



WP.No.10139 of 2014

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

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P.M.Sindhu Bhavani

... Petitioner

Vs

1. The Registrar,
The Tamilnadu Dr.MGR Medical University,
Nawab Garden, 69, Anna Salai,
Guindy, Chennai – 600 0032.
2. The Dental Council of India,
Represented by its Secretary,
Aiwan-E-Galib Marg, Kotla Road,
Temple Lane, New Delhi – 110 002.
3. The Principal,
Chettinad Dental College & Research Institute,
Rajiv Gandhi Salai Kelambakkam,
Kancheepuram District – 603 103.

... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned Order of the third respondent in CDCRI/2013/001, dated 06.07.2013 and quash the same and direct the respondents 1 and 2 to



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ensure that the third respondent has refunded the fees of Rs.3,88,005/- to the petitioner with interest at the rate of 12% per annum from the date of her discharge, namely, 30.04.2013 till the date of realization.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mr.S.Wilson – R1

Mr.S.Haja Mohideen Gisthi – R2

Mr.S.Krishnan, SC
for T.Balaji – R2

ORDER

This Writ Petition has been filed to quash the impugned Order of the third respondent in CDCRI/2013/001, dated 06.07.2013 and quash the same and direct the respondents 1 and 2 to ensure that the third respondent has refunded the fees of Rs.3,88,005/- to the petitioner with interest at the rate of 12% per annum from the date of her discharge, namely, 30.04.2013 till the date of realization.

2. It is the case of the petitioner that she has paid a sum of Rs.5,78,830/- for totally four years. However she could not complete the first year course and she did not appear for the classes to redo the first year.



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Therefore, seeks to refund of the amount paid by her.

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3. Whereas, counter has been filed by the second respondent to the effect that as the petitioner has not cleared the first year examination, as per the guidelines of the University, she has to undergo the course once again by attending the regular course and fees has been collected only for that purpose, i.e., remedial classes. According to them, the petitioner has failed to clear the course despite the remedial course and hence, she is not entitled for refund of the amount.

4. It is the contention of the learned counsel appearing for the petitioner that she has not attended the classes from second year onwards and to substantiate the same, she has produced the transport fee certificate issued by the third respondent and hence, submitted that the third respondent has no legal right to retain the fees of Rs.3,88,005/-.

5. Whereas, the learned Senior Counsel appearing for the respondent brought to the notice of this Court the Attendance Register and Internal marks awarded to the petitioner and the other students who have undergone



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the course at the relevant point of time. It is also submitted that the other students who are similarly placed have filed a Writ Petition in W.P.No;6848 of 2016 and this Court by an Order dated 03.12.2019 has held that the Writ Petition is not maintainable as against the private colleges as against refund of the amount.

6. I have perused the entire materials available on record.

7. The submissions of both sides make it clear that the issues raised in the Writ Petition are disputed facts. The petitioner claims that she has not attended the remedial course. Whereas the respondent placed the records with regard to the internal assessment and attendance register and the marks awarded. Such being the case, when the facts are in dispute, the same cannot be agitated before this Court. Whereas, the University regulation makes it clear that the candidates, who have failed to clear the first year, has to undergo remedial course. The fees is paid only for the purpose of regular course. Whether the fees paid is only for the purpose of regular course or remedial course are disputed facts and the same cannot be decided in this Writ Petition. On the same line one of the student, who has also not



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undergone the remedial course in the same period has sought a similar relief before this Court in W.P.No.688 of 2011 and this Court by an Order dated 03.02.2109, has held that the Writ petition is not maintainable as against private Dental College for refund of fee and the remedy of the petitioner lies elsewhere. Hence, I do not find any merits in this Writ Petition and this Writ Petition has to be dismissed as not maintainable.

8. Accordingly, this Writ Petition is dismissed as not maintainable.

No costs.

02.11.2022

vrc

To,

1. The Registrar,
The Tamilnadu Dr.MGR Medical University,
Nawab Garden, 69, Anna Salai,
Guindy, Chennai – 600 0032.
2. The Dental Council of India,
Represented by its Secretary,
Aiwan-E-Galib Marg, Kotla Road,
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N.SATHISH KUMAR, J.

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