



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-4299-2022 (O&M)
Date of Decision:05.08.2024

Amandeep Kajal and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Namit Gautam, Advocate for the petitioners.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Jagbir Singh, Advocate for respondent No.3.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for setting aside/quashing the impugned order dated 28.12.2021 (Annexure P-6) whereby the claim of the petitioners for refund of the advance fees and other charges has been rejected.
2. Learned counsel for the petitioners submitted that the petitioners had taken admission in the MBBS course in respondent No.4-Institute for different session from the years 2011-12, 2012-13, 2013-14 and 2014-15 and they started pursuing their degree. Thereafter, on 19.11.2015 (Annexure P-1), respondent-Institute requested the petitioners as well as other students to give some advance fee because the institute was under financial constraints and



consequent upon the same the petitioners had paid the advance fee regarding which details have been shown in para No.8 of the petition. However, the aforesaid institute was closed down on 09.03.2016 due to financial reasons and the students of various academics sessions of the years 2011-12, 2012-13, 2013-14 and 2014-15 were thereafter shifted to various other colleges in the State of Haryana. The petitioners were also shifted to other college/institute because the respondent No.4-college was shut down and now they have already completed their respective degrees of MBBS. He further submitted that after shifting the petitioners to another college/institute, the security amount has already been refunded to them but the grievance of the petitioners is with regard to the refund of the advance fee which the respondent-Institute had taken at the time of the admission and the same has not been refunded.

3. Learned counsel also submitted that the aforesaid institute is already closed as well as bankrupt.

4. On the other hand, learned State counsel as well as learned counsel for respondent-University while referring to their respective replies, submitted that it is a case where in pursuance of the orders passed by this Court, an enquiry was conducted for the purpose of verification and after completion of the enquiry, the entire security amount of the petitioners were returned but so far as the refund of the advance fee is concerned, no record is available as to whether the petitioners had deposited any advance fee or not and therefore there is no question of refund of any amount. Apart from the above, rather it has been so specifically stated in the reply that there is no provision for depositing any advance payment and in case the petitioners have deposited any advance fee to the respondent-institute, it was not lawful and therefore no



direction can be issued for the refund of any advance fee which was otherwise deposited without any lawful reason and therefore the present petition is liable to be dismissed.

5. I have heard learned counsels for the parties.

6. The only grievance of the petitioners in the present petition is for refund of the advance fee which is stated to have given to the respondent-Institute which is already closed down and as per the learned counsel for the petitioners, the same is also bankrupt.

7. Vide impugned order Annexure P-6 it has been so stated in the order that verification was made in compliance of the order passed by this Court and consequent upon the same security amount which was deposited by the petitioners with the respondent-institute already stands refunded to the petitioners. So far as the advance fee is concerned the same is without any justification and without any provision of law and in case any advance was paid by the petitioners to the respondent-Institute that was only a voluntary act of the petitioners but not backed by any law. Apart from the above, it is so stated in the impugned order (Annexure P-6) that on verification, no record is found as to whether the petitioners had paid any advance fee or not.

8. After hearing learned counsel for the parties, this Court is of the view that no mandamus or any direction can be issued for the purpose of refund of any amount which is not lawful in nature. Even otherwise also the aforesaid grievance raised by the petitioners is purely disputed question of fact which cannot be gone into by this Court in exercise of its powers under Article 226 of the Constitution of India .

9. Consequently, finding no merit in the present petition, the same is

hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

05.08.2024
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Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No