



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.38466 of 2016

Dr.D.Muthu Kumaran,
S/o. Duraipandian

... Petitioner

Vs.

1. The Registrar,
The Tamil Nadu Dr. MGR Medical
University,
No.69, Anna Salai,
Guindy, Chennai-600 032.

2. The Secretary,
Medical Council of India,
MCI Buildings, Pocket 14,
Sector 8, Dwaraka, Phase I,
New Delhi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent herein in Ref.No.Ex.II(4)/09469/16 dated 29.07.2016 and quash the same in so far as it relates to the imposition of penalty fee of Rs.5,00,000/- and direct the 1st respondent herein to forthwith refund the said sum of Rs.5,00,000/- together with interest @ 24% per annum from 30.07.2016 till the date of payment to the petitioner.

For Petitioner : Ms.A.L.Ganthimathi

For Respondents : Mr.Om Prakash

Senior Advocate

for M/s.Ramalingam Associates for R1

Mr.Adarsh for R2

O R D E R

(The case has been heard through video conference)

This Writ Petition has been filed challenging the order passed by the 1st respondent Tamil Nadu Dr.MGR Medical University



collecting penalty fee of Rs.5,00,000/- from the petitioner.

2. Brief facts leading to the filing of this Writ Petition is as follows:-

The petitioner has completed his MBBS course in India, thereafter, got MRCS, from Royal College of Surgeons, Edinburg. That qualification was recognised as additional post graduate qualification by the Medical Council of India. Subsequently, he has applied for Super Speciality Medical course, before the 1st respondent for the academic year 2013-2014 and he was also admitted in the Institute of Child Health, Egmore, Chennai. Earlier, when the 1st respondent refused to admit petitioner to the said course on the ground that MRCS degree was not a Post Graduate Qualification equivalent to MD/MS, the petitioner had approached this Court by way of a Writ Petition in W.P.No. 17882 of 2013, and pursuant to the interim order passed by this Court, the petitioner was admitted to the course. At the time of admission, the 1st respondent University has collected a sum of Rs.5,00,000/- towards penalty fees. Subsequently, the petitioner has completed the course and this Court finally disposed the Writ Petition, with a direction to declare the results and directed the 1st respondent University to award degree. In pursuant to the same, M.Ch. (Padiatrics Surgery) degree has been awarded to the petitioner. Now, the petitioner wanted the amount collected as penalty fee to be refunded. Hence, the present Writ Petition has been filed.

3. Heard and considered rival submissions made by Ms.AL.Ganthimathi, learned counsel appearing for petitioner, Mr.Om Prakash, learned Senior Counsel appearing for 1st respondent as well as Mr.Adarsh, learned counsel appearing for 2nd respondent and perused the records.

4. The only objection raised by the 1st respondent University is that, the equivalence of degree obtained by the petitioner is yet to be decided by the Medical Council of India. Pursuant to the orders passed by this Court, the petitioner was permitted to complete the course and awarded degree. In the event of 2nd respondent Medical Council of India decides against the petitioner, he is liable to forego the degree and the 1st respondent University is entitled to recover the amount from the petitioner.

5. However, considering the fact that, the petitioner has completed the course and the degree was also awarded to him. At this juncture, the 1st respondent University cannot keep the amount of Rs.5,00,000/- collected as penalty fee from the



petitioner. Merely because, the 2nd respondent Medical Council of India yet to decide the issue, the respondent cannot withhold the amount indefinitely. The learned senior counsel appearing for 1st respondent submitted that, the amount paid by the petitioner was deposited in a nationalised bank. Accordingly, this Writ Petition stands allowed, and the 1st respondent University is directed to refund the amount collected as penalty fee along with accrued interest to the petitioner forthwith. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Registrar,
The Tamil Nadu Dr. MGR Medical
University,
No.69, Anna Salai,
Guindy, Chennai-600 032.
2. The Secretary,
Medical Council of India,
MCI Buildings, Pocket 14,
Sector 8, Dwaraka, Phase I,
New Delhi.

+1cc to Mr.AL.Ganthimathi, Advocate SR.No.11689

+2cc to M/s.Ramalingam & Associates, Advocate SR.No.12397

W.P.No.38466 of 2016

EV(CO)

GN(18/03/2022)