducherry Fee Committee respectively to determine the Annual fees of PG Medical Courses for the respondent Colleges. The Hon'ble Apex Court has upheld the order passed by the Hon'ble First Bench on 16.06.2017 to constitute the UGC Fee Committee vide judgment dated 16.04.2018 in SLP(C). No.19315 of 2018 and has not set aside the judgment dated 11.01.2021 passed by the subsequent Division Bench in a common order in W.P.No.14232 of 2017 and W.P.No.8331 of 2020, except staying the proceedings by the Puducherry Fee Committee.

13. The payment of annual tuition fees of Rs.10 lakhs in W.P.No.14388 of 2020 and Rs.13 lakhs in W.P.Nos.7959 & 7778 of 2020 by the petitioners, was only an interim arrangement, as ordered by this Court, which is subject to the outcome of the final decisions of the Hon'ble Apex Court. Therefore, the question of excess payment to be returned by the Universities or payment of further fees by the petitioners would obviously depend upon the decision of the Hon'ble Apex Court followed by that of the Fee Committee and it has nothing to do with the payment of stipend to the students. Moreover, the petitioners have also executed bonds to meet the unlikely event of the proposed fee committee determining the fee amount in excess of what has already been paid by the petitioners to the respondent Colleges.

14. The respondent Medical Colleges are bound to pay the stipend to the P.G. students as per the MCI Regulations. The respondent Colleges have not paid the stipend in view of the issue pending before the Hon'ble Supreme Court in respect of fixation of fees. However, the Division Bench of this Court in W.P.No.4582 of 2018 etc. batch has already passed an order dated 12.06.2020 in the following terms.

10. Ultimately, it has been decided that the petitioners can pay a sum of Rs.13.00 lakhs without prejudice to the contentions of



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both sides on or before 30 June, 2020. On such payment, the petitioners will be permitted to write the examinations. The question of excess payment to be returned by the Universities or payment of further fees by the petitioners would obviously depend upon the decision of the Apex Court followed by that of the Fee Committee. Therefore, consciously, we leave all the issues open to be decided to the appropriate stage by the appropriate forum. However, we make it clear that the question of payment of stipend will have to be decided in the pending writ petitions.

15. It is open to the respondent Medical College to recover the arrears of fees, if any, which is yet to be decided in the issue pending before the Hon'ble Apex Court. By referring the pendency of the case before the Hon'ble Apex Court in respect of payment of fees, the respondent Colleges cannot stop payment of stipend to the PG students, for which, they are entitled to. The judgment relied on by the learned counsel for the respondent Medical Colleges reported (2004) 3 SCC 504 (Union of India v. Karam Chand Thapar) regarding the principle of equitable set-off is not applicable to the present case. Mere apprehension of the respondent Colleges that if they succeed in the petitions pending before the Hon'ble Apex Court, the petitioners are liable to pay the difference of fees to the College, for which they are holding the stipend, cannot be countenanced. Expecting the verdict from the Hon'ble Apex Court, the respondent College, at present, is not expected to retain the statutory stipend of the petitioners. Therefore, this Court is of the considered view that interest of justice would be met if the respondent Colleges are directed to pay the stipend to the petitioners.

16. Accordingly, all the Writ Petitions are allowed. The respondent Colleges are directed to make the payment to the petitioners towards the stipend in terms of Regulation 13.3 as expeditiously as possible, in any event not later than four weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi



To

1. The Registrar,
Mahatma Gandhi Medical College & Research Institute,
Pondy Cuddalore Main Road,
Pillyarkuppam, Puducherry - 607 402.
2. The Dean,
Mahatma Gandhi Medical College & Research Institute,
Pondy Cuddalore Main Road,
Pillyarkuppam,
Puducherry - 607 402.
3. The Secretary General,
Board of Governors,
Medical Council of India,
Pocket -14, sector-8
Dwarka Phase-1,
New Delhi - 110 077
4. The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marge,
New Delhi - 110 002.
5. The Dean,
Aarupadai Veedu Medical College and Hospital,
Pondy Cuddalore Main Road,
Kirumampakkam,
Puducherry - 607 402.

+6CC to Mr. V.B.R Menon Advocate SR No.27121, 27122, 27123

+4CC to L. Swaminathan Advocate SR No. 27115

Pre-delivery order made in
W.P.Nos.14388, 7959 & 7778 of 2020

RSV (CO)
PR (14/07/2021)