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W.P.No.11293 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11293 of 2020

Gutha Lalith Narayana

... Petitioner

-Vs-

1. The Directorate General of Health Services,
Medical Counselling Committee,
Rep. by its Assistant Director General (ME),
Ministry of Health & Family Committee,
Nirman Bhawan, New Delhi-110 108.

2. The Medical Council of India,
Rep. by its Chairman,
Satarka Bhawan, G.P.O. Complex,
Block A, INA, New Delhi-110 023.

3. Sree Balaji Dental College and Hospital,
Velachery Main Road,
VGP - Rajesh Nagar,
Pallikaranai, Chennai-600 100.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents herein to refund the sum of Rs.2,00,000/- along with interest to the petitioner herein, which sum of Rs.2,00,000/- had been deposited by the



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petitioner while applying for Medical Counselling under application No.190414063047 on 14.08.2019.

For Petitioner	: Mr.A.N.R.Jayapratap
For Respondent 1	: Mr.K.Srinivas Murthy, Senior Panel Counsel
For Respondent 2	: Mrs.Subharanjani Ananth, Standing Counsel
For Respondent 3	: Mr.K.Suresh

ORDER

This writ petition has been filed for direction to the 1st and 2nd respondents to refund the sum of Rs.2,00,000/- with interest which was deposited by the petitioner while applying for Medical Counselling.

2. The petitioner had completed his 12 standard examination in the month of May 2018 and appeared for the National Eligibility cum Entrance (NEET-2019) examination. His Roll No.120405654 and his application No.190410463047. He secured rank No.663603 in the NEET examination and applied for Medical Counselling for MBBS course. He had marked his choice only as MBBS in his application. As per norms and conditions of the Medical Counselling Committee, every student has to



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deposit sums of Rs.10,000/- and Rs.2,00,000/- as security deposit for participation in Counselling or allotment of MBBS seat in Deemed university. The said security deposit are refundable if the student is not allotted the seat of his choice. The petitioner applied for MBBS seat and he paid the security deposit of Rs.10,000/- and Rs.2,00,000/- on 14.08.2019 by online/NEFT transaction. The petitioner was not successful in getting MBBS seat. He as offered to join and allotted seat for BDS Course in the 3rd respondent's college. However, the petitioner did not join in the 3rd respondent college. The security Deposit amount of Rs.2,00,000/- was not refunded to petitioner.

3. On perusal of the counter affidavit filed by the 1st respondent revealed that though the petitioner had applied for MBBS Course and he is not selected to the course of MBBS in the Mop-Up I round of Counselling. Therefore, the petitioner applied for BDS Course in the Mop-up II round which was conducted between 02.09.2019 to 11.09.2019. Accordingly, the petitioner gave 24 choices for BDS colleges for Mop-up II round. It was done from the IP address 106.208.139.226. On the basis of his choice, the



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eligibility and merit, he was allotted seat in the 3rd respondent's college in BDS Course. But the petitioner did not join in the 3rd respondent's college in the said BDS Course. As per the norms and conditions in the prospectus the security fee will be forfeited if the candidate who has been allotted a seat in the second round and Mop-up Round of DGHS does not join the respective institution during the second round/Mop up round of counselling conducted by DGHS/MCC.

4. Admittedly, the petitioner had applied for only the course of MBBS. The petitioner filled in a total of 42 choices of MBBS colleges for Mop-up I round of counselling. The petitioner was not allotted any college of his choice in the Mop-up I round. Mop-up II round was exclusively conducted for Dental Colleges between 02.09.2019 to 11.09.2019. Though, the petitioner aggrieved for Mop-up II round counselling for the course of BDS Course and he was allotted seat in the 3rd respondent's college for the BDS Course. The petitioner did not join in the 3rd respondent's college since he originally opted only for MBBS Course.



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5. The learned counsel for 1st respondent submitted that if till any grievance over the forfeiture class, the petitioner would have challenge the same. In this regard the learned counsel for the petitioner relied upon the judgement in the case of *Yasil Ali Khan vs State of U.P. and 2 others*.

6. Therefore, the contention raised by the first respondent cannot be accepted. Therefore, the forfeiture class would be inequitable and would render the provision of arbitrary as well as conferred the power on the authorities. It is well settled law that arbitrariness in state action is negotiations of rule of law and violates the right of equality as under Article 14 of the Constitution of India. Hence, the forfeiture class does not require any challenge by the petitioner for the relief of refund of security deposit amount. Therefore, the petitioner is entitle for refund of Rs.2,00,000/- which was deposited as security deposit amount at the time of participation of counselling.



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7. Therefore, the first and second respondents are directed to refund the security deposit amount of Rs.2,00,000/- to the petitioner and pass appropriate orders to refund of security deposit amount deposited by the petitioner as security deposit within a period of six weeks from the date of receipt of copy of this order.

8. With the above direction, this writ petition is disposed of. No costs.

03.04.2024

Index:Yes/No
Speaking/Non-Speaking Order
Neutral Citation/Yes/No
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To

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