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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.29596 of 2014

A.Sriram Khanna

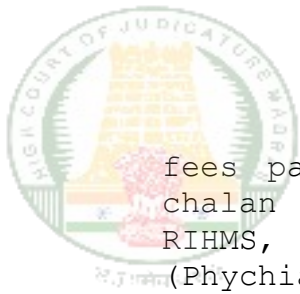
... Petitioner

Vs.

- 1.The State of Tamilnadu,
Represented by its Secretary to Govt.,
Collegiate Education Department
Fort St. George.,
Secretariat, Chennai - 608009.
- 2.The Registrar,
Annamalai University,
Annamalai Nagar
Chidambaram.
- 3.The Principal,
M/s Rajah Muthiah Medical College,
Annamalai University.
Chidambaram,
Dist. 608001.
- 4.The Secretary to Government,
Health and Family Welfare,
Fort St.George, Chennai - 600 009.
- 5.The Directorate of Medical Education,
Kilpauk,
Chennai 600 010
...Respondents

(Respondents 4 and 5 are suo motu impleaded by orders of this Court dated 06.12.2021 in W.P.No.29596 of 2014).

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd Respondent university to refund the tuition



fees paid by the Petitioner to the sum of Rs.5,99,770/- vide chalan dated 05.06.2013 deposited at "Central Bank of India" RIHMS, Annamalai Nagar- Chidambaram, towards joining M.D. (Phychiatry) PG course in the 3rd respondent college.

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For Petitioner : Mrs.Vijayaganesh

For Respondents 1, 4 & 5: Mr.C.Jayaprakash
Govt. Advocate.

For Respondents 2 & 3 : Mr.K.Sathishkumar

O R D E R

The relief sought for in the present Writ Petition is to direct the 2nd respondent University to refund the tuition fee paid by the petitioner to the tune of Rs.5,99,770/- vide chalan dated 05.06.2013 deposited at Central Bank of India, RIHMS, Annamalai Nagar- Chidambaram, towards joining M.D.(Phychiatry) PG course in the 3rd respondent college.

2. The petitioner states that he is a practicing Doctor applied for the Post Graduate Degree M.D.(Phychiatry) as first choice in the 3rd respondent College for the academic year 2013 - 2015. At the time of counselling the petitioner was allotted M.D.(Phychiatry) course. On 05.06.2013, the petitioner paid admission fees as prescribed by the 2nd respondent University. The petitioner was admitted to the MD course in the 2nd respondent University on 12.06.2013 and the classes commenced on the said date. Thereafter, the petitioner tendered his unwillingness to continue the course and submitted a letter to the college authorities on 18.06.2014. Subsequently, the petitioner discontinued the course.

3. The learned counsel for the petitioner made a submission that the petitioner attended the classes for one day and after four days he submitted a letter of undertaking expressing his unwillingness to continue the course. Thus, the petitioner is entitled for refund of the tuition fees paid. In this regard, the petitioner relied on the notification issued by the University Grants Commission in October 2018, wherein, the percentage of the refund of fees permissible is notified. Accordingly, if notice of withdrawal of admission is received 15 days or less after the formally-notified last date of admission, then the student is entitled for the refund of 80% of the tuition fees. Relying on the said notification, the learned counsel for the petitioner made a submission that the petitioner



is entitled for 80% refund of tuition fees.

4. The learned counsel appearing for the University objected the said contention by stating that the notification was issued in the year 2018 and the petitioner was admitted in the year 2013. Thus, the said notification cannot be relied upon. It is further contended that as per terms and conditions, the petitioner is not entitled for any refund except caution deposit, which had already been refunded to him. Therefore, the Writ Petition has to be rejected.

5. This Court is of the opinion that, no doubt, the University Grants Commission issued notification in the year 2018. However, the principles of equity has to be applied, in such circumstances in view of the fact that after the discontinuance of the petitioner from the course, another student was admitted and the respondent University collected the tuition fees from the other student, who was admitted subsequently. When the tuition fees was collected from the other student at the time of giving up the seat allotted to the petitioner, the petitioner is entitled to get back the fees amount.

6. The institution cannot collect tuition fees from two different students. In the present case, the petitioner left the college after attending one day class and submitted a letter of undertaking expressing his unwillingness to continue the course. Immediately, another student was admitted into the course and also paid the tuition fees. This being the factum, the principles of equity should be applied in the present case.

7. Subsequently, the University Grants Commission has given clarification with regard to refund of fees in certain circumstances and the case of the petitioner falls under the clause (3), wherein, the student withdrawing the admission is entitled to get refund of 80% of the tuition fees. This being the facts and circumstances, this Court is inclined to consider the present Writ Petition.

8. The Writ Petitioner has not impleaded necessary parties / respondents. Therefore, the Secretary to Government, Health and Family Welfare, Fort St.George, Chennai - 600 009 and the Directorate of Medical Education, Kilpauk, Chennai - 600 010, are suo motu impleaded as respondents 4 and 5, respectively, for the purpose of implementation of this order. Mr.C.Jayaprakash, learned Government Advocate takes notice for the impleaded respondents.



9. Further, the 3rd respondent college has already been taken over by the Government and therefore the Government is now liable to pay refund of tuition fees already collected from the petitioner. This being the factum established, the respondents are directed to refund 80% of tuition fees to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

10. With these directions, the Writ Petition stands allowed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

shr/kan

To

1. The Secretary to Government,
State of Tamilnadu,
Collegiate Education Department
Fort St. George.,
Secretariat, Chennai - 608009.
2. The Registrar,
Annamalai University,
Annamalai Nagar
Chidambaram.
3. The Principal,
M/s Rajah Muthiah Medical College,
Annamalai University.
Chidambaram,
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4. The Secretary to Government,
Health and Family Welfare,
Fort St. George,
Chennai - 600 009.



5.The Directorate of Medical Education,
Kilpauk,
Chennai 600 010.

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+1cc to the Government pleader SR.64868

W.P.No.29596 of 2014

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