

+W.P.Nos.14232 of 2017 & 8331 of 2020

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Orders Reserved On 17.12.2020	Orders Pronounced On 11.01.2021
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**CORAM:**

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**  
and  
**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P.Nos.14232 of 2017 & 8331 of 2020

W.P.No.14232 of 2017 :-

V.B.R.Menon, B.E. (Mech),  
MBA (IIMA), LLB, Advocate,  
Flat No.4B, Brook Dale Apartments,  
No.12, P.T.Rajan Salai,  
K.K.Nagar, Chennai-600 078.

.. Petitioner in person

-VS-

1. The Secretary to Government of  
Puducherry (Health),  
Health and Family Welfare Services Department,  
Secretariat, Beach Road, White Town,  
Puducherry-605 001.

2. The Director,  
Health and Family Welfare Services (DHFWS),  
Victor Samuel Street,  
Puducherry-605 001.

3. The Convenor,  
Centralised Admission Committee (CENTAC),  
PEC Campus, ECR Road,  
Pillaichavadi, Puducherry-605 014.
4. The Secretary to Lt. Governor of Puducherry,  
Raj Nivas, White Town,  
Puducherry-605 001.
5. The Secretary,  
Medical Council of India,  
Pocket-14, Sector-8, Dwarka,  
New Delhi-110 077.
6. Union of India,  
Secretary, Ministry of Human Resources,  
Development, Shastri Bhavan, New Delhi.
7. University Grants Commission,  
Bahadur Shah Zafar Marg,  
New Delhi-110 002.
8. Aarupadai Veedu Medical College,  
Cuddalore Main Road, Kirumanpakkam,  
Bahour Commune Panchayat,  
Puducherry-607 402.
9. Vinayaga Missions Medical College,  
Keezha-Kasakudi Medu, Kottucherry,  
Karaikkal-609 609.
10. Mahatma Gandhi Medical College,  
Cuddalore Main Road, Pillayarkuppam,  
Puducherry-607 402.

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11. Sri Lakshmi Narayana Institute of  
Medical Sciences,  
Ousudu Agaram Village, Villianur Commune,  
Puducherry-605 502.

[RR6 to 11 – *suo motu* impleaded as per order dated 09.06.2017  
in W.P.Nos.14232 of 2017 & W.M.P.No.15430 of 2017]

12. The Director General,  
Directorate General of Health Services,  
Room No.44B-A, Nirman Bhawan,  
Maulana Azad Road, New Delhi-110 018. .. Respondents

[R12 – impleaded as per order dated 26.04.2018  
in W.P.No.14232 of 2017]

Petition under Article 226 of the Constitution of India to issue a Writ of Declaration to declare that the fees payable for admission into Post Graduate Medical/Dental courses in Self-financing and Deemed Universities in Puducherry shall be as fixed/to be fixed by the Puducherry Fee Committee, as the case may be, and consequently to direct the respondents to finally fix the fees for the above admissions in accordance with the law and procedures laid by the Hon'ble Supreme Court of India.

For Petitioner : Mr.V.B.R.Menon,  
Party in person

For Respondents : RR1, 2 & 4 – Mr.C.T.Ramesh,  
Additional Govt., Pleader (Pondicherry)

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: R3 – Mr.A.Jenasenan  
:  
: R5 – Mr.V.P.Raman  
:  
: R6 – Mr.B.Rabu Manohar  
:  
: R7 – Mr.P.R.Gopinathan  
:  
: RR8 & 12 – Mr.L.Swaminathan  
:  
: R9 – Mr.P.Wilson, Senior Counsel  
for Mr.L.Swaminathan  
:  
: R10 – Mr.Guru Krishnakumar,  
for Mr.L.Swaminathan  
:  
: R11 – Mr.K.Suresh

W.P.No.8331 of 2020 :-

V.B.R.Menon, B.E. (Mech),  
MBA (IIMA), LLB, Advocate,  
Flat No.4B, Brook Dale Apartments,  
No.12, P.T.Rajan Salai,  
K.K.Nagar, Chennai-600 078.

.. Petitioner in person

-vs-

1.The Secretary to Government of India,  
Ministry of Human Resources Development,  
Shastri Bhawan, New Delhi-110 001.

2. The Secretary to Government of India,  
Ministry of Health and Family Welfare Department,  
Nirman Bhawan, Maulana Azad Road,  
New Delhi-110 011.

3. The Secretary,  
University Grants Commission,  
Bahadur Shah Zafar Marg,  
New Delhi-110 002.

4. The Secretary General,  
Board of Governors,  
Medical Council of India,  
Pocket-14, Sector-8,  
Dwarka, New Delhi-110 077.

5. The Member Secretary,  
Medical Counselling Committee (MCC),  
Directorate of General Health Services,  
Ministry of Health & Family Welfare Department,  
Nirman Bhawan, Maulana Azad Road,  
New Delhi-110 011.

6. The Chief Secretary to Government of Puducherry,  
Chief Secretariat, Goubert Avenue,  
White Town, Puducherry-605 001.

7. The Dean,  
Aarupadai Veedu Medical College and Hospital,  
Pondy – Cuddalore Main Road,  
Kirumampakkam, Bahour Commune Panchayat,  
Puducherry-607 402.

8. The Dean,  
Vinayaga Mission's Medical College,  
Keezhakasakudi Medu,  
Kottucherry (Post), Karaikkal-609 609.

9. The Dean,  
Mahatma Gandhi Medical College and  
Research Institute,  
Pondy-Cuddalore Main Road,  
Pillayarkuppam, Puducherry-607 402.

10. The Dean,  
Sri Lakshmi Narayana Institute of  
Medical Sciences, Ousudu Agaram Village,  
Villianur Commune, Puducherry-605 502.

Petition under Article 226 of the Constitution of India to issue a Writ of Declaration to declare that collection of fees and other charges for the various medical and dental courses by the respondent Deemed to be University Medical Colleges, R7 to R10, under Clause No.11.01(b) of the UGC (Institutions Deemed to be Universities) Regulations, 2019 or otherwise without obtaining prior approvals from the statutory Fee Committees constituted by either the 3<sup>rd</sup> or the 6<sup>th</sup> respondent shall be illegal and consequently to direct the 7<sup>th</sup> to 10<sup>th</sup> respondents to refund the excess amounts collected from the students over and above the maximum annual fees approved by the respective statutory fee committee for the medical and dental courses in Puducherry, together with reasonable interest within a prescribed time limit.



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For Petitioner : Mr.V.B.R.Menon,  
Party in person

For Respondents : RR1, 2 & 5 – Ms.P.J.Anitha,  
Central Govt., Standing Counsel

: R3 – Ms.V.Sudha

: R4 – Mr.V.P.Raman

: R6 – Mr.C.T.Ramesh,  
Additional Govt., Pleader (Pondicherry)

: RR7 to 9 – Mr.L.Swaminathan

: R10 – Mr.V.Ramesh & Mr.K.Suresh

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**COMMON ORDER**

**T.S.Sivagnanam, J.**

Both the writ petitions have been filed as Public Interest Litigation by an Advocate who appears in person.

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2. We have elaborately heard Mr.V.B.R.Menon, Advocate, petitioner appearing in person; Mr.C.T.Ramesh, learned Additional Government Pleader

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(Pondicherry) for the Government of Pondicherry; Ms.P.J.Anitha, learned Central Government Standing Counsel for the Government of India and for Medical Counselling Committee (MCC); Mr.J.Jenasenan, learned counsel for the Centralised Admission Committee (CENTAC); Mr.V.P.Raman, learned counsel for the Medical Council of India (MCI); Mr.B.Rabu Manohar, learned counsel for the Union of India; Mr.P.R.Gopinathan and Ms.V.Sudha, learned counsels for the University Grants Commission (UGC); Mr.L.Swaminathan, learned counsel for Aarupadai Veedu Medical College and Director General, Directorate General of Health Services (DGHS) ; Mr.P.Wilson, Senior Counsel for Mr.L.Swaminathan, learned counsel for Vinayaga Missions Medical College; Mr.Guru Krishnakumar, learned counsel for Mr.L.Swaminathan, learned counsel for Mahathma Gandhi Medical College; and Mr.V.Ramesh and Mr.K.Suresh, learned counsels for Sri Lakshmi Narayana Institute of Medical Sciences.

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3.In W.P.No.14232 of 2017, the petitioner seeks for a writ of declaration to declare that the fee payable for admission into Post Graduate



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Medical/Dental courses in Self-financing and Deemed Universities in Puducherry shall be as fixed/to be fixed by the Puducherry Fee Committee and consequently direct the respondents to fix the fee for the admission into the Post Graduate courses in accordance with the procedure laid down by the Hon'ble Supreme Court of India. Initially there were five respondents in the writ petition. The first and the second respondent being the Secretary to Government of Puducherry, Health and Family Welfare Service Department and the Director, Health and Family Welfare Services. The third respondent, the Convenor of CENTAC; the fourth respondent; the Secretary to Lt.Governor of Puducherry; and the fifth respondent, the Secretary, MCI. The respondents 6 to 11 were *suo motu* impleaded by the Division Bench by order dated 09.06.2017. The sixth respondent being the Union of India, represented by the Secretary, Ministry of Human Resources; the seventh respondent, the UGC; and the respondents 8 to 11, the four Deemed to be Universities offering Medical and Dental courses in Puducherry. The Director General of Health Services, New Delhi was impleaded by order dated 26.04.2018. We will shortly refer to the various interim orders which were passed by the

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Hon'ble Division Benches in this writ petition from time to time in both the writ petitions.

4.In W.P.No.8331 of 2020, the petitioner prays for a writ of declaration to declare that the collection of fees and other charges for the various Medical and Dental courses by the Deemed to be Universities, respondents 7 to 10 under Clause 11.01(b) of the UGC [Institutions Deemed to be Universities] Regulations, 2019 or otherwise without obtaining prior approval from the Statutory Fee Committee constituted either by UGC or the Government of Puducherry shall be illegal and consequently direct the respondents 7 10, Deemed to be Universities to refund the excess amount collected from the students over and above the maximum annual fees approved by the respective Statutory Fee Committee for medical and dental courses in Puducherry together with reasonable interest within a prescribed time limit. The Division Bench by order dated 16.06.2020, while issuing notice to the respondents directed the matter to be tagged along with W.P.No.14232 of 2017.

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5.The writ petition in W.P.No.14232 of 2017 was listed before the Hon'ble First Bench and on 16.06.2017, taking note of the argument of the petitioner that by reason of prohibitive fees charged by the respondent Deemed to be Universities, many students who had cleared the admission process, undergone counselling and allowed provisional admission have not been able to join by reason of their inability to deposit Rs.40 lakhs to Rs.50 lakhs at short notice and the seats are lying vacant. Further it was pointed out that the fee fixed for private institutions is Rs.5,50,000/- per annum in respect of State quota and Rs.14,00,000/- per annum in respect of Management quota and therefore, the fee of Rs.40 lakhs to Rs.50 lakhs per annum in the Deemed to be Universities is *prima facie* unreasonably high, arbitrary and prohibitive. Further, it was pointed out that the fee was not notified at the time of counselling as is required to be done. Therefore, the Hon'ble First Bench held that they are of the *prima facie* view that a Fee Committee ought to be constituted by the UGC to fix fee structure in self-financed Deemed to be Universities upon a comprehensive study of all relevant factors including reasonable cost that may be incurred for education of each student. Further,

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the Court took note of the affidavits filed by the Government of Puducherry and the Secretary to the Lieutenant Governor observing that the fee structure in Deemed to be Universities in Puducherry is exorbitant. The learned Government Pleader (Puducherry), the learned counsel for the Union of India and the learned counsel for the UGC agreed that there is a need to constitute a Committee to regulate the fees chargeable by privately financed Deemed to be Universities.

6.The decision of the Hon'ble Supreme Court in ***P.A.Inamdar vs. State of Maharashtra [(2005) 6 SCC 537]*** was noted and the Court held that the admission of students in medical institutions as also fee charged by such medical institutions are *ex-facie* matters of immense public importance and the court cannot shut its eyes to impediments in the way of individual litigation by young students and the Court can take note of the facts pleaded by a public spirited citizen in a public interest litigation and *suo motu* pass orders to redress the grievances of the student community. Therefore, an interim direction was issued to admit the students provisionally selected to

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the vacant seats in order of their merit, subject to the condition that the student shall each deposit Rs.10,00,000/- at the time of admission towards the annual fee for the first year with CENTAC and subject to further condition that in the event of the fees determined by the Fee Committee that may be constituted by the UGC and Ministry of Human Resource Development to study the fee structure of the Deemed to be Universities is higher, they shall pay the differential amount. In respect of students who have already taken admission by depositing the full fees will, if necessary, be entitled to refund/adjustment of the difference between the fees that might be determined by the Committee and the amount paid by them. The admission of the students pursuant to the interim order was to abide by the result of the writ petition. Considering the future of the students, who were admitted pursuant to the interim order, it was observed that there is an immense urgency for UGC to constitute a Committee to regulate the fee chargeable by the self financed Deemed to be Universities after giving all stakeholders including the Deemed to be Universities adequate opportunity of representation and the decision of the Fee Committee shall abide by the result of the writ petition.

7.The petitioner filed contempt petition in Cont.P.No.1040 of 2017 alleging wilful disobedience of the interim order dated 16.06.2017. Noting that the seats in all the Deemed to be Universities were filled up before the date of interim order save and except one seat in Radiology, two seats in Orthopeadics and one seat in ENT, it was held that the contemnor respondents have not deliberately flouted any order of the Court. Accordingly, by order dated 05.07.2017, contempt proceedings were dropped with direction to the respondent to permit the candidate who ranked higher in the selection test out of the two candidates recommended by CENTAC to join the course in Radiology subject to the conditions in the interim order dated 16.06.2017.

8.The respondent Deemed to be Universities filed Special Leave Petition before the Hon'ble Supreme Court in Special Leave to Appeal (C).No.19315 of 2017 challenging the interim order dated 16.06.2017. While issuing notice to the respondents, the Hon'ble Supreme Court by order dated 04.08.2017 observed that the students be extended the benefit of the order



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passed by the High Court [interim order dated 16.06.2017] subject to further directions by the Supreme Court. Further, it was ordered that the High Court shall not proceed with W.P.No.14232 of 2017 as the Hon'ble Supreme Court is going to dwell upon the entire controversy and that apart, the Committee constituted by the High Court shall also not proceed with the matter. The matter was directed to be listed on 10.10.2017. Prior to filing of W.P.No.14232 of 2017, the respondent Deemed to be Universities along with others including the Education Promotion Society for India filed a writ petition before the Hon'ble Supreme Court in W.P.(C).No.244 of 2017 in which an interim order was passed on 04.05.2017, wherein directions were issued with regard to the admission process with specific reference to the counselling which was directed to be commenced from 11.05.2017. The said Education Promotion Society for India filed a contempt petition in Cont.P.(C).No.1487 of 2017 in W.P.(C).No.244 of 2017 alleging that the CENTAC had violated the interim order passed by the Hon'ble Supreme Court on 04.05.2017 and notice was ordered in the contempt petition vide order dated 08.08.2017.

9. We had noted the order passed by the Hon'ble Supreme Court in Special Leave to Appeal (C).No.19315 of 2015 filed challenging the interim order dated 16.06.2017, wherein the Hon'ble Supreme Court while extending the benefit of the fee of Rs.10,00,000/- which was directed to be deposited had directed the High Court not to proceed with W.P.No.14232 of 2017 and the Committee also was directed not to proceed with the matter. The Special Leave Petition was disposed of by order dated 16.04.2018 holding that the Court is not inclined to interfere with the order of the High Court [interim order dated 16.06.2017] and dismissed the Special Leave Petition, the High Court was requested to decide the matter within a period of six months and it was open to the Committee to submit its report before the High Court and the fee which was ordered to be deposited in the interim order dated 16.06.2017 was to hold good till the time the High Court decides the matter. All questions were kept open to be agitated before the High Court.

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10. The writ petition in W.P.No.14232 of 2017 along with W.P.No.17778 of 2017 filed by the petitioner to issue a writ of Mandamus to direct Government of India and UGC to scrutinize and approve the annual fee and further declare that all direct admissions and collection of First year fees by the respondent Deemed to be Universities from students who have not been selected through common counselling by DGHS/CENTAC and in violation of the interim order dated 09.05.2017 passed by the Hon'ble Supreme Court in W.P.(C).No.267 of 2017, was heard by the Hon'ble First Bench and interim order was passed on 26.04.2018 after noting that no Committee has been formed by the UGC as ordered in view of the Special Leave Petition in the Hon'ble Supreme Court and a direction was issued to UGC and Ministry of Human Resource Development to forthwith constitute a Committee to regulate the fee chargeable as directed in the order dated 16.06.2017 within a period of three weeks from the date of the order and the Fee Committee was to take a decision within a period of four months from the date on which it is constituted.

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11.W.P.No.17778 of 2017 was disposed of by order dated 26.06.2018 after noting that direction has already been issued in W.P.No.14232 of 2017 directing a Fee Committee to be formed by the UGC. The UGC by proceedings dated 21.06.2017 constituted a Committee to regulate the fees chargeable by self-financed institutions Deemed to be Universities consisting of eleven members. While so, the respondent Deemed to be Universities along with other institutions and the Education Promotion Society for India filed a writ petition under Article 32 of the Constitution of India in W.P(C).No.949 of 2018 to declare the Proviso to Clause (b) of Regulation 6.1 of the UGC[Deemed Universities] Regulations, 2016 as ultra vires the provisions of the UGC Act, 1956 specifically Section 12-A and Section 26 and to quash the communication of the UGC constituting the Committee and to restrain the respondents from interfering with the right of the institutions to fix its own fees structure as a Deemed to be Universities under Section 3 of the UGC Act, 1956. The said writ petition was heard by the Hon'ble Supreme Court and by order dated 07.09.2018 while issuing notice to the respondent *status quo*, as it existed, as on the said date, was directed to be maintained by

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the parties. Therefore, the position obtaining as on 07.09.2018 was to be maintained as such. The petitioner herein impleaded himself in the said writ petition filed before the Hon'ble Supreme Court and the other Deemed to be Universities also impleaded themselves in the said writ petition. The Hon'ble Supreme Court by order dated 10.12.2018 in W.P.(C).No.949 of 2018, etc. adjourned the matter to 26.02.2018 to enable the parties to complete the pleadings. By order dated 15.04.2019, the Hon'ble Supreme Court while directing the writ petition to be listed for final disposal on 09.07.2019 directed the Committee [constituted by UGC] to determine the fees structure for the current year [2018-19], however, the recommendations of the Committee was not to be implemented till further orders of the Hon'ble Supreme Court. The Colleges [Deemed to be Universities] were directed to provide necessary details to the Committee.

12. While the matter stood thus, the respondent Deemed to be Universities issued notices to the students demanding payment of annual fee for the academic year 2018-19. This was put to challenge by the students in

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W.P.Nos.4582 and 11701 of 2018 and the learned Single Bench recording the concession made on behalf of the petitioners, they were directed to tentatively pay the amount fixed by the Puducherry Fee Committee for self-financed institutions vide G.O.Ms.No.8, Chief Secretariat (Health), dated 22.03.2018. In the said G.O., the fee for Management quota PG medical seats was fixed at Rs.20,34,000/- for the year 2018-19 and the writ petitioners were directed to pay the said amount for the year 2018-19, if not already paid and for the year 2019-20, the fee shall be payable after a decision is taken by the Fee Committee. W.P.(C).No.949 of 2018 was listed before the Hon'ble Supreme Court on 19.07.2019 and directed to be listed on a non-miscellaneous day in the month of September 2019. In the said writ petition, the petitioner herein filed an interlocutory application in I.A.No.48612 of 2020 and the said matter was heard on 12.05.2020, wherein the Hon'ble Supreme Court noted that the writ petition has been directed to be listed before this Court for final hearing on 15.06.2020 and as the exams were scheduled to be held on 01.07.2020, the High Court was directed to dispose of the writ petition on 15.06.2020 when it is listed for hearing.



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13. The petitioner herein filed M.A.No.977 of 2020 in Special Leave to Appeal (C).No.19315 of 2017 praying for a clarification that in the absence of the report of the Fee Committee the provisional annual fee of Rs.10,00,000/- may be in force till the final disposal of this writ petition, W.P.No.14232 of 2017; in the absence of the report of the Fee Committee, the High Court may consider fee fixed by the Deemed to be Universities in other States as the fee structure till the disposal of the writ petition. The said contempt petition was disposed of by order dated 16.06.2020 observing that since the High Court has been requested to decide the writ petition within six months they are not inclined to entertain the contempt petition as well as M.A.No.977 of 2020, however, liberty was granted to question future fee fixation in accordance with law before the appropriate forum. The High Court was requested to decide the pending matter as early as possible, preferably within three months from the date of the order.

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14. In the meantime, the writ petitions which were filed by the students in W.P.Nos.4582 of 2018, 11701 of 2018 along with other writ petitions and contempt petitions were heard by the Division Bench and disposed of by order dated 12.06.2020 recording the agreement of the writ petitioners to pay a sum of Rs.13,00,000/- to the respondent Deemed to be Universities. With regard to this writ petition, namely, W.P.No.14232 of 2017, the Division Bench observed that the same will be taken up awaiting orders from the Hon'ble Supreme Court since in the pending matters challenge has been made to the constitution of the Fee Committee and accordingly, the writ petition was adjourned. Subsequently, the matter was listed before the Court and time was extended. We find from the orders passed by the Hon'ble Supreme Court referred above, there has been a direction to the High Court to dispose of the writ petitions. Hence, the matter was directed to be placed before us by the Hon'ble The Chief Justice as a specially ordered matter and we commenced the hearing of the writ petition.

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15.Mr.Guru Krishna Kumar, learned senior counsel appearing for Mr.L.Swaminathan, learned counsel for the 10<sup>th</sup> respondent Deemed to be university raised an objection which is in the nature of a preliminary objection qua the prayer sought for in the writ petition in W.P.No.14232 of 2017. It is submitted by the learned senior counsel that the said writ petition has become infructuous and nothing survives for adjudication as the matter concerned the fixation of fee in respect of the Post Graduate admissions to medical and dental courses for the academic session 2017-18. Referring to the counter affidavit filed by the 10<sup>th</sup> respondent, it is submitted that the Government of Puducherry by order dated 25.02.2017 had entrusted the work of filling up of Post Graduate Medical and Dental seats in Government/Private/Deemed Universities to be undertaken by CENTAC for the year 2017-18. The Under Secretary to Government, Ministry of Health and Family Welfare by communication dated 10.03.2017 had stated that the MCI has amended the Post Graduate Medical Education Regulations, 2000 by inserting Clause 9A providing common counselling of seats in private educational institutions and in terms of the same, counselling for all PG Medical courses is to be

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undertaken by the State Government. The Under Secretary to Government of Puducherry by communication dated 17.04.2017 addressed to CENTAC has specifically informed that the fee structure in respect of college under Deemed Universities which do not come under the purview of Fee Committee, the candidates were requested to verify the fees structure from the website of the concerned Deemed University. The 10<sup>th</sup> respondent has notified in its website the fee structure which has also been displayed by CENTAC for the information of students opting to join 10<sup>th</sup> respondent College for the academic session 2017-2020. In terms of the orders passed by the Hon'ble Supreme Court dated 04.05.2017 in W.P.(C).No.244 of 2017, the counselling process shall be based on All India Merit List in so far as the Deemed Universities and the students who secure admission in PG Medical Courses should deposit with the admission counselling committee the tuition fees by ways of Demand Draft drawn in the name of the Deemed University and the counselling process shall be based on All India Merit List alone and there was criteria for sharing of seats with the State Government as Deemed to be Universities are on a completely different footing from the other

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Medical Colleges and the Deemed to be Universities have a All India character. Further, the Hon'ble Supreme Court by order dated 09.05.2017 in W.P.(C).No.267 of 2017 has laid down the procedure to be adopted during the conduct of counselling by the State authorities, wherein the DGHS/State Government should obtain the consent of the students regarding their willingness to pay the fees provided in the notification and take admission in the Deemed to be Universities.

16.Further, the CENTAC issued a note dated 11.05.2017 clearly mentioning that the students have to pay the tuition fee as prescribed by the concerned Deemed to be University. To the same effect, the Government also issued notices dated 30.05.2017 and 31.05.2017. Despite these orders since there was procedural violation while conducting counselling, contempt petition in Cont.P.No.1487 of 2017 was filed before the Hon'ble Supreme Court by the Education Promotion Society for India against CENTAC in which notice has been ordered and the contempt petition is pending. Further, the admissions for the academic session 2017-18 was completed on

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31.05.2017 and the students have paid the fee without any remorse. It is further submitted that the interim order dated 16.06.2017 passed by this Court in W.P.No.14232 of 2017 directing deposit of Rs.10,00,000/- was only in respect of those students who were to join the vacant seats available between 16.06.2017 to 19.06.2017 and it is not the fees fixed by the Court for the other students who were admitted before 31.05.2017. Therefore, it is submitted that the prayer sought for in the writ petition does not any longer survive for adjudication. That apart, the National Medical Commission Act, 2018 [NMC Act] have come into force, any decision in these writ petitions will have a wider ramification and would have an All India impact and in the absence of other Deemed to be Universities which are functioning in the Country, the relief sought for cannot be adjudicated. In this regard, the learned senior counsel referred to the communication sent by the UGC, wherein it has been clearly stated that the NMC Act will prevail and even under the said Act, the fee for medical courses in Deemed to be Universities shall be determined by NMC with respect of 50% of the seats. Thus, it is the submission of the learned senior counsel that the relief sought for in



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W.P.No.14232 of 2017 and the order passed by this Court on 26.04.2018 are subject matter of consideration in the matters pending before the Hon'ble Supreme Court in W.P.(C).No.949 of 2018, W.P.(C).No.973 of 2018 and W.P.(C).No.1004 of 2018.

17.The learned senior counsel also referred to the common affidavit filed by UGC seeking extension of time for placing the UGC Regulation on record in terms of the interim directions issued by this Court vide order dated 11.11.2020 as well as the email sent by the Senior Consultant, Legal Section, National Medical Commission, New Delhi to the learned Standing Counsel for NMC and submitted that the UGC is in the process of finalising the Regulation and the NMC seeks time to frame the Regulations which can be with prospective effect and in terms of Section 61(1)(2) read along with the Proviso, the old regime namely, the UGC Regulations will continue to hold the field and this Regulation is the subject matter of challenge before the Hon'ble Supreme Court and this writ petition cannot be construed as a matter involving the fixation of fee for the academic session 2021-22 as the same is premature.

18. In the preceding paragraphs, we have referred to the prayer sought for in W.P.No.14232 of 2017 which does not restrict the prayer to a particular academic session or a course of study for a particular period and the prayer sought for is a declaratory relief to declare that the fee payable for admission in Post Graduate Medical/Dental courses in Deemed to be Universities in Puducherry shall be as fixed/to be fixed by the Puducherry Fee Committee. Therefore, we are not convinced to accept the argument that the prayer sought for is restricted to a particular academic year. While on this issue, it would be beneficial to once again refer to the observations made by the then Hon'ble First Bench while issuing interim directions vide order dated 16.06.2017, wherein the Court observed that the admission of students in Medical Institutions as also the fee charged by such Medical Institutions are *ex-facie* the matters of immense public importance and the Court cannot shut its eyes to impediments in the way of individual litigation by young students. The Court can take note of the facts pleaded by a public spirited citizen in a public interest litigation and *suo motu* pass orders to redress the grievances of the

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students community. This interim order dated 16.06.2017 was challenged by the Deemed to be Universities in Special Leave to Appeal (C).No.19315 of 2017 which was dismissed by the Hon'ble Supreme Court by order dated 16.04.2018. Therefore, we are not persuaded to restrict the relief sought for in the writ petition, more particularly, when the writ petition is a public interest litigation nor can the respondent Deemed to be Universities raise an objection in the petitioner pursuing the cause of the students community which was taken note of by the Court while passing interim order dated 16.06.2017 and observing that the Court can take note of the facts pleaded by a public spirited citizen in a public interest litigation and suo motu pass orders to redress the grievances of the students community. Therefore, the objection raised by the learned senior counsel for the 10<sup>th</sup> respondent that nothing survives in the writ petition cannot be accepted nor can the objections raised by the respondents 7 to 10 questioning the *locus standi* of the petitioner to pursue the cause can be questioned at this belated hour. Therefore, the objections raised are not sustainable and accordingly, stand rejected.

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19. It is pertinent to note that there are specific directions issued by the Hon'ble Supreme Court directing the writ petitions to be disposed of by this Court. Though initially in the Special Leave to Appeal (C).No.19315 of 2017 by order dated 04.08.2017 the High Court was directed not to proceed with this writ petition, subsequently, the SLP was dismissed by order dated 16.04.2018 with the specific direction to the High Court to decide the matter [writ petition] within a period of six months. Therefore the writ petition was taken up for hearing and the respondents were heard and the Court issued directions vide order dated 26.04.2018 fixing a time limit within which the Fee Committee has to be constituted by the UGC and fixing a time limit of four months for the Fee Committee to take a decision. Further, we note that the Education Promotion Society for India filed W.P(C).No.949 of 2018 to declare the Proviso to Clause (b) of Regulation 6.1 of the UGC[Deemed Universities] Regulations, 2016 as ultra vires and other connected reliefs. By order dated 07.09.2018, the Hon'ble Supreme Court directed *status quo* existing on the said date to be maintained. The petitioner herein and the Deemed to be Universities impleaded themselves in the writ petition. The

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Hon'ble Supreme Court by order dated 15.04.2019 while directing the writ petition to be listed for final disposal directed the Committee [formed by UGC] to determine the fee structure for the current year which was 2018-19. However, the recommendations of the Committee not to be implemented till further orders of the Hon'ble Supreme Court. Thus, in terms of the said direction, the Committee formed by the UGC were permitted to proceed further in the matter and the Colleges/Deemed to be Universities were directed to provide the necessary details to the Committee. We are informed by the learned counsel for the respondent Deemed to be Universities that all of them have submitted the details to the Committee. The Hon'ble Supreme Court by order dated 12.05.2020 in I.A.No.48612 of 2020 in W.P.(C).No.1004 of 2018 took note of the fact that the writ petition filed before this Court was directed to be listed on 15.06.2020 for final hearing and as the exams were scheduled to be held on 01.07.2020, this Court was requested to dispose of the writ petition on 15.06.2020 when it is listed for hearing. The writ petitioner before us filed a miscellaneous petition before the Hon'ble Supreme Court in Disposed Off SLP(C).No.19315 of 2017 seeking clarification with

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regard to the provisional fee which was fixed by interim order dated 16.06.2017 and prayed that the said provisional annual fee may be kept in force till the disposal of W.P.No.14232 of 2017 as the report of the Fee Committee was awaited. A contempt petition was also filed by the petitioner in SLP(C).No.19315 of 2017 before the Hon'ble Supreme Court in Conmt.Pet.(C).No.410 of 2020 and the same was disposed of by order dated 16.06.2020 along with M.A.No.977 of 2020 filed by the petitioner seeking clarification. The said order reads as follows:

“Since we have requested the High Court to decide the writ petition within six months and our order is clear, we are not inclined to entertain this contempt petition as well as Misc.Application No.977/2020. However, liberty is granted to question future fee fixation in accordance with law before the appropriate forum.

We request the High Court to decide the pending matter as early as possible, preferably within three months from today.

The Contempt Petition as well as Misc.Application are disposed of accordingly.



20. By the above order, we are required to decide the writ petition as early as possible preferably within three months. Therefore, the submission of the learned senior counsel for the 10<sup>th</sup> respondent that any order in this writ petition would impede the proceedings before the Hon'ble Supreme Court may not be right because this Court is bound to follow judicial discipline by scrupulously complying with and implementing the orders of the Hon'ble Supreme Court, that is, by hearing of these writ petitions. The effect of the orders that we may pass in these writ petitions is a different matter and the respondent Deemed to be Universities are not justified in contending that nothing survives in the writ petition for adjudication. Thus, we have no hesitation to hold that the relief sought for in the writ petitions survive for consideration and we are to take a decision in the matter.

21. It is not in dispute that a Fee Fixation Committee has been constituted in the Union Territory of Puducherry in terms of the directions of the Hon'ble Supreme Court in the case of *Islamic Academy of Education vs.*

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*State of Karnataka and others [(2003) 6 SCC 697]*. One of the questions which arose for consideration in the said decision was whether the educational institutions are entitled to fix their own fee structure. It was pointed out by the Hon'ble Supreme Court that there are statutes/regulations which govern the fixation of fees and the Hon'ble Supreme Court is yet to consider the validity of those statutes/regulations, direction was issued to give effect to the judgment in the case of *T.M.A.Pai Foundation vs. State of Karnataka [(2002) 8 SCC 481]* and the State Government/concerned authorities were directed to set up a committee headed by a retired High Court Judge who shall be nominated by the Chief Justice of that State and other members who shall be nominated by the Judge, should be a Chartered Accountant of repute, a representative of MCI or AICTE depending upon the type of the institution, Secretary of the State Government in charge of Medical Education or Technical Education, as the case may be, who shall be a member and Secretary of the Committee. The Committee was empowered to nominate or co-opt another independent person of repute, so that the total number of members of the Committee shall not exceed five. Each

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educational institute was directed to place before the Committee, well in advance of the academic year, its proposed fee structure along with the relevant documents and books of accounts. The Committee shall then decide whether the fees proposed by that institute are justified and are not profiteering or charging capitation fee. The Committee was at liberty to approve the fee structure or to propose some other fee which can be charged by the institute and the fee fixed by the Committee shall be binding for a period of three years, at the end of which period, the institute would be at liberty to apply for revision. Once fees are fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees and if it is charged, the same would amount to charging of capitation fee. This order directing setting up of Committee was passed under Article 142 of the Constitution of India which continues to remain in force till appropriate legislation is enacted by the Parliament. In paragraph No.154 of the Judgment, the Hon'ble Supreme Court pointed out the factors which have to be taken note of while determining the fee for each institution. Further, it was observed that while determining the fee structure,

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safeguard has to be provided so that professional institutions do not become auction houses for the purpose of selling seats.

22. Two of the questions, which were referred to Seven Judges Bench of the Hon'ble Supreme Court in ***P.A.Inamdar***, were whether, *Islamic Academy* could have issued guidelines in the matter of regulating the fee payable by the students to the educational institutions and whether the admission procedure and fee structure be regulated or taken over by the Committees ordered to be constituted by the *Islamic Academy*. While answering the said questions, more particularly, the second question, (which was the fourth question in the order of reference), the Hon'ble Supreme Court held that on the basis of judgment in ***T.M.A.Pai Foundation*** and various previous judgments which have been taken into consideration in that case, the scheme evolved out of setting up the two Committees for regulating admissions and determining fee structure by the judgment in ***Islamic Academy of Education*** cannot be faulted either on the ground of alleged infringement of Article 19(1)(g) in case of unaided professional educational institutions of both categories and

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Article 19(1)(g) read with Article 30 in case of unaided professional institutions of minorities. Therefore, it was held that there is no impediment to the Constitution of the Committees as a stopgap or adhoc arrangement made in exercise of the power conferred on the Hon'ble Supreme Court by Article 142 of the Constitution of India until a suitable legislation or regulation framed by the State steps in. A note of caution was sounded to the Committees to be more sensitive and act rationally and reasonably with due regard for realities and refrain from generalising fee structures, wherever needed, should go into accounts, schemes, plans and budgets of an individual institution for the purpose of finding out what would be an ideal and reasonable fee structure for that institution. The observations made in paragraph No.155 of the judgment would be very crucial to the case on hand. The Hon'ble Supreme Court held that it is for the Central Government or for the State Government in the absence of a Central legislation, to come out with a detailed well thought out legislation on the subject. It was further pointed out that the judicial wing of the State is called upon to act when the other two wings, the legislature and the executive, do not act.

23. In *Modern Dental College and Research Centre and others vs. State of Madhya Pradesh and others* [(AIR 2016 SC 2601)], appeals were filed questioning the correctness of the judgment of High Court of Madhya Pradesh, wherein the vires of Admission Rules, 2008 and the Madhya Pradesh Private Medical and Dental Post Graduate Courses Entrance Examination Rules, 2009 were put to challenge. One of the four grounds of challenge was to the provisions relating to fixation of fees. In the said decision, the observation made in *Bharti Vidyapeeth (Deemed University) and others vs. State of Maharashtra and another* [(2004) 11 SCC 755] was overruled to the extent where it held that the admissions were covered by Entry 66 of List I of the Constitution. Therefore, the constitution of a Fee Committee till a comprehensive Central legislation put in place has come to stay. Puducherry Fee Committee was constituted, however, they have now declined to fix the fee in respect of the Deemed to be Universities.

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24. Two issues which we need to take note of to find an answer to the question posed before us. Firstly, the UGC has framed a regulation termed as



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UGC [Institutions Deemed to be Universities] Regulations, 2016. Clause 6.1

which deals with Admission and Fees Structure reads as follows:

“Clause 6.1 (Admissions and Fees Structure) of the UGC (Institutions Deemed to be Universities) Regulations, 2017 provides as under:

“No institution deemed to be university shall, for admission in respect of any course or programme of study conducted in such institution, accept payment towards admission fee and other fees and charges:-

- (a) which is a capitation fee or donation in whatever nomenclature or form;
- (b) other than such fee or charges for such admission, which has been declared by it in the prospectus for admission against any such seat, and on the website of the institution, Provided if there are any fees prescribed in accordance with the Fee Regulations framed by the Government or by the Commission from time to time, then the fees or other charges for admission shall not exceed the same;
- (c) without a proper receipt in writing issued for such payment to the concerned student admitted in such institution.”

25. Proviso under Clause 6 is the subject matter of challenge before the Hon'ble Supreme Court and in the said writ petition, the Deemed to be Universities as well as the petitioner before this Court had impleaded themselves and in that writ petition filed under Article 32 of the Constitution of India, direction has been issued to the High Court to dispose of the writ petition. Therefore, the central legislation/regulation has been framed by the UGC and in terms of the directions issued by the Hon'ble Supreme Court from time to time, the Committee which has prepared the draft regulations has circulated the same to the stakeholders and it is submitted before us in the form of an affidavit that the UGC requires three months from 17.12.2020 for placing the regulations on record. In the affidavit filed by the UGC, the various steps taken by the UGC post the directions issued by this Court constituting the Committee have been set out and the relevant facts are as here under:

“10. It is respectfully submitted that, thereafter, on 15.04.2019, the Hon'ble Supreme Court was pleased to direct as follows in WP(C) No. 949/2018:

“List the matter for final disposal on 09.07.2019.

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In the meantime, we consider it appropriate to direct the Committee to determine the fee structure for the current year. The recommendations of the Committee shall, however, not be implemented till further orders of this Court.

The Colleges shall provide the necessary details to the Committee.”

A copy of the aforesaid order passed by the Hon’ble Supreme Court is annexed and marked as Annexure R/4.

11. It is respectfully submitted that, accordingly, a meeting of the Committee was convened on 01-02<sup>nd</sup> May 2019 In which 30 institutions presented their case before the Committee. In addition, UGC also received 602 comments/suggestions from the general public, in response to the public notice dated 31.08.2018 posted on UGC’s website.

12. It is respectfully submitted that the final meeting of the Committee was convened on 10-11<sup>th</sup> June 2019, wherein the Committee recommended that the UGC may, inter-alia, frame comprehensive regulations with regard to the fee to be charged by the Deemed to be Universities for Medical and Dental Courses. That, pursuant to the Committee’s aforesaid recommendations, an Expert Committee of the UGC prepared the draft University Grants Commission (Fees in professional

education imparted by private aided and unaided institutions deemed to be universities) Regulations, 2019 (“draft UGC Regulations”). These regulations are to apply to not only medical and dental Institutions Deemed to be Universities, but also to all private, aided and unaided Institutions Deemed to be Universities across the country, imparting professional education.

13. It is respectfully submitted that the draft UGC Regulations were considered by the UGC in its 544<sup>th</sup> meeting held on 16.10.2019. In this meeting, the Commission resolved to place the draft UGC Regulations on UGC’s website to solicit comments from all stakeholders.

That this respondent (UGC )further decided to solicit comments from the statutory bodies that would be concerned with the subject matters/fields covered by the proposed Regulations. Accordingly, UGC, on 28.11.2019, wrote to the following 12 Statutory Councils requesting for their comments/ feedback —

- a.All India Council for Technical Education (AICTE)
- b.Bar Council of India (BCI)
- c.Central Council for Homeopathy
- d.Central Council for Indian Medicine
- e.Council of Architecture

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- f.Dental Council of India
- g.Indian Nursing Council
- h.Medical Council of India (MCI)
- i.National Council for Teacher Education
- j.Pharmacy Council of India (PCI)
- k.Indian Council for Agricultural Research
- l.Rehabilitation Council of India.

14. It is respectfully submitted that Reminders in this regard were sent to the said Councils on 16.01.2020 and on 11.03.2020. Copies of the aforementioned UGC letters dated 16.01.2020 and 11.03.2020 are annexed and marked herewith as Annexure R/5 'Colly'.

Thereafter, comments from 3 Statutory Councils were received vide letters dated 27.12.2019, 16.01.2020 and 29.01.2020. Then, on 09.06.2020, UGC wrote to the remaining 8 Statutory Councils reminding them to share their comments on the draft UGC Regulations at the earliest. Subsequently, comments were received from 4 more Statutory Councils vide letters dated 23.01.2020, 29.01.2020, 23.06.2020 and 08.07.2020 and reminders were again sent to the remaining 5 Councils on 13.08.2020, 05.10.2020, and on 03.12.2020. Comments have been received from two more Councils vide letters dated

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10.08.2020 and 17.09.2020. Copies of the aforesaid UGC letters dated 09.06.2020, 13.08.2020, 05.10.2020 and 03.12.2020 are annexed and marked herewith as Annexure R/6 'Colly'.

15. It is respectfully submitted that, so far, comments have been received from 16 Institutions Deemed to be Universities, 94 members of the general public and 9 Statutory Councils. However, it is further submitted that the draft UGC Regulations can be finalized only after comments/inputs/views from all the Statutory Councils are received, since such Regulations would impact not just the medical/ dental institutions, but all private aided and unaided Institutes Deemed to be Universities across the country imparting professional education.

16. It is respectfully submitted that, in the meanwhile, Parliament has also enacted the National Medical Commission Act, 2019 to regulate the fees in private medical colleges and deemed to be universities. Section 10(1)(i) of the Act requires the National Medical Commission ("NMC") to "frame guidelines for determination of fees and all other charges in respect of 50% seats in Private Medical Institutions and Deemed to be Universities".



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As such, the draft UGC Regulations would need to be suitably modified to comply with the mandate of the National Medical Commission Act, 2019.

That, thus, it is humbly submitted that despite the prevailing Covid-19 pandemic, significant progress has been made in finalizing the draft UGC Regulations. However, the law-making process would include discussions on the draft UGC Regulations with the Ministry of Education in the Government of India for the latter's views and concurrence, as also with the Union Ministry of Law & Justice since the matter pertains to a proposed legislation. That the aforesaid law-making process is expected to take a further period of at least 3 months before the draft UGC Regulations are finalized and notified.

That, therefore, it is humbly submitted that in light of the submissions made herein above, this Hon'ble Court may be pleased to grant the Respondent - UGC an additional time of 3 months from 17.12.2020 for placing the aforesaid Regulations on record."

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26. The NMC had sent an email to their Standing Counsel setting out their stand. The provisions of the NMC Act came into force with effect from

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25.09.2020. Section 10 of the Act provides for the powers and functions of the NMC. In terms of Section 10(1)(i), NMC shall frame guidelines for determination of fees and all other charges in respect of 50% seats in private Medical Institutions and Deemed to be Universities which are governed under the provisions of the NMC Act, 2019. Further, it has been stated that NMC has come into existence on 25.09.2020 and shall have to constitute a Committee to frame the guidelines for determination of fees and all other charges in respect of 50% seats in private Medical Institutions and Deemed to be Universities which are governed by the said Act. The said Committee shall have to seek representation from all Stakeholders including Self-financing Medical Institutions, Private Medical Colleges in the Country as well as the Deemed Universities, including comments/inputs, only after which the said guidelines would be framed. The said guidelines will be in the nature of a policy decision by the NMC in consultation with the Central Government along with various other stakeholders and the same shall take reasonable time in its processing. Further, it has been stated that the first round of counselling commenced from 27.10.2020 and the same was concluded on 16.11.2020.

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Thereafter, the second round of counselling has commenced on 20.11.2020 and concluded on 08.12.2020 and therefore, it would not be possible for NMC to formulate guidelines at this stage for the academic year 2020-2021. Further all decisions on fee fixation for a particular academic year have to be mandatorily taken prior to the commencement of the counselling so that the prescribed fee can be informed to the aspiring candidates seeking admission in various medical colleges. Since, there is hardly any time left for NMC to constitute a Committee to frame the guidelines for determination of fees and for that Committee to frame the guidelines. Therefore, it shall be appropriate that for the current academic year 2020-2021, the fee fixed by the Fee Regulatory Committees, following the procedure devised by the Hon'ble Supreme Court in the judgments in *T.M.A.Pai Foundation* and *Islamic Academy of Education* be followed. Further, for the subsequent academic year 2021-2022, NMC will take appropriate steps for framing Fee Fixation guidelines.

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27. We take the above to be the stand of the NMC though not in the form of an affidavit but a email from the Senior Consultant, Legal Section, National Medical Commission [NMC] and the same is taken on record.

28. Thus, in the present situation, two statutory bodies, namely, the UGC and NMC have taken up the matter. The UGC has constituted a Committee as per the directions of this Court, the Committee has prepared the draft guidelines which is under circulation and they have sought for three months time to place the same on record. The NMC have made it clear that for the current academic year, i.e. 2020-2021, sufficient time is not available to constitute the Committee and for the Committee to frame the guidelines after consultation with the State Government and other stakeholders. Thus, in the present situation, a vacuum has arisen and the question would be whether the fee fixation in respect of Deemed to be Universities should be left in the vacuum pending finalization of the guidelines by the UGC which obviously shall operate till the academic session 2020-201 and in future, i.e., 2021-22 based on the guidelines framed by NMC.

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29. We are clear in our mind that this issue should not be left unattended, more particularly, when this Court while entertaining the writ petitions and issuing interim directions vide order dated 16.06.2017 took note of the reasonably high arbitrary and prohibitive fees is being collected by the respondent Deemed to be Universities from the students. Therefore, appropriate directions have to be issued in this writ petition for fixation of the fee till the UGC/NMC frame their guidelines and they are put in place.

30. Mr.P.Wilson, learned Senior Counsel appearing for Mr.L.Swaminathan, learned counsel for the 9<sup>th</sup> respondent-Deemed to be University in W.P.No.14232 of 2017 referred to the prayer sought for in the writ petition and submitted that the petitioner seeks for a declaration to declare that the fee payable for admission to Post Graduate Medical/Dental Courses in the self-financing and Deemed to be Universities in Pondicherry shall be as fixed/to be fixed by the Puducherry Fee Committee. It is submitted that such a prayer is not maintainable, as the Puducherry Fee

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Committee does not have jurisdiction to fix the fees for Deemed to be Universities which have all India character.

31. Further, it is submitted that W.P.(C) No.949 of 2018 filed under Article 32 of the Constitution of India is pending before the Hon'ble Supreme Court wherein, the Education Promotion Society of India and others including the respondent-Deemed to be Universities have challenged the *vires* of Regulation 6.1(b) proviso of the UGC (Institutions Deemed to be Universities) Regulations, 2016 as being *ultra vires* the provisions of UGC Act, 1956 specifically Section 12A and Section 26 and, an order of *status quo* was granted by the Hon'ble Supreme Court on 07.09.2018, which was subsequently modified by order dated 15.04.2019, directing the Committee constituted by the UGC to determine the fee structure for the current year (2018-19), however directed that the recommendations of the Committee not to be implemented till further orders of the Hon'ble Supreme Court and the colleges were directed to furnish the necessary details to the Committee which the respondents have furnished.



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32.Further, it is submitted that the Deemed to be Universities, which have established the respondent colleges, have not been impleaded as respondents in the writ petition and this is a ground to dismiss the writ petition for not impleading the proper and necessary parties. The submission made by the learned Senior Counsel was considered by us in the preceding paragraphs and after noting the various orders passed by the Hon'ble First Bench of this Court more particularly, the interim direction dated 16.06.2017, which was confirmed by the Hon'ble Supreme Court upon dismissal of the Special Leave Petition filed against the said order and, noting the decision in ***P.A.Inamdar***, it has to be held that in the absence of a legislation in place, judiciary can step in to issue appropriate directions so as to regulate the fee fixation.

33.As submitted by Ms.V.Sudha, the UGC had taken action, after the direction was issued by the Hon'ble Supreme Court dated 15.04.2019 in W.P.(C) No.949 of 2018 directing the UGC Committee to determine the fee structure, however the recommendations which are to be made by the said

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Committee cannot be implemented till orders are passed by the Hon'ble Supreme Court and there was a specific direction to the respondent colleges to provide the necessary details to the UGC Committee.

34.Meeting of the Committee were convened on 1<sup>st</sup> and 2<sup>nd</sup> of May, 2019 in which, 30 institutions made their submissions and in addition, UGC has received 602 comments/suggestions from the general public in response to the public notice dated 31.08.2018 hosted in the website of UGC. Thereafter, the meeting of the UGC Committee were convened on 10<sup>th</sup> and 11<sup>th</sup> of June, 2019 wherein, the Committee recommended that UGC may frame comprehensive Regulations with regard to the fee to be charged by the Deemed to be Universities for Medical and Dental courses. Pursuant to the recommendations of the UGC Committee, an expert committee of the UGC prepared the draft UGC (Fees in Professional Education Imparted by Private Aided and Unaided Institutions Deemed to be Universities) Regulations, 2019. These regulations are to apply not only to Medical and Dental institutions Deemed to be Universities, but also to all private aided and

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unaided institutions Deemed to be Universities across the country imparting professional education.

35. The draft UGC Regulations were considered by the UGC in its 544<sup>th</sup> meeting held on 16.10.2019 in which, it was resolved to place the draft UGC Regulations on the website of UGC to solicit comments from all stakeholders. Further, the UGC has decided to invite comments from statutory bodies that would be concerned with the subject matters/fields covered by the proposed Regulations. Accordingly, UGC on 28.11.2019, addressed the AICTE, Bar Council of India, Central Council for Homeopathy, Central Council for Indian Medicine, Council of Architecture, Dental Council of India, Indian Nursing Council, MCI, National Council for Teacher Education, Pharmacy Council of India, Indian Council for Agricultural Research and Rehabilitation Council of India. It appears that the statutory councils have not immediately responded to the letter addressed to them by the UGC on 28.11.2019, which necessitated UGC to send reminders to the aforementioned Councils on 16.01.2020 and 11.03.2020 in which, the Councils were requested to provide their comments

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latest by 20<sup>th</sup> January, 2020 to enable the UGC to finalize the Regulations. Pursuant to such reminders, response has been received from three Statutory Councils and response is awaited from nine Statutory Councils. Therefore, UGC sent another reminder to those eight Statutory Councils on 09.06.2020 to submit their comments to enable them to finalize the Regulations. Subsequently, response was received from four statutory councils and reminder letters have been sent by UGC to the remaining five Statutory Councils on 13.08.2020, 05.10.2020 and 03.12.2020. In response to such reminders, comments have been received from two more Statutory Councils and thus, it appears that three Statutory Councils are yet to furnish their comments. Thus far, comments have been received from 16 Deemed to be Universities, 94 members of the general public and 9 Statutory Councils. UGC would state that the other statutory councils are also required to give their inputs, as the Regulations proposed would impact not only Medical/Dental institutions, but all private aided and unaided institutes Deemed to be Universities in the country imparting professional education.

36.The National Medical Commission Act, 2019 has come into force and in terms of Section 10(1)(i) of the said Act, NMC is required to frame guidelines for determination of fees and other charges in respect of 50% seats in private Medical Institutions and Deemed to be Universities. Therefore, UGC would state that the draft UGC Regulations proposed is required to be suitably modified to comply with the mandate of the NMC Act, 2019.

37.It is submitted by Ms.V.Sudha, learned counsel for UGC that despite the prevailing COVID-19 pandemic, significant progress has been made in finalizing the draft UGC Regulations, however law making process would include discussions on the draft UGC Regulations with Ministry of Education in the Government of India for the latter's views and concurrence, as also with the Union Ministry of Law and Justice, since the matter pertains to a proposed legislation. Therefore, it is submitted that the law making process is expected to take a further period of at least three months before the draft UGC Regulations are finalized and notified. With the above submissions, UGC

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prays for grant of additional three months time from 17.12.2020 for placing the Regulations on record.

38.Thus, the factual scenario shows that the law making process is bound to take reasonable time and this Court would not be justified in issuing any peremptory time-limit for the law makers to put the statutory regulations into force. The Court, thus, appreciates the effective steps taken by UGC pursuant to the directions issued by the then Hon'ble First Bench in its orders dated 16.06.2017 and 26.04.2018.

39.So far as the NMC is concerned, they have also put their stand on record in these proceedings. Mr.V.P.Raman, learned counsel for NMC/MCI would refer to the decisions in ***T.M.A.Pai Foundation and Islamic Academy of Education***, with regard to the issue of fee fixation wherein, the Hon'ble Supreme Court has laid down various principles and formulated criteria for constitution of Fee Fixation Committee, which is required to take into account various considerations including the cost of land/building, its



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ownership, value of infrastructure, value of equipment, salary/allowances paid to teaching as well as non-teaching staff, expenditure on administration/maintenance, various statutory liabilities etc., while deciding the fee structure for a particular year. Further, it is submitted that the Fee Fixation Committees are required to consult with the various stakeholders in writing as well as through personal hearing so as to determine the fee structure for a particular academic year.

40.NMC would further state that they have come into existence on 25.09.2020 and shall have to constitute a committee to frame the guidelines for determination of fees and all other charges in respect of 50% seats in private Medical Institutions and Deemed to be Universities, which are governed under the provisions of the NMC Act, 2019. The Committee, to be constituted, shall have to seek representation from all stakeholders including self-financing medical institutions, private medical colleges in the country as well as Deemed to be Universities, including comments/inputs and only after the process is completed, guidelines could be framed.

41.Further, NMC would state that they have to formulate various considerations in respect of framing of the said guidelines which would be the yardstick for the same. The proposed guidelines will be in the nature of a policy decision by the NMC in consultation with the Central Government along with various other stakeholders and the same shall take reasonable time in its processing. Thus, NMC would state that there is hardly any time left for them to constitute a Committee to frame guidelines for determination of fees and therefore, it shall be appropriate that for the academic year 2020-21, the fee fixed by the Fee Regulatory Committees, following the procedure devised by the Hon'ble Supreme Court, be followed. However, for the subsequent academic year (2021-22), the NMC will take appropriate steps for framing fee fixation guidelines. Thus, in terms of the mandate contained in Section 10(1)(i) of the NMC Act, 2019, steps have been taken by NMC to frame the guidelines for which, at the first instance, a Committee is required to be constituted.

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42. In no uncertain terms, NMC has stated that they would not be able to frame the guidelines for the academic year 2020-21, but would be able to do it for the subsequent academic year and parallelly, they would state that the fee fixed by the Fee Regulatory Committee may be followed. Thus, the two statutory bodies are in the process of completing the task entrusted to them; one by the Court insofar as UGC is concerned; and the other by a statutory mandate under the NMC Act, 2019.

43. Thus, we are left with a period during which there is no statutory guideline regulating the fee structure for the medical and dental courses offered by the respondent institutions. It would be too late for the respondent institutions/Deemed to be Universities to raise a contention that the Puducherry Fee Committee cannot regulate their fee structure. This is more so in the light of the direction issued by the then Hon'ble First Bench dated 16.06.2017 wherein, the Court took into consideration that the fee collected by the respondent institutions is unreasonably high, arbitrary and prohibitory. That apart, as pointed out by the petitioner, by referring to the decision in

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**P.A.Inamdar**, unless the admission procedure and fixation of fees regulated and controlled at the initial state, the evil of unfair practice of granting admissions on available seats guided by the paying capacity of candidates would be impossible to curb.

44. Further, it was pointed by the Hon'ble Supreme Court that it is for the Central Government or for the State Governments, in the absence of the central legislation, to come out with a detailed well thought out legislation on the subject and that such a legislation was long awaited and the States must act towards this direction. More importantly, the Hon'ble Supreme Court held that the judicial wing of the State is called upon to act when the other two wings, the legislature and the executive do not act.

45. What was expressed by the Hon'ble Supreme Court in **P.A.Inamdar**, in its judgment dated 12<sup>th</sup> August, 2005 is in the process of being implemented, that is, to say that a legislation is to be put in place shortly pursuant to the NMC Act, 2019.

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46. This Court taking note of the fact that in the absence of a legislation to regulate fee for deemed to be universities, had issued direction, vide order dated 16.06.2017. Pursuant to the directions issued, UGC has constituted a Committee and they have made headway and appreciable progress and sooner the UGC Regulations would be put in place. However, such Regulations which has now been proposed by UGC would required to be suitably modified to comply with Section 10(1)(i) of the NMC Act, 2019 . NMC have expressed their inability for framing any guidelines for the academic year 2020-21, but have stated that for the subsequent academic year, they will take appropriate steps for framing fee fixation guidelines. Therefore, this Court would be fully justified in exercising its jurisdiction under Article 226 of the Constitution of India in these Public Interest Litigations to empower the Puducherry Fee Committee to regulate fee structure for the respondent institutions/Deemed to be Universities.

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47. Having held so, the question would be as to from which academic session, the Puducherry Fee Committee should be directed to fix the fees.

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The answer lies in the order dated 16.06.2017. The Court directed the Deemed to be Universities to admit the provisionally selected students to the vacant seats in the order of merit, subject to the condition that the students shall each deposit Rs.10,00,000/- at the time of admission towards annual fee for the first year with CENTAC and subject to the further condition that in the event, the fees determined by the Fee Committee that may be constituted by UGC and Ministry of Human Resources Development is higher, they shall pay the differential amount. Further, it was ordered that in respect of those students, who have already taken admission by depositing the full fees, will, if necessary, be entitled to refund/adjustment of the difference between the fee that may be determined by the Committee and the amount paid by them. Therefore, the contingency which has arisen now was well thought out at the time when the interim direction was issued on 16.06.2017.

48. From paragraph 22 of the said order, we are able to see that the directions were two fold. One was in respect of admission of students to the vacant seats on deposit of Rs.10,00,000/- with CENTAC. In respect of the



other category, that is, those students who were admitted prior to the interim direction, who have paid the full fee as demanded by the respondent/Deemed to be Universities, are also to abide by the fee that may be fixed by the UGC Committee and if there is a shortfall, they have to make good and if they have paid an excess, they would be entitled for refund, subject to those students making such a claim.

49. As noted above, UGC is in the process of finalizing the guidelines and they are confident that the guidelines will be put in place by end of March, 2021. NMC have stated that they would be in a position to frame the guidelines in terms of Section 10(1)(i) of the NMC Act, 2019 for the academic year 2021-22. Therefore, we are of the considered view that the Puducherry Fee Committee has to determine the fee payable by the students who have joined the respondent institutions/Deemed to be Universities in the Post Graduate Medical and Dental courses from the academic year 2017-18 onwards. The Puducherry Fee Committee, which is regulating the fee structure for other institutions, other than the respondent/Deemed to be

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Universities, would be entitled to exercise their power for fixation of the fee for the Post Graduate Medical and Dental courses offered by the respondent/Deemed to be Universities from the academic year 2017-18 onwards till 2020-21. As soon as the UGC Regulations come into force, an exercise shall be carried out in terms of the said Regulations for determining the fee in respect of the Post Graduate Medical and Dental courses offered by the respondent/Deemed to be Universities from the academic year 2017-18 onwards.

50. Having held so, there may be more than one scenario which we are required to take note of. The first being those students who secured admission pursuant to the interim order dated 16.06.2017. The second scenario is those who were admitted to the Post Graduate Medical and Dental courses prior to the interim order dated 16.06.2017 for the academic year 2017-18. The third scenario is in respect of students who have been admitted during the academic year 2018-19, 2019-20 and 2020-21. The direction issued by the then Hon'ble First Bench in paragraph 22 of the order dated

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16.06.2017, has to be taken note of to determine as to whether these students who have been admitted from the academic year 2017-18 are required to pay additional amount as fee, or they are entitled for refund of the excess fee collected. This exercise shall be monitored by the CENTAC which shall give effective assistance to the Puducherry Fee Committee. CENTAC shall act in a fair and transparent manner without giving rise to any complaint from any quarter.

51. So far as the fee that has to be determined in terms of the UGC Regulations is concerned, the same cannot be done unless and until orders are passed by the Hon'ble Supreme Court permitting the Regulations to be given effect to. Therefore, considering the time-lines, we would be fully justified in issuing the above mentioned direction for the Puducherry Fee Committee to determine the fee which would be in the nature of an ad-hoc determination subject to the determination under the UGC Regulations, if approved by the Hon'ble Supreme Court.

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52. We note that the Puducherry Fee Committee did not exercise their jurisdiction to fix the fees for the respondent/Deemed to be Universities, vide proceedings dated 14.03.2016, referring to the decision in ***Bharati Vidyapeeth vs. State of Maharashtra [(2004) 11 SCC 755]***.

53. In ***Modern Dental College and Research Centre*** (supra), one of the questions, which arose for consideration, was whether the legislation brought out by the State of Madhya Pradesh, known as “Niji Vyavasayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007, Admission Rules, 2008 and the Madhya Pradesh Private Medical and Dental Post Graduate Courses Entrance Examination Rules, 2009 framed under Section 12 of the aforementioned 2007 Act, were valid and whether the impugned legislation therein is beyond the legislative competence of the State of Madhya Pradesh. The argument was that the subject matter of admissions was covered exclusively by Entry 66 of List I and the States have no legislative competence whatsoever to deal with the subject of admissions or determination of fee to be charged by professional educational institutions.

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The educational institutions mainly placed reliance on the decision in ***Bharati Vidyapeeth***. In the said decision, it has been observed that the entire gamut of admission falls under Entry 66 List I. While testing the correctness of the said argument by placing reliance on ***Bharati Vidyapeeth***, it was held that the said judgment by a bench of two Hon'ble Judges is contrary to the law laid down in earlier Larger Bench's decision. It was held that in ***Gujarat University vs. Krishna Ranganath Mudholkar [AIR 1963 SC 703]***, a bench of five Hon'ble Judges examined the scope of Entry 2 of List II (which is now Entry 25 of List III) with reference to Entry 66 of List I. It was held that the power of the State to legislate in respect of education to that extent it is entrusted to the Parliament, is deemed to be restricted. Coordination and determination of standards was in the purview of List I and the power of the State was subject to the power of the Union on the said subject. It was held that the two entries overlapped to some extent and to the extent of overlapping, the power conferred by Entry 66 List I must prevail over the power of the State.

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54.It was further held that validity of a State legislation depends upon whether it prejudicially affects “coordination or determination of standards”, even in absence of a union legislation. After referring to the decision in *R.Chitrlekha vs. State of Mysore [AIR (1964) SC 1823]*; and *State of Tamil Nadu & Anr. vs. Adhiyaman Educational and Research Institute & Ors. [(1995) 4 SCC 104]*, it was pointed out that it was not held that the entire gamut of admission was covered by List I as wrongly assumed in *Bharati Vidyapeeth*. Thus, the observations in *Bharati Vidyapeeth* that the entire gamut of admission was covered by Entry 66 of List I cannot be upheld and overruled to that extent. The Hon'ble Supreme Court, thus, held that there was no violation of right of autonomy of the educational institutions in the common entrance test being conducted by the State or any agency nominated by the State or in fixing fee. Thus, the roadblock for the Puducherry Fee Committee to exercise their jurisdiction is no longer there and the decision in *Modern Dental College and Research Centre* paves way for the Puducherry Fee Committee to exercise its jurisdiction over the respondent deemed to be universities. Therefore, the respondent/Deemed to be Universities, nor



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CENTAC can fall back on their note dated 11.05.2017 and the notice issued by the Government of Pondicherry, Department of Health dated 30.05.2017 wherein, they have stated that the candidates who have been allotted seats in the Deemed to be Universities are to deposit the fee prescribed by the concerned Deemed to be Universities.

55.It is relevant to refer to the order passed by the Hon'ble Supreme Court in W.P.(C) No.1364 of 2018 (***B.Mohammed Naveeth & Ors. vs. The Chairman, Fee Fixation Committee for Medical Colleges & Ors; dated 10.12.2018***) wherein, the Court observed that the Fee Fixation Committee has right to decide as to the fees and the submission of the university that they have an autonomy to fix the fee was rejected in a judgment dated 13.07.2018 in C.A.No.6654 of 2018 and a direction was issued to the Fee Fixation Committee to determine the fee.

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56.As pointed out earlier, the then Hon'ble First Bench while passing the order dated 16.06.2017 has recorded its opinion that the fee collected by

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the respondent deemed to be universities is unreasonably high, arbitrary and prohibitory. The said order having become final, the observations stand.

57. The petitioner would state that other meritorious students were unable to secure admission in the respondent/Deemed to be Universities due to their inability to pay exorbitant fee demanded by them and 29 of them have filed affidavits narrating their ordeal. Reference was also made to the communication of the Central Bureau of Investigation, Anti Corruption Branch, Chennai dated 06.02.2020 addressed to the Chief Secretary to Government, Government of Pondicherry with regard to the status of RC 20 (A/2017 CBI, ACB, Chennai) intimating that CBI, ACB, Chennai has registered a case on 18.09.2017 against the then Chairman of CENTAC; the then Director of Health and Family Welfare, Government of Pondicherry; the then Secretary (Health), Government of Pondicherry; the then Convener, CENTAC; the then Joint Convener, CENTAC; the then Coordinator, CENTAC, who have been arrayed as accused nos.1 to 6; the Managing Director of the 10<sup>th</sup> respondent is the 7<sup>th</sup> accused; the Managing Director of

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the 8<sup>th</sup> respondent/Deemed to be University is the 8<sup>th</sup> accused; the Registrar of the 9<sup>th</sup> respondent is the 9<sup>th</sup> accused; the Managing Director of the 11<sup>th</sup> respondent is the 10<sup>th</sup> accused and there are other accused as well.

58. The said communication further states that after completion of the investigation, final order was passed by the competent authority to prosecute the Managing Director/Registrar of the respondent/Deemed to be Universities and that the charge sheet is under preparation and will be filed soon. Further, the communication states that no action is contemplated against the then Chairman of CENTAC; the then Director of Family Welfare, Government of Puducherry; the then Secretary (Health), Government of Pondicherry; the then Convener, CENTAC; the then Joint Convener, CENTAC; the then Coordinator, CENTAC; and the Managing Director of the 11<sup>th</sup> respondent/Deemed to be University. In terms of the above communication, it is seen that the Managing Directors of the 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> respondents have been arrayed as accused in the criminal case registered by the CBI, Anti Corruption Branch.

59. Further, we note that in the writ petition filed by the said society and the respondent institutions before the Hon'ble Supreme Court, challenging Regulation 6.1 of the UGC Regulations, 2006 in W.P.(C) No.949 of 2018, they have sought for amendment of the prayer by challenging Regulation 11.01(c) of the UGC Regulations, 2019.

60. In our considered view, the note dated 11.05.2017 issued by the CENTAC and the notice dated 30.05.2017 issued by the Government of Pondicherry, Department of Health are an outcome of wrong understanding of the legal position largely due to the reliance placed on the decision in ***Bharati Vidyapeeth***. This decision has been overruled by the Hon'ble Supreme Court in ***Modern Dental College and Research Centre***, vide judgment dated 02.05.2016. Therefore, the note dated 11.05.2017 issued by the CENTAC and the notice dated 30.05.2017 issued by the Government of Pondicherry, Department of Health are non-est, insofar as it relates to the prescription of fee by the respondent/Deemed to be Universities.

61.It was argued by Mr.P.Wilson, learned Senior Counsel appearing for the 9<sup>th</sup> respondent that the universities have not been impleaded and the writ petitions are liable to be dismissed for non-joinder of proper and necessary parties. Such an argument cannot be accepted and deserves to be rejected for more than one reason. Firstly, no such a contention was raised by the respondent/Deemed to be Universities at any earlier point of time and the respondent/Deemed to be Universities have acquiesced themselves of the position and counter affidavit has been filed by them. That apart, several orders have been passed in W.P.No.14232 of 2017 some of which have been challenged by the respondent universities before the Hon'ble Supreme Court and nowhere, such a plea has been raised. Therefore, the belated attempt made by the 9<sup>th</sup> respondent is rejected.

62.In the written submissions made by the respondent universities, it has been stated that the present writ petitions, which are filed as Public Interest Litigations, seek for a prayer which is in the nature of a money decree. Unfortunately, the 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> respondents have failed to

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understand the scope of a Public Interest Litigation even after having suffered an order in the hands of this Court dated 16.06.2017, which has been affirmed by the Hon'ble Supreme Court.

63. Respondents 2 and 5 viz., the Ministry of Health and Family Welfare, Government of India and the MCI, DGHS have filed a common counter affidavit in W.P.No.8331 of 2020 sworn to by the Assistant Director General (Medical Education). The counter affidavit states about the admission procedure which has been followed, however, *qua* the prayer sought for in the present writ petition, it is submitted that the DGHS has no role in fixation of the fee structure of Deemed to be Universities.

64. The prayer sought for in W.P.No.8331 of 2020 is identical to that of the prayer sought for in W.P.No.14232 of 2017. The only difference being, in W.P.No.14232 of 2017, the petitioner seeks for a declaration to declare the fee payable as fixed by the Puducherry Fee Committee and in W.P.No.8331 of 2020, the petitioner seeks for a declaration that the collection of fees should



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be in terms of Clause 11.01(b) of the UGC (Institutions Deemed to be Universities) Regulations, 2019 or otherwise without obtaining prior approval from Statutory Fee Committee constituted by the UGC or the Government of Pondicherry. Thus, it appears that the necessity arose for filing W.P.No.8331 of 2020 is on account of the fact that the UGC Regulations, 2016 was superseded by UGC Regulations, 2019.

65. In the affidavit filed in W.P.No.8331 of 2020, in paragraph 16, the fee demanded by the respondent/Deemed to be Universities and the fees prescribed by the State Fee Committee for affiliated private colleges are furnished in a tabular column, which reads as hereunder:-

<b>S.No.</b>	<b>Name of Deemed to be University</b>	<b>Annual Fee collected by Deemed Universities</b>	<b>Average Annual Fee prescribed by State Fee Committee for Affiliated Private Colleges</b>
1	Aarupadai Veedu Medical College and Hospital, Puducherry	48.00 L	15.18 L (50% @ Rs.22.77L for MQ and 50% @ Rs.7.59L for SQ)
2	Vinayaka Mission Medical College	48.00 L	
3	Mahatma Gandhi Medical College and RI, Puducherry	48.00 L	

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<b>S.No.</b>	<b>Name of Deemed to be University</b>	<b>Annual Fee collected by Deemed Universities</b>	<b>Average Annual Fee prescribed by State Fee Committee for Affiliated Private Colleges</b>
4	Sri Lakshmi Narayana Institute of Medical Sciences, Puducherry	48.00 L	

66. On a perusal of the fee demanded by the respondent/Deemed to be Universities with that of the fee fixed by the Puducherry Fee Committee for the management quota seats in private colleges, shows a substantial difference. The fee prescribed by the Fee Committee for management quota seats in private colleges is Rs.22.77 lakhs per year whereas, the fee demanded by the respondent/Deemed to be Universities is Rs.48 lakhs per year.

67. An argument was advanced by the learned Senior Counsel appearing for respondents 7 to 9 that only hand full of candidates were admitted in the vacant seats which were available after the interim direction dated 16.06.2017, and the other candidates were admitted earlier and they have paid the full fee as fixed by the respondent universities and they cannot take advantage of the present situation. This argument deserves to be rejected on

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more than one ground. Firstly, when the Court issued interim direction dated 16.06.2017, it took note of the peculiar and alarming situation prevailing in Puducherry *qua* the fee demanded by the respondent/Deemed to be Universities. This led to an observation made by the Court that the fee is unreasonably high, arbitrary and prohibitory. The Court was also conscious of the fact that the students were not before it, but the writ petition was filed as Public Interest Litigation by Mr.V.B.R.Menon, Advocate. Taking note of this fact, the Court observed that it cannot shut its eyes to impediments in the way of individual litigation by young students and the Court can take note of the facts pleaded by a public spirited citizen in a Public Interest Litigation and suo motu pass orders to redress the grievances of the student committee. That apart, when some of the students had approached the Court earlier, interim orders were passed which are all subject to the final orders to be passed in these writ petitions. That apart, the note dated 11.05.2017 issued by the CENTAC and the notice dated 30.05.2017, issued by the Government of Pondicherry, Department of Health are on a wrong understanding of the law on the subject and they assumed that the Puducherry Fee Committee cannot

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exercise jurisdiction for fixation of fee by the Deemed to be Universities. Therefore, whatever paid by students who have been admitted prior to 16.06.2017 and those who were admitted thereafter, and those students who had paid further amounts pursuant to interim directions issued in writ petitions when they approached the Court for writing the examination and the fee which was collected by the institution post the academic year 2017-18, are all ad-hoc arrangements and do not have the sanction of law. Therefore, the Court would be well justified and legally right in issuing a direction for the Puducherry Fee Committee to exercise its powers and fix the fee for the respondent institutions/Deemed to be Universities from the academic year 2017-18 onwards.

68.For all the above reasons, it is held that the Puducherry Fee Committee is entitled to fix the fee for Post Graduate Medical and Dental courses offered by the respondent/Deemed to be Universities from the academic year 2017-18 till 2020-21, as there is absence of any central legislation on the subject as on date. This is so because UGC is in the process

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of finalizing its Regulations and the NMC will lay down guidelines in accordance with Section 10(1)(i) of the NMC Act, 2019 from the academic year 2021-22.

69. In the result, the writ petitions are disposed of with the following directions:-

(i) The Puducherry Fee Committee shall fix the fee for the respondents/Deemed to be Universities for the Post Graduate Medical and Dental courses from the academic year 2017-18 onwards till 2020-21;

(ii) The fixation shall be an ad-hoc fixation and shall abide by the fixation to be done under the UGC Regulations which is in the process of finalization subject to the approval and orders of the Hon'ble Supreme Court in W.P.(C) No.949 of 2018 pending before the Hon'ble Supreme Court wherein, an order has been passed on 15.04.2019 and while directing the UGC Committee to determine the fee structure, direction has been issued not to implement the same until further orders of the Hon'ble Supreme Court;

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(iii) The NMC, as undertaken, shall determine the fee structure in accordance with the NMC Act, 2019 for the academic year 2021-22; and

(iv) Upon fixation of the fee by the Puducherry Fee Committee, the adjustment, i.e., making good the deficit or granting refund, shall be carried out in terms of the directions issued in paragraph 22 of the order dated 16.06.2017. No costs.

(T.S.S., J.) (V.B.S., J.)  
11.01.2021

cse/abr

Index :Yes  
Speaking Order

To

1. The Secretary,  
Government of Puducherry (Health),  
Health and Family Welfare Services Department,  
Secretariat, Beach Road, White Town,  
Puducherry-605 001.

2. The Director,  
Health and Family Welfare Services (DHFWS),  
Victor Samuel Street, Puducherry-605 001.

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- 3.The Convenor,  
Centralised Admission Committee (CENTAC),  
PEC Campus, ECR Road,  
Pillaichavadi, Puducherry-605 014.
- 4.The Secretary,  
Lt. Governor of Puducherry,  
Raj Nivas, White Town, Puducherry-605 001.
- 5.The Secretary,  
Medical Council of India,  
Pocket-14, Sector-8, Dwarka,  
New Delhi-110 077.
- 6.The Secretary, Union of India,  
Ministry of Human Resources,  
Development, Shastri Bhavan,  
New Delhi.
- 7.University Grants Commission,  
Bahadur Shah Zafar Marg,  
New Delhi-110 002.
- 8.The Director General,  
Directorate General of Health Services,  
Room No.44B-A, Nirman Bhawan,  
Maulana Azad Road, New Delhi-110 018.
- 9.The Secretary, Government of India,  
Ministry of Human Resources Development,  
Shastri Bhawan, New Delhi-110 001.
- 10.The Secretary, Government of India,  
Ministry of Health and Family Welfare Department,  
Nirman Bhawan, Maulana Azad Road, New Delhi-110 011.
- 11.The Secretary,  
University Grants Commission,  
Bahadur Shah Zafar Marg, New Delhi-110 002.

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T.S.Sivagnanam, J.  
and  
V.Bhavani Subbaroyan, J.

(abr)

12. The Secretary General, Board of Governors,  
Medical Council of India,  
Pocket-14, Sector-8, Dwarka, New Delhi-110 077.

13. The Member Secretary,  
Medical Counselling Committee (MCC),  
Directorate of General Health Services,  
Ministry of Health & Family Welfare Department,  
Nirman Bhawan, Maulana Azad Road,  
New Delhi-110 011.

14. The Chief Secretary,  
Government of Puducherry,  
Chief Secretariat, Goubert Avenue,  
White Town, Puducherry-605 001.

Pre-delivery Common Order made in  
W.P.Nos.14232 of 2017 and 8331 of 2020

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11.01.2021