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W.P.No.9847 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.9847 of 2019

And

W.M.P.No.10439 of 2019

A.M.Nandhini (Minor)

Rep. by Father and Natural Guardian

M.Manoharan

... Petitioner

Vs.

1.All India Institute of Medical Science,
Ansari Nagar,
New Delhi.

2.The Medical Counseling Committee,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
New Delhi.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to deposit the tuition fee of sum of Rs.2,00,000/- (Rupees Two Lakhs Only) paid in the name of the petitioner's daughter Nandhini.A.M., Roll No.511902238, Txn Ref.No.544560679, Txn Date:15.06.2018 towards Medical Counseling Committee to the petitioner with interest.



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For Petitioner : Mr.M.Vivekanandan
For Respondents : Mr.B.Sudhir Kumar for R2
Senior Panel Counsel

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 1 and 2 to deposit the tuition fee of sum of Rs.2,00,000/- (Rupees Two Lakhs Only) paid in the name of the petitioner's daughter Nandhini A.M., Roll No.511902238, Txn Ref.No.544560679, Txn Date:15.06.2018 towards Medical Counseling Committee to the petitioner with interest.

2.The case of the petitioner is that the petitioner's daughter applied for Under Graduate MBBS entrance examination under the first respondent entrance examination conducted for the year 2018. Under the Scheme of Online process of counseling provided by the respondents 1 and 2 requires the candidate to apply for online Medical Counselling and his daughter applied for online Medical Counselling and made payment of Registration and tuition fees of Rs.2 Lakhs and followed the process of counselling. However, the petitioner's daughter was not allotted with any institute for admission. Hence, the petitioner made representation to the respondents seeking refund of



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tuition fees of Rs.2 Lakhs, however, the same was not refunded.

Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that in the notice furnished in the website of the respondents 1 and 2, it is clearly stated that the fees will be refunded to the candidate, if the candidate was not allotted with any seat in any of the counselling rounds conducted by the second respondent. The learned counsel further submitted that the petitioner's daughter applied for Round – I UG MBBS counseling and was not allotted with any Institute and further submitted that the petitioner's daughter applied for Round – II Dental Counselling and was not allotted with any Institute. The petitioner's daughter is a poor student and hence, this Court may issue direction to the first respondent to refund the sum of Rs.2 Lakhs to the petitioner within a reasonable time frame.

4.The learned Senior Panel Counsel appearing for the second respondent submitted that the petitioner's daughter was allotted BDS seat during stray vacancy round against Management/ paid seat at Menakshi Ammal Dental College and Hospital, Chennai on 05.09.2018, however, the status of the candidate is shown as 'not reported'. He



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further submitted that if a candidate resigns or does not report at the seat allotted to him/ her during second round or mop – up round of the online counselling, the refundable tuition fee would be forfeited.

5.In reply, the learned counsel appearing for the petitioner submitted that there is no proof to show that second round or mop – up round of the online counselling was conducted and further submitted that as on date the petitioner's daughter has not received any allotment order and there is also no proof to show that the petitioner's daughter received allotment order.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, the petitioner's daughter applied for Under Graduate MBBS entrance examination under the first respondent entrance examination conducted for the year 2018 and as per the requirement, applied for online Medical Counselling and made payment of Registration and



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tuition fees of Rs.2 Lakhs and followed the process of counselling.

The petitioner's daughter applied for Round – I UG MBBS counseling and also applied for Round – II Dental counselling, however, she was not allotted with any institute for admission.

8.Though the respondents claim that the petitioner's daughter was allotted BDS seat during stray vacancy round against Management/ paid seat at Menakshi Ammal Dental College and Hospital, Chennai, on 05.09.2018, there is no proof to show that second round or mop – up round of the online counselling was conducted; there is no proof to show that the petitioner's daughter participated in the mop – up round of the online counselling and there is also no proof to show that allotment order was served on the petitioner's daughter. Without filing any proof to substantiate that the petitioner's daughter was allotted BDS seat during stray vacancy round against Management/ paid seat at Menakshi Ammal Dental College and Hospital, Chennai, denying to refund the amount of Rs.2 Lakhs paid by the petitioner's daughter is not sustainable one.

9.Hence, the first respondent is directed to refund the tuition fee



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of Rs.2,00,000/- (Rupees Two Lakhs Only) paid in the name of the petitioner's daughter Nandhini A.M., Roll No.511902238, Txn Ref.No.544560679, Txn Date:15.06.2018 towards Medical Counseling Committee to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

10.The writ petition is allowed in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

17.03.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

- 1.All India Institute of Medical Science,
Ansari Nagar,
New Delhi.
- 2.The Medical Counseling Committee,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
New Delhi.



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M.DHANDAPANI,J.
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