

(2021) 01 KL CK 0572

In the High Court Of Kerala

Case No : Writ Petition (C) No. 29508 Of 2019

Niranjana C.A

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 25-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0572

Hon'ble Judges : Amit Rawal, J

Bench : Single Bench

Advocate : Namitha Jyothish, P.M. Saneer, Tony George Kannanthanam, C.S.
Ajith Prakash, T.K. Devarajan, Nidhin Raj Vettikkadan, Haaris Moosa

Judgement

1. This judgment shall dispose of the captioned three writ petitions.

2. The reliefs sought in W.P.(C).No.29508/2019 are as under:

(i) Issue a writ of mandamus or any other appropriate writ or order commanding respondents 1 to 4 to expedite the process of reallocation of the

petitioner and other students from 5th respondent medical college to another well run medical college;

(ii) issue a writ of mandamus or any other appropriate writ or order directing the respondents 5 and 6 immediately return to the petitioner the entire

tuition fee, except that of the 1st year, along with the security deposit of Rs.11,00,000/-

3. In W.P.(C).No.29508/2019 a mandamus has been sought for directions to respondents 1 to 4 to expedite the process of reallocation of the petitioner

and other students from 5th respondent Medical College to another and to direct the 5th and 6th respondents to return the entire tuition fee, except that

of the first year along with the security deposit of Rs.11 lakhs whereas in W.P.

(C).No.25208/2019, only second relief as noticed hereinabove has been sought. There is no prayer for reallocation in W.P.(C).No.25208/2019 whereas in W.P.(C).No.3168/2020, seventeen writ petitioners have asked for permission of this Court to continue in 4th professional MBBS Degree course and complete the course without any break with a further prayer to quash Exts.P7 and P9, whereby Kerala University of Health Sciences vide order dated 06.01.2020 accepted the cancellation of the Essentiality Certificate issued to S.R. Medical College and Research Centre, Varkala and adjustment of the fees remitted by the petitioners, therein, to the transferee College.

4. Before, learned counsel representing the parties could commence their arguments on merit, Sri.Saneer P.M. learned counsel representing respondents 5 and 6, the erstwhile college ie., S.R. Medical College and Research Centre, Varkala which has been now ordered to be closed, submits that there had been a spate of litigations with regard to reallocation and adjustment of the tuition fees, whereby order of the Government, has been upheld, therefore, no further cause of action survives in the writ petitions. This fact has not been disputed by learned counsel for the petitioners and submits that this Court can always issue appropriate directions for compliance of orders of this Court. Attention of this Court have been drawn to the judgment of the Division Bench of this Court in W.A.No.583/2020 decided on 08.07.2020 titled as Chairman S.R. Educational and Charitable Trust v. Union of India and others preferred against the judgment rendered in W.P.(C).No.236/2020 whereby the cancellation of Essentiality Certificate issued by the Government was upheld and the Division Bench agreed with the judgment of the Single Bench. Pith and substance of both the judgments leads for direction to the College to take necessary steps to return the fees and other financial commitments, if any, due to the students and also the original certificate without any further delay, failing which the state shall take necessary steps to recover the same. It is next contended that the state had taken necessary steps and after detailed deliberation an order dated 17.08.2020 Ext.P16 (W.P.(C).No.29508/2019) was passed whereby the affected parties were relegated to stake the monetary claim to the Fee Regulatory Committee for medical education. The aforementioned order was challenged in this Court vide W.P.(C).No.17910/2020. The Division Bench of this

Court vide judgment dated 23.10.2020 did not intervene and accepted the reasoning assigned by the Government whereby the affected students were relegated to the aforementioned committee for settlement of the monetary reliefs, thus the prayer for reallocation has already been considered as all the students have been shifted to different colleges whereas in the case of Radhika Sanker, petitioner in W.P.(C).No. 25208/2019, an amount of Rs.11 lakhs towards security has been refunded but, with regard to other monetary issues/claims the matter is pending consideration before the FRC. Considering the aforementioned facts, I am of the view that the dispute with regard to cancellation of Essentiality Certificate of respondents 5 to 6, reallocation of students and monetary relief have already been decided and no useful purpose would be served in keeping the writ petitions pending. The petitioners are at liberty to pursue their remedies qua monetary claim before the Fee Regulatory Committee.