



W.P(MD)No.358 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.358 of 2020

and

W.M.P(MD)Nos.277 & 278 of 2020

Maria Ayurveda Medical College and Hospital,
Represented by its Principal,
P.Jeyasree

... Petitioner

Vs.

1.The Tamil Nadu Dr.MGR Medical University,
Represented by its Registrar,
No:69, Annasalai,
Guindy, Chennai.

2.The Principal,
Ayurveda College,
No:242-B, Trichy Road,
RVS Campus, Sulur,
Coimbatore-641 402.

3.K.P.Binushiya

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the first respondent in his proceedings in Lr.No.EX-IV(3)/10419/2019, dated 27.12.2019 and quash the



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same and consequently directing the first respondent to issue suitable instruction to the second respondent to admit the third respondent student in the second respondent college from the third year of the BAMS degree for the academic year 2019-2020 etc.

For Petitioner : Mr.S.Ramsundarvijayraj
for M/s.Veera Associates

For Respondents : Mr.S.Ramesh for R.1

Mr.T.Amjad Khan
Government Advocate for R.2

Mr.G.Aravinthan for R.3

ORDER

Heard the learned counsel appearing for the College Management, the learned Standing Counsel appearing for the first respondent University and the learned counsel appearing for the third respondent.

2. The third respondent had joined BAMS Course conducted by the petitioner during the academic year 2015-16. It is a 5 ½ years Course. The third respondent was admitted under Management Quota. After undergoing two years, the third respondent wanted to continue her further studies in the second respondent College. She made a request to the petitioner and also obtained Transfer Certificate and No Objection Certificate. But the third respondent was not successful in getting admission in second



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respondent College. She wanted to come back. When the petitioner refused, the third respondent submitted a request letter to the first respondent. The first respondent sent an advisory to the petitioner College to admit the third respondent. Challenging the said communication, the present writ petition has been filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petitioner and called upon this Court to grant relief as prayed for. The third respondent has filed counter affidavit and taken through its contents.

4. The learned Standing Counsel appearing for the University submitted that the impugned advisory notice was issued taking into account the interest of the student.

5. The learned counsel appearing for the petitioner submitted that the third respondent levelled false allegation against the petitioner College that they are collecting excess fee. An enquiry was conducted and eventually the allegation was found to be false. The petitioner apprehends that if the third respondent is allowed to come back to the College, she may create further trouble. He also would add that the third respondent must pay fee as prescribed



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by the Government. He also would add in the alternative that the batch in which the petitioner had joined have already completed their course and at present vacancy is not available. He pressed for setting aside the impugned communication and allowing the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. Though the learned counsel appearing for the petitioner is technically right in his submission, this Court will have to necessarily bear in mind the interest of the third respondent. The third respondent in an ill-advised move took Transfer Certificate from the writ petitioner and tried to enter the second respondent College in the third year. She could not succeed in her attempt. The third respondent only wants to retrace her steps. Of course, due to efflux of time, seats may not be available and the petitioner's original batch had already passed out. But the petitioner need not cite this difficulty because the petitioner is going to admit the third respondent only pursuant to the advisory given by the University. It is only the University that can complaint that the petitioner had exceeded the sanctioned strength. Since the petitioner is going to admit the third respondent only pursuant to the instruction of the first respondent, the question of seats not being available will not at all arise. As



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regards the allegation of excess collection of fee, it had already been found to be incorrect and the learned counsel appearing for the third respondent gives an undertaking that the third respondent would conduct herself in such a manner as not to cause any kind of embarrassment to the College Management. This undertaking given by the third respondent through her counsel is recorded. I make it clear that even if the District Collector receives any allegation regarding excess collection etc from the third respondent, the same shall be disregarded. The petitioner however can only collect what has been prescribed by the Government. The third respondent is permitted to make online payment or payment through Demand Draft. The petitioner shall admit the third respondent in the third year of BAMS Course from the coming academic year onwards.

8. With this direction and observation, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.12.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

MGA

To

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