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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.25775 of 2024

K.R.Ajeendra Nath ... Petitioner

Vs

1.The Director of Collegiate Education,
EVK Sampath Maligai,
College Road, Chennai – 600 006.

2.The Director.
Vigilance and Anti-Corruption,
Alandur, Chennai – 600 028.

3.Nagarajan
Secretary,
S.T.Hindu College,
Nagercoil,
Kanyakumari District.

4.T.M.Padmanbhan
Principal,
S.T.Hindu College,
Nagercoil,
Kanyakumari District.

5.The Joint Director of Collegiate Education,
Tirunelvei. ...Respondents

[R5 is suo motu impleaded vide order dated 03.03.2025]

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents herein more particularly the 2nd respondent here in to take appropriate action as against the 3rd and 4th respondents herein under the Tamil Nadu Education Institutions (Prohibition of Collecton of Capitation Fee), Act 1992 and the Tamil Nadu Private College (Regulation) Act, 1976 by considering the petitioner's representation dated 28.02.2024.

For Petitioner	:	Mr.G.Prabhu Rajadurai, for Mr.R.Murugan
For Respondent Nos.1 & 5	:	Mr.R.Baskaran Additional Advocate General Assisted by Mr.P.T.Thiraviam Government Advocate
For Respondent No.3	:	Mr.V.Panneer Selvam

ORDER

This writ petition has been filed by a professor of S.T.Hindu College, Nagercoil that the Secretary of the said college has collected excess fee from the students to the tune of Rs.1,89,00,000/- from the year 2017. This amount, according to the petitioner, has been collected from the students in excess than the fee permitted by the Secretary of the college, in connivance with the Principal. According to the petitioner the above said act of the respondents 3 and 4 attract the following offences:

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"i. Section 7(1) of the Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fees) Act, 1992,

ii. Section 28 of the Tamil Nadu Private College Regulations Act, 1976.

iii. Sections 7, 13 and 18 A of the Prevention of Corruption Act, 1988."

2.The petitioner has lodged a complaint to the 2nd respondent / the Director of Vigilance and Anti Corruption Department, on 28.02.2024 and has filed this writ petition for a direction to the 2nd respondent to take appropriate action against the 3rd and 4th respondents / the Secretary and the Principal of the said college based on his complaint.

3.On receipt of notice in this writ petition, the Deputy Superintendent of Police, Vigilance and Anti Corruption Department has filed a report before this Court that the petitioner's complaint dated 28.02.2024 was received in the Directorate of Vigilance and Anti-Corruption, Chennai on 04.03.2024. The petitioner has levelled allegations as against Dr.T.M.Padmanaban, Principal, S.T.Hindu College, Nagercoil and Dr.Nagarajan, Secretary, S.T.Hindu College, Nagercoil for

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illegally collecting excess fee and capitation fee from the students and requested to take necessary action. Since the allegations in the complaint were general in nature and required verification by the concerned Department concerned and the Director of Collegiate Education, Chennai is the competent authority to look into and act upon such petition, it was forwarded to the Director of Collegiate Education, Chennai vide DVAC petition No.3041/2024/EDN/KK, dated 15.03.2024, as per the instructions issued in Government Memo No.1356/64/2, Public (Services-B), dated 08.04.1964, as per paragraph No.10(3) of the Manual of the DVAC and as per the guidelines issued in G.O.Ms.No.173, P & AR (N) Department, dated 19.12.2018.

4.The learned Additional Advocate General appearing for the respondents 1 and 5 submitted that the complaint of this petitioner dated 28.02.2024 was forwarded by the Superintendent of Police, Vigilance and Anti Corruption Department by letter dated 15.03.2024 to the Collegiate Education Department and vide letter dated 24.04.2024, the Joint Director of Collegiate Education, Tirunelveli was directed to take appropriate action on the complaint of this petitioner.

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5.Considering this submission of the learned Additional Advocate General this Court by order dated 03.03.2025 suo motu impleaded the Joint Director of Collegiate Education, Tirunelveli as a party to this writ petition. The learned Additional Advocate General, who appeared for the Joint Director of Collegiate Education, Tirunelveli has also submitted that the Joint Director, has called for an explanation from the management of ST Hindu College on the complaint of this petitioner dated 28.02.2024 vide his letter dated 19.06.2024 and the management has offered their explanation on 16.07.2024 denying all the allegations. It appears that this report of the Joint Director of Collegiate Education, Tirunelveli Region was forwarded to the Director of Collegiate Education on 31.07.2024, only after the impleading of the Joint Director as a party to this writ petition.

6.The learned Additional Advocate General further submits that the Joint Director of Collegiate Education, Tirunelveli Region conducted a special audit for the year 2023-2024 in the said college on 12.03.2025 and on 13.03.2025. During this special audit for the year 2023-2024, it was found that a sum of Rs.27,36,750/- has been collected from the

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students in the heads of account viz., society a/c, miscellaneous a/c, parents teachers association a/c and committee a/c. Therefore a show cause notice was issued to the management vide RJDCE's proceedings Rc.No.10998/E2/2024, dated 21.03.2025, calling for explanation as to why the grant-in-aid to the college shall not be withheld for collection of excess fee from the students and it was instructed to refund the excess amount collected from the students to the students. In response to the above said show cause notice, the college management submitted an explanation vide letter No.4/2025-26 dated 09.04.2025 in which it was admitted that an amount of Rs.27,36,750/- was collected from the students in the above said four heads of accounts. Further it was stated that proper receipts were issued to the students for the fee collected and all the transactions were made through bank only. Also it was stated that all the said amount were spent for the welfare of the students and the upliftment of education of the students. It was further stated that the said fee was not collected by harassing the students and no complaints regarding excess fee collection were received either from the students or their praents.

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7.The learned Additional Advocate General further submits that the Joint Director of Collegiate Education, Tirunelveli Region vide letter RC.No.10998/E2/2024, dated 11.04.2025 sought for guidance of the Director of Collegiate Education, Chennai. The additional particulars called for by the Commissioner of Collegiate Education, Chennai from the 5th respondent were sent subsequently. In the letter it was stated that as per Section 28(1) of the Private Colleges Regulations Act, 1976, no fee should be collected from the students except the fee specified by the competent authority and since the college management has violated Section 28(1) of the Act, and requests for action to be taken against the college management. Now the said proposal is under active consideration of the Commissioner of Collegiate Education, Chennai and requires time for through scrutiny.

8.The learned Counsel for the 3rd respondent submits that the writ petitioner is having some issues with the management and therefore, he has lodged this false complaint. According to him all the fees were collected by the college only through the bank account and all the

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amount collected were used only for the welfare of the students. According to him till date no complaint has been made either from any of the students or by the parents that they received excess fee. He further submits that on the very same issue the petitioner has already filed another writ petition in WP(MD)No.28669 of 2024 and it was disposed by this Court by order dated 18.02.2025 with a direction to consider his representation dated 28.02.2024. The department has conducted a special audit and found that the fees collected from the students were spent only for the welfare of the students. Accordingly the report was also sent to the Director of Collegiate Education on 13.03.2025. However pursuant to filing of this writ petition and after impleading the Vigilance and Anti Corruption Department in this writ petition, the department has taken an U-turn and has issued show cause notice seeking explanation as to why the grant-in aid to the college shall not be withheld for collecting excess fee. Challenging the show cause notice dated 21.03.2025 the 3rd respondent college has filed a writ petition before this Court in WP(MD)No.12362 of 2025 and the same has been directed to be listed before this Court along with WP(MD)No.25775 of 2024.

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9.The learned Counsel for the 3rd respondent by referring to the orders of the Division Bench of this Court in WP.No.23670 of 2014 and 12475 of 2015 dated 13.08.2014 submits that the complainants if any as to the collection of excess fee are received, then the Fee Determination Committee has to look into the complaints as per Section 7(1)(b) of the Tamil Nadu Recognised Private Schools Regulation Act and the Rules framed thereunder. The learned Counsel has also relied on the orders of this Court passed in WP.No.18466 of 2015 that this Court has only referred the matter to the Fee Determination Committee in view of the orders of the Division Bench.

10.This Court considered the rival submissions and perused the materials placed on record.

11.The petitioner with an allegation of collection of excess fee by an aided institution has lodged a complaint before the 2nd respondent/ Director of Vigilance and Anti Corruption Department and has filed this writ petition. This complaint of this petitioner was forwarded by the

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Vigilance and Anti Corruption Department, to the Director of Collegiate Education, who in turn forwarded the complaint to the Joint Director of Collegiate Education. The Joint Director of Collegiate Education has filed a counter affidavit in this writ petition in the month of March 2025 as under:

> *"The 1st respondent has directed the Regional Joint Director to conduct enquiry and submit report. On receipt of the said instructions, the Regional Joint Director of Collegiate Education, Tirunelveli conducted a special audit in the said college. The petitioner has annexed a copy of 2 chalans containing Challan No. 23-24/342 in which fee collected from a student in seven heads of account totally. During the Special Audit the Collection Challans for Bank remittance, daily fees collection register, documents for receipts and payments were verified. All the fee collections and expenditure made from the amount of fees were accounted properly.*
>
> *The fees collected from the student were spent, for which purpose the fees has been collected from the students. All the expenditure were made under the resolution of the colleges committee. There is no misappropriation of funds as stated by the petitioner in his affidavit. There above said special audit report sent to*

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the Director of Collegiate Education, Chennai -15 the 1st respondent herein vide RJDCE's letter RC.No. 10998/E2/2024, dated 13.03.2025.

Except the complaint from the writ petitioner this respondent department has not received any complaint either from the affected students or parents. The writ petition is devoid of merits and deserves to be dismissed."

12.However in the latest affidavit filed by the 5th respondent Joint Director dated 28.04.2025, the Joint Director has taken a stand as under:

"The Joint Director of Collegiate Education, Tirunelveli Region conducted a Special Audit for the year 2023-2024 in the said college on 12.03.2025 and on 13.03.2025. During the Special Audit for the year 2023-2024, it was found that an amount of Rs. 27,36,750/- has been collected from the students in the heads of account like society a/c, miscellaneous a/c, parents teachers association a/c and committee a/c. Consequently a show cause notice was issued to the college management vide RJDCE's proceedings Rc.No. 10998/E2/2024, dated 21.03.2025 in which explanation called for from the college management as to why the grant-in-aid to the college shall not be withheld for the

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reason of excess fee collection form the students. It was also reiterated to refund the excess amount collected from the students.

The Joint Director of Collegiate Education, Tirunelveli Region vide letter RC.No.10998/E2/2024, dated 11.04.2025 sought for guidance of the Director of Collegiate Education, Chennai. Subsequently the additional particulars called for by the Commissioner of Collegiate Education, Chennai to the 5th respondent was sent subsequently. In the letter it was stated that as per Section 28(1) of the Private Colleges Regulations Act, 1976, no fee should be collected from the students except the fee specified by the competent authority and since the college management has violated Section 28(1) of the Act, and requests for action to be taken against the college management. Now the said proposal is under active consideration of the Commissioner of Collegiate Education, Chennai and requires time for through scrutiny."

13.The 3rd respondent institution is an aided college receiving grant in-aid from the Government of Tamil Nadu and therefore, it is well within the purview of the Tamil Nadu Private Colleges Regulations Act.

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Section 28 of the Tamil Nadu Private College Regulations Act reads as under:

"28. Fees and other charges.

"(1)Subject to the provisions of sub-section (2), no private college shall levy any fee or collect any other charge or receive any other payment except a fee, charge or payment specified by the competent authority:Provided that the examination fees that are being prescribed by the University shall continue to be prescribed by such University.

'(2)Every private college in existence on the date of commencement of this Act and levying different rates of fees or other charges or receiving any other amount on such date, shall obtain the prior approval of the competent authority before continuing to levy such fees or charges or receive such payment."

14.Therefore the aided institution cannot collect any fee or any other payment except fee specified by the competent authority. The fee structure of the private institutions for the courses offered by them are fixed every year by the committee constituted for the same. The Tamil Nadu Educational Institutions (Prohibition of Capitation) Fee Act also prohibits the collection of capitation fee for admission to the educational

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institutions in the state of Tamil Nadu and per the definition under Section 2(A) of the Act, whatever amount collected other than the prescribed, in any form, whether directly or indirectly is punishable under Section 7(1) of the Act. Section 7(1) prescribes punishment from 3 years to 7 years of imprisonment with fine.

15.A Division Bench of this Court has discussed the provisions of the Tamil Nadu Educational Institutions (Prohibition and Capitation Fee) Act 1992 ***in Commissioner of Income Tax Chennai M/s. MAC Public Charitable Trust MAC/ICH Building, VHS Campus TITI Post, Chennai - 600 113 [****TCA No. 303 of 2021 etc.*, batch decided on 31.10.2022] has held as follows **:**

> "40. The above provisions make it clear that any amount collected in excess of prescribed fee, either directly or indirectly is to be treated as capitation fee, irrespective of whether it is voluntary contribution or donation. Similarly, not only there is a prohibition for the educational institution or the person in-charge to collect any amount in the nature of capitation fee, but also against any other person either for himself or on behalf of any such educational institution or on behalf of any such

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management of any educational institution. The provisions are plenary to cover not only the individuals associated with the institutions directly, but also other institutions and any person acting on behalf of the management of any other institution. Such exhaustive provisions are to enable the State to eradicate cartels and routing of funds."

16. A Three Judge Bench of the Hon'ble Supreme Court in *Christian Medical College, Vellore Association v. Union of India and Ors reported in* ***(2020) 8 SCC 705*** has observed as follows:

"86. It is, therefore, to be borne in mind that the occupation of education cannot be treated on a par with other economic activities. In this field, the State cannot remain a mute spectator and has to necessarily step in order to prevent exploitation, privatisation and commercialisation by the private sector. It would be pertinent to mention that even in respect of those economic activities which are undertaken by the private sector essentially with the objective of profit-making (and there is nothing bad about it), while throwing open such kind of business activities in the hands of private sector, the State has

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introduced regulatory regime as well by providing Regulations under the relevant statutes."

17.The 2nd report of the Joint Director dated 28.04.2025 shows that as per the special audit report of the year 2023-2025, an amount of Rs.27,36,750/- was collected by the 3rd respondent from the students in the heads of account like society, miscellaneous account, parents teachers association account and committee account. However this was conveniently not disclosed in the earlier report filed on behalf of the Joint Director in the month of March 2025. This is how the departments are functioning colluding with the private managements. Ultimately the students studying in the private institutions are affected. The government is providing grant-in aid to the institution on condition that the students, who are studying in these institutions have to get the benefits of education within the prescribed fee by the government. Once the institution receives grant-in aid, they are bound by the regulations framed by the Government and have to strictly comply with the same. Whoever violates the rules and regulations, action has to be taken as against them by strictly in accordance with law.

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18. Education must be the primary object of any government. Every year government is spending several crores of rupees for the education department. Most of the amount is spent for this grant-in aid for the aided institutions like that of the 3rd respondent. The grant in aid is provided only with a condition that the aided college should collect the fee as prescribed by the government. When it is violated by the private institutions, necessary action needs to be taken by the department concerned. Obviously the Joint Director has not initiated any action despite the audit report for the year 2023- 2024. The department claims that the audit report was made available to them on 12.03.2025. However in the counter affidavit filed by them in the month of March 2025, the department took a stand that all the fees collected from the students were accounted for and were spent for the welfare of the students. Justification is made by the Joint Director of Collegiate Education that there was no complaint from the students as well as from the parents.

19.It is not known how the department expects complaints from the student or from the parents of the students, when they are depending upon the internal marks, transfer certificate and conduct certificate from the colleges. No student would come forward to lodge a complaint even

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if any excess fee is collected.

20.The petitioner may have some issues with the management and that does not mean the genuinity of the complaint needs to be discarded. Only initiation of appropriate action in accordance with law would give a message to all the institutions, who all are collecting excess fee from the students that the receipt of excess fee would attract legal action. However, the department is not taking any action as against the mighty managements.

21.The relief sought for in this writ petition is for a direction to the Director of Vigilance and Anti Corruption Department to take action on his complaint dated 28.02.2024. The complaint of this petitioner is relating to violation of provisions of Tamil Nadu Education Institutions (Prohibition of Collection of Capitation Fee), Act 1992 and the Tamil Nadu Private College (Regulation) Act, 1976. The Director of Vigilance and Anti Corruption is not having any role to take action. However considering the manner in which the department is not taking any action on the complaint of this petitioner, dated 28.02.2024 for a period of one year, this writ petition is disposed of with a direction to the 2nd

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respondent to look into the condcut of the Joint Director of Collegiate Education for not taking action in accordance with the provisions of Section 28 of the Tamil Nadu Private Colleges Regulation Act, even after receipt of complaint dated 28.02.2024. No costs.

30.04.2025

DSK

To

1.The Director of Collegiate Education,
EVK Sampath Maligai,
College Road, Chennai – 600 006.

2.The Director,
Vigilance and Anti-Corruption,
Alandur, Chennai – 600 028.

3.The Joint Director of Collegiate Education,
Tirunelvei.

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B.PUGALENDHI.J.,

DSK

WP(MD)No.25775 of 2024

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