

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.22021 of 2015 & 33222 of 2015
M.P.Nos.1,1 of 2015

S. Praveen Raj ...Petitioner in W.P.No.22021 of 2015

A. Naresh ...Petitioner in W.P.No.33222 of 2015

Vs

1. The Secretary,
The Bar Council of Tamilnadu,
High Court Campus,
Chennai 600 014.
2. The Registrar,
Saveetha University,
No.162, Poonamallee High Road,
Chennai 600 077.
3. The Director,
Saveetha School of Law,
No.162, Poonamallee High Road,
Chennai 600 077.
4. The Principal,
Saveetha School of Law,
Saveetha University,
No.162, Poonamallee High Road,
Chennai 600 077.

...Respondents in both WPs.

Writ petitions filed under 226 of the Constitution of India for issuance of writ of Mandamus to direct the respondents to return the petitioners' all originals testimonials/certificates collected from him while at the time of admission B.A., B.L., (Hons.) Course for the academic year

2014-2015 along with Transfer Certificate and Character Certificate within a stipulated period.

Prayer amended as per order dated 23.11.2015 by RMDJ in M.P.No.2 of 2015.

For Petitioners in
both Writ Petitions : Mr.N. Subramani

For Respondents in : Mr.SY.Masood (R1)
both Writ Petitions Mr.S.Saravanan
(R2 to R4)

COMMON ORDER

Heard the learned counsel for the petitioners and Mr.SY.Masood appearing for 1st respondent and Mr.S.Saravanan appearing for respondents 2 to 4.

2. This writ petition has been filed to direct the respondents to return the petitioners' all originals testimonials/certificates collected from him at the time of admission in B.A., B.L., (Hons.) Course for the academic year 2014-2015 along with Transfer Certificate and Character Certificate within a stipulated period.

3. The petitioner joined in 5 year Integration Course [B.A., B.L (Hons) Degree course] for the academic year 2014-2015 in the 3rd respondent College, which is a deemed University in terms of Section 3 of the University Grants Commission Act and hence it has it's own regulations. According to the petitioners, since the Course is a 5 year Integrated Course, conferring two degrees, the 1st three years are divided into trimesters and if they complete the same, they would be entitled to go for the 4th year and the respondent University has a Break System barring students from moving from the 3rd year to the 4th year, unless they clear all the subjects. However, there is no break system from entering into the 2nd year from 1st year. The petitioners appeared for the examination in the 1st Semester held in December 2014, but, unfortunately they failed in all the subjects. The 2nd semester examinations were held from 02.06.2015 to 06.06.2015 and on the same day in the afternoon, the 1st semester examinations were held, without even giving any

gap. The petitioners appeared for the said examinations with great difficulty, however, as per the results declared in the College Notice Board, the petitioner in W.P.No.22021 of 2015 failed in five subjects and petitioner in W.P.No.33222 of 2015 failed in four subjects. But there is no mention about the marks obtained in the said notice board. On the same day, a circular was displayed in the notice board with the signature of the principal stating that no student can be permitted to carry over more than three failed subject of the I year to the II year of study. Aggrieved over the same the petitioners are before this Court.

4. The prayer in this Writ Petition is amended for the purpose of return of the certificates to the petitioners, so as to pursue the education of the petitioners according to their choices.

5. Under similar circumstances, this Court in W.P.No. 21777 of 2015 as well as in W.P.No.21615 of 2015, passed orders, wherein para 19 and 20 reads as follows;

"19. In the considered opinion of the Court, the above cited decisions are fully applicable to the facts of this case and the ratio laid down in the said decisions is also in consonance with common sense and logic. Even as per the prospectus of the respondent College, the fees once paid will not be refunded and in case the candidate wants to discontinue/withdraw during the middle of the course, he/she has to pay the entire course fee (for five years) before discontinuing. The petitioner executed affidavit of undertaking stating among other things that in case of discontinuation of the course in the middle of any reason, he promises to pay the remaining entire course fees and his father has also counter signed the said affidavit of undertaking and stood as the guarantor for the affidavit of undertaking. It is pertinent to point out at this juncture that even in the said affidavit of undertaking, no promise/undertaking has been given by the petitioner to the effect that unless and until he pays the entire course fees, he is not entitled to get the certificates. Therefore, there is no clause either in the prospectus or in the

affidavit of undertaking dated Nil executed by the petitioner, counter signed by his father, to the effect that the certificates cannot be returned unless and until the entire course fees is paid.

20. In the light of the reasons assigned above, the respondent is directed to return the original testimonials/certificates collected from the petitioner at the time of admission to B.A., B.L.(Hons.) course for the academic year 2014-15 along with the Transfer Certificate and Character Certificate to the petitioner within a period of two weeks from the date of receipt of a copy of this order and the respondent is also at liberty to initiate appropriate legal proceedings to recover the sums/fees from the petitioner and also from his father.

6. Following the terms stated in the above Writ Petitions, the present Writ Petitions are ordered for return of certificates. At the request of the petitioners, the time limit granted in the earlier Writ Petitions is modified to the effect that the respondent is directed to return the original testimonials/certificates of the petitioners collected from them at the time of their admission, along with Transfer Certificates and Character Certificates to the petitioners within a period of one week from the date of receipt of a copy of this order. The respondent is also at liberty to initiate appropriate legal proceedings to recover the sums/fees from the petitioner and also from the fathers of the writ Petitioners.

7. In the result, the Writ Petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msr

To

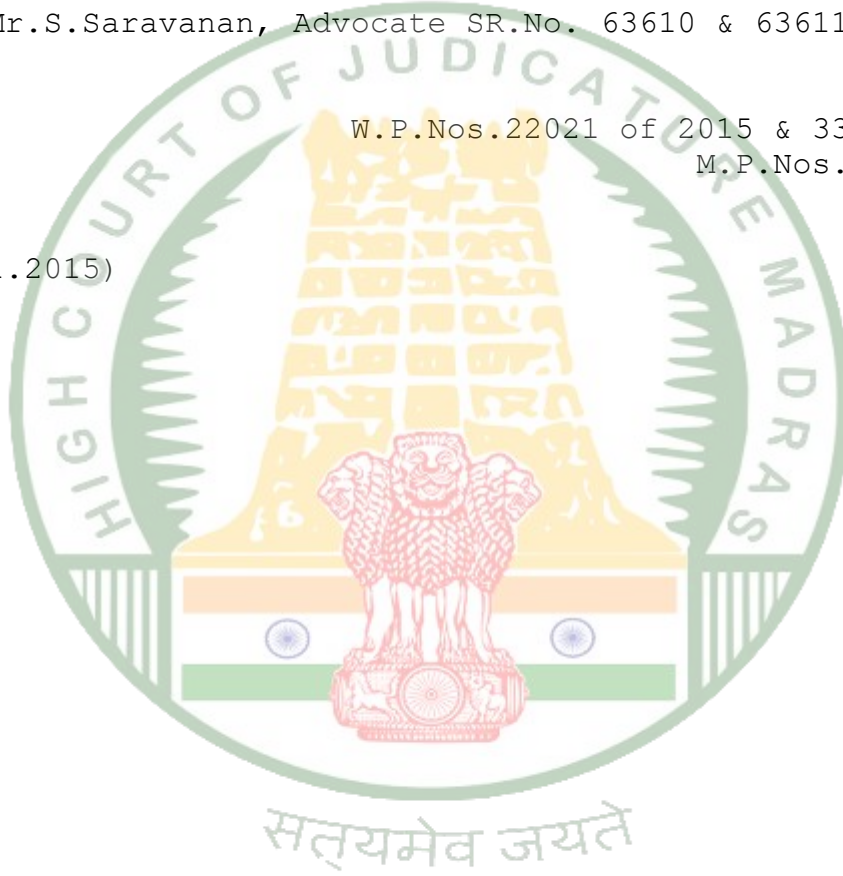
The Secretary,
The Bar Council of Tamilnadu,
High Court Campus,
Chennai 600 014.

2 CCs to Mr.N. Subramani, Advocate SR.No. 53253 & 63254

2 CCs to Mr.S.Saravanan, Advocate SR.No. 63610 & 63611

W.P.Nos.22021 of 2015 & 33222 of 2015
M.P.Nos.1,1 of 2015

PSI (24.11.2015)



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