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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.02.2022

DELIVERED ON: 22.03.2022

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.33407 & 11921 of 2018

and

W.M.P.Nos.38775, 38776 & 13908 of 2018 and 537 of 2022

W.P.No.33407 of 2018:

SC.Raja Rajeswari

...Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by The Secretary,  
Health Department,  
Fort St. George, Chennai - 600 009.
2. The Director of Medical Education,  
162, Periyar E.V.R.High Road,  
Kilpauk, Chennai - 600 010.
3. The Deputy Controller of Examination (BDS),  
The Tamil Nadu Dr.MGR Medical University,  
Chennai.
4. The Registrar,  
The Tamil Nadu Dr.MGR Medical University,  
Chennai.
5. The Chairman,  
Madha Dental College & Hospital,  
Kundrathur, Chennai - 600 069.
6. The Director,  
Madha Dental College & Hospital,  
Kundrathur, Chennai - 600 069.
7. The Principal,  
Madha Dental College & Hospital,  
Kundrathur,  
Chennai - 600 069.



8. The President,  
Dental Council of India,  
New Delhi.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 6<sup>th</sup> respondent to issue the course completion certificate for successfully passing the four years program and also permit the petitioner to complete the internship without any payment.

For Petitioner : Mr.S.Patrick

For R1 & R2 : Mr.E.Sundaram  
Government Advocate

For R3 & R4 : Mr.D.Ravichander  
For R5 to R7 : M/s.Rita Chandrasekar  
for M/s.Aiyar & Dolia

For R8 : Mr.S.Haja Mohideen Gisthi

W.P.No.11921 of 2018:

Miss.Ramya Priya

...Petitioner

Vs.

1. Dental Council of India  
Rep. by the Secretary,  
Aiwan-E-Gulib Morg,  
Kotla Road, Temple Lane,  
Opp. Mota Sundari College or Women,  
New Delhi-110 002.
2. Tamil Nadu Dental Council,  
Rep. by its Secretary,  
Arihant Mastic Tower 5-0-3,  
No.216, Jawaharlal Nehru Salai,  
Koyambadu,Chennai-600 107.
3. Tamil Nadu Dr. M.G.R. Medical University,  
Rep. by its Registrar,  
No.69, Anna Salai, Guindy,  
Chennai-600 069.
4. Madha Dental College & Hospital,  
Rep. by the Dean,  
Madha Nagar, Kundrathur,  
Chennai-600 069.

...Respondents



PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 4<sup>th</sup> respondent college to issue Certificate for the training undergone by the petitioner in respect of Compulsory Rotatory Residential Internship (CRRI) in the 4<sup>th</sup> Respondent Institute and the Provisional Certificate declaring the satisfactory completion of B.D.S Course & the period of Compulsory Rotatory Internship from the 4<sup>th</sup> Respondent so as to enable the respondents 1 and 2 to issue Registration Certificate for practice enabling the petitioner to practice or to pursue the post graduation course and consequently direct the 4<sup>th</sup> respondent to pay compensation to the petitioner for the loss of one year in her educational carrier or profession.

For Petitioner : Mr.G. Ethirajulu  
For R1 & R2 : Mr. Haja Mohideen Gisthi  
For R3 : Mr.D.Ravichander  
For R4 : M/s.Rita Chandrasekar  
for M/s.Aiyar & Dolia

#### COMMON ORDER

Since the issue involved in these two Writ Petitions as well as the facts and circumstances and parties are common, the same are taken up together and being disposed of by this common order.

2.For the sake of clarity, this Court feels it appropriate to deal with the Writ Petitions separately.

W.P.No.33407 of 2008:

3.This Writ Petition has been filed to issue a Writ of Mandamus, directing the 6<sup>th</sup> respondent, the Director, Madha Dental College & Hospital, to issue the course completion certificate to the petitioner, for she having completed the four years course successfully, and also to permit the petitioner to complete the internship without insisting for any payment.

4.Heard Mr.S.Patrick, learned counsel for the petitioner, Mr.E.Sundaram, learned Government Advocate for respondents 1 & 2, Mr.D.Ravichander, learned Standing counsel respondents 3 & 4, Ms.Rita Chandrasekar for M/s.Aiyar & Dolia for respondents 5 to 7 and Mr.S.Haja Mohideen Gisthi, learned counsel for respondent 8 and perused the entire materials available on record.

5.Mr.S.Patrick, learned counsel for the petitioner would submit that the petitioner joined Bachelor of Dental Surgery



(BDS) at the 6<sup>th</sup> respondent-College, in the year 2013, which is a self-financing College affiliated to Tamil Nadu Dr.MGR Medical University. The 6<sup>th</sup> respondent is conducting four years course producing a distinction student every year. The grievance of the petitioner is that, instead of paying stipend for internship, which is a normal practice in Institutions, the Management of the College has been demanding fee from the students for undergoing such internship, which is illegal.

5.1 The learned counsel would point out that, while the Prospectus issued by the Selection Committee, Directorate of Medical Education representing the Government of Tamil Nadu, prescribed Rs.1,00,000/- as fee for the year 2013-14, the 6<sup>th</sup> respondent issued a letter, claiming Rs.2,00,000/- every year (towards Tuition fee for Rs.1,15,000/-; hostel fee for Rs.60,000/- and Laboratory/extra curricular activities Rs.25,000/-, etc.). The petitioner paid Rs.10,27,000/- through a Demand Draft and Rs.5,28,000/- by cash totalling to Rs.15,55,000/-. Out of the aforesaid amount, Rs.4,00,000/- was paid towards capitation fee.

5.2 The learned counsel for the petitioner, the petitioner has completed all the examinations during four years period from 2013 to 2017 and passed a final year examination in August 2017. While the Compulsory Rotatory Residential Internship (CRRI) for all the students commenced from 5<sup>th</sup> October, 2017, 6<sup>th</sup> respondent-College restrained the petitioner alone from joining such internship, which is a mandatory requirement for completing the BDS course and demanded a sum of Rs.3,45,000/- for permitting the petitioner to undergo the internship. Thereafter, only at the request made by the petitioner seeking time for making the payment, she was permitted to do internship from 12<sup>th</sup> November, 2017, i.e after a delay of 33 days. The petitioner paid Rs.25,000/- by cash and Rs.85,000/- on 01.11.2018 by way of Demand Draft to the 6<sup>th</sup> respondent-College. Thereafter, the petitioner was not permitted to complete the internship for remaining 33 days, and demanded the balance of Rs.2,60,000/- and also refused to give course completion certificate, despite the petitioner successfully completed the course. Aggrieved by the same, the petitioner sent a complaint to the Dental Council, New Delhi, which is a controlling authority of all Dental Colleges.

5.3 The learned counsel for the petitioner would submit that the petitioner got the information regarding fee structure for self financing Colleges for BDS Course through RTI, as per which, the fees fixed for the academic year 2013-14 was Rs.1,15,000/-. While so, the 7<sup>th</sup> respondent, vide communication, dated 23.4.2019, admitted that they have charged Rs.3,20,000/- per annum as fees from the students as against the fees fixed by



the Fee Fixation Committee. Even the respondents 5 to 7 have also not denied the collection of capitation fee to the tune of Rs.7.00 lakhs from the petitioner. The learned counsel submitted that the petitioner was forced to pay Rs.17.00 lakhs as against the lawful fee payable to a sum of Rs.4.60 lakhs only. Therefore, the learned counsel submitted that the sixth respondent-College has illegally demanded the fee, as against the lawful fee payable.

6. Per contra, Ms. Rita Chandrasekar, learned counsel appearing for the respondents 5 to 7, while reiterating the averments mentioned in the counter affidavit, would submit that the petitioner joined BDS course in the year 2013 under the management quota. The fee structure for the academic year 2013-14, relied upon by the petitioner is applicable only to those candidates, who were admitted under single window system or Government quota, but not applicable to the candidates, who were admitted under Management quota. The fees payable for admission to the management quota was fixed by the Fee Fixation Committee only in the academic year 2017-18. The tuition fees for undergoing the course per year was Rs.3,20,000/- and Rs.20,000/- towards transportation per annum and the petitioner completed the course during the year 2017-18 and she has to remit a sum of Rs.4.28 lakhs towards balance tuition fees, inclusive of transportation charges. The petitioner's mother addressed a letter, dated 11.07.2016, expressing her inability to pay the fees and sought permission to remit the same in four instalments and requested to accept examination fees. Accordingly, the sixth respondent-College while considering the request made by the petitioner's mother, accepted the examination fee paid by the petitioner. Later, by letter dated 28.11.2016, the petitioner's father addressed a letter to 5<sup>th</sup> respondent, undertaking to pay the balance fees on or before 31.03.2017 and taking into consideration of the same, the petitioner was permitted to attend the classes.

6.1 The learned counsel for respondents 5 to 7 submitted that, at no point of time, the 6<sup>th</sup> respondent-College demanded fee towards internship from any student, but the petitioner was only called upon to pay the balance tuition fees of Rs.4.28 lakhs which is due and payable by her and the same has been misconstrued, as if, the 6<sup>th</sup> respondent college demanded for payment of fees from the petitioner for undergoing internship. The mere completion of the course by the petitioner cannot be a ground for issuance of course completion certificate and the same will be issued only upon remittance of arrears of tuition fees to the tune of Rs.4.28 lakhs payable by the petitioner. The petitioner so far has remitted a sum of Rs.10,20,000/- and still a sum of Rs.4,28,000/- has to be remitted towards arrears of tuition fees.



6.2 The learned counsel for the respondents 5 to 7, while referring to the additional counter affidavit filed on behalf of the respondents 5 to 7, would submit that the petitioner joined BDS course in the year 2013 under the management quota and the duration of the course is 4 years and as per the Curriculum of Dental internship programme of Dental Council of India, a candidate must undergo internship training for a period of one year across 10 Departments in the college. As far as the petitioner is concerned, the period of Internship is for a period of 365 days from 05.10.2017 to 04.10.2018, and details of the petitioner's absence in those period are given below:

| S.No. | Name of the Dept.                      | No. of days attended | No. of days absent |
|-------|----------------------------------------|----------------------|--------------------|
| 1     | Orthodontics                           | -                    | 31                 |
| 2     | Pedodontics                            | 21                   | 09                 |
| 3     | Elective Posting - Oral surgery        | 15                   | -                  |
| 4     | Prosthodontics                         | 42                   | 03                 |
| 5     | Conservative Dentistry and Endodontics | 25                   | 05                 |
| 6     | Public Health Dentistry                | 30                   | -                  |
| 7     | Periodontics                           | 29                   | 01                 |
| 8     | Public Health Dentistry                | 30                   | 01                 |
| 9     | Oral Pathology                         | 14                   | 01                 |
| 10    | Oral Surgery                           | 43                   | 02                 |
| 11    | Oral Medicine                          | 27                   | 04                 |
| 12    | Public Dentistry                       | 28                   | 02                 |
|       | Total:                                 |                      | 59 days            |

6.3 The learned counsel for respondents 5 to 7 submitted that the petitioner absented herself from attending the internship programme for a period of 59 days. However, extension posting was given to the petitioner to enable her to complete the internship training programme. Despite having been given such opportunity, the petitioner attended the internship programme only for 9 days at Orthodontics Department from 27.12.2018 to 04.01.2019 and absented herself for 50 days. It is further submitted that, at no point of time, the respondents 5 to 7 had prevented the petitioner from attending the internship training programme, and it was the petitioner, who failed to attend the programme regularly, and despite given the



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6.6 Further, the learned counsel for the respondents 5 to 7 submitted that, despite the fact that the petitioner has not paid balance tuition fee, the College had permitted the petitioner to appear for the semester examinations and she was not denied permission citing non-payment of fees. That apart, Internship Training Programme is mandatory for all the students including the petitioner. It is an admitted position and fact that the petitioner did not complete the internship training programme in all the Departments, despite she was granted extension. In view of the same, the College could not apply for certificate to be issued to the petitioner. With these contentions, the learned counsel for respondents 5 to 7 prayed for dismissal of this Writ Petition.



7. The issue involved in the Writ Petition is, Whether the petitioner completed the Internship training programme by attending the classes regularly, and thereby, she is entitled to the Course Completion Certificate and CRRI Training certificate?

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8. It is not in dispute that the petitioner has completed her BDS course from the sixth respondent-College in 2017-18 and also passed the final year examination held in August 2017, with 68.5 marks out of 100 marks. As per the Curriculum of Dental Internship Programme of the Dental Council of India, after completion of the BDS course, the candidate has to undergo internship training for a period of one year. As far as the petitioner is concerned, the period of internship is for a period of 365 days from 05.10.2017 to 04.10.2018. It is also not in dispute that the internship for all the students commenced from 5<sup>th</sup> October, 2017 onwards. It is the case of the petitioner that the 6<sup>th</sup> respondent-College restrained the petitioner from joining internship, which is indispensably required for completing the BDS course, and demanded a sum of Rs.3,45,000/-. Thereafter, since the petitioner made a request to the College to grant some time for payment of fee, she was permitted to do internship from 12<sup>th</sup> November, 2017, i.e. after a delay of 33 days.

8.1 According to the contentions of the learned counsel appearing for respondents 5 to 7, the petitioner was not prevented from attending internship, but, she herself absented from attending the internship and no fees was demanded from the petitioner, as alleged by her. This Court suspects the veracity of the submission made on behalf of the respondents 5 to 7, as the contentions of the respondents 5 to 7 appears to be quite unnatural and unbelievable, since a candidate, who normally completes 4 year BDS course all along by paying fees, at any cost, will certainly, undergo the internship training programme, which is a must for every candidate, and as such, there could be no impediment or any cause for he/she to absent, if at all his/her health does not cooperates. In the present case, the petitioner has completed the BDS Course successfully, and as like her co-students, who joined the training, the petitioner would have also joined the training, and unless and until, there was a persisting demand for payment of Rs.4.28 lakhs by the 6<sup>th</sup> respondent College and thereby prevented the petitioner from attending the CRRI Training, there is no necessity for the petitioner to remain absent for the training.

8.2 A bare perusal of the counter affidavits filed on behalf of the respondents 5 to 7 would per se reveals that all along, the respondent-College has been demanding Rs.4.28 lakhs towards alleged balance tuition fees inclusive of transportation charges, and upon the promise made by the



petitioner's parents to meet out the demand of the College, she was permitted to undergo internship training and in the mean time, there occurred the delay of 33 days. In fact, the respondents 5 to 7, in their additional counter affidavit stated that there was a delay of 59 days, and subsequently, extension posting was given to the petitioner to enable her to complete the internship training programme. It is further stated that despite having been given extension posting, the petitioner attended the internship only for 9 days at Orthodontics department from 27.12.2018 to 04.01.2019 and absented herself for 50 days.

8.3 This Court, in order to find out the veracity of the submissions made by both sides as regards the attendance of the petitioner towards internship training programme, has ventured upon careful verification of Attendance Registers, wherein, the details with regard to presence/absence of the petitioner during the so-called days would be marked. According to the 6<sup>th</sup> respondent-College, the petitioner has absented herself on the following dates in respect of each department, which is shown in the tabulated column:-

| S.No. | Name of the Dept.                      | No. of days attended | No. of days absent |
|-------|----------------------------------------|----------------------|--------------------|
| 1     | Orthodontics                           | -                    | 31                 |
| 2     | Pedodontics                            | 21                   | 09                 |
| 3     | Elective Posting - Oral surgery        | 15                   | -                  |
| 4     | Prosthodontics                         | 42                   | 03                 |
| 5     | Conservative Dentistry and Endodontics | 25                   | 05                 |
| 6     | Public Health Dentistry                | 30                   | -                  |
| 7     | Periodontics                           | 29                   | 01                 |
| 8     | Public Health Dentistry                | 30                   | 01                 |
| 9     | Oral Pathology                         | 14                   | 01                 |
| 10    | Oral Surgery                           | 43                   | 02                 |
| 11    | Oral Medicine                          | 27                   | 04                 |
| 12    | Public Dentistry                       | 28                   | 02                 |
|       | Total                                  |                      | 59 days            |

8.4 On comparison of absence/presence markings made in the



Attendance Register, this Court found the following discrepancies:

| S.No. | Name of the Dept.                      | No. of days attended according to 6 <sup>th</sup> respondent College | No. of days absent according to 6 <sup>th</sup> respondent College | Remarks of this Court made after thorough check                                                                                                            |
|-------|----------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | Orthodontics                           | -                                                                    | 31                                                                 | All markings from 5.10.17 to 4.11.17 are interpolated /re-written and also added 'b' beside 'A' and all markings from 5.1.2019 to 26.1.2019 are re-written |
| 2     | Pedodontics                            | 21                                                                   | 09                                                                 | Nil                                                                                                                                                        |
| 3     | Elective Posting - Oral surgery        | 15                                                                   | -                                                                  |                                                                                                                                                            |
| 4     | Prosthodontics                         | 42                                                                   | 03                                                                 | Marking 'A' on 05.01.18 is re-written                                                                                                                      |
| 5     | Conservative Dentistry and Endodontics | 25                                                                   | 05                                                                 | Nil                                                                                                                                                        |
| 6     | Public Health Dentistry                | 30                                                                   | -                                                                  | Nil                                                                                                                                                        |
| 7     | Periodontics                           | 29                                                                   | 01                                                                 | Nil                                                                                                                                                        |
| 8     | Public Health Dentistry                | 30                                                                   | 01                                                                 | Nil                                                                                                                                                        |
| 9     | Oral Pathology                         | 14                                                                   | 01                                                                 | Nil                                                                                                                                                        |
| 10    | Oral Surgery                           | 43                                                                   | 02                                                                 |                                                                                                                                                            |
| 11    | Oral Medicine                          | 27                                                                   | 04                                                                 | Nil                                                                                                                                                        |
| 12    | Public Dentistry                       | 28                                                                   | 02                                                                 | Nil                                                                                                                                                        |



| S.No. | Name of the Dept. | No. of days attended according to 6 <sup>th</sup> respondent College | No. of days absent according to 6 <sup>th</sup> respondent College | Remarks of this Court made after thorough check |
|-------|-------------------|----------------------------------------------------------------------|--------------------------------------------------------------------|-------------------------------------------------|
|       | Total             |                                                                      |                                                                    | 43 days                                         |

8.5 It was alleged by the respondents 5 to 7 that the petitioner herself absented for 31 days in respect of Orthodontics department. On going through the Attendance Register of the petitioner pertaining to the Orthodontics Department, this Court found that markings of attendance for 30 days from 5.10.2017 to 04.11.2017, contained interpolations, since the marking 'A' was overwritten, by attempting the mark 'P' into 'A' so as to record, as if, the petitioner was absent. Even a common plebeian can easily identify the said interpolations that the letter 'P' has been overwritten, so as to appear as 'A', (ie. to mark absent). Further, in respect of attendance markings from 9.10.2017 to 25.10.2017, the respondent-College, strangely enough, after converting 'P' to 'A', an alphabet 'b' is added beside 'A' to make it 'Ab' so as to show the absence of the petitioner. The 6<sup>th</sup> respondent College altered the 'P' into 'A' and 'A' into 'P' in order to suit their convenience. The said act of the College is highly deprecated and punished suitably. In fact, in the entire Attendance Register, nowhere, in respect of other students, this kind of marking, i.e. 'Ab' has been made, but only in respect of the petitioner alone, it was made.

8.6 This Court, on further careful verification of the Attendance Register of the petitioner pertaining to the Orthodontics department, shocked to see that the attendance for 15 days, i.e. from 04.01.2018 to 11.11.2018 and from 17.1.2019 to 26.1.2019, the letter 'P' has been conveniently converted to 'A' by adding a little stroke to 'P' with different ink pens, and thereby, shown the absence of the petitioner. Therefore, it is clear that out of 50 days absent, as alleged by the 6<sup>th</sup> respondent-College, it was found that as many as 43 days have been interpolated/rewritten and shown as absent.

8.7 It would not be out of place to mention here that, since the petitioner was not allowed to complete her remaining 33 days CRRIT Training, this Court, vide interim order dated 14.12.2018, directed the sixth respondent-College to permit the petitioner to complete remaining 33 days in the internship training. Accordingly, she has joined the training with effect from 27.12.2018 and completed her training on 06.02.2019, but



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contrarily, the respondent-College, in the counter affidavit has stated that she has undergone 33 days training up to 04.01.2019. According to the petitioner, she remained absent only for one day in the training, but the respondent-College maneuvered to show, as if, the petitioner was absent for about 43 days, during which days, it is seen that there were interpolations/alterations in the attendance register. Even that interpolation of records continued for 33 days, where, this Court directed the respondent-College to permit the petitioner to attend the internship training by marking her attendance as present only for 9 days and for remaining 24 days, her presence were interpolated/alterated as absent. The scan copy of the said attendance register for one month, as shown below, clearly reveals the alteration made by the 6<sup>th</sup> respondent-College in word 'P' into 'A' by adding one line to the word 'P'.

|          |               |   |
|----------|---------------|---|
| 24/12/18 | RASHI RASHEEN | P |
| 25/12/18 | RASHI RASHEEN | P |
| 26/12/18 | RASHI RASHEEN | P |
| 27/12/18 | RASHI RASHEEN | P |
| 28/12/18 | RASHI RASHEEN | P |
| 29/12/18 | RASHI RASHEEN | P |
| 30/12/18 | RASHI RASHEEN | P |
| 31/12/18 | RASHI RASHEEN | P |
| 01/01/19 | RASHI RASHEEN | P |
| 02/01/19 | RASHI RASHEEN | P |
| 03/01/19 | RASHI RASHEEN | P |
| 04/01/19 | RASHI RASHEEN | P |
| 05/01/19 | RASHI RASHEEN | P |
| 06/01/19 | RASHI RASHEEN | P |
| 07/01/19 | RASHI RASHEEN | P |
| 08/01/19 | RASHI RASHEEN | P |
| 09/01/19 | RASHI RASHEEN | P |
| 10/01/19 | RASHI RASHEEN | P |
| 11/01/19 | RASHI RASHEEN | P |
| 12/01/19 | RASHI RASHEEN | P |
| 13/01/19 | RASHI RASHEEN | P |
| 14/01/19 | RASHI RASHEEN | P |
| 15/01/19 | RASHI RASHEEN | P |
| 16/01/19 | RASHI RASHEEN | P |
| 17/01/19 | RASHI RASHEEN | P |
| 18/01/19 | RASHI RASHEEN | P |
| 19/01/19 | RASHI RASHEEN | P |
| 20/01/19 | RASHI RASHEEN | P |
| 21/01/19 | RASHI RASHEEN | P |
| 22/01/19 | RASHI RASHEEN | P |
| 23/01/19 | RASHI RASHEEN | P |
| 24/01/19 | RASHI RASHEEN | P |
| 25/01/19 | RASHI RASHEEN | P |
| 26/01/19 | RASHI RASHEEN | P |
| 27/01/19 | RASHI RASHEEN | P |
| 28/01/19 | RASHI RASHEEN | P |
| 29/01/19 | RASHI RASHEEN | P |
| 30/01/19 | RASHI RASHEEN | P |
| 31/01/19 | RASHI RASHEEN | P |

8.8 Though this Court initially hesitate to go into the disputed fact regarding the so-called absence of the petitioner, considering the contention raised by the petitioner, who fought tooth and nail for safeguarding her fate, this Court has ventured upon careful verification of Attendance Registers, wherein, the details with regard to presence/absence of the petitioner during the so-called days would be marked, and on a scrutiny of the same, it is clearly proved that the 6<sup>th</sup> respondent-College indulged in illegal practice of manipulation of records by altering the attendance of the petitioner from Present to Absent, by overwriting, thereby, changing the letter 'P' to 'A', and conveniently, put blame on the petitioner stating that she herself absented from attending the CRRI training despite the 6<sup>th</sup> respondent college permitted her to undergo the said training.

8.9 Under the aforesaid circumstances, this Court is not in a position to believe the version of the 6<sup>th</sup> respondent-College. When the College went to the extreme level of altering the attendance of a poor student for the purpose of alleged non-payment of the fees, the College cannot be deemed as a good Educational Institution neither to impart education to the students, nor can yield good Doctors to the Society to serve for the wellbeing of the Nation. Imagine, when a student, who, on account of non payment of fee, owing to her financial crisis is subjected to undergo these types of mental agonies, then, there is no point in the College by boasting off stating that they are conducting the BDS Course and producing efficient BDS Doctors



every year. That apart, the mistake committed by the respondent-College does not seem to a pardonable mistake, as the College, for the sake of getting back the balance fee (which in fact, was not supposed to pay by the petitioner) from the petitioner, has stooped from its level, and indulged in manipulation of Attendance Registers, which does not even shocks its conscience. Therefore, this Court is not inclined to accept the submission of the respondents that the petitioner has not completed the CRRI Training as she lacks in attendance, when the fact remains that she has attended the class regularly.

8.10 As regards the non payment of fees and stipend, this Court has also directed the 4<sup>th</sup> respondent-MGR University to conduct an enquiry. Accordingly, the fourth respondent-University conducted enquiry and filed a report dated 25.04.2019, wherein it was recorded that the petitioner has produced her entire payment details, which shows that the petitioner has paid totally a sum of Rs.17,80,000/- including a capitation fee of Rs.4,00,000/-. The sixth respondent-College also recorded the principal's statement and has informed the Committee that the fee structure for all BDS students were informed to students well in advance at the time of joining the College. Though the said statement was made, no document was furnished by the 6<sup>th</sup> respondent-College to prove the fee structure was communicated to the students before their admission. Even when the respondent-MGR University directed the 6<sup>th</sup> respondent-College to furnish the details about the fee structure, the 6<sup>th</sup> respondent-College has furnished the fees summary for the 'Management Quota' for four years as follows:

Management Quota

Fees summary:

| S. No | Description                                                                  | Total Amount |
|-------|------------------------------------------------------------------------------|--------------|
| 1.    | Tuition Fees<br>Rs.3,20,000/- year - For 4 years, 3,20,000 x 4               | 12,80,000    |
| 2.    | Transportation Fees<br>Rs.25,000/- year - For 6 years (2013-2019), 25,000 x6 | 1,50,000     |
| 3.    | One Time Caution Deposit                                                     | 25,000       |
|       | TOTAL                                                                        | 14,55,000    |

8.11 As per the said fees summary, a student, who is undergoing BDS course in the year 2013 - 2017 has to pay a sum of Rs.14,55,000/-. In the present case, the petitioner's



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grievance is that, even for pursuing the internship CRRI Training, the 6<sup>th</sup> respondent-College demanded payment of the fees, when it is not necessary, as per the fee structure and only the College has to pay the stipend to the students undergoing training period, which the College has not paid so far to the students. Further, the 6<sup>th</sup> respondent-College also has not produced any document in order to prove that they have paid the stipend to the students. As recorded by the Committee, the petitioner has paid a sum of Rs.17,80,000/- to the 6<sup>th</sup> respondent College. However, she is liable to pay a sum of Rs.14,55,000/-, in terms of the letter furnished by the 6<sup>th</sup> respondent-College to the 4<sup>th</sup> respondent, Registrar, MGR University, dated 23.04.2019. The 6<sup>th</sup> respondent College did not provide any reply for the allegation of the petitioner with regard to non-payment of stipend to the student during the CRRI Training period.

8.12 Thus, it is clear that the 6<sup>th</sup> respondent-College has collected excess fees and did not pay any stipend to the petitioner during CRRI Training period. Therefore, this Court is of the view that the balance amount of Rs.3,25,000/- (17,80,000 - 14,55,000) is to be refunded by the 6<sup>th</sup> respondent-College with interest at 18% p.a. to the petitioner. That apart, the 6<sup>th</sup> respondent College also liable to pay the entire eligible stipend to the petitioner for attending the CRRI Training.

8.13 Normally, the Writ Court will not go into the disputed questions of fact. Though on the first blush, it seems to be a case, where, disputed questions of fact are involved, and this Court hesitated whether these issues can be adjudicated while exercising the jurisdiction under Article 226 of the Constitution of India, upon further hearing of the arguments put forth by the both side counsel, it became apparent that the dispute raised by the respondents is not a bona fide dispute. That apart, the Hon'ble Supreme Court time and again held that the writ Court can adjudicate the issue even there is a disputed facts, without relegating the parties to avail the alternative remedy, provided, the documents are produced before the Court and if the Court feels satisfied that the issue raised before it could be dealt with.

8.14 At this juncture, it is relevant to refer to para No.53 of the judgment rendered by the Hon'ble Supreme Court, in re (Abl International Limited & another vs. Export Credit Guarantee) reported in 2004(3) SCC 553 , which is extracted hereinbelow:

"... Therefore, in our opinion, it does not require any external aid much less any oral evidence to interpret the above clause. Merely because the first respondent wants to dispute this fact, in our opinion,



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it does not become a disputed fact. If such objection as to disputed questions or interpretations are raised in a writ petition, in our opinion, the courts can very well go into the same and decide that objection if facts permits the same as in this case. We have already noted the decisions of this Court which in clear terms have laid down that mere existence of disputed questions of fact ipso facto does not prevent a writ Court from determining the disputed questions of fact ."

A perusal of the above judgment, it is clear that the writ Court can determine the disputed question of facts.

8.15 In the present case, as noticed above, the dispute is only with regard to the payment of fees and the attendance of the petitioner in undergoing CRRI Training. As stated above, the records/attendance register have been interpolated/alterd conveniently on both ways, so as to restrain the petitioner from receipt of the certificate for completion of CRRI training which this Court can find out easily on its first sight as the same is apparent on the face of the records. As far as the fee is concerned, though the petitioner says that only one lakh, the respondent-College admitted that the total fees chargeable against the petitioner is Rs.14,55,000/- and apparently, the petitioner has produced records to the Committee showing that she has paid a sum of Rs.17,80,000/-. Therefore, this Court is of the view that the issues raised herein can be decided on the face of the records, without any hurdles. Hence, this Court entertained these Writ Petitions.

8.16 It is well settled law that the Court can itself examine the disputed writings by using its own eyes and come to a safe conclusion under Section 73 of the Evidence Act.

8.17 In "Murari Lal Vs. State of Madhya Pradesh" reported in (1980) 1 Supreme Court Cases 704, the Hon'ble Apex Court has held as under:-

"12.The argument that the court should not venture to compare writings itself, as it would thereby assume to itself the role of an expert is entirely without force. Section 73 of the Evidence Act expressly enables the court to compare disputed writings with admitted or proved writings to ascertain whether a writing is that of the person by whom it purports to have been written. If it is hazardous to do so, as sometimes said, we



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are afraid it is one of the hazards to which judge and litigant must expose themselves whenever it becomes necessary. There may be cases where both sides call experts and two voices of science are heard. There may be cases where neither side calls an expert, being ill able to afford him. In all such cases, it becomes the plain duty of the Court to compare the writings and come to its own conclusion. The duty cannot be avoided by recourse to the statement that the court is no expert. Where there are expert opinions, they will aid the court. Where there is none, the court will have to seek guidance from some authoritative textbook and the court's own experience and knowledge. But discharge it must, its plain duty, with or without expert, with or without other evidence. We may mention that Shashi Kumar V. Subodh Kumar and Fakhruddin Vs. State of M.P. were cases where the Court itself compared the writings."

8.18 Therefore, as rightly contended by the learned counsel for the petitioner, there is no justification on the part of the 6<sup>th</sup> respondent-College to insist upon the petitioner to re-do the CRRI training on the basis of lack of attendance, as such this Court fully satisfied about the completion of CRRI Training for the petitioner.

8.19 Further, in the decision of the Apex Court reported in (2012) 12 Supreme Court Cases 406 in Ajay Kumar Parmar Vs. State of Rajasthan, it has been held as under:

"28.The opinion of a handwriting expert is fallible/liable to error like that of any other witness, and yet, it cannot be brushed aside as useless. There is no legal bar to prevent the court from comparing signatures or handwriting, by using its own eyes to compare the disputed writing with the admitted writing and then from applying its own observation to prove the said handwritings to be the same or different, as the case may be, but in doing so, the court cannot itself become an expert in this regard and must refrain from playing the role of an expert, for the simple reason that the opinion of the court may also not be conclusive. Therefore, when the court takes such a task upon itself, and findings are recorded solely on the basis of comparison of signatures or



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handwritings, the court must keep in mind the risk involved, as the opinion formed by the court may not be conclusive and is susceptible to error, especially when the exercise is conducted by one, not conversant with the subject. The court, therefore, as a matter of prudence and caution should hesitate or be slow to base its findings solely upon the comparison made by it. However, where there is an opinion whether of an expert, or of any witness, the court may then apply its own observation by comparing the signatures, or handwritings for providing a decisive weight or influence to its decision."

8.20 Though the above decisions would emphasize on the aspect that the Court can very well compare the disputed writings with that of the admitted writings and act as an Expert and apply its own observation by comparing the signatures, it is pertinent to note that the ratio laid down is to the effect that when the Court comes notice the disputed writings, which forms as core subject matter of the issue involved, the Court can act as an Expert and can very well go into the said writings and form an opinion by venturing itself to thorough verification of the same for the purpose of arriving at a just conclusion. In the present case, on thorough verification and comparison of the attendance markings in respect of the petitioner herein in the Attendance Register, it is clearly established that the 6<sup>th</sup> respondent College, with mala fide intention, has committed serious act of altering the 'presence' of the petitioner to 'absence' so as to restrain her to get Course completion certificate/CRRI Training completion certificate.

8.21 As discussed earlier, since it is found that the 6<sup>th</sup> respondent College indulged in illegal practice of altering the attendance of the petitioner, while this Court deprecate such practice of the College and refused to hand over the daily entry log books of the petitioner, this Court is of the firm view that, absolutely, there is no absence on the part of the petitioner in undergoing the CRRI training as contended by the College. Therefore, this Court holds that the petitioner has successfully completed the CRRI training and is entitled to get the Course Completion Certificate as well as Certificate for Completion of CRRI Training and entitled for refund of excess fees collected by the College along with stipend. The 6<sup>th</sup> respondent College also liable to be penalised for the commission of all these sort of manipulation/interpolation/alteration etc., of records are produced before this Court.



9. W.P.No.11921 of 2018:

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the 4<sup>th</sup> respondent college to issue Certificate for the training undergone by the petitioner in respect of Compulsory Rotatory Residential Internship (CRRI) in the 4<sup>th</sup> Respondent Institute and the Provisional Certificate declaring the satisfactory completion of B.D.S Course & the period of Compulsory Rotatory Internship from the 4<sup>th</sup> Respondent so as to enable the respondents 1 and 2 to issue Registration Certificate for practice enabling the petitioner to practice or to pursue the post graduation course and consequently direct the 4<sup>th</sup> respondent to pay compensation to the petitioner for the loss of one year in her educational carrier or profession.

10. Heard Mr.G.Ethirajulu, learned counsel for the petitioner, Mr.S.Haja Mohideen Gisthi, learned Advocate for respondents 1 & 2, Mr.D.Ravichander, learned Standing counsel for respondents 3, Ms.Rita Chandrasekar for M/s.Aiyar & Dolia for respondent 4 and perused the entire materials available on record.

11. Mr.Ethirajulu, learned counsel for the petitioner would submit that the petitioner joined Bachelor of Dental Surgery (BDS) at the 4<sup>th</sup> respondent College/Madha Dental College and Hospital in the year 2012, which is a self-financing College affiliated to Tamil Nadu Dr.MGR Medical University. The grievance of the petitioner is that instead of paying stipend for internship which is a normal practice in institutions, the college management has been demanding illegal fee for the internship.

11.1 The learned counsel for the petitioner would point out that the Fee Fixation Committee has fixed the fees as Rs.1,60,000/- for each year commencing from the academic year 2012-2013 to 2015-2016. The petitioner paid a sum of Rs.1,60,000/- (Rs. 40,000/- + Rs. 25,000/- +Rs. 95,000) on 01.08.2012 for the 1<sup>st</sup> year, Rs.1,65,000/- on 26.07.2013 through IOB, Kundrathur Branch Chennai for the 2<sup>nd</sup> year, a sum of Rs.1,60,000/- through D.D.No 481505 dated 01.07.2014 for the 3<sup>rd</sup> year and a sum of Rs.1,60,000/- through cheque No. 075447 dated 14.07.2015 for the year. Thus, in altogether, the petitioner has paid the entire fees for BDS Course. The grievance of the petitioner is that the 4<sup>th</sup> respondent has not issued Compulsory Rotatory Residential Internship (CRRI) Certificate to the petitioner.

11.2 The learned counsel for the petitioner would also submit that the father of the petitioner sent a letter dated 25.01.2018 requesting the 4<sup>th</sup> respondent College to issue the Certificate so as to apply for Degree and to register the same

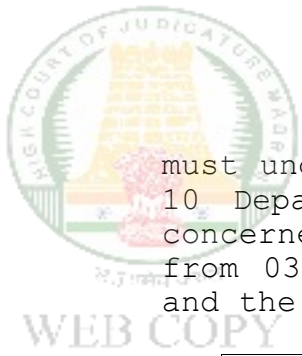


with the respondents 1 and 2 and also for applying Post Graduation. In spite of receipt of the letter, the 4<sup>th</sup> respondent neither issued No Objection Certificate nor made any written claim for alleged arrears of fees. The learned counsel would also submit that the petitioner is a meritorious student and she was issued with a Certificate of appreciation in the 3<sup>rd</sup> year BDS examination by the College for securing First rank, however, the 4<sup>th</sup> respondent College has purposefully without any valid reason, refused to issue CRRI Certificate under the guise that the petitioner has not paid the fees. Therefore, the learned counsel would pray this Court to direct the 4<sup>th</sup> respondent to issue CRRI Certificate and the provisional Certificate of B.D.S.Course and also to pay the compensation for the loss of educational career/profession.

12.Per contra, Ms.Rita Chandrasekar, learned counsel appearing for the respondents 3 and 4, while reiterating the averments mentioned in the counter affidavit, would submit that the petitioner joined BDS course in the year 2012 under the Government quota. The petitioner completed the course during the year 2015-16 and she has to remit a sum of Rs.1.45 lakhs towards balance tuition fees inclusive of transportation charges. The petitioner's father addressed a letter dated 05.07.2016, expressing his inability to pay the fees and sought permission to remit the same in two months and requested to accept examination fees. Accordingly, while considering the request made by the petitioner's father undertaking to pay the balance fees within two months, the petitioner was permitted to attend the classes.

12.1 According to the learned counsel for 4<sup>th</sup> respondent, at no point of time, the 4<sup>th</sup> respondent college never demanded fee towards internship from any student, but the petitioner was only called upon to pay the balance tuition fees of Rs.1.45 lakhs which is due and payable by her and the same has been misconstrued as if the 4<sup>th</sup> respondent college demanded for payment of fees from the petitioner for undergoing Internship. Mere completion of the course by the petitioner cannot be a ground for issuance of course completion certificate and the same will be issued only upon remittance of arrears of tuition fees to the tune of Rs.1.45 lakhs payable by the petitioner. The petitioner so far has remitted a sum of Rs. 7,75,000/- and still a sum of Rs.1.45 lakhs has to be remitted towards arrears of tuition fees.

12.2 While referring to the additional counter affidavit filed on behalf of the respondent 4<sup>th</sup> respondent, the learned counsel would submit that the petitioner joined BDS course in the year 2012 under the Government quota and the duration of the course is 4 years and as per the Curriculum of Dental internship programme of Dental Council of India, a candidate



must undergo internship training for a period of one year across 10 Departments in the college. As far as the petitioner is concerned, the period of Internship is for a period of 365 days from 03.10.2016 to 02.10.2017. The petitioner absented herself and the details of her absence are given below:

| S.No. | Name of the Dept.                      | No. of days attended | No. of days absent |
|-------|----------------------------------------|----------------------|--------------------|
| 1     | Prosthodontics                         | 40                   | 06                 |
| 2     | Elective Posting                       | 07                   | 08                 |
| 3     | Public Health Dentistry                | 13                   | 18                 |
| 4     | Conservative Dentistry and Endodontist | 22                   | 08                 |
| 5     | Public Health Dentistry                | 25                   | 05                 |
| 6     | Periodontics                           | 20                   | 10                 |
| 7     | Oral Surgery                           | 15                   | 30                 |
| 8     | Oral Pathology                         | 14                   | 01                 |
| 9     | Public Health Dentistry                | 20                   | 10                 |
| 10    | Oral Medicine                          | 21                   | 10                 |
| 11    | Pedodontics                            | --                   | 31                 |
| 12    | Orthodontics                           | 10                   | 20                 |

12.3 According to the learned counsel for 4<sup>th</sup> respondent, the petitioner absented herself from attending the internship programme for a period of 157 days. Subsequently, extension posting was given to the petitioner to enable her to complete the internship training programme. Despite having been given extension posting as stated above, the petitioner absented herself for 135 days. It is further stated that at no point of time, the 3<sup>rd</sup> respondent, had prevented the petitioner from attending the internship training programme and it was the petitioner who failed to attend the programme regularly.

12.4 The learned counsel for 4<sup>th</sup> respondent also placed Attendance Registers (13 nos.) maintained by the institution as per the direction of this Court. She pointed out that as per the Regulation of Tamil Nadu Dr.M.G.R.Medical University for break in internship training with regard to one year internship training programme, if a candidate has completed less than 50% of the internship postings and entered on break up for more than



90 days, the candidate has to re-do the entire internship training programme and if the candidate has completed more than 50% of the internship postings and entered on break up for more than 90 days, the candidate has to undergo the balance period of internship training programme. In the present case, the petitioner has to re-do the internship training programme by applying to the University for completion of the same.

12.5 The learned counsel would further submit that as per the normal procedure, after completion of the internship training programme by the candidates, the work profile of the candidates will be sent by the College to the University. On that basis, the University will issue Provisional Certificate-II and Course Completion Certificate. Thereafter, the College will apply to the University for the Degree Certificate of the candidates and after obtaining the same, it will be handed over to the candidate concerned.

12.6 Therefore, the learned counsel for the 4<sup>th</sup> respondent would submit that since the petitioner did not complete the internship training programme, the College did not apply for the certificate. Without completing the internship training programme, the University will not furnish the degree certificate to the petitioner. The petitioner did not complete the internship training programme as mandated under the guidelines issued by the Tamil Nadu Dr.M.G.R.Medical University. The petitioner is attempting to project before the Court that as if she has not been issued certificates despite having completed the Course. Further, the College had permitted the petitioner to sit for the semester examinations and she was not denied permission citing non-payment of balance tuition fees. That apart, Internship Training Programme is mandatory for all the students including the petitioner. It is admitted position and fact that the petitioner did not complete the internship training programme in all the departments despite she was granted extension. In view of the same, the College could not apply for certificate to be issued to the petitioner. With these contentions, the learned counsel for the 4<sup>th</sup> respondent College prayed for dismissal of this Writ Petition.

13. The main issue involved in the Writ Petition is whether the petitioner completed the Internship training programme by attending the classes regularly and thereby entitled to the Course Completion Certificate and CRRI Training Certificate and entitled for refund of excess fees along with stipend for attending CRRI Training?

14. It is not in dispute that the petitioner has completed her BDS course from Madha Dental College and Hospital/4<sup>th</sup> respondent in 2015-16 and also passed the final year examination



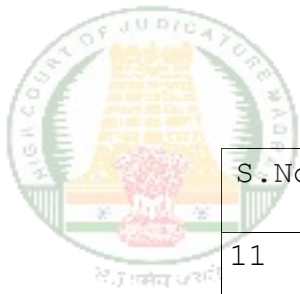
held in August 2016. After completion of the BDS course, as per the Curriculum of Dental Internship Programme of the Dental Council of India, the candidate has to undergo internship training for a period of one year. As far as the petitioner is concerned, the period of internship is for a period of 365 days from 03.10.2016 to 02.10.2017. It is also not in dispute that the internship for all the students was commenced from 3<sup>rd</sup> October, 2016 onwards.

15. A bare perusal of the counter affidavits filed on behalf of the 3<sup>rd</sup> respondents would clearly reveal that all along, they have been demanding Rs.1.45 lakhs towards balance tuition fees inclusive of transportation charges and further, according to the 4<sup>th</sup> respondent college, the petitioner herself absented for nearly 157 days while undergoing CRRI training.

16. In order to find out the veracity of the submissions made by both sides as regards the attendance of the petitioner towards internship training programme, this Court has ventured itself upon careful verification of Attendance Registers wherein, the markings of presence/ absence of the petitioner during the so-called days were available.

17. According to the 4<sup>th</sup> respondent college, the petitioner has absented herself on the following dates in respect of each department:

| S.No. | Name of the Dept.                      | No. of days attended | No. of days absent |
|-------|----------------------------------------|----------------------|--------------------|
| 1     | Prosthodontics                         | 40                   | 06                 |
| 2     | Elective Posting                       | 07                   | 08                 |
| 3     | Public Health Dentistry                | 13                   | 18                 |
| 4     | Conservative Dentistry and Endodontics | 22                   | 08                 |
| 5     | Public Health Dentistry                | 25                   | 05                 |
| 6     | Periodontics                           | 20                   | 10                 |
| 7     | Oral Surgery                           | 15                   | 30                 |
| 8     | Oral Pathology                         | 14                   | 01                 |
| 9     | Public Health Dentistry                | 20                   | 10                 |
| 10    | Oral Medicine                          | 21                   | 10                 |



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| S.No. | Name of the Dept. | No. of days attended | No. of days absent |
|-------|-------------------|----------------------|--------------------|
| 11    | Pedodontics       | --                   | 3<br>1             |
| 12    | Orthodontics      | 10                   | 20                 |
|       | Total             |                      | 157 days           |

18. On thorough comparison of markings made in the Attendance Register, this Court found the following discrepancies:

| S.No. | Name of the Dept.                      | No. of days attended according to 4 <sup>th</sup> respondent College | No. of days absent according to 4 <sup>th</sup> respondent College | Remarks of this Court made after thorough check                                                                                     |
|-------|----------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 1     | Prosthodontics                         | 40                                                                   | 06                                                                 | Marking on 11 <sup>th</sup> , 24 <sup>th</sup> , 27 <sup>th</sup> and 28 <sup>th</sup> of October, 2016 are interpolated/re-written |
| 2     | Elective Posting                       | 07                                                                   | 08                                                                 | Nil                                                                                                                                 |
| 3     | Public Health Dentistry                | 13                                                                   | 18                                                                 | Nil                                                                                                                                 |
|       | Conservative Dentistry and Endodontics | 22                                                                   | 08                                                                 | Marking on 12 <sup>th</sup> January, 2017 is interpolated/re-written                                                                |
| 5     | Public Health Dentistry                | 25                                                                   | 05                                                                 | Marking on 8 <sup>th</sup> & 9 <sup>th</sup> of February, 2017 are interpolated/re-written                                          |



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| S.No | Name of the Dept.       | No. of days attended according to 4 <sup>th</sup> respondent College | No. of days absent according to 4 <sup>th</sup> respondent College | Remarks of this Court made after thorough check                                          |
|------|-------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| 6    | Periodontics            | 20                                                                   | 10                                                                 | Marking on 11 <sup>th</sup> & 24 <sup>th</sup> February, 2017 are interpolated/rewritten |
| 7    | Oral Surgery            | 15                                                                   | 30                                                                 | Nil                                                                                      |
| 8    | Oral Pathology          | 14                                                                   | 01                                                                 | Nil                                                                                      |
| 9    | Public Health Dentistry | 20                                                                   | 10                                                                 | Marking on 24 <sup>th</sup> & 26 <sup>th</sup> June, 2017                                |
| 10   | Oral Medicine           | 21                                                                   | 10                                                                 | Nil                                                                                      |
| 11   | Pedodontics             | --                                                                   | 31                                                                 | Marking on 8 <sup>th</sup> of August, 2017 is interpolated                               |
| 12   | Orthodontics            | 10                                                                   | 20                                                                 | Nil                                                                                      |
|      | Total                   |                                                                      |                                                                    | 12 days                                                                                  |

19. On going through the Attendance Register pertains to the Prosthodontics department, this Court found that marking attendance for 46 days from 3.10.2016 to 17.11.2016. According to the 4<sup>th</sup> respondent college, the petitioner actually attended for 40 days and 6 days absent. However, on a careful examination, this Court found that the attendance marking made on 11<sup>th</sup>, 24<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> of October, 2016 contained interpolation/re-written. Likewise, Conservative Dentistry & Endodontics (8<sup>th</sup> & 9<sup>th</sup> of February, 2017), Periodontics (11<sup>th</sup> & 24<sup>th</sup> of February, 2017, Public Health Dentistry (24<sup>th</sup> & 26<sup>th</sup> of June, 2017) and Pedodontics (8<sup>th</sup> August, 2017) Departments are concerned, the attendance markings on the said dates contained interpolation/re-written. As such, in total, 12 days have been interpolated.

20. This Court also perused the bona fide certificate issued by the Professor and Head of the Department Dr.P.Jayavelu, MDS,



Department of Oral and Maxillo Facial Surgery, wherein, it was stated that the petitioner's attendance as 98% for 60 days training period. Whereas, the 4<sup>th</sup> respondent College in its counter, has stated that the petitioner was absented for 38 days. This is totally contradictory to the Certificate issued by the 4<sup>th</sup> respondent College of its own Department and likewise in the Oral Medicine, the petitioner attended 30 days out of 31 days, whereas, according to the 4<sup>th</sup> respondent College, she was not present for 10 days. Thus, this Court easily infer that the 4<sup>th</sup> respondent College was not only indulged in the interpolation/alteration of the attendance of the petitioner, but also indulged to mark directly as absent in spite of her presence in the CRRI Training programme. Hence, there is no hesitation to this Court to hold that the 4<sup>th</sup> respondent College has indulged in all sorts of malpractices to restrain the petitioner from completing the CRRI Training.

21. Further on a careful perusal of all the Attendance Registers, this Court finds that the 4<sup>th</sup> respondent College has not maintained the same properly and in fact, in respect of some Departments, the students including the petitioner were allowed to sign in the Attendance Registers, while in respect of other Departments, they were allowed only to mark A/P and further, there were lot of discrepancies and interpolations/over writings contained in each Attendance Register and there was no clarity. In fact, as discussed supra, in respect of the petitioner, Raja Rajeswari (W.P.No.33407 of 2019), it has been clearly established that the 4<sup>th</sup> respondent College has indulged in various illegal acts of altering the attendance markings by changing the presence of the petitioner to absence and thereby restrained her to get Course Completion Certificate/CRRI Training Completion Certificate and this Court has come to the conclusion that there is no bona fide on the part of the 4<sup>th</sup> respondent college and in fact, the College has failed to inspire the confidence of this Court having played cheap tricks in the matter of attendance markings in order to deprive the petitioners from getting their Course Completion Certificates only to extract the arrears amount from them. Therefore, when this Court comes to the conclusion that the 4<sup>th</sup> respondent College has committed serious act of altering the attendance markings, though in respect of the present petitioner, Ramya Priya, the absence was shown more number of days on her part, this Court is of the view that the petitioner's presence was marked as absent in many places as stated above, so as to restrain the petitioner from completion of CRRI Training due to the reason non-payment of illegal demand of fee made by the College.

22. Admittedly, the petitioner was admitted in the 4<sup>th</sup> respondent College under Government quota. The 4<sup>th</sup> respondent



College has issued Bonafide Certificate to the petitioner relating to the Fee structure for 4 Year BDS Course, which is filed in typed set of papers and reads as under:

BONAFIDE CERTIFICATE

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Date : 16.11.2012

This is to certify that Ms. M.RAMYA PRIYA, D/o. Mr. S.Murali, is a Bonafide Student of First Year BDS of Madha Dental College & Hospital, Kundrathur, Chennai - 69 during the Academic year 2012-213. The fee structure is given as below.

| PARTICULARS                                                 | I st year<br>Rs. | II nd year<br>Rs. | III rd year<br>Rs. | IVth year<br>Rs. |
|-------------------------------------------------------------|------------------|-------------------|--------------------|------------------|
| Tuition fees                                                | 1,00,000.00      | 1,00,000.00       | 1,00,000.00        | 1,00,000.00      |
| Laboratory,<br>Library,<br>sports,<br>Records, Lab<br>coats | 40000            | 40000             | 40000              | 40000            |
| Transport<br>Charges                                        | 20000            | 20000             | 20000              | 20000            |
| TOTAL                                                       | 1,60,000.00      | 1,60,000.00       | 1,60,000.00        | 1,60,000.00      |

This certificate is issued for the purpose of Bank Education Loan only.

Sd/-

PRINCIPAL

MADHA DENTAL COLLEGE & HOSPITAL,  
KUNDRATHUR, CHENNAI- 600 069.

23. A perusal of the above, it is clear that for each year the fee would be a sum of Rs.1,60,000/- which includes Tuition fee, Laboratory, Library, Sports, Records, Lab coats and also Transport charges and for four years, total sum of Rs.6,40,000/- has to be paid by the petitioner and admittedly, the petitioner has also paid more than the said amount as evidenced in the counter affidavit, wherein, the 4<sup>th</sup> respondent college itself stated that the petitioner has remitted a sum of Rs.7.75 lakhs.

24. In the counter affidavit filed by the Principal on behalf of the 4<sup>th</sup> respondent College, it has been clearly mentioned in paras 4 & 5 as under:

"4. I submit that, on perusal of our official accounts, out of sum of Rs.9.20 lakhs being the



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fees for 4 years, the petitioner had remitted only a sum of Rs.7.75 lakhs. On 05.07.2016, the petitioner's father addressed a letter to this respondent in the following lines:

"..... As per discussions, I am remitting Rs.10,000/- towards dues and the balance sum will be remitted in two months".

5. I submit that during the internship, this Respondent reminded about the payment of the balance fees as undertook by her father. However, for reasons best known, the petitioner stopped attending the internship. On 03.02.2018, a legal notice was issued on behalf of the petitioner as if she was forcefully sent out of the Institution. In the said notice, it was stated that all the dues have been cleared by her and despite the same, she was not allowed to attend the internship. ..."

25. A perusal of the above, it is clear that the 4<sup>th</sup> respondent college has collected the amount of Rs.7.75 lakhs from the petitioner while the total amount actually to be paid by the petitioner was a sum of Rs.6.40 lakhs. Apart from this, still the 4<sup>th</sup> respondent college demanded a sum of Rs.1.45 lakhs. Contrary to the Fee structure mentioned in the Bonafide Certificate issued by the 4<sup>th</sup> respondent college, strangely, in the reply legal notice dated 11.5.2018 issued on behalf of the 4<sup>th</sup> respondent College, it has been mentioned as follows:

"... the fee structure of Rs.1.00 lakh plus another 1.00 lakh payable towards other fee/charges, totalling 8 lakhs for four years. Apart from that, a sum of Rs.30,000/- is payable towards transportation charges per year..."

Therefore, it is clear that the 4<sup>th</sup> respondent College has collected excess fee from the petitioner and further demanded a sum of Rs.1.45 lakhs. When the petitioner resisted to pay this amount, the 4<sup>th</sup> respondent college has started giving trouble to the petitioner by altering the attendance register in the manner stated above despite she attended the CRRI internship training classes. In such circumstances, this Court has no hesitation to hold that the petitioner has attended the classes of CRRI training regularly and deliberately her presence has been marked as absent, which led to show her absence in the Attendance Registers. In fact, in the letter addressed by the father of the petitioner to the 4<sup>th</sup> respondent college, dated 25.01.2018, he has clearly stated that "yesterday morning my daughter was in the Endo Department posting around 10.30 a.m., Dr.Siva Kumar called my daughter to the office room and told not to continue the internship hereafter since you have not paid the academic fees." This aspect has not been denied by the 4<sup>th</sup> respondent college in their counter affidavit. But strangely,



in the counter affidavit, it is stated that "for reasons best known, the petitioner stopped attending the internship". This statement made by the 4<sup>th</sup> respondent college, by no stretch of imagination, is believable nor acceptable since the petitioner being topper of the College and having paid huge amount of Rs.7.75 lakhs and after having gone through all the four years of the course, there might not have been any impediment for her to attend CRRI training unless, she has been prevented by the 4<sup>th</sup> respondent college insisting their illegal demand of payment of fee from the petitioner.

26.As narrated above, the 4<sup>th</sup> respondent College had indulged all type of malpractices of altering the attendance registers, so as to prevent the petitioner from completing the CRRI Training for the simple reason of non-payment of illegal demand of exorbitant fees by the 4<sup>th</sup> respondent College. In both the Writ Petitions, the petitioners' records/Attendance Registers have been manipulated/alterd/interpolated in the same book even on the same batch. The alterations in the Attendance Registers, marking the presence as absent happened in both the writ petitioners' Attendance Registers in the respective columns.

27. Therefore, in view of the above discussion, this Court has no hesitation to hold that the petitioner has paid the entire fee and no arrears as demanded by the 4<sup>th</sup> respondent college are due and payable by the petitioner, but in turn, the 4<sup>th</sup> respondent college is liable to return a sum of Rs.1.35 lakhs (7.75 lakhs - 6.40 lakhs) collected from the petitioner excessively.

28. A perusal of the Records/Attendance Registers pertain to the petitioner and the other documents produced by the petitioner would clearly establish that she has completed the CRRI Training and it is only the 4<sup>th</sup> respondent has made alterations in the Attendance Registers in the manner as stated above.

29.Education can help us stay focused and on track in the right direction by knowing what the right path is for us and Educational Institution is termed as temple of learning and wisdom and the prime motto of the Institution is to provide students with quality education and enriching experiences that allows them to develop into well rounded active citizens.

30.Imparting of education has never been treated as a trade or business in this country since time immemorial. It has been treated as a religious duty. It has been treated as a charitable activity.

31.Thus, for the purpose of maintaining standards of education, it is very much necessary to see that the students to



32.While so, it is quite shocking rather surprising to note that the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College, being an esteemed educational institution, indulged in such an obnoxious act, which is not only lowered its status extremely, but resulted in the students, i.e., the petitioners remained Degree less despite having completed the course successfully by paying lakhs of rupees towards fees, which cannot be tolerated at any cost. The petitioners have been longing for getting Course Completion Certificates, CRRIT Training Certificates and for Degree Certificates for the past four years and due to the illegal act of the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College, the petitioners were unable to earn employment and failed to become a professional in the field of dentistry for the past four years and made their future career bleak and put in jeopardy. Thus, the petitioners are entitled to be compensated suitably. For the purpose of fixing the fair compensation, this Court would take into consideration of the fact that the petitioners have been kept idle for the past four years without any job because of the act of the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College. Further, the 6<sup>th</sup> respondent/4<sup>th</sup> respondent have produced manipulated Attendance Registers before this Court to mislead this Court for the purpose of getting favourable order, deserves to be dealt with in a serious manner. In such circumstances, this Court feels it appropriate to impose heavy penalty on the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College apart from awarding compensation to the petitioners, payable by the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College.

"15. There have been instances of errant medical colleges making admissions to the medical courses without obtaining the requisite permission. This Court came down heavily on such deviant colleges by imposing penalties for the illegalities committed by them in the matter of admission and for putting the students' future in jeopardy. We



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have noticed a disturbing trend of some medical colleges in projecting fake faculty and patients for obtaining permission for admission of students. The Committee exposes the evil design of the College in resorting to deceitful methods to cheat the authorities concerned and this Court to secure permission for admission of students. Apart from the prosecution of the Dean, the College is liable to be suitably punished for committing perjury.

16. We are unable to persuade ourselves to accept the apology offered on behalf of the College. The College has been habitually indulging in foul play which is clear from the course of events in 2015 when faculty members were found to have been working elsewhere and running hospitals. The bravado shown by the College in an attempt to cheat the MCI, the Government and this Court has to be condemned. The Committee constituted by this Court is due to the vehemence with which the Counsels appearing for the College were trying to convince us that they are fully compliant with all the requirements. "Apology is an act of contrition. Unless apology is offered at the earliest opportunity and in good grace, the apology is shorn of penitence and hence it is liable to be rejected. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment it ceases to be an apology and becomes an act of a cringing coward."

17. The students who were admitted in the 1st Year MBBS Course in the College for the academic year 2017-18 were duly cautioned and informed that their admission was purely provisional and they cannot claim any equity if the College was later on found to be deficient. They have been directed to be admitted in other colleges for the years 2018-19. In the process, students have lost a precious academic year. However, they are entitled for the refund of the fee collected from them for admission to the College.

18. For the aforementioned reasons, we pass the following order:

(i) Mr. S.S. Kushwaha, Dean of the R.K.D.F. Medical College Hospital and Research Centre i.e. Petitioner No.2- herein is liable for prosecution under Section 193 IPC. The Secretary General of this Court is directed to depute an Officer to initiate the prosecution in a competent Court having jurisdiction at Delhi.



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(ii) The College is barred from making admissions for the 1<sup>st</sup> Year MBBS course for the next two years i.e. 2018-19 and 2019- 2020.

(iii) A penalty of Rs. Five Crores is imposed on the College for playing fraud on this Court. The amount may be paid to the account of the Supreme Court Legal Services Committee.

(iv) The students are entitled to receive the refund of fee paid by them for admission to the College for the academic year 2017-

19. In addition, the College is directed to pay a compensation of Rs. One Lakh to the said students."

34. The commission of malpractice by the College in the above case is similar to the present case. Hence, the 4<sup>th</sup> respondent/6<sup>th</sup> respondent College deserve to a similar punishment being awarded by this Court in the form of penalty as imposed by the Hon'ble Supreme Court of India.

35. In the light of the above discussion, this Court pass the following order:

(i) The 6<sup>th</sup> respondent/4<sup>th</sup> respondent College is directed to issue Course Completion Certificates, if not already issued and also issue Certificates for the CRRI Training undergone by the petitioners within two weeks from the date of receipt of a copy of this order, to the petitioners;

(ii) The 6<sup>th</sup> respondent/4<sup>th</sup> respondent College is directed to forward all the details along with necessary certificates as required to the 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University, so as to enable the University to issue Provisional/Degree Certificate to the petitioners, within four weeks thereafter. The 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University is directed to issue the Provisional/Degree Certificate within four weeks from the date of receipt of details with necessary certificates from the 6<sup>th</sup>/4<sup>th</sup> respondent College and in case the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College failed to furnish/apply with necessary details, 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University is directed to issue the Provisional/Degree Certificate immediately upon the expiry of two weeks time provided to the College to furnish necessary details, within four weeks, directly to the petitioners;

(iii) Each petitioner is entitled to Rs.24,00,000/- (50,000 x 12 x 4) towards compensation payable by the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College, since the petitioners have been deprived of the opportunity to become Dentists by the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College and remained them idle for the last 4 years, by indulging in malpractice/interpolation of Attendance Register



of the petitioners and thereby, restrained the petitioners from the receipt of Course Completion Certificates as well as the Certificates for completion of CRRI Training to the petitioners. Therefore, this Court directs the 6<sup>th</sup> respondent/4<sup>th</sup> respondent College to pay a sum of Rs.24,00,000/- as compensation to each petitioner within a period of one month from the date of receipt of a copy of this order;

(iv) The 6<sup>th</sup> respondent/4<sup>th</sup> respondent College is directed to refund a sum of Rs.1,35,000/- along with interest at 18% p.a. from 01.04.2016 to till the date of payment to the petitioner Ramya Priya, the fee which was collected from her excessively, within a period of one month from the date of receipt of a copy of this order;

(v) The 6<sup>th</sup> respondent/4<sup>th</sup> respondent College is directed to refund a sum of Rs.3,25,000/- along with interest at 18% p.a. from 01.04.2016 to till the date of payment, to the petitioner SC.Raja Rajeswari, the fee which was collected from her excessively within a period of one month from the date of receipt of a copy of this order;

(vi) The 6<sup>th</sup> respondent/4<sup>th</sup> respondent College is imposed with a penalty of only a sum of Rs.3,00,00,000/- (Rupees Three Crores only) for indulging in manipulation of Attendance Registers and produced the said Attendance Registers before this Court and attempted to get orders against the petitioners by relying on the said manipulated/interpolated Attendance, though in a similar situation, the Hon'ble Supreme Court in Sarvepalli Radhakrishnan University and another vs. Union of India and others (cited supra) imposed a fine of Rs.5,00,00,000/- against the College for playing fraud on the Court;

(vi)(a) The said amount of penalty of Rs.3,00,00,000/- shall be paid to the 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University within a period of eight weeks from the date of receipt of a copy of this order and the 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University is directed to utilise the said amount for the purpose of providing scholarship to the poor students those who are undergoing BDS/MDS course, under the Scheme if any available with them, in the event, if no such Scheme is available, the 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University is directed to frame appropriate Scheme for providing scholarship and thereafter utilise the said amount;

(vii) The 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University is directed to pass appropriate orders directing all the Colleges to install bio-metric attendance system for those who are attending the Colleges as well as CRRI Training and for attending all other training programme by the students, to enable the students to mark their presence through the said bio-metric system, which would avoid manipulation of attendance records in future;

(viii) The respondents 1, 2, 3 and 8 in W.P.No.33407 of 2018



are directed to conduct investigation with regard to the affairs of the 6<sup>th</sup> respondent College and to take appropriate action if necessary, for the commission of illegal acts, malpractices etc., including withdrawal of approval and de-affiliation by the University for the future admissions;

(ix) In order to avoid the similar incidents in future, if any College indulges in any such illegal activities, the 8<sup>th</sup> respondent/Dental Council of India and the 4<sup>th</sup> respondent/3<sup>rd</sup> respondent University are directed to probe into the same as and when any complaint received from the students and the students are also at liberty to bring to the notice of the Dental Council of India and University which in turn, if necessary, shall depute the students to other college for the purpose of undergoing CRRI training or practical examinations in order to protect the interest and future career of the students;

(x) The 6<sup>th</sup> respondent/4<sup>th</sup> respondent College is directed to pay the eligible stipend to the petitioners for their CRRI Training period of one year within a period of four weeks from the date of receipt of a copy of this order;

(xi) The Chairman, the Director and the Principal of the Madha Dental College and Hospital, who are 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> respondents in W.P.No.33407 of 2018 are responsible for the compliance of this order.

36. With these directions, these Writ Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

suk/akv/sd/sp

To

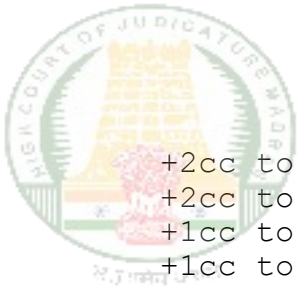
1. The Secretary,  
Health Department,  
Fort St. George,  
Chennai - 600 009.
2. The Director of Medical Education,  
162, Periyar E.V.R.High Road,  
Kilpauk, Chennai - 600 010.
3. The Deputy Controller of Examination (BDS),  
The Tamil Nadu Dr.MGR Medical University,  
Chennai.



4. The Registrar,  
The Tamil Nadu Dr.MGR Medical University,  
Chennai.
5. The Chairman,  
Madha Dental College & Hospital,  
Kundrathur, Chennai - 600 069.
6. The Director,  
Madha Dental College & Hospital,  
Kundrathur, Chennai - 600 069.
7. The Principal,  
Madha Dental College & Hospital,  
Kundrathur, Chennai - 600 069.
8. The President,  
Dental Council of India,  
New Delhi.
9. The Secretary,  
Dental Council of India,  
Aiwan-E-Gulib Morg,  
Kotla Road, Temple Lane,  
Opp. Mota Sundari College for Women,  
New Delhi - 110 002.
10. The Secretary,  
Tamilnadu Dental Council,  
Arihant Mastic Tower 5-0-3  
No.216, Jawaharlal Nehru Salai,  
Koyambadu, Chennai - 600 107.
11. The Registrar,  
Tamilnadu Dr.M.G.R. Medical University,  
No.69, Anna Salai, Guindy, Chennai - 600 069.
12. The Dean,  
Madha Dental College & Hospital,  
Madha Nagar, Kundrathur,  
Chennai - 600 069.

Copy To  
The Registrar (Judicial)  
High Court, Madras.

Note: Registrar Judicial is directed to keep  
all the 13 original Attendance Registers  
under the safe custody.



+2cc to M/s.Aiyar & Dolia, Advocate, S.R.No.19114, 19113  
+2cc to Mr.S.Haja Mohideen Gisthi, Advocate, S.R.No.19316, 19315  
+1cc to Mr.M.R.Gokul Krishnan, Advocate, S.R.No.19327  
+1cc to Mr.G.Ethirajulu, Advocate, S.R.No.19357

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+1cc to M/s.D.Ravichander, Advocate, S.R.No.20042 (28/03/2022)

+1cc to the Government Pleader, S.R.No.20032 (28/03/2022)

W.P.NO. 33407 of 2018  
and  
W.P.NO.11921 OF 2018

SVI (CO)  
RGA (23/03/2022)