

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

Writ Petition(s)(Civil) No(s). 1361/2018
WITH
Contempt Petition (Civil) No.429 of 2019 in
Writ Petition(C) No.1361 of 2018

B. MOHAMMED NAVEETH & ORS. **Petitioner(s)**

VERSUS

THE CHAIRMAN & ORS. **Respondent(s)**

O R D E R

This petition under Article 32 of the Constitution of India has been filed seeking following principal relief:

"a) Issue writ of mandamus or any other appropriate writ, order or direction in the nature of writ of mandamus declaring that Fee Fixation Committee proceedings in Proc. No. CFF/ Medical/ RMMCH/ Fees/ 018/2018 dated 15.09.2018 and Fee Fixation Committee proceedings in Proc. No.CFF/Dental/RMOCH/Fees /018/2018 dated 15.09.2018 passed by the Respondent No.1 are contrary to law, violation of Article 14 and 15 of the Constitution of India and against the norm of fee fixation and arbitrary and therefore quash the same."

The proceedings before the Fee Fixation Committee ("the Committee" for short) arose in following circumstances:

Writ Petition Nos.20720 of 2014 and 22305 of 2014 were filed by 150 students of first MBBS and 40 students of first BDS course respectively who had taken admission in Raja Muthiah Medical College ("the Medical College", for short) & Raja Muthiah Dental College ("the Dental College" for short)respectively for the academic year 2013-14.

At the time when they took admissions, the students of MBBS

were required to pay Rs. 5,54,370/- and students of BDS required to pay Rs. 3,50,370/- towards fees as determined by the Senate of Annamalai University ("the University", for short). After the petitioners had completed first year of their courses, the aforesaid writ petitions were filed in the High Court of Judicature at Madras principally raising three questions which were noted by the Single Judge of the High Court as under:

"35. From the rival contentions, I think the following questions arise for consideration:

- (i) Whether the petitioners, who are admitted to the MBBS and the BDS courses in pursuance of the prospectus of the year 2013-14, are bound by the terms and conditions contained in the prospectus?
- (ii) Whether Raja Muthiah Medical College, which is a constituent of the Annamalai University, is a college, to which, the provisions of the Capitation Fee Act, 1992 would apply? And
- (iii) Whether the Raja Muthiah Medical College and the Annamalai University, in the peculiar facts and circumstances of the case, are bound to collect only the fee fixed by the Fee Fixation Committee for other colleges, despite no reference having being made to the Fee Fixation Committee in respect of it?

While answering all three questions against the writ petitioners and dismissing the writ petitions, the single Judge of the High Court concluded that the fees fixed by the Senate of the University would be applicable and the issue regarding fixation of fee need not be referred to the Committee constituted under Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act, 1992 ["1992 Act" for short].

The decision of the single Judge was questioned by filing

writ appeals before the Division Bench of the High Court which were dismissed by order dated 26.09.2016. The Division Bench concluded as under:

"53. In view of the detailed discussions made above, we hold that:

- (i) Annamalai University is not a Government University;
- (ii) The Capitation Fee Act, 1992 will not apply to the University;
- (iii) Annamalai University will not come under the purview of the Fee Fixation Committee; and
- (iv) Annamalai University is empowered to fix the fees as prescribed by the Syndicate."

The matter was carried in appeal before this Court and by judgment dated 13.07.2018, this Court allowed the appeals and set aside the view taken by the Single Judge and the Division Bench of the High Court on the issue of applicability of 1992 Act.

The matter was dealt with by this Court as under:

"17. But the situation in the present matter stands on a slightly different footing inasmuch as by inserting sub-Section (2-A) along with an explanation in Section 4 in 1992 Act, Fee Fixation Committee is a statutory mechanism in terms of said provisions of 1992 Act. Said Section 4 shows that under sub-section (1) the Government is empowered to regulate the tuition fee or any other fees or deposits in the manner prescribed therein. But in relation to imparting of education leading to a degree in medicine or engineering, sub-Section (2-A) has been given an overriding effect by incorporating non-obstante provision. Sub-Section (2-A), unlike sub-Section (1), does not require any notification by the Government. If an institution carries on activity of imparting education leading to a degree or diploma as spoken of in sub-section (2) of said Section 4, the fee structure has to be that which is fixed by the Committee. The legislative intent is very clear and no educational institution which comes within the scope of sub-section (2-A) can receive or collect any fees in excess of the amount fixed by the "Committee of Fixation of Fee".

18. We now have to deal with the submission whether the University by virtue of Section 4(13) and 20(1)(m) of 2013 Act could charge, collect and receive tuition fee without the intervention of "Committee on Fixation of Fee" as contemplated by Section 4(2-A) of 1992 Act. The University by its very nature of activities would be running numerous courses and to that extent provisions of 2013 Act are general in nature. The provisions of Section 4(2-A) of 1992 Act are specific and special and apply to courses leading to degrees in Medicine and Engineering. Therefore, insofar as professional courses leading to degrees in Medicine and Engineering are concerned, the matter must be screened and assessed by Committee on Fixation of Fee and the submission that the University was entitled to fix fees on its own without the intervention of such Committee has to be rejected. The other submission that the students were estopped from raising a challenge must also fail. If a particular modality is prescribed by the Legislature any action in defiance or ignorance of such modality cannot be protected or preserved on the plea of estoppels. The reliance placed on the decision of this Court in Cochin University of Science and Technology and Another vs. Thomas P. John and others [(2008) 8 SCC 82] was also misplaced. In that case students who had taken admission in NRI Quota, thereafter contended that their fee structure be slashed to the same level as applicable to non NRI students. The concept of estoppels was pressed into service while rejecting said submission but that cannot be a ground to deny the express protection available under a legislation.

19. We, therefore, allow these appeals and set aside the judgments and orders under appeal. We hold that the University was not entitled and competent to devise its own fee structure in the present matter without having the fee fixed by the Committee on Fixation of Fees as contemplated under 1992 Act. The matters shall therefore have to be referred to said Committee and the University is directed to place the entire material including its balance-sheet and accounts before the Committee on Fixation of Fee within two weeks from the date of this judgment. The Committee shall thereafter bestow attention and fix appropriate fee structure for the academic year 2013-14 onwards. It goes without saying that if the fee structure fixed by the University is found by the Committee to be inappropriate, consequential benefit and advantage shall be given to each and every student. The Committee shall fix the appropriate fee structure for

the current academic Session 2018-19 as well. The entire exercise shall be completed by 31.08.2018.”

In view of the directions issued by this Court, the issue regarding fee fixation stood relegated to the Committee, which by its order dated 15.09.2018, fixed the fees for MBBS Course from the year 2013-14 to 2018-19 as under:

1. The fee fixed for MBBS course from the year 2013-2014 to 2018-2019 are as under:

Academic Year	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Fee fixed (Rs.)	4,50,000	5,08,000	5,44,370	5,44,370	5,44,370	5,44,370

The fees for BDS Course for the corresponding Academic Years [2013-14 to 2018-19] were fixed as under:

Academic Year	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Fee fixed (Rs.)	3,37,500	3,45,000	3,45,000	3,45,000	3,45,000	3,45,000

The Committee also went into the fee structure for Post Graduation Courses and fixed the fees for PG Medical (Clinical and Non-Clinical) and Post Graduate Diploma courses for the year 2013-14 to 2018-19. The decision of the Committee is now challenged in this petition under Article 32 of the Constitution of India.

By interim order dated 10.12.2018 this Court directed that the University would realize from the students fees at the same scale as applicable to unaided medical College for MBBS(UG), BDS(UG), Medical (PG) and MDS(PG) courses.

During the course of said order, following statement was

Colleges						
Private	2,75,00/	2,75,00/	2,75,00/-	2,75,00/	2,75,00/-	2,75,00/-
Unaided	-	-	To	-	To	To
Dental	To	To	3,50,000/	To	3,50,000/-	3,50,000/
Colleges	3,00,000	3,50,000	-	3,50,000	-	-
	/-	/-		/-		
Raja	8,50,000	8,50,000	8,50,000	8,50,000	8,50,000	8,50,000
Muthiah						
Medical						
Colleges						

Mr. Siddharth Luthra, learned Senior Advocate appearing for the writ petitioners and Ms. V. Mohana & Mr. R. Balasubramanian, learned Senior Advocates appearing for the impleading applicants submitted inter alia:

1. That the Medical College and the Dental College received grants time to time from State of Tamil Nadu;
2. That the University was being funded by the State Government.
3. That the colleges were also subject to 15% All India Quota and were following the reservation policy of the State.

It was, therefore, submitted that the Medical College and the Dental College being Government Colleges, no fee in excess of what would be payable for other Government Medical and Dental Colleges could be charged and recovered from the students.

It was further submitted that the proceedings before the Committee were invalid and illegal inasmuch as certain members of the Committee were having interest in the concerned colleges and, therefore, there was conflict of interest.

The submissions were also advanced about the correctness of

the assessment made by the Committee in arriving at its conclusions with regard to fee chargeable from the students.

Mr. Jayant Muthuraj, learned AAG for the State and the Committee as well as Mr. Rakesh Dwivedi, learned Senior Advocate for the concerned colleges submitted that the issue whether the concerned colleges were government colleges or not, ought not to be gone into, as the entire emphasis in the earlier round of litigation was on the issue whether the fees be fixed by the Committee constituted under 1992 Act or by the Senate of the University.

With the assistance of the learned counsel, we have gone through the concerned record and the rival submissions. It is true that certain submissions were advanced before the Single Judge of the High Court that the concerned colleges were government colleges. However, the judgment of the Single Judge clearly discloses that three questions were posed for consideration in respect of which rival submissions were advanced and the matter was gone into.

Similarly, the decision of the Division Bench also shows that the emphasis in the submissions was on the applicability of 1992 Act and that the matter was agitated purely from that perspective.

Further, it was never submitted before this Court that the concerned colleges being government colleges, there was no question of the matter getting referred either to the senate of the University or to the Committee under 1992 Act. As a matter of

fact, the basic drift of the submissions was that the matter must be referred to the Committee under 1992 Act.

In the circumstances, Mr. Jayant Muthuraj, learned AAG and Mr. Rakesh Dwivedi, learned Senior Advocate are right in their contention that the petitioners ought not to be permitted to raise the issue whether the concerned colleges are govt. colleges or not.

We have also gone through the contentions with regard to the conflict of interest of certain members of the Committee and find that no objection was taken at any juncture before the Committee about the inclusion and participation of said members. Therefore, this issue also cannot be permitted to be agitated.

We are thus left with the factual assessment made by the Committee while arriving at its conclusion and fixing the relevant fee structures.

The issues pertaining to fee structure may involve going into the matters of accounts and detailed analysis, which exercise may not be proper to be undertaken for the first time in this Court and while exercising jurisdiction under Article 32 of the Constitution.

We, therefore, permit the petitioners to file appropriate proceedings to canvass the issues regarding fee structure alone in properly instituted proceedings. The petitioners, if so advised, may file appropriate proceedings within three weeks from today.

It appears that 21 students have paid fees in accordance with the fee structure fixed by the Committee for four years and as per interim directions issued by this Court in its order dated 10.12.2018 for the last year. Upon payment/deposit of such fees, the certificates and other testimonials of the concerned students have been released to them.

In our view, the same principle must apply insofar as rest of the students are concerned including the intervenors and upon deposit of requisite fees, their certificates and testimonials shall be released in their favour.

We, therefore, direct

- (a) Those students who wish to challenge the determination of fee structure by the Committee may file appropriate proceedings within three weeks;
- (b) Within a week of such filing they shall deposit the fee in the same manner as was deposited by 21 students as stated earlier; i.e. for first four year the fee shall be deposited in terms of directions issued by the Committee and for the fifth year in accordance with the scale stated in the interim directions issued by this Court in order dated 10.12.2018;
- (c) They shall also execute bond and an undertaking that in case their challenge to the fee fixation by the Committee is rejected, the balance shall be paid by them;

- (d) It is only upon execution of such bond and payment as aforesaid that the Certificates and Testimonials shall be released within 24 hrs. by the concerned colleges to the students;
- (e) If the students succeed in their challenge, then relief shall be in accordance with the decision in their favour.
- (f) In case no challenge is initiated within three weeks as stated above, the liability of the students to pay fee shall be in accordance with the determination by the Committee.

With the aforesaid observations, this writ petition is disposed of.

In view of the directions as aforesaid, no orders are called for in contempt petition which is directed to be closed. All interim applications also stand disposed of.

.....J.
(Uday Umesh Lalit)

.....J.
(Vineet Saran)

.....J.
(S. Ravindra Bhat)

New Delhi,
November 06, 2020

For Respondent(s) Mr. Rakesh Dwivedi, Sr. Adv.
Mr. S. Nandakumar, Adv.
Mr. Arya Tripathy, Adv
Ms. Deepika Nandakumar, Adv.
Mr. M.S. Saran Kumar, Adv.
Mr. Naresh Kumar, AOR

Mr. Jayant Muthuraj, Sr. Adv.
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Ms Swati Vaibhav, Adv.
M/S. Vaibhav And Dash Law Associates, AOR

Mr. S.Ravishankar, Adv
Ms. Yamunah Nachiar, AOR
Ms. Bhanu Kapoor, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Writ Petition is disposed of in terms of the signed order.

In view of the orders passed in writ petition, the contempt
petition is closed.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)
COURT MASTER (SH)

(PRADEEP KUMAR)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)