



W.P.No.2510 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 15.04.2024

PRONOUNCED ON : 05.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2510 of 2021

R.Pooja

.... Petitioner

Vs

1. The University Grants Commission,
represented by its Secretary,
Bahadursha Zafar Marg,
New Delhi.
2. The National Medical Commission,
represented by its Secretary,
Pocket-1 4, Sector-8,
Dwarka Phase – I,
New Delhi – 110077.
3. The Government of Tamilnadu,
represented by its Secretary,
Department of Health and Family Welfare,
Fort St.George,
Chennai – 600 009.
4. Rajah Muthiah Dental College & Hospital,
(Annamalai University) rep. by its Registrar,
Annamalai Nagar,
Chidambaram.
Cuddalore District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the 4th respondent to refund the tuition fees amounting to Rs.9,39,000/- and Bond Breakage Fee amounting to Rs.3,00,000/- collected from the petitioner's father for returning the petitioner's educational certificates within the time that may be fixed by this Court.

For Petitioners : Mr.P.Mani
For R1 : Mr.B.Robu Manohar
Special Panel Counsel
For R2 : Mr.E.Sundaram
Government Advocate
For R4 : Mr.S.Sithirai Anandan

ORDER

This writ petition has been filed for a direction directing the 4th respondent to refund the tuition fees amounting to Rs.9,39,000/- and Bond Breakage Fee amounting to Rs.3,00,000/- collected from the petitioner's father for returning the petitioner's educational certificates.

2. The petitioner applied for the courses of MBBS and BDS in the fourth respondent University. The petitioner was called for counselling and on that date, she was selected and got admission in the fourth respondent College to the course of BDS for the year 2018-2019. She had paid the tuition fees, etc., for



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the first year. Thereafter, she got admission to MBBS course in PIMS Medical College, Pondicherry. Therefore, the petitioner made request to the fourth respondent to issue Transfer Certificates and other original documents which were received during her admission. However, the fourth respondent compelled the petitioner to pay the tuition fees for the entire course viz., II, III and IV years for BDS along with penalty. The petitioner had no other way than to deposit the amount to obtain Transfer Certificates, so that she can join in her MBBS course. She had paid the entire amount for the entire course and received the original certificates and Transfer Certificates. Even then, the fourth respondent refused to refund the fees which were paid by the petitioner. The petitioner had sent representations seeking refund of the fees. Since the same was not considered by the fourth respondent, the petitioner filed this present writ petition.

3. The learned counsel appearing for the petitioner would submit that the fourth respondent is governed by the first respondent. The collection of entire fees for the entire course itself is against the guidelines and regulations of the first respondent. As per the public notice of the first respondent, the fourth respondent ought to have refunded the fees which were collected from the petitioner, after adjusting the proportionate deductions of monthly fee and proportionate hostel rent which are applicable. Immediately, after selection to



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the course of MBBS, the petitioner informed about her selection. Therefore, there was no delay on the part of the petitioner and no seats are lying vacant after discontinuing the course of BDS by the petitioner.

4. The learned counsel appearing for the fourth respondent submitted that the petitioner was admitted in the PIMS Medical College, Pondicherry, in the year 2019-2020. She had paid her first year fees and hostel fees. As per the prospectus which were issued during their admission, Clause 9.3, states as follows:-

“i) The tuition fee and caution deposit will be refunded after deducting the service charge of Rs.10,000/-, if the candidate discontinues the programme before commencement of classes provided the resultant vacancy is filled up.

ii) However, in case of candidate discontinues the programme on or after the date of commencement of classes and the resultant vacancy is filled up, caution deposit and 75% of tuition fee will be refunded.

iii) The candidate should pay the tuition fee for the entire duration of the programme, minus whatever has already been paid, if he/she discontinues the programme in the middle i.e., after close of admission and the resultant vacancy is not filled up.”

Therefore any candidate discontinues the course after closer of the admission



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and such vacancy was lapsed, then that candidate is bound to pay entire course fee including the future Academic year. Further, she has to pay a sum of Rs.3,00,000/- as Bond Breakage Fee already paid.

5. He further submitted that the Dental Council of India extended the time for admission to the BDS course for the Academic Year 2018-2019. The fourth respondent closed all the admissions prior to the cut off date and if any admission made after the cut off date is invalid. The petitioner submitted her letter with regard to her discontinuation of course only after the cut off date. Therefore, the fourth respondent collected the entire course fees as per the prospectus from the petitioner along with penalty. On collection of entire fees, all the original certificates and Transfer Certificates were returned to her. Therefore, without challenging the prospectus, she cannot seek refund of course fees, which is one of the conditions of admission. He further submitted that the fourth respondent College is a self supported College and the entire expenditure meet out by the College is only by collecting fees from the students. If any student discontinues their course without paying the fees, the burden will shift to other students by enhancing the fees structure for the future academic year.

6. He further submitted that the Rajah Muthiah Medical College attached



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to the fourth respondent was handed over to the Health and Family Welfare Department, for treating it as Government Medical College for Cuddalore District by the G.O.Ms.No.16 Higher Education (H1) Department dated 27.01.2021. Accordingly, the entire liabilities were also transferred, pending liabilities as on 30.11.2020 including the payment to students is Rs.840.93 Crores. Therefore, the fourth respondent is not liable to refund any course fees.

7. The first respondent filed counter and the learned Standing Counsel appearing for the first respondent submitted that the first respondent has been constituted under the provisions of the University Grants Commission Act, 1956 which came into force with effect from 05.11.1956. It was enacted to make provisions for the co-ordination and determination of standards in Universities. It has been entrusted with the duty to take such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities. Therefore, it is vested with the power to recommend to any University, the measures necessary for the improvement of University education and advice the Universities upon the action to be taken for the purpose of implementation of such recommendation.



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8. While being so, the first respondent received several complaints against various Universities with regard to non-refund of fees and retention of original certificates of the students. Therefore, the first respondent issued a letter to all the Vice-Chancellors of all Universities in India, dated 11.01.2016 and directed the Universities to ensure the instructions issued by the first respondent. However, the first respondent received complaints from students/parents with regard to non-refund of fees and original certificates. Therefore, the first respondent issued a notification of Remittance and Refund of fees and other student centric issues, on 06.12.2016. The relevant clause in the said notification reads as follows:-

“ 4.2 Remittance and Refund of Fees:

4.2.1. No HEIs (Higher Educational Institutions) shall make it mandatory for the applicants to purchase the Institutional prospectus any time during the course of Programme of study. Purchasing prospectus shall be the personal choice of the Student and he/she has all rights to decide against it in case, he/she wishes to access the information from Institutional website. As laid down in the Right to Information Act, 2005 and reiterated in the UGC guidelines on Students' Entitlement, all HEIs shall disclose on their website and prospectus information like the status of the Institution, its affiliation, accreditation rating, physical assets



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and amenities, course-wise sanctioned in take of students, details of faculty, membership of governing bodies and minutes of the meetings of bodies like Academic/Executive Council, sources of income and the Financial situation and any other information about its functioning necessary for a student to make a fully informed choice.

4.2.2: HEIs shall charge fees in advance only for the Semester/year in which a student is to engage in Academic activities. Collecting Advance Fees for entire programme of study or for more than one semester/year in which a student is enroll is strictly prohibited, as it restricts the student from exercising other options of enrollment elsewhere. This enabling provision is in line with the UGC Guideline on Choice-Based Credit System (CBCS) and model Curricula which are geared towards promoting a student's Inter-Institutional Mobility.

4.2.3. If a student chooses to withdraw from the programme of study in which he/she is enrolled, the Institution concerned shall follow the following four-tier system for the refund of fees, remitted by the students.

Sl.No .	Percentage of Refund of Aggregate Fees	Point of time when notice of withdrawal of admission is served to HEI
(i)	100%	15 days before the formally notified last date of admission.
(ii)	80%	Not more than 15 days after the formally-notified last date of admission
(iii)	50%	More than 15 days but less than 30 days after formally-notified last date of



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Sl.No	Percentage of Refund of Aggregate Fees	Point of time when notice of withdrawal of admission is served to HEI
(iv)	00%	More than 30 days after formally-notified last date of admission.

** (Inclusive of course fees and non tuition fees but exclusive of caution money and security deposit)*

4.2.4: In case of (1) in the table above, the HEI concerned shall deduct an amount not more than 10% of the aggregate fees as processing charges from the refundable amount.

4.2.5 Fees shall be refunded by all the HEIs to an eligible student within 15 days fro the date of receiving a written application from him/her in this regard.”

9. Further, the first respondent had issued a notification for adoption of Standard Operating Procedures (SOP) in the matters related to refund of fees, in the event of student's withdrawal from the programme and non-retention of Certificate at the time of Admission. The percentage of Refund of Fees is incorporated as hereunder:-

Sl.No.	Percentage of Refund of Aggregate Fees	Point of time when notice of withdrawal of admission is served to HEI
(i)	100%	15 days before the formally notified last date of admission.
(ii)	90%	Less than 15 days before the formally- notified last date of admission



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Sl.No.	Percentage of Refund of Aggregate Fees	Point of time when notice of withdrawal of admission is served to HEI
(iii)	80%	15 days or less after the formally-notified last date of admission
(iv)	50%	30 days are less, but more than 15 days, after formally-notified last date of admission.
(v)	00%	More than 30 days after formally-notified last date of admission.

10. Heard the learned counsel appearing on either side and perused the material produced before this Court.

11. The fourth respondent is stated to be an University and is mandate in law to follow the guidelines and regulations and other notifications issued by the first respondent from time to time under the University Grants Commission Act. The notification and guidelines issued by the first respondent are applicable to the Higher Educational Institutions including the fourth respondent. As per the notification dated 06.12.2016, they can collect fees in advance only for semester/year in which a student is to engage in academic activities. Collecting advance fees for entire course is strictly prohibited as it restricts the student from exercising other options of enrollment elsewhere.

12. The learned counsel for the fourth respondent mainly relied upon the prospectus which were issued at the time of admission, in which Clause 9.3,



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states that the tuition fee and caution deposit will be refunded after deducting the service charge of Rs.10,000/-, if the candidate discontinues the programme before commencement of classes provided the resultant vacancy is filled up. However, in case of candidate discontinues the programme on or after the date of commencement of classes and the resultant vacancy is filled up, caution deposit and 75% of tuition fee will be refunded. The candidate should pay the tuition fee for the entire duration of the programme, minus whatever has already been paid, if he/she discontinues the programme in the middle i.e., after close of admission and the resultant vacancy is not filled up. Accordingly, if a candidate discontinues the course after the cut off date, the candidate should pay the tuition fees for the entire duration of the programme, deducting the fees which was already paid by the candidate.

13. However, the guidelines and regulations issued by the first respondent prevail the prospectus issued by the fourth respondent, since it is against the regulations issued by the first respondent. Therefore, the fourth respondent should not have collected fees for the entire course/programme for BDS. The collection of fees for the entire course is a clear violation of regulation issued by the first respondent. The petitioner had paid the fees for the entire course only on compulsion and if not paid, their original certificates and



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Transfer Certificates would not be issued. Therefore, the petitioners had paid the fees for the entire course. Further, the guidelines and regulations of the first respondent are binding on the fourth respondent and they cannot claim that they are not bound by norms fixed by the first respondent.

14. It is also reiterated by the Hon'ble Division Bench of this Court reported in **2023 1 LW 410**, in the case of ***University Grants Commission, represented by its Secretary and Another Vs. Annamalai University, represented by its Registrar and others***, in which this Court held as follows:-

“63. In fine, we conclude that the University Grants Commission Regulations will prevail in view of the primacy given to the University Grants Commission under the University Grants Commission Act as well as the Entry 66 of List 1 of the 7th Schedule of the Constitution.”

15. Therefore, the fourth respondent cannot retain the fees which were collected for the entire course. Further, though the petitioner informed even before the cut off date about her selection to the MBBS Course, she was not issued Transfer Certificates. She was compelled to pay the fees for the entire



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course and then only they were issued original certificates and Transfer Certificates which were submitted at the time of her admission. If at all there was any delay, due to which the vacancies arose on the petitioner's discontinuation from her courses, it is not on the fault of the petitioner. It is only on the fault of the fourth respondent. Therefore, the fourth respondent cannot retain the fees which were collected for the entire course.

16. In view of the above, the fourth respondent is directed to refund the fees and other amounts if any, which were collected for the entire course at the time of admission and withdrawal of admission, from the fourth respondent College, after deducting the permitted amount as per the guidelines and regulations issued by the first respondent, within a period of four weeks from the date of receipt of a copy of this order.

17. Accordingly, this writ petition stands allowed. There shall be no order as to costs.

05.06.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order



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To

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Bahadursha Zafar Marg,
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2. The Secretary
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Pocket-1 4, Sector-8,
Dwarka Phase – I,
New Delhi – 110077.
3. The Secretary
Government of Tamilnadu,
Department of Health and Family Welfare,
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4. The Registrar,
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G.K.ILANTHIRAIYAN. J.

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PRE DELIVERY ORDER IN
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