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W.P.No.14097 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.14097 of 2022

R.Kalyanasundaram

... Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Secretary,
Law Department,
Chennai – 600 009.

2. The Registrar,
The Tamil Nadu Dr.Ambedkar Law University,
No.5, P.S.Kumaraswamy Raja Salai,
Chennai – 600 028.

3. The Director (PG Courses),
The Tamil Nadu Dr. Ambedkar Law University,
MGR Salai, Near Taramani Railway Station,
Perungudi, Chennai – 600 113.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to refund the tuition fee Rs.40,000/- (Rupees Fourty Thousand Only) paid by the petitioner during the academic year 2018-2020, along with interest from 14.02.2020 to till date of refund.



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For Petitioner : Mr.M.Vijayaragavan

For R1 : Mr.M.Muthusamy,
Government Advocate

For R2 & R3 : Mr.Arun Kumar Rajan

ORDER

The Writ Petition has been filed by a student R.Kalyanasundarm, who pursued his M.L. Course in Tamil Nadu Dr. Ambedkar Law University between the years 2018-2020, in the nature of a Writ of Mandamus seeking refund of the tuition fee of Rs.40,000/- paid by him together with interest.

2. In the affidavit filed in support of the Writ Petition, it had been stated that, he comes from a poor family and belongs to the Scheduled Caste -Arunthathiyar Community. He had, with much difficulty, paid the tuition fee and other fee for his post-graduation Degree in Law (Constitution Law and Human Rights). He had totally paid a sum of Rs.70,200/- out of which, a sum of Rs.40,000/- was paid towards tuition fee.



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3. The petitioner places reliance on G.O.Ms.No.722, Social Welfare Department, dated 13.10.1977, whereby, an exemption was granted for payment of tuition fee to the Scheduled Caste and Scheduled Tribe students. He therefore claims that the amount of Rs.40,000/- was paid to him towards tuition fee should be refunded by the University/Dr. Ambedkar Law University.

4. The petitioner had also issued a questionnaire under the Right to Information Act, and he places reliance on the answers given that the said G.O. would also apply to the Post Graduate Law students.

5. The petitioner also places reliance on an order of the First Bench of this Court in ***W.P.No.23806/2011, dated 10.06.2015 [J.S.Arunkumar vs. State of Tamil Nadu, represented by its Secretary, Law Department and two others]*** for claiming the relief which he seeks in the Writ Petition.

6. During the course of arguments, the learned counsel for the petitioner placed further reliance on a similar order of refund granted to



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his own batch mate in Post-Graduation Degree, (V.Ramesh, CLA 1810) who was a student of LLM and did Criminal Law and Criminal Justice Administration. That concession was granted in accordance with G.O.Ms.No.722, Social Welfare Department, dated 13.10.1977.

7. Notice had been directed and learned counsel had entered appearance on behalf of the respondents.

8. Mr.T.Seenivasan, learned Special Government Pleader had appeared on behalf of the 1st respondent.

9. According to the learned Special Government Pleader, G.O.Ms.No.722 did not apply to Dr. Ambedkar Law University students. He further stated that G.O.Ms.No.19, which had been introduced by the Government on 11.02.2020, would apply for those students who studied M.L. Degree course but concession would be given by the Government only from the academic year 2019-2020.



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10. It is therefore contended that only the second-year fees paid by the petitioner towards tuition fee, alone would be reimbursed by the 1st respondent herein.

11. On behalf of the 2nd and 3rd respondents, learned Standing Counsel Mr. Arun Kumar Rajan, had entered appearance and counter affidavit had also been filed.

12. With respect to the other student, parity with whom the petitioner claims, it had been stated that the said student had given a complaint to the Chief Minister Cell, which was forwarded to the Syndicate and the Syndicate had taken a decision to grant such concession. It is stated that it was a stand alone order and it cannot be extended to the petitioner or relied on by the petitioner herein.

13. It was again reiterated that G.O.Ms.No.73, SC and ST Social Welfare Department, dated 14.06.2007 was introduced to grant fee exemption for SC & ST students specifically, and that would apply to the Under Graduate students on and from the academic year 2006-2007.



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14. With respect to the Post Graduate students, it had been stated that the relevant Government Order is G.O.Ms.No.19, SC and ST Department, dated 11.02.2020. The concession could be extended only from the academic year 2019-2020. It had been stated that the petitioner is eligible for refund of tuition fee only for the academic year 2019-2020 and not for 2018-2019.

15. Heard the learned counsels at length and perused the relevant records.

16. The following facts are not disputed or denied.

1. That the petitioner studied M.L.Course in Dr. Ambedkar Law University between the years 2018-2020.
2. That the petitioner belongs to Scheduled Caste-Arunthathiyar Community and is entitled for fee concession.
3. That a similarly placed student who was a batch mate of the petitioner herein, V.Ramesh was granted fee concession for the academic years 2018-2020.
4. That G.O.Ms.No. 19, SC & ST Welfare Department stipulates that fee concession can be granted to the Post Graduate M.L. students



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only from the academic year 2019-2020.

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17. The petitioner has put in effort to study Post Graduation in Law. Naturally, he is aware of the principles behind Article 14 of the Constitution of India which lays down that no person should be discriminated against and everybody of the same category should be treated equally.

18. The petitioner claims parity with his own batch mate, who was granted fee concession for the academic years 2018-2020. Even though, both the Government orders namely G.O.Ms.No.722 and G.O.Ms.No.19 are in force that grant of fee concession is explained by the Syndicate, by stating they had taken a decision to grant that particular student, concession.

19. The petitioner's argument that he should also be treated equally has much force.

20. The Syndicate cannot differentiate and distinguish between two students both belonging to the Scheduled Caste Community. When they



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apply the rules, they should apply the rules equally. If they do not want to apply the rule, they should not apply the rule equally. They cannot apply the rule for one individual and refuse to apply the same principle for another individual. The said order and the said decision by the Syndicate refusing to pay fee concession to the petitioner herein does not stand judicial scrutiny. It has to be interfered with.

21. Placing reliance on a Government Order cannot come to the rescue of the respondents particularly, because a Government Order is only indicative of a policy decision of the Government. The policy decision of the Government is to extend fee concession to students who do, both Under Graduate study and Post Graduate study in Law.

22. The demarcation of the academic year from which it would be applicable, is a matter of discretion and had been stated in the Government order only for convenience. The Syndicate of the 2nd respondent themselves have broken that particular rule and had granted fee concession for another student.



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23. Moreover, a Division Bench of this Court in ***W.P.No.23806/2011 [J.S.Arunkumar vs. State of Tamil Nadu, represented by its Secretary, Law Department and two others]*** by an ***order dated 10.06.2015***, had directed that refund of fee should be done and that “it is not in dispute that the Government Order, dated 13.10.1977 would apply to the petitioner”.

24. It is stated by the learned counsel for the respondents that, that particular judgment was delivered for the benefit of Under Graduate students. But, for Under Graduate students, the particular G.O which has been relied on by the respondents indicates that, the fee concession is applicable only from the year 2006-2007.

25. The student in the aforementioned Writ petition had done his Under Graduate from the First Year in the year 2004 and had also paid the second-year fee in the year 2005-2006 and studied third year in 2006-2007.



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26. G.O.Ms.No.722 was made applicable even for the previous two years namely 2004-2005 and 2005-2006. Therefore, even the Division Bench had held that demarcation of the academic year that Under Graduate students belonging to SC & ST Community would be eligible for fee concession only from the year 2006-2007 had been interfered with and G.O.Ms.No.722 had been applied even in that particular case.

27. When that extension can be granted to Under Graduate students, I see no reason as to why it should not be extended to Post Graduate students also. The same rationale of extending fee concession even for previous years equally applies for Post Graduate students.

28. In the instant case, G.O.Ms.No.19 stipulating that, the fee concession would be granted only from the academic year 2018-2019 itself has been violated when the Syndicate of the 2nd respondent University had granted fee concession for another student. I hold that they should be called upon to grant the same fee concession to the petitioner herein. There cannot be justification for grant of fee concession



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for one student and rejection of fee concession for another student.

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29. There is yet another Judgment of a Division Bench in ***W.P.No.7297/2006, dated 25.08.2006, [M.Lakshmanan and S.Karthikeyan vs. State of Tamil Nadu, represented by its Secretary to Government, Law Department and two others]***. In that case, in the counter filed, the Law University had stated that they would follow the Government Policy and would not collect fee from the SC and ST Students.

30. Recording that particular statement, the Writ Petition which had been filed for a direction not to collect tuition fee for SC & ST students in accordance with G.O.Ms.No.722, with specific reference to Dr. Ambedkar Law University had been allowed by the Division Bench.

31. The petitioner alone cannot be denied that concession and his request alone should not be rejected by the respondents herein. The reasons are faulty. The respondents should apply the same rule for every student. The University has an obligation to ensure that the rules are



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applied impartially to every student. They cannot extend fee concession for one student and reject the application of a similarly placed student.

32. I am not able to accept the reasons given. No reasons had actually been given. An admission had been made that the Syndicate had deliberately and voluntarily and consciously extended fee concession for a class mate of the petitioner herein, V.Ramesh, who was a student of two year LLM Course in the Department of Criminal Law and Criminal Justice Administration.

33. When that concession was extended, they have no case to reject the claim of the petitioner. I hold the Syndicate must come forward to grant similar concession to the petitioner herein.

34. The Writ Petition stands allowed. A direction is given to the respondents to grant necessary fee concession to the petitioner within a period of four weeks from the date of receipt of a copy of this order. The Syndicate is directed to pass an order directing refund of tuition fee. The Adi Dravidar Welfare Department is also directed to actually effect



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payment of the fee concession to the petitioner herein. The petitioner should get necessary benefit of such refund of fee within a period of four weeks from the date of receipt of a copy of this order. No costs.

35. I must record my deep distress at the decision taken by the Syndicate to grant fee concession to one student and refusing the same to another student.

09.02.2023

ssi

Index : Yes/No

Internet : Yes/No

Neutral Citation Case: Yes/No

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C.V.KARTHIKEYAN,J.

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