

(1996) 12 AP CK 0084

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 10146 of 1995 and 10723 of 1996

P. Manoj Kumar and Others

APPELLANT

Vs

Govt. of A.P. and Others

RESPONDENT

Date of Decision : 09-12-1996

Acts Referred:

Citation : (1997) 1 ALD 655 : (1997) 1 ALT 715

Hon'ble Judges : G. Bikshapathi, J

Bench : Single Bench

Advocate : Vedula Venkataramana, for the Appellant; Y. Rathnakar, for the Respondent

Final Decision : Allowed

Judgement

G. Bikshapathi, J.—Both the Writ Petitions can be disposed of by a common Order.

2. The Writ Petitions are filed seeking Writ of Mandamus directing the Respondents Nos. 3 and 4 to abide by the ceiling of fee stipulated in G.O.Ms. No. 304, dated 30-12-1993 in respect of left over seats from N.R.I. quota and to forbear from demanding additional tuition fee over and above the ceiling fixed by the Government.

3. The petitioners were admitted to B.E. Course under the 3rd Respondent Engineering College which is established by the 4th Respondent Society. In pursuance of the directions of the Supreme Court from time to time, the State Government have been issuing the orders in respect of fee structure. The Government issued G.O.Ms. No. 183, dated 18-8-1993 to the effect that the N.R.I. quota seats can be filled up by the management of the college, who were not successful or who did not appear for EAMCET Examination. However, by subsequent G.O.Ms. No. 256 dated 17-11-1993 Government issued further directions to the effect that left over seats" in N.R.I., quota can be filled up by the management without reference to the ranking in the EAMCET. But such candidates should have passed the Intermediate in 1st class. The fee initially

prescribed was \$ 6,000 equivalent to Rs. 1,90,000/- which was subsequently reduced to Rs. 75,000/- in G.O.Ms. No. 256, dated 17-11-1993 and further reduced to Rs. 50,000/- in G.O.Ms. No. 304, dated: 30-12-1993.

4. It is the case of the petitioners that they are not the 1st Class Intermediate candidates. However, they were admitted by the College in pursuance of the G.O.Ms. No. 183, dated: 18-8-1993. It is their case that when the N.R.I., seats were directed to be filled up by the management, the Government cannot put a condition that the students should pass Intermediate Examination in 1st class. The said condition was challenged by the petitioners in Writ Petition No. 17844 of 1993 & Batch and by orders dated 1-12-1993 this Court directed that the left over seats in N.R.I. quota can be filled up by the management without reference to the 1st Class qualification in the Intermediate and the said Writ Petitions are pending. Thus, the petitioners are continuing their B.E., Course. Now they are in 3rd and 4th year classes. However, the grievance of the petitioners is that the 3rd Respondent is insisting for payment of Rs. 26,250/- towards Tuition fee per head from 2nd year onwards and until such fee is paid, they will not be issued (with) No Objection Certificate. It is the case of the petitioners that they paid the entire fee of Rs. 2 lakhs as per the G.Os. issued by the Government and that the College authorities have no right to demand any extra fee over and above fixed by the Government. When the Hall Tickets were refused to be issued to the petitioners for appearing 3rd year B.E. Course in 1995, the present Writ Petition is filed. While they are insisting for payment of the fee for the 4th year Writ Petition No. 10723/1996 has been filed. However, by virtue of interim directions, the petitioners were directed to appear for the respective tests.

5. Counter Affidavit has been filed on behalf of the Respondents Nos. 3 and 4. The Respondents submitted in the counter that the petitioners were initially required to pay a sum of \$ 6,000 or its equivalent. Subsequently, it was reduced by the Government to Rs. 75,000/-, and finally it was reduced to Rs. 50,000/- per year. However, the Respondents submit that the petitioners are not 1st Class Intermediate holders and therefore they are not eligible to be admitted to the Course, which is contrary to the directions issued by the Government. Therefore, they are entitled to collect a sum of Rs. 26,250/- per year from 2nd year onwards. Since the petitioners cannot be compared with 1st class Intermediate students, necessarily they have to pay extra tuition fee of Rs. 26,250/-.

6. Heard the learned counsel for the parties.

7. The issue that arises for consideration is whether the petitioners are liable to pay Rs. 26,250/- per year from 2nd year onwards as demanded by the Respondents No. 3 and 4?

8. It is necessary to refer to certain notifications issued by the Government from time to time in respect of the admission of the students in the category of N.R.Is. The Government issued G.O.Ms. No. 183, dated 18-8-1993 wherein the management of Private Professional Colleges are permitted to admit N.R.I./

Foreign students to the extent of 5% of the total intake on the condition that the said students shall pay \$ 6,000 per annum. But, again in pursuance of the orders of the Supreme Court, another G.O.Ms. No. 250, dated 6-11-1993 was issued. Under the said G.O.N.R.I/Foreign students quota was increased from 5% to 15% for the academic year 1994-95 and it was further provided that in the event of N.R.I students are not available to the extent of 15% quota, it shall be open for the managements to admit the other students within the said quota and the fee was fixed at Rs. 1,90,000/-. There was no stipulation that such students should have appeared for the EAMCET Examination. They were only required to possess the eligibility criteria, i.e. 2 years Intermediate Course with M.P.C. On 17-11-1993 another G.O. was issued in G.O.Ms. No. 256 wherein the fee fixed in G.O.Ms. No. 250, dated 6-11-1993 was scaled down to Rs. 75,000/- per year obviously on representation of the students. But, however, while scaling down the amount it was mentioned that such candidates should have passed Intermediate Examination in 1st class. Again by G.O.Ms. No. 304, dated 30-12-1993, the fee was further scaled down to Rs. 50,000/- per year. Thus, it is seen that a candidate who is admitted for 1993-94 is required to pay Rs. 50,000/- per year and that he should have passed 1st.class Intermediate. As far as the condition regarding possessing of 1st class Intermediate, the Batch of Writ Petitions are already pending and I am not inclined to record any finding on this aspect. But, the issue in these Writ Petitions is confined only to the demand of additional tuition fee made by the Respondents Nos. 3 and 4.

9. It is not in dispute that all the G.Os. issued by the Government namely 183,250,256 and 304 relate to the academic year 1993-94. The Supreme Court was quite categorical in fixation of the fees that the fee as fixed by the Government should alone be collected by the Private Professional Colleges and no extra amount shall neither be demanded nor collected.

10. The case of the Respondents in the instant case is that since the petitioners did not possess the 1st Class Intermediate, yet they were admitted in Engineering Course, the management is entitled to collect extra tuition fee from them. I am afraid, I cannot accept this contention. When the Supreme Court specifically laid down that the fee charged by the Private Professional Colleges shall be as a fixed by the Government, it is not open for the Respondents Nos. 3 and 4 to demand additional tuition fee or any other fee for the duration of the course. When the amount was being scaled-down by the Government from Rs. 1,90,000/- to Rs. 75,000/- and further to Rs. 50,000/-, the Respondents institution has not challenged the said notifications on the ground that their financial position would be severely affected if such scaling down was allowed to continue. Inasmuch as they have not challenged those notifications, in my considered opinion, the Respondents cannot collect higher fee or additional fee over and above fixed by the Government. The management of the institution cannot be heard to say that since the petitioners are not 1st class Intermediate holders, the 3rd respondent is entitled to collect extra fee, for the simple reason that collection of enhanced fee has nothing to do with the non-eligibility of the

candidates for admission to the course on the ground that the petitioners did not possess the 1st class Intermediate qualification. Whether the petitioners are entitled to admission into B.E. degree Course, without possessing 1st Class Intermediate qualification in the left over seats reserved for N.R.Is. is a matter which is sub judice before this Court in another Writ Petition. But, it has to (sic. no) nexus to the object of collecting additional tuition fee. Though the learned counsel for the Respondents submit that all the private professional Institutions are required to collect a tuition fee as fixed by Government from time to time yet he submits that peculiar facts and circumstances under which the petitioners are prosecuting their studies, the institution is entitled to collect extra tuition fee. I am afraid, I cannot countenance such an argument for the reasons already stated supra.

11. Under these circumstances, I am of the view that the petitioners are liable to pay fee as fixed by the Government in G.O.Ms. No. 304, dated 30-12-1993 and admittedly according to the petitioners and the learned counsel for the 3rd and 4th respondents, the amount has already been collected from the candidates in the 1st year itself.

12. Under these circumstances, the Writ Petitions are allowed as prayed for. There shall be no order as to costs.