



Rev. Aplw. No.160 of 2021 in W.P.No.24161 of 2018
and W.P.No.6371 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 07.11.2024

Delivered On : 18.03.2025

CORAM

THE HON'BLE MR. JUSTICE S.S. SUNDAR
and
THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Review Application No. 160 of 2021
and
W.P. No. 6371 of 2021

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Pondicherry Medical Colleges Students
and Parents Association,
Represented by its Secretary,
No.158, Mission Street,
Puducherry – 605 001.

.. Review Petitioner

Versus

- 1.The Chief Secretary to Government of Puducherry,
Secretariat, Goubert Avenue,
Puducherry – 605 001.
- 2.The Secretary to Government of Puducherry,
Health and Family Welfare Services Department,
Secretariat, Beach Road, White Town,
Puducherry – 605 001.



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3. The Director,
Department of Health and Family Welfare Services (DHFWS),
Victor Samuel Street,
Puducherry – 605 028.
4. Puducherry Fee Committee,
Represented by its Chairman,
No.7, (NCB) Greenways Road,
Chennai – 600 028.
5. The Registrar,
Pondicherry University,
R.V. Nagar, Kalapet,
Puducherry – 605 014.
6. The Chairman and Managing Director,
Sri Manakula Vinayagar Medical College and Hospital,
Kali theerthalkuppam, Madagadipet,
Puducherry – 605 017.
7. The Chairman,
Sri Venkateshwara Medical College Hospital and Research Centre,
Main Road, Ariyur,
Puducherry – 605 102.
8. The Registrar,
Pondicherry Institute of Medical Sciences,
Kalathumettupathai, Ganapathichettikulam,
Village No.20, Kalapet,
Puducherry – 605 014. : Respondents/Respondents

Review Application is filed under Order 47, Rules 1 and Section 114 of Civil Procedure Code, seeking to review the order of this Court dated 20.09.2021 passed in W.P. No. 24161 of 2018.



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For Review Applicant : Mr.V.B.R.Menon
For Respondents 1 to 4 : Mr.V.Vasantha Kumar
Additional Government Pleader, Puducherry.
For Respondent 5 : Mr.M.Ravi
Standing Counsel
For Respondent 6 : Mr. B. Balavijayan
For Respondent 7 & 8 : Mr. Vijay Narayan
Senior Counsel
for Mr.Abishek Jenasenan

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- 1.Sasi Kumar. R
- 2.Gowtham. B
- 3.Malaika. S
- 4.Joanna Jessica. S
- 5.Nibin Febi David
- 6.S.Vaitheeswaran

.. Review Petitioners

Versus

- 1.The Secretary to Government of Puducherry,
Health and Family Welfare Services Department,
Secretariat, Beach Road, White Town,
Puducherry – 605 001.
- 2.The Registrar,
Pondicherry University,
R.V. Nagar, Kalapet,
Puducherry – 605 014.
- 3.The Chairman,
National Medical Commission,
Pocket-14, Sector-8,
Dwarka Phase-1, New Delhi-110 077.



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4.Pondicherry Institute of Medical Sciences,
Represented by its Chairman,
Kalathumettupathai, Ganapathichettikulam,
Village No.20, Kalapet,
Puducherry – 605 014.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue Writ of Certiorarified Mandamus to call call for the records of the Fee Order issued by the Government of Puducherry in G.O.Ms.No.24, dated 03.07.2018 prescribing separate Annual Fees for MBBS Students admitted under Management Quota during the academic year 2017-18 to the 4th Respondent Medical College and quash the same in respect of the Petitioners only and consequently to direct the fourth Respondent to collect from the Petitioners Annual Fees for the entire 5 year MBBS Course only as per the common Fee Order dated 19.05.2017 issued by the Puducherry Government and to refund the excess Annual Fee amounts already collected from the Petitioners.

For Petitioner	: Mr.V.B.R.Menon
For Respondent 1	: Mr.V.Vasantha Kumar Additional Government Pleader, Puducherry.
For Respondent 2	: Mr.M.Ravi Standing Counsel
For Respondent 3	: No appearance (Tapal due) Not ready.
For Respondent 4	: Mr.Vijay Narayan Senior Counsel for Mr.Abishek Jenasenan



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COMMON JUDGMENT

SATHI KUMAR SUKUMARA KURUP, J.

The issue involved in the Review Application as well as the Writ Petition is one and the same. Therefore, both the cases are taken up for hearing together and disposed of by this common Judgment.

2. Mr. V.B.R. Menon, learned Counsel for the Review Applicant, at the out set, submitted that the instant Review Application has been tagged with the Writ Petition No.6371 of 2021 filed by some of the aggrieved MBBS Students and had been ordered to be heard as a batch of “Specially Ordered Cases”. The limited scope for entertaining the Review Application under Section 114 r/w. Order 47, Rule 1 of CPC, may not act as a bar to entertain and decide the instant Review Application together with the Writ Petition, as validity of the impugned G.O.Ms.No.24 of 2018, dated 03.07.2018 is the subject matter in both the cases. Therefore, the Review Application is maintainable on the following grounds:

- (i) Errors apparent on the face of records;



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(ii) Mistake of facts and laws and

(iii) Other sufficient reasons.

3. The learned Counsel for the Review Applicant would further submit that with regard to the first ground – errors apparent on the face of record, the order under Review does not contain any discussion, analysis or findings, anywhere in the entire 112 pages. The grounds of challenge to the Impugned G.O.No. 24 of 2018 filed by the Writ Petitioners has not been examined, in spite of recording those grounds of challenge and supporting documents in the Order under Review itself. It shall, therefore, constitute errors apparent on the face of record.

4. With respect to the exclusion of affected Students and Parents, the major stakeholders and affected parties of Annual Fee fixation, in the Fee Committee proceedings is different from the Fee Committee Report dated 19.06.2018 that had culminated in the Impugned G.O. No. 24 of 2018, dated 03.07.2018. After recording the pleadings/submissions of the Petitioners in this regard in Para No.26 of the Order under Review at Pages 326-328 of the



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typed set, no discussions/findings are available anywhere. Therefore, it had resulted in denial of natural justice.

5. A Conjoint reading of the previous Fee Committee Report dated 23.03.2017 and the subsequent Fee Committee Report dated 19.06.2018 at Page Nos. 55-65 and 111-116 of the typed set would reveal that the Fee Committee had committed a serious omission by excluding the important stakeholders from it's proceedings which is under challenge. This important omission had escaped the attention of the Hon'ble Bench while passing the Order under Review.

6. The Writ Petitioners had brought to the attention of the Court about the directions issued by the Hon'ble Apex Court in SLP(C) No. 41475 of 2017 regarding the procedure to be adhered to by the Fee Committees during Fee Fixation and the same has been recorded in Para No.26 of the Order under Review at Pages 326- 328 of the typed set. However, no reasons or findings are found anywhere in the Order under Review for permitting departure from the mandatory procedure, having the force of law under Article 141 of the



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7. A Constitution Bench has categorically held in the case of ***U.N.Singh vs. Additional Member*** reported in ***AIR 1963 SC 786*** at Para Nos. 9 to 12 that Parties whose rights are likely to be adversely affected by the proceedings are necessary Parties and their exclusion from the proceedings shall vitiate the decisions taken therein. A copy of this Judgment had been submitted but was not taken into consideration by the Hon'ble Bench.

8. The submissions of the Writ Petitioners regarding the unreasonableness and arbitrariness in fixing same Annual Fee of Rs.16 Lakhs for Management Quota Seats in all the 3 Respondent-Colleges, without taking into account the costs of each institution individually, have been recorded in Para Nos. 26 and 30 of the Order under Review but no reasons or findings are found anywhere in the Order under Review for not interfering with the Impugned G.O. No. 24 of 2018, on this ground, involving violation of Article 14 of Constitution due to treating of 3 entirely different classes alike and without any distinction between them, a review is warranted.



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9. The submission of the Writ Petitioners that separate Fees had been fixed for the 3-Colleges in the previous Fee Committee Proceedings dated 23.03.2017 by taking into account the costs and facilities provided by each of them has been recorded in the same Para No. 26 and 30 of the Order under Review. However, no reasons or findings are found anywhere in the Order under Review for allowing departure from the above exercise and procedure while upholding the validity of the Impugned G.O No. 24 of 2018 that prescribes the same common fee of Rs. 16 Lakhs for Management Quota in all the 3 Respondent – Colleges.

10. The learned Counsel for the Review Applicant would further submit that with regard to the second ground – Mistake of facts and laws the observation at Para No. 69 of the Order under Review would indicate that the Fees notified vide the Fee Order dated 19.05.2017 were meant only for State Quota seats is clearly a mistake as a glance at the Fee Committee Report at Page Nos. 55 to 65 and Fee Order at Page Nos. 66 to 68 of the typed set would have shown, without any ambiguity, that the Fee amounts prescribed therein



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were applicable to all the students without any distinction of State Quota and Management Quota and it was valid for 3 years i.e., upto 2018-19. This fact had also been reiterated by the Chairman, Fee Committee in the Report dated 08.09.2017, sent to the Hon'ble Chief Justice, Madras High Court at Page Nos. 98-107 of the typed set but was not taken into consideration.

11. Another observation at Para No. 48 the Order under Review that the Puducherry Fee Regulations, 2006 permits fixation of separate fees for State Quota and Management Quota Seats is also a mistake as perusal of Rule 3(a) of the said Regulations at Page 311 of the typed set would show, without any ambiguity, that admissions under State and Management Quota are not relevant factors prescribed therein.

12. It has been held by the Hon'ble Supreme Court in the case of *Narayana Medical College vs. State of A.P.* in *SLP(C) 2969 of 2021* at Para Nos. 5 to 7 of the Judgment that Fees shall be fixed only as per the factors prescribed in the relevant Fee Regulations and any other factor not in the Fee Regulations, 2006 should have been excluded as per the above binding dictum.



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Copy of this Judgment was also submitted to the Hon'ble Bench but was not considered.

13. Next observation at Para Nos. 40 to 48 of the Order under Review is that the decision of the 5-Judge Bench of the Hon'ble Supreme Court in the case of *Pramati Educational Trust Vs. Union of India, (2014) 8 SCC 1*, shall permit fixation of separate fees for State Quota and Management Quota Seats is also a mistake as it has been clearly held in at Para 29 of the Judgment that Article 15(5) of the Constitution permits enactment of laws by the State "for the advancement of socially and educationally backward classes of Citizens or scheduled castes and scheduled tribes only and for no other purpose". Perusal of the Seat-Matrix of State Quota seats at Page Nos. 393-394 of the typed set shows, without any ambiguity, that State Quota seats are available to all categories of students including 50% of Students under general category. Non-consideration of the above fact was a serious mistake of fact and law.

14. The Order under Review at Para Nos. 12 to 16 has cited the decision of the Hon'ble Apex Court, decided by the 7-Judge Bench in the case of



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P.A.Inamdar Vs. State of Maharashtra, (2005) 6 SCC 537, wherein generalisation of fee structures had been disapproved in Para Nos. 149 of the Judgment. The above decision, having the force of law under Article 141 of the Constitution, had been overlooked while upholding the Impugned G.O.No. 24 of 2018 in which it is clearly mentioned in Page No. 113 of the Typed Set that the Fee Amount of Rs. 16 Lakh was fixed through generalisation and not by considering costs of individual institutions.

15. The Order under Review at Para Nos. 11 & 32 refers to the decision of the Hon'ble Apex Court, decided by the 5-Judge Bench in the case of ***Islamic Academy Vs. State of Karnataka, (2003) 6 SCC 697***, wherein the procedure to be adhered to by the Fee Committees, institution-wise, and the validity of Fee Orders for 3 years have been directed in Para Nos. 7 and 152 of the Judgment. The above decision, having the force of law under Article 141 of the Constitution, had been overlooked while upholding the Impugned G.O.No. 24 of 2018, especially when the duly notified common fees under Fee Order dated 19.05.2017 was already in force till 2018-19.



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16. The Order under Review in Para No. 32 refers to the decision of the Hon'ble Apex Court, decided by the 2-Judge Bench in the case of ***Modern Dental College Vs. State of Madhya Pradesh, (2010) 14 SCC 186***, wherein it has been categorically held at Para No. 28 of the Judgment that fixation of separate fees for State Quota and Management Quota shall be impermissible. The above decision, having the force of law under Article 141 of the Constitution, had also been overlooked while upholding the Impugned G.O.No. 24 of 2018.

17. A 3-Judge Bench of the Hon'ble Supreme Court, on reference, has held in the case of ***the Director of Settlements A.P. Vs. M.R. Appa Rao & Ors., (2002) 4 SCC 638***, at Para Nos. 6 & 7 of the Judgment that even Obiter-Dicta/observations of the Hon'ble Apex Court in a case shall constitute law under Article 141. Therefore, all the above violations of the law, deemed to be declared under Article 141 of the Constitution, shall fall under the category of mistakes of law.

18. The learned Counsel for the Review Applicant also submits with



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regard to the third ground – Other sufficient reasons that the Fee Order dated 19.05.2017 had prescribed separate Fees for each of the 3 Colleges without making any distinction between students admitted under State Quota and Management Quota Seats and it was valid for 3 years i.e. upto 2018-19. Therefore, there was no necessity to fix separate Annual fees for Management Quota Seats vide the Impugned G.O.No. 24 of 2018, except probably to extend undue favors to the Respondent Colleges with oblique motives. Moreover, it was a violation of the mandatory validity period of 3 years of Fee Orders, mandated under the *Islamic Academy* case.

19. The government of Pondicherry had not taken any policy decision or Rule, in accordance with law, to fix separate Fees for the Management Quota seats and no valid documents have been produced so far in this regard by the Official Respondents. The efforts of the Petitioners to obtain a copy of the communication dated 23.06.2017, claimed to have been sent by the government to the Fee Committee in this regard, through RTI also did not succeed as it was claimed to be under the possession of CBI. However, a copy of the above "mystery Communication dated 23.06.2017" was submitted by



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the Respondent-Colleges to the Hon'ble Apex Court while filing their SLPs on 09.07.2021 which shall show that the Respondent-Colleges alone were privy to the contents therein. The Order under review has relied heavily on this communication dated 23.06.2017 in spite of the fact that a copy of which was not a part of the records of the case and the Fee Committee had remained ex-parte. A Copy of the above Correspondence dated 23.06.2017 is attached herewith as Annexure No.2.

20. A Coordinate Division Bench had tested the validity of the above Fee Order dated 19.05.2017 in respect of Students admitted under Management Quota during the previous year, 2016-17, and had upheld the same vide the Final Order dated 18.07.2019 in WP No. 23732 of 2017. The Review Applications and SLPs filed against the above Judgment were dismissed and therefore, it had become final and the excess fees collected by the Colleges were also refunded to the respective Students as per the direction of the Hon'ble Apex Court vide the Order dated 28.03.2023 in SLP(C) No. 17216 of 2022, etc. When the Fee Order dated 19.05.2017, prescribing common fee for State Quota and Management Quota Seats, had become final



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and binding and was valid for 3 years as per the directions of the Constitution

Bench in the case *Islamic Academy* case (Supra), the entire Fee Committee proceedings in the meanwhile to fix a separate Fee for Management Quota seats was unlawful and mischievous. The omission to consider this important point, disregarding the prayer of the Petitioner in this regard, was a gross error of law and fact while passing the Order under Review.

21. The reference and reliance at Para Nos. 49 to 51 of the Order under Review at Page Nos.354 to 360 of the typed set regarding the provisions of the NMC Act, 2019 and the Draft Regulations framed thereunder in support of the Impugned G.O. No. 24 of 2018 were totally misplaced and irrelevant to the instant dispute as the NMC Act, 2019 was not in sight or in existence when the Impugned G.O. had come into force on 03.07.2018, with retrospective effect.

22. The observations in the Order under Review, that the Students had accepted to pay as per the Final Fee Order at the time of their admissions and therefore, cannot challenge the Impugned Fee Order, had been made on a mistaken belief that the Final Fee amount shall always be higher than the



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provisional fee amount collected from them at the time of their admission.

First of all the Students had no choice except to accept the above condition due to the imminent loss of one academic year if they had refused to pay. Secondly they could have expected the Final Fee amount, fixed through a due process by the Fee Committee, to be lower than the provisional amount also. When they found that the due process was not followed by the Fee Committee while fixing the Final Fee amount, they had all the right to challenge the Impugned G.O.

23. It is finally submitted that Order under Review had failed to consider the legality and necessity of issuing the Impugned G.O.No. 24 of 2018 while the Common Fee Order dated 19.05.2017, prescribing common fees for State Quota and Management Quota seats, was already in force and was valid for admissions upto 2018-19. Therefore, the issue herein is not only the procedural illegalities committed by the Respondents but also the very necessity and permissibility of fixing and notifying separate fees for Management Quota seats in a *mala fide* and unlawful manner and by cutting short the 3-year validity of the Fee Order dated 19.05.2017 in respect the



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Management Quota Seats. In this regard, it is stated that the averments made by the Petitioners in the Review Application, Typed Set of Papers and Compilation of Judgments may be treated as part and parcel of the Written Arguments for better appreciation of the facts of the case. The Petitioner has submitted copies of all the Judgments/ Orders, cited and relied herein, to the Hon'ble Division Bench while hearing the Writ Petition as well. Accordingly, the learned Counsel for the Review Applicant prayed that this Hon'ble Court may be pleased to allow the Review Application No. 160 of 2021 as prayed for.

24. Mr. Vijaynarayan, learned Senior Counsel appearing for the Respondents 7 & 8 in Review Application/4th Respondent in W.P. No. 6371 of 2021 invited the attention of this Court to the Review Application filed by the Private College – Venkateswara Medical College and the order passed by the Division Bench presided over by Their Lordships Justice R. Subbiah and Justice C. Saravanan, dismissing the same wherein there is special mention by the learned Senior Counsel appearing for the Colleges that the Government of Puducherry had informed the Fee Fixation Committee that separate fee for



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Management Quota had not been fixed. In the light of the above, the reliance placed by the Review Applicant that the earlier Division Bench considered the same, will not hold good. The subsequent Division Bench headed by Justice T.S. Sivaganam had clearly discussed about the letter of the Pondicherry Government informing that the Fee Fixation Committee had to fix separate fee for Management Quota and it was not fixed on the basis of the orders passed in the earlier batch of cases. The learned Judge had discussed those facts in the discussion relating to the arguments by Mr. V.B.R. Menon for the Pondicherry Medical Colleges Students and Parents Association and appearing for some of the students who have filed separate Writ Petition. It had been clearly stated that the Fee Fixation Committee had permitted the colleges to mention about the tentative fees and subsequently after the Fee Fixation Committee report, the Fee for Management Quota will be determined, which the student had to pay. The student also were aware of the same. It is the submission of the learned Senior Counsel for the Respondents that the Pondicherry Medical Colleges Students and Parents Association was registered as S.No. 291/2018 on 10.09.2018. Therefore, they have no *locus standi* to agitate the fixation of fee by the Fee Fixation Committee and it had been discussed by the Division



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25. The learned Senior Counsel appearing for the Respondents 7 & 8 in Review Application/4th Respondent in W.P.No.6371 of 2021 would further submit that the submission of the learned Counsel representing the Pondicherry Medical Colleges Students and Parents Association Mr. V.B.R. Menon regarding the claim that while fixing the fee, the Pondicherry Medical Colleges Students and Parents Association was not heard is unsustainable. Such a claim made by the learned Counsel for the Writ Petitioners in W.P.No.24161 of 2018 and W.P.No.6371 of 2021 is arbitrary and the submission that G.O.No.24 of 2018 passed by the Puducherry Government fixing Management Quota is to be set aside cannot be countenanced. The reason for fixing separate fee for Management Quota and Government Quota had also been appreciated by the Fee Fixation Committee while fixing the fees and by the Government in the letter addressed to the Committee appointed for fixation of fee for private professional colleges/institutions, all the previous years, the fee for Management Quota was not fixed. Therefore, the letter had addressed to Fee Fixation Committee to fix the fees for Management Quota



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and NRI Quota as per the reported ruling of the Hon'ble Supreme Court in ***Pramati Educational & Cultural Trust vs. Union of India [W.P(C)No.416 of 2012, dated 06.05.2014]***. In the light of the decision in ***Pramati Educational & Cultural Trust vs. Union of India [W.P(C)No.416 of 2012, dated 06.05.2014]***, the creation of Government Quota and Management Quota is no longer open to challenge. The Hon'ble Division Bench in paragraph 60 had discussed it. In the order under review, Paragraph 61 also deals with the submission of the Writ Petitioners – the Pondicherry Medical Colleges Students and Parents Association and the batch of students who had challenged the fee fixed by the Fee Fixation Committee for Management Quota seats claiming that it violates the decision of the Hon'ble Supreme Court in ***(2005) 6 SCC 537 [P.A.Inamdar and others vs. State of Maharashtra and others]*** and the amendment. Further, Paragraph 45 deals with the subsequent development after the judgment of the Hon'ble Supreme Court in ***(2005) 6 SCC 537 [P.A.Inamdar and others vs. State of Maharashtra and others]***. In paragraph 48 it is stated that the distinction between the State Quota and the Management Quota had been held to be constitutionally permissible consequent upon the insertion of Clause (5) in Article 15 of the Constitution.



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Therefore, the claim of the learned Counsel appearing for the Review Applicant Mr. V.B.R. Menon for the Pondicherry Medical Colleges Students and Parents Association and the students contending that there can be no distinction in the seats by earmarking a specific quota for the Government and remaining for the Management is sustainable. That apart, in the Union Territory of Puducherry, ever since the private unaided Medical Colleges were established, there were two category of seats namely, the Government Quota seats and Management Quota seats and there were two fee structures which is clear from the Pondicherry Private Professional Educational Institutions (Provisions of Reservation, Admission of Students and Fixation of Fees) Regulations, 2006, which was issued on 25.05.2006 stipulating two categories of seats and two fee structures. Furthermore, it has been factually established that prior to the Government Order dated 19.07.2017, fee was never fixed in the Union Territory of Puducherry for Management Quota and NRI Quota seats.

26. The learned Senior counsel further submitted that in Paragraph No. 49 of the judgment under review, reference was made to the National Medical



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Commission Act. Under Section 19 of the National Medical Commission Act, 2019 (Act 30 of 2019), the powers and functions of Commission are enumerated. The Commission has power to frame guidelines for determination of fees and other charges in respect of fifty per cent of seats in private medical institutions and deemed to be universities, which are governed under the provisions of the National Medical Commission Act. As per the submissions of the learned Counsel for the National Medical Commission, comments had been received from various stakeholders and the same were considered. Under Clause 6 of the Draft Guidelines, it is proposed that the fees can be fixed for a block of three years or on a year to year basis and the fee so fixed for a student joining a college in a particular year stood remains the same for the entire duration of his study in the college, subject to inflation adjustment, as considered appropriate by the State Fee Regulatory Authority. In terms of Clause 7, all private teaching institutions should be advised to adopt operation segment reporting in accordance with the Ministry of Corporate Affairs, Government of India, notified Indian Accounting Standards (Ind AS) 108 in respect of expenses. Clause 8 states that all hospital expenses are not to be included in computing the cost for providing medical education and a portion



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of hospital expenses arrived at on the basis of usage of hospital facilities and equipments for imparting the medical education may be added for arriving at the fees. Clause 9 deals with salaries of the teaching staff and other non-teaching staff to be taken into account for the purpose of determination of fees for medical education. Clause 23 states that some of the State Authorities fix the fee for MBBS and other Courses college-wise separately while in some other States, it is fixed on the basis of the median costs of all the medical colleges on consensus basis. It further states that in case a State Fee Regulatory Authority desires to adopt uniform fee structure in the State, it could do so, provided there is consensus among the colleges and the range between the minimum fees and the maximum fees calculated for colleges in the State is nominal and does not cause unnecessary financial hardship to the students. In Clause 24, it is proposed that the fees determined on the basis of the guidelines should not be more than the existing fees determined by the State Fee Regulatory Authority. Clause 25 states that in States, where more than 50% seats in private medical colleges are already regulated under the relevant State Act by way of Government Quota and other quotas with concessional fees, such higher percentage of Government Quota seats should



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27. The learned Senior counsel also submitted that in paragraph 51 of the judgment under review, it was discussed that the National Medical Council Act also gives power to the Commission to fix the fee for fifty per cent of the seats on the basis of the decision of the Hon'ble Supreme Court in ***Modern Dental College and Research Centre vs. State Madhya Pradesh [AIR 2016 SCC 2601]***. Further, in paragraph 52, based on the ruling of the Hon'ble Supreme Court the submission on behalf of the Pondicherry Medical Colleges



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Students and Parents Association and on behalf of the students in the batch of Writ Petitions was rejected. Paragraph 52 of the judgment under review clearly spelt out that the procedure adopted by the Fee Committee is largely in tune with the Draft Guidelines proposed by the National Medical Commission, which is now under circulation and comments have been invited from all stakeholders. In paragraph 53, quoting the judgment of the Hon'ble Supreme Court in *Vasavi Engineering College Parents Association vs. State of Telengana [(2019) 7 SCC 172]*, it was stated that the fee structure notified by the State Government based on the recommendations of the Fee Regulatory Committee was put to challenge. The Hon'ble Supreme Court while examining the challenge to the fee fixation order, pointed out the scope of judicial review, that it lies against the decision-making process and not the merits of the decision itself and the Court in the garb of judicial review, cannot usurp the jurisdiction of the decision maker and interfere with the decision itself. Further, it was held that complex executive decisions in economic matters are necessarily empiric and based on experimentation and therefore its validity cannot be tested on a rigid principle or the application of any straitjacket formula and the Court while adjudging the validity of an executive decision in



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economic matters, must grant a certain measure of freedom or play in the joints to the executive. Further, it was pointed out that the recommendations made by a statutory body consisting of domain experts is entirely a different matter with which the Court was not concerned and that the Court should be loath to interfere with such recommendation of an expert body and accepted by the Government, unless it suffers from vice of arbitrariness, irrationality, perversity or violates any provisions of the law under which it is constituted. It was further held that the Court cannot sit as an appellate authority, entering the arena of disputed facts and figures to opine with regard to the manner in which the Fee Fixation Committee ought to have proceeded without finding any violation of rules or procedure. Accordingly, in paragraphs 63 to 67 of the Judgment under review, the submission of the learned Counsel for the the Pondicherry Medical Colleges Students and Parents Association was discussed and rejected.

28. Heard the learned counsel appearing for the respective parties and perused the materials placed on record, including the judgment under review.



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29. As rightly pointed out by the learned Senior Counsel Mr. Vijaynarayan appearing for the Respondents 7 & 8 in Review Application/4th Respondent in W.P.No.6371 of 2021 in paragraph 69 of the order it is claimed that the Pondicherry Medical Colleges Students and Parents Association seeking to fix the fee in terms of the proceedings of the Fee Fixation Committee dated 23.03.2017 as notified by the Government in the order 19.05.2017 was rejected on the ground that the previous Fee Fixation Committee had no occasion to fix fee for Management Quota seats as the fixation was only restricted to Government Quota seats. Therefore, the claim by the Pondicherry Medical Colleges Students and Parents Association and some of the Students in the batch of writ petitions that the Government order dated 19.05.2017 should be made applicable to them is not tenable. The claim by the learned Counsel for the Review Petitioner Mr.V.B.R.Menon is found unacceptable in the review as pointed out by the learned Senior Counsel Mr.Vijaynarayan for the Respondents that the Pondicherry Medical Colleges Students and Parents Association which was registered in the year 2018 cannot seek for fee fixed in the year 2017. In the light of the discussion in the previous paragraphs 60 to 67 the students who had secured admission pursuant



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to the Fee Fixation order dated 19.07.2017 have reconciled with the facts that the fee fixed is tentative and to the said effect they have also given it in writing. Thus the student and parents were aware that there would be a final fixation of the fee which ultimately was done by issuing G.O. Ms. No.24, dated 03.07.2018. Therefore, they cannot be permitted to agitate the same once again under the garb of Review.

30. In the light of the above discussion, the points raised by the Review Applicant and the Writ Petitioners in W.P.No.6371 of 2021 are rejected as having no merits and the Review Petition and the Writ Petition are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R.J.)

(S.S.K.J.)

18.03.2025

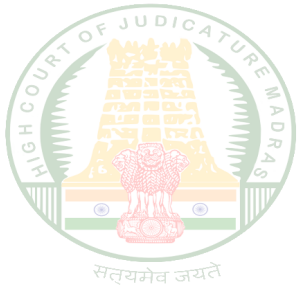
Index : Yes / No

Internet : Yes / No

Speaking Order / Non-Speaking Order

Neutral Citation : Yes / No

SRM



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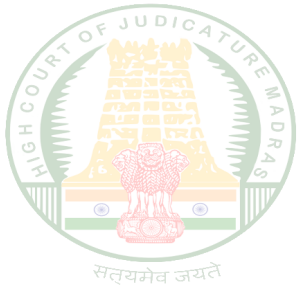
- 1.The Chief Secretary to Government of Puducherry,
Secretariat, Goubert Avenue,
Puducherry – 605 001.
- 2.The Secretary to Government of Puducherry,
Health and Family Welfare Services Department,
Secretariat, Beach Road, White Town,
Puducherry – 605 001.
- 3.The Director,
Department of Health and Family Welfare Services (DHFWS),
Victor Samuel Street,
Puducherry – 605 028.
- 4.Puducherry Fee Committee,
Represented by its Chairman,
No.7, (NCB) Greenways Road,
Chennai – 600 028.
- 5.The Registrar,
Pondicherry University,
R.V. Nagar, Kalapet,
Puducherry – 605 014.
- 6.The Chairman and Managing Director,
Sri Manakula Vinayagar Medical College and Hospital,
Kaliatheerthalkuppam, Madagadipet,
Puducherry – 605 017.
- 7.The Chairman,
Sri Venkateshwara Medical College Hospital and Research Centre,
Main Road, Ariyur,
Puducherry – 605 102.
- 8.The Registrar,
Pondicherry Institute of Medical Sciences,
Kalathumettupathai, Ganapathichettikulam,
Village No.20, Kalapet, Puducherry – 605 014.



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9. The Chairman,
National Medical Commission,
Pocket-14, Sector-8,
Dwarka Phase-1, New Delhi-110 077.

10. Pondicherry Institute of Medical Sciences,
Represented by its Chairman,
Kalathumettupathai, Ganapathichettikulam,
Village No.20, Kalapet,
Puducherry – 605 014.



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S.S.SUNDAR, J

and

SATHI KUMAR SUKUMARA KURUP, J

SRM

Pre-delivery common judgment
made in
Rev. Aplw. No.160 of 2021
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and
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18.03.2025