



W.P.(MD)Nos.1231, 1256 and 1263 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)Nos.1231, 1256 and 1263 of 2020
and
W.M.P.(MD)Nos.1001, 1015 and 1021 of 2020

W.P.(MD)No.1231 of 2020:-

V.G.Vinsha Grace

... Petitioner

vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Government of Tamil Nadu,
Fort St.George, Chennai – 9.

2.D.D.Medical College and D.D.Hospital,
represented by its Chairman, T.D.Naidu,
Tiruvalur Taluk and District.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to recover the amount paid by the petitioner from the second respondent as envisaged by the Hon'ble Supreme Court in 2000 7 SCC 746.



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W.P.(MD)No.1256 of 2020:-

P.Griffith Jerson

... Petitioner

vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Government of Tamil Nadu,
Fort St.George, Chennai – 9.

2.D.D.Medical College and D.D.Hospital,
represented by its Chairman, T.D.Naidu,
Tiruvalur Taluk and District.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to recover the amount paid by the petitioner from the second respondent as envisaged by the Hon'ble Supreme Court in 2000 7 SCC 746.

W.P.(MD)No.1263 of 2020:-

D.R.Delilsha

... Petitioner

vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Government of Tamil Nadu,
Fort St.George, Chennai – 9.



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2.D.D.Medical College and D.D.Hospital,
represented by its Chairman, T.D.Naidu,
Tiruvalur Taluk and District.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to recover the amount paid by the petitioner from the second respondent as envisaged by the Hon'ble Supreme Court in 2000 7 SCC 746.

For Petitioners	:Mr.B.Vijay Karthikeyan
For R1	:Mr.P.Thambidurai
	Government Advocate
For R3	:Ms.NMC.Subharanjani Ananth

COMMON ORDER

These Writ Petitions have been filed seeking for issuance of a Writ of Mandamus to recover the amount paid by the petitioners to the second respondent College and to pay the same to the petitioners.

2.The case of the petitioners is that they secured admission before the second respondent College and also paid the necessary fees.



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However, it was found that the second respondent College had illegally admitted the students and did not even have the infrastructure to carry on with the medical course. That apart, it was also found that the second respondent College did not have the approval to admit the 2nd batch of students. The letter of permission that was given to the second respondent College was also withdrawn by the Medical Council of India (presently National Medical Commission). The further case of the petitioners is that they were left high and dry and that they were not accommodated in any other college and they were forced to discontinue with the studies. It is under these circumstances, the petitioners are claiming for refund of the entire fees, that was paid by them to the second respondent College.

3.Heard Mr. B.Vijay Karthikeyan, learned Counsel appearing on behalf of the petitioners, Mr.P.Thambidurai, learned Government Advocate appearing on behalf of the first respondent and Ms.NMC.Subharanjani Ananthth, learned Counsel appearing on behalf of the third respondent.



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4.A similar Writ Petition was filed in W.P.(MD)No.9562 of 2014 and this Court had an opportunity to deal with the background facts and considered the claim made by the petitioners therein. For proper appreciation, the relevant portions of the order passed by this Court on 20.09.2023 are extracted hereunder:

“5.The question that calls for consideration is whether the writ petition has to be allowed and the State Government directed to make any payment to the petitioners from out of the deposit amount.

6.Even though I was originally inclined to allow the writ petition, on a deeper consideration, I am of the view that the petitioners have not really suffered any loss. Admittedly, the petitioners had to pay a sum not less than Rs.7 Lakhs per year to the private medical college. For the first year, they had paid a sum of Rs. 6,80,000/-, for the second year, they had paid a sum of Rs.7,00,000/-, for the third year, they had paid a sum of Rs.7,50,000/- and for the fourth year, they had paid a sum of Rs.8,00,000/-.

7.The petitioners had undergone their course for the first three years in the private medical college. For the marks secured by them, the petitioners would not have gained entry into any Government Medical College. Thanks to the beneficial stand taken by the State Government, the petitioners came to be accommodated in Madurai Medical College which is a very prestigious institution. It is true that the petitioners had to pay a sum of Rs.2,80,000/- each to the State Government after already paying a sum of Rs.8,00,000/- each to the management of the private medical college. I want to remind them that for the fifth year, if they had continued their course in the private medical college, they would have paid a further sum of not less than Rs.8,00,000/- each to the private medical college. But a far lesser amount was paid by them as they had shifted to a government college. Thus, the petitioners have not really suffered any loss. Therefore, I am not inclined to grant any relief to the petitioners.

8.It is seen that the management had illegally admitted a second batch of students. The State Government could accommodate only the first batch students. The second batch students had been left high and dry. Only they are the real losers. If any claim is made by the



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students belonging to second batch of D D Medical College, the government shall pay them on a pro rata basis. Under no circumstances, the deposit amount shall be returned to the private management. If any criminal case was registered against D D Medical College management, it shall be pursued.”

5.In the above case, this Court had identified the petitioners therein to belong to the 2nd batch of students, who were not able to get accommodation in any other college. In the instant case, it is not known as to which batch these petitioners belonged to. However, this Court goes by the claim made by the petitioners that they were not accommodated in any other college and had to discontinue the course.

6.The fact remains that the second respondent had illegally admitted the petitioners and according to the petitioners, they were not able to be accommodated by the Government in any other College and they had to discontinue the course. In view of the same, the petitioners are seeking for the refund of the fees, that was paid by them to the second respondent College.

7.Taking cue from the above order, this Court is inclined to issue



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the following directions in these Writ Petitions:

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The petitioners are directed to make a fresh representation to the first respondent along with all relevant documents. If the first respondent is satisfied with the fact that the petitioners had been admitted by the second respondent College and the petitioners had also paid fees to the second respondent College, the first respondent shall consider to pay to the petitioners on pro-rata basis by considering the similarly interested students. This process shall be completed by the first respondent within a period of three months from the date of receipt of a copy of this order. Except giving this direction, no further orders can be passed in this Writ Petition.

8. These Writ Petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes/No
cmr

13.10.2023



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To
The Secretary to Government,
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N.ANAND VENKATESH, J.

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