

GOVERNMENT OF ANDHRA PRADESH  
HIGHER EDUCATION ( U.E) DEPARTMENT

Letter No.1469919 /U.E/A2/2021.

Dated:28-9-2021.

From  
The Special Chief Secretary to Govt.,  
The Higher Education Department,  
A.P. Secretariat, Velagapudi

To  
All the Registrars of the State Universities  
Under the Administrative control of H.E Dept.

Sir/Madam,

Sub: Universities- Orders of Hon'ble High Court in WP No.18703 of 2020 and other batch cases filed by M/s Al-Momin College of Education, Kandukur, Prakasam District and others – The process of recovering due amounts including the University Service Fee pending from all the concerned colleges collection of University Service Fee from Colleges – Instructions – Issued.

Ref: Common Orders of the Hon'ble High Court of A.P, in WP No.18703 of 2020 and other batch cases.

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Kind attention is invited to the Common Order of the Hon'ble High Court of Andhra Pradesh dated:18.06.2021 in WP.No.18703 of 2020 and batch cases filed by various Higher Educational Institutions; either aided or unaided, questioning the action of the respondents/universities viz., Acharya Nagarjuna University, Yogi Vemana University and Krishna University in demanding the petitioners/institutions for payment of university service fee in addition to the fee fixed by erstwhile Andhra Pradesh Admission and Fee Regulatory Committee (AFRC), now, Andhra Pradesh Admission and Fee Regulatory Committee Andhra Pradesh Higher Education Regulatory and Monitoring Commission (henceforth 'AP-HERMC) by the universities concerned, as illegal, arbitrary and violative of provisions of Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act,1983 (for short 'Capitation Fee Act, 1983') and consequently direct the respondents not to insist for payment of any service fee or any other fee; without there being any approval and orders from HERMC and without following due process of law.

(P.T.O)

2. Considering rival contentions, perusing the material available on record, the Hon'ble High Court of Andhra Pradesh has passed a common order on 18.06.2021 in WP.No.18703 of 2020 answering the following points:

- (i) Whether the petitioners have locus standi to question the action of the respondents/Universities in collection of service fee, etc., in addition to the fee fixed by the HERMC?*
- (ii) Whether the petitioners pleaded and proved that the institutions are vested with any legal right, its infringement or invasion or threatened infringement or invasion?*
- (iii) Whether collection of service fee by way of recognition/revaluation by the university is justified, as recommended by HERMC to the government and notified by the government in various government orders. If not, whether the action of the respondent No.1 be declared as illegal and arbitrary?*
- (iv) Whether the writ petitions are maintainable without impleading the State HERMC and the State which passed government orders based on the recommendations of HERMC, without claiming any relief to declare various government orders?*

3. The relevant portions of the judgment on these points are extracted as hereunder:

**POINT Nos.1 & 2**

"...the petitioners failed to establish existence of any legally enforceable right, its infringement or invasion by university, thereby the petitioners have no locus to claim relief of writ of mandamus against the respondents/Universities. Accordingly, Point Nos.1 and 2 are held in favour of the respondents/Universities and against the petitioners/colleges."

**POINT No.3**

"... As seen from the Government Orders from 25.06.2016 to 27.10.2018, HERMC itself recommended for collection of different fee in excess of the fee fixed under Section 7 of the Capitation Fee Act, 1983. Therefore, when the HERMC fixed fee separately payable to the

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University, that cannot be treated as Capitation Fee, as defined under Section 2(b) of the Capitation Fee Act, 1983, since the fee was fixed by HERMC exercising power under the Regulations. Therefore, collection of fee by the University under different heads, as recommended by HERMC and notified by the Government cannot be termed as Capitation Fee, as it is not collection of fee in addition of fee notified by the Government under Section 7 of the Capitation Fee Act, 1983. Hence, the fee whatever is fixed under various Government Orders referred above for various courses is only by HERMC on the request of universities and notified by the Government, such collection of fee under different heads cannot be said to be in violation of Section 7 of the Capitation Fee Act, 1983.

... the Division Bench of High Court of Hyderabad for the State of Telangana and State of Andhra Pradesh in **CMR College of Engineering Technology Kandlakoya v. The Jawaharlal Nehru Technological University**, held as follows:

“In our opinion, once having collected the fee towards common services from the students, for remitting the same to the University, it is not open to the colleges to retain the same. The students have paid it for the University, and, as rightly observed by learned single Judge in the impugned order, none of the students has made any grievance in respect of this fee. That apart, the College, cannot, under any circumstances, decide whether the University renders any services and that they are entitled to retain the said amount collected towards common services to be rendered by the University. As rightly observed by the learned single Judge, it was open to the Colleges to seek revision of the fee structure contemplated by the Rules and as observed by the Supreme Court in Islamic Academy of Education”

... In view of the judgment of the Division Bench, the judgments of the learned Single Judge in **Adarsha College of Education** case and **Islamia Education Society** case are not binding on this Court and therefore, by applying the law declared by the Division Bench in **CMR College of Engineering Technology Kandlakoya** (referred supra), collection of fee even in the absence of any Ordinance is legal and the same cannot be set-aside, when once it was recommended by HERMC and notified by the Government which falls within Section 7 of the Capitation Fee Act, 1983.

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Assuming for a moment that the demand made by the University is without any authority of law, as no Regulation or Ordinance was passed for collection of the fee under various heads, as mentioned in the table referred supra. The petitioners are not the aggrieved persons due to the act of the University, demanding to collect different kind of fee ... Accordingly, (I hold that) these petitioners are not entitled to claim writ of mandamus, as they have no *locus standi*. Hence, the point is held in favour of the respondents/Universities and against the petitioners/colleges."

**POINT NO.4**

"... In the present batch of writ petitions, University is only claiming payment of fee collected by the colleges/educational institutions in terms of the recommendation made by HERMC and notified by the State Government. When the petitioners are questioning the authority of the University to collect such fee, the authority who made recommendation and notified the fee are proper and necessary parties to the writ petitions, in whose absence, the *lis* before this Court cannot be adjudicated effectively and completely and their presence cannot be dispensed with. Hence, I hold that, HERMC and the State Government are proper and necessary parties to the following writ petitions and they are liable to be dismissed, for non-joinder of proper and necessary parties to the writ petitions.

Accordingly, Point No.4 is held in favour of the respondents and against the petitioners.

In view of my finding on Point Nos. 1 to 4, writ petitions are liable to be dismissed, as they are meritless.

In the result, writ petitions are dismissed. No costs.

Consequently, miscellaneous petitions pending if any shall stand closed. No costs."

4. It is requested to take necessary action as per the above orders of the Hon'ble High Court of A.P to expedite the process of recovering such due amounts including the University Service Fee pending from all the concerned colleges at the earliest.

Yours faithfully,  
Sd/-

SPECIAL CHIEF SECRETARY TO GOVT.

Copy to: the Secretary, APSCH, Mangalagiri.

//FORWARDED:: BY ORDER//

Harind B  
SECTION OFFICER