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W.P.Nos.11059 to 1
of 2015 and 4233 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.11059 to 11061 of 2015 and 4233 of 2016

and

**W.M.P.Nos.1 to 3 of 2015, 1 to 4 of 2015, 1 to 3 of 2015,
28629 to 28631 of 2018 & 3544 of 2016**

W.P.Nos.11059 to 11061 of 2015:

- | | |
|---------------|---|
| 1.K.Sindhu | ... Petitioner
in W.P.No.11059 of 2015 |
| 2.C.Abirami | ... Petitioner
in W.P.No.11060 of 2015 |
| 3.A.Soundarya | ... Petitioner
in W.P.No.11061 of 2015 |

Vs.

- 1.The State represented by its
The Chief Secretary to Government of Tamil Nadu
Department of Home,
Fort St. George,
Chennai – 600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.



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3. The Superintendent of Police,
Thiruvallur District,
Thiruvallur.

4. The Registrar
Tamil Nadu Dr.MGR Medical University,
66, Anna Salai,
Guindy,
Chennai – 32.

5. The Chairman,
O/o. The Chairman
Medical Education
DD Medical College and DD Hospital
Kunnavalum Post,
Thiruvallur District.

6. The Dean
DD Medical College and DD Hospital,
Kunnavalum Post,
Thiruvallur District.

7. The Medical Council of India,
New Delhi.

8. The Tamil Nadu Medical Council,
Chennai.

... Respondents
(in 3 WPs)

[R7 & R8 are suo-motu impleaded as per order dated
16.03.2017 in W.P.Nos.11059 to 11061 of 2015]



W.P.Nos.11059 to 1
of 2015 and 4233 of 2016

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay compensation to a total sum of 30 lakhs for the loss of educational rights and petitioner future life and ambition of petitioner parents.

For Petitioners	: Ms.K.Akshaya For Mr.S.Manoharan (in 3 WPs)
For R1 to R3	: Mr.S.Ravichandran Additional Government Pleader (in 3 WPs)
For R4	: Mr.D.Ravichander (in 3 WPs)
For R5 & R6	: Mr.N.Ganesh Kumar (in 3 WPs)
For R7	: Ms.Shubharanjani Ananth [For NMCI] (in 3 WPs)
For R8	: Mr.J.Jayamalan (in 3 WPs)

W.P.No.4233 of 2016:

Balaji Nambi Saravanan T

... Petitioner

Vs.

1.The Secretary to Government
Health and Family Welfare Department,



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Government of Tamil Nadu,
Fort St. George,
Madras – 9.

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2.D.D. Medical College and D.D Hospital,
Represented by its Chairman T.D Naidu,
61, D.D Nagar Bus Stop,
Kunnavalam Post,
Thiruvallur Taluk and District.

3.The Medical Council of India
Represented by its Secretary,
Pocket 14, Sector-8
Dwarka Phase-1
New Delhi 110 077.

4.Kameshwaran.V

5.G.Mounica

6.Akash.R

7.Divyasree

8.Manivasagan.G

9.Shrinidhi

10.Nandhini Devi

11.M.Balaji Manickam

12.Mohamed Shafir M.

13.N.Shanavas

14.C.Asmitha



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15.K.Sahana

16.Griffith Jerson

17.Vinsha Grace

18.G.Priyadharshini

19.Madhumitha.N

20.Keerthana.S

21.P.Sivasankari

22.P.Sabaris Manikanda Prabu

23.Kamal Pandian P.R

24.Prahathes.A

25.M.Naveen Kumar

26.S.Saravanan

27.J.Sathis Kumar

28.L.S.Sangeetha

29.M.Elamvaluthi

30.K.Thivyabharathi

31.Harinee G.T

32.Dhamodharan.S



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33.Dinesh Kumar C.J

34.Arun kumar M

35.M.Suresh Pandian

36.Kishore Kumar B.

37.M.Shyam Sundar

38.S.Sevitha

39.L.Shiningstar

40.A.Saranya

41.M.Priyadharshini

42.D.Delisha

43.S.Subitha

44.Balaramesh K

45.Monika D.N.P.

46.S.Rajeshkumar

47.M.Jayakumar

48.N.V.Arivuuchelvan

49.B.Jenny Sowbiya

50.Jayasurya.K

51.E.Pavithra



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52.Manikandan

53.Maria Pretthi. A

54.G.Poonarasi

55.S.Aravinth

56.T.V.Abirami

57.C.Charumathy

58.Narendran.K

59.Lokeswaran.R

60.R.E.Saravanakumar

61.M.Roja Dharshni

62.Vandarkuzhali.R

63.N.Yoganandan

64.G.Sreekumar

65.G.Kiruthika

66.S.Santhanapandi

67.S.Vignesh

68.S.Niranjana Selvaraj

69.K.Dhanoj Kumar



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70.S.Sangeetha

71.Sri Abiraami

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to recover the amount paid by the petitioners from the 2nd respondent as envisaged by the Hon'ble Supreme Court in 2000 (7) SCC 746.

For Petitioner	: Mr.V.Raghavachari For Mrs.V.Srimathi
For R1	: Mr.S.Ravichandran Additional Government Pleader
For R2	: Mr.N.Ganesh Kumar
For R3	: Ms.Shubharanjani Ananth [For NMCI]
For R4 to R71	: No Appearance

COMMON ORDER

The writ petitions are filed to direct the respondents to pay compensation for the loss of educational rights of the petitioners and their future life and to recover the fee amount paid to the college.



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2. The petitioners state that pursuant to the advertisement in leading Tamil and English newspaper about “DD Medical College, DD Nagar, Kunna Valum Post, Thiruvallur”, they submitted an application for securing admission to MBBS course 2011 batch. The petitioners submitted applications with a bonafide belief that the Medical College is recognised by the Medical Council of India. The said college is affiliated to the Tamil Nadu Dr.MGR Medical University and got approval from Medical Council of India for 2011 batch and the college showed the letter of permission from Medical Council of India. One Smt.Kamala told the petitioners that their college got Medical Council of India approval for 150 students for 2011 batch. Based on the promise given by the college authorities, the petitioners have paid the fees and secured admission to MBBS course. The petitioners paid the examination fees and and other fees demanded by the college. After securing admission the petitioners suffered various difficulties and ultimately found that the college was not properly recognised by the Medical Council of India and thus, questioned the college admission. The Chairman Mr.T.D.Naidu threatened the students. The petitioners were subjected to harassment by the administration of the college and the Chairman. On account of various issues, the students faced in the college premises and in undergoing the course they



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approached the competent authorities and finally it is brought to the notice of this Court that the admissions were cancelled and all those students were intimated about the cancellation of their admissions.

3. The Principal Secretary to Government in its counter affidavit stated that the D.D Medical and Educational Trust was granted Essentiality Certificate by the Government for establishing the 'DD Medical College and Hospital' at Kunnavalam, Tiruvallur District. The Tamil Nadu Dr.MGR Medical University granted Provisional Affiliation, subject to approval of Governing Council under the usual terms and conditions to the Trust for starting of a new Medical College viz., DD Medical College and Hospital, Kunnavalam Post, Tiruvallur Taluk and District for starting MBBS Degree Course from the academic year 2010-2011, with an annual intake of 150 seats, subject to conditions that the institution shall be obtained the recognition of the Medical Council of India for 150 seats and submit the copy of the same to this University. The Medical Council of India conveyed the approval of the Board of Governors (Letter of Permission) for establishment of a new Medical College at Chennai in the name and style of "DD Medical College and Hospital, Chennai" with an annual intake of 150



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students with prospective effect ie., from the academic year 2010-11 initially for a period of one year and subject to certain conditions. Accordingly, the said Medical College admitted the 1st batch of MBBS students without sharing any seats to the Government quota. The Medical Council of India has not granted renewal of permission for 2nd batch of admissions for the academic year 2011-2012 in view of deficiencies pointed by the Council letter dated 19.05.2012. However, the said college admitted the students in MBBS course in 2011-2012 batch without the permission of the Medical Council of India. Hence, the Medical Council of India in its letter dated 14.10.2013 had communicated to the Government of Tamil Nadu as follows:

“The admission made by D.D. Medical College and Hospital, Tiruvallur, Chennai for the academic years 2011-2012 and 2012-2013 is made without the permission of the Board of Governors under section 10A of the Indian Medical Council Act, 1956 and as such these students have been admitted in gross violation of the statutory provisions. The effect of such violation is laid down in Section 10 B of the IMC Act, 1956 that clearly provides that in case a medical college is established without the permission of the Central



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Government / MCI under Section 10A of the Indian Medical Council Act, 1956, no medical qualification granted to any student of such medical college shall be recognized medical qualification for the purpose of Indian Medical Council Act, 1956.

Therefore, the admission made by the college is in gross violation of the statutory provision and cannot be considered as valid admissions. The Council has already in this regard vide public notice dated 18.01.2013 brought to the notice of all the concerned that the Medical Council of India has not granted permission to D.D. Medical College and Hospital, Tiruvallur, Chennai for the academic year 2011-2012 and 2012-2013 under Section 104 of the IMC Act, 1956. Therefore, the students had been admitted by the college by playing fraud upon them as these admissions had been made without having permission u/s 10A of the IMC Act, 1956.

The State Government may be requested to initiate action against the management of the college for such fraudulent activities.”



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The Director General of Police, Chennai, the District Collector, Thiruvallur District and the Superintendent of Police, Thiruvallur District has been requested to take appropriate action against the DD Medical College and Hospital at Kunnavalam, Thiruvallur District.

4. This Court in its order dated 20.01.2014 in Writ Petition Nos.23089 and 23090 of 2013, directed the Government to give admission to the students of 2011-2012 and 2012-2013 batches of DD Medical College during the ensuing academic year and directed the Medical Council of India to issue appropriate orders in the line of earlier order dated 14.10.2013, permitting the State Government to accommodate all the above students in 19 Government Medical Colleges in the State. As per the above orders of this Court, the Government of Tamil Nadu in letter No.31055 / MCA-2 / 2013-2, Health, dated 13.02.2014, requested the Medical Council of India to grant one time permission to the Government of Tamil Nadu to create necessary number of additional seats in the Government Medical Colleges of the State in order to accommodate the students of 2011-2012 and 2012-2013 batches of DD Medical College and Hospital, so as to enable the students to join the first



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year MBBS Course during the academic year 2014-2015. Aggrieved by orders of this Court dated 20.01.2014, various parties of the above said Writ Petitions filed Writ Appeal (W.A.Nos.179 to 183 of 2014 and W.A.Nos.284 to 288 of 2014 and W.P.Nos.9225 and 9226 of 2014) against the said order. In such Writ Appeals, the Division Bench of this Court in its common judgment dated 30.04.2014, among others, upheld the decision of the Medical Council of India in having withdrawn the Letter of Permission granted to the DD Medical College and also set aside the order of the Single Judge, directing the State Government to accommodate the students of 2011-2012 and 2012-2013 batches of DD Medical College in 19 Government Medical Colleges in the State during the ensuing academic year. Against the said judgment of the Division Bench of this Court, Special Leave Petitions (Civil) Nos. 14238 / 2014 and 14252 / 2014 were filed before the Hon'ble Supreme Court of India. The Apex court dismissed the Special Leave Petitions with the following observation:

“Despite the fact that we have chosen not to interfere with the impugned order, we consider it just and appropriate to expressly grant liberty to the students admitted to the academic courses, i.e.,



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for the years 2011-2012 and 2012-2013 to seek compensation for the wrongful admissions granted by the respondent-Medical College, and also to initiate criminal proceedings against the respondent-Medical College”.

5. The learned Additional Government Pleader appearing on behalf of the official respondents made a submission that the Review Application Nos.68 to 71 of 2014 filed by the 2012 2013 batch MBBS Students Welfare Association of DD Medical College, praying for review of orders dated 30.04.2014 in Writ Appeals have also been dismissed stating that the contentions raised on behalf of the applicants are devoid of merits and unsustainable in the eyes of law and also held that the applicants have not made out a case for the court to review its order dated 30.04.2014. Moreover, the Hon'ble Supreme Court of India has expressly granted liberty to the students admitted to the academic courses, i.e., for the years 2011-2012. and 2012-2013 to seek compensation for the wrongful admissions granted by the erstwhile DD Medical College and Hospital, Kunnavalam, Tiruvallur District and also to initiate criminal proceedings against the said Medical College. | furthermore, on humanitarian grounds, Para Medical / Engineering /



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Agriculture / BioTechnology etc. courses conducted in the various Universities in Tamil Nadu were offered by the Government to the students of 2011-12 and 2012-13 batch of the erstwhile 'DD Medical College and Hospital' at Kunnavalam, Tiruvallur District and certain students have opted for Bachelor of Physiotherapy (BPT) course, and they have been admitted in the courses.

6. It is contended that the 1st Respondent / the Secretary to Government, Health and Family Welfare Department is not the competent authority to initiate criminal action against the 2nd respondent / College. However, based on the letter received from the Medical Council of India, dated 14.10.2013, the Director General of Police, Chennai District Collector, Thiruvallur, Superintendent of Police, Thiruvallur were requested to take appropriate action against the 2nd respondent.

7. The various representations of the students of 2011-2012 and 2012-2013 batch of the erstwhile DD Medical College and Hospital at Kunnavalam, Tiruvallur District for release of original certificates from the said Medical College and for compensation for loss of Educational Rights



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have been sent to the Director General of Police, Chennai, the District Collector, Thiruvallur District and the Superintendent of Police, Thiruvallur District for taking appropriate action. Further it is stated that 147 MBBS students, who were admitted during the academic year 2010-2011 in the erstwhile D.D. Medical College i.e. 2nd respondent in the instant Writ Petition, with the approval of the Medical Council of India as a special case, were relocated in various 47 Government Medical Colleges in Tamil Nadu. the students who had been admitted in the said college during the academic year 2011-2012 and 2012-2013. The Medical Council of India has informed that admissions were made without the permission of the Medical Council of India which is gross violation of the statutory provisions laid down in section 10B of the Indian Medical Council Act, 1956 and requested the State Government to initiate action against the management of the college for such fraudulent activities. The Hon'ble Supreme Court of India dismissed the Special Leave Petition filed against the judgment of Division Bench of High Court of Madras and granted liberty to the students admitted in the academic year 2011-2012 and 2012-2013 to seek compensation for the wrongful admissions granted by the erstwhile DD Medical College and also to initiate criminal proceedings against the said college. The Government of Tamil



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Nadu on humanitarian grounds offered admissions to the Para Medical and other Courses to the students of 2011-2012 and 2012-2013 batch admitted in the erstwhile DD Medical College and certain students have opted and admitted in the Bachelor of Physiotherapy (BPT) courses. The various representations received from the affected students have also been sent to the District Collector, Tiruvallur and the Superintendent of Police, Tiruvallur for taking appropriate action as per the observations of the Hon'ble Supreme Court of India in the SLP (No. 14238/2014 and 14252/2014). The Hon'ble Supreme Court India has clearly observed and has given liberty to the petitioner and other students admitted in the said college. It is further submitted that the Essentiality Certificate issued by the Government for establishing the 'DD Medical College and Hospital' at Kunnavalam, Tiruvallur District in Government Letter No. 20991/ MCA.2. / 2006-9 dated 29.08.2008 has been invalidated.

8. On 03.06.2013, the petitioner lodged a report before the Superintendent of Police at Tiruvallur against the DD Medical College and Hospital. The report was forwarded to the District Crime Branch for investigation. Three F.I.R under Section 294(b), 406, 420 I.P.C was



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registered. During the course of investigation, the chairman of DD Medical College and Hospital Mr. Deenadayalu Naidu was arrested. The other accused persons were absconding during the relevant point of time and actions were taken to arrest all the absconding accused persons. This being the developments that took during the relevant point of time, when the writ petition was pending before this Court, the very relief as such sought to grant compensation cannot be granted by this Court in a writ proceeding. If at all the petitioners have been aggrieved from and out of the illegal actions of the College Authorities, they will have to institute appropriate proceedings before the Competent Court / Forum for seeking the relief of compensation or otherwise.

9. As far as the Government Authorities and Medical Council of India are concerned they have acted promptly and further, they have filed a counter affidavit, stating that no permission was granted and the college authorities have committed certain irregularities for which actions were also been taken. This being the factum, the petitioners have to sue the college authorities for their illegality, irregularities or for the financial losses caused to the petitioners.



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10. The learned senior counsel appearing on behalf of the petitioner in W.P.No.4233 of 2016 brought to the notice of this Court that in the criminal case registered against the DD Medical College, the competent authority of the State attached the Bank accounts as well as the properties and therefore, the authorities will be in a position to adjudicate the issues for refund of the fees paid by the petitioners. Even in such circumstances, the petitioners are at liberty to approach the competent authorities for the purpose of claiming refund of their fees already deposited with the college or otherwise in the manner known to law as expeditiously as possible.

11. The Hon'ble Supreme Court of India in SLP No.1428/2014 passed an order granting liberty to the students admitted to the academic course that is for the year 2011-2012 and 2012-2013 to seek compensation for the wrongful admission granted by the respondents / Medical College i.e., DD Medical College and also to initiate criminal proceedings against the respondents. Thus, the petitioners are at liberty to approach the competent Forum / Appeal Suit for seeking compensation or otherwise.



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12. With this liberty, these Writ Petitions are disposed of. No costs.

Consequently, connected Miscellaneous Petitions are closed.

17.04.2023

Jeni

Index : Yes

Speaking order

Neutral Citation : Yes

To

- 1.The Chief Secretary to Government of Tamil Nadu
The State
Department of Home,
Fort St. George,
Chennai – 600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.
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5. The Chairman,
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S.M.SUBRAMANIAM, J.

Jeni

**W.P.Nos.11059 to 11061
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17.04.2023