

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

906 WRIT PETITION NO. 3451 OF 2015

SAU. MAYA DEVIDAS RAJGURU
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Kotkar Sanjay D.
AGP for Respondents State: Mr. B. V. Virdhe
Advocate for Respondent Nos.2 & 3 :Mr. V. D. Hon,
Senior Advocate i/by Mr. Ashwin V. Hon

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 23rd August, 2016

ORDER:

1. Mr. Kotkar, the learned counsel for the petitioner submits that the daughter of the petitioner was admitted to the First Year B.Sc. Nursing course with respondent No.2 College. The petitioner deposited Rs.1,10,075/- with respondent No.2 towards admission fee/tuition fee and submitted original documents. The petitioner's daughter was admitted in the year 2012. Learned counsel submits that on 8th January,2013, an unfortunate incident took place, because of which, mental condition of the petitioner's daughter was affected. She was given medical treatment at various places but there was hardly any improvement in her condition. Therefore, the petitioner's family decided to reduce her mental stress. On 15th June, 2013, the

petitioner requested the respondent College to return original documents of her daughter on account of illness of her daughter and that the petitioner's daughter will not be in position to further continue with the said course. However, no response was received. Learned counsel submits that thereafter, the petitioner's daughter never attended the College. The respondent College is not returning the original documents submitted to them and demanding Rs.2,50,000/- from the petitioner. The petitioner is also entitled for the refund of the amount deposited by the petitioner with the respondent College.

2. Mr. Hon, the learned Senior Advocate for respondent Nos. 2 and 3 submits that the petitioner's daughter has discontinued the course in the midst. After the cutoff date, the respondent College cannot fill any seat that has become vacant. The respondent Institute is bound to adhere to the stipulation of the dates with regard to admission process. According to the learned Senior Advocate, the seat which was held and occupied by the petitioner's daughter would go vacant for all the remaining years. The respondent College, as such, is entitled for the fees for the remaining years. Unless that is paid, the petitioner

would not be entitled for the original documents.

3. We have heard the learned AGP also.

4. The fact that the petitioner's daughter had taken admission in the first year B.Sc. Nursing Course with the respondent College is not disputed. For some months, the petitioner's daughter attended the College. Thereafter, according to the petitioner, her daughter sustained mental stress because of some incident and for the first time, in June, 2013, requested the respondent College to return the original documents.

5. As far as fees that is already paid by the petitioner is concerned, certainly the respondent College is not liable to pay the fees to the petitioner back which is already deposited. As far as contention of the petitioner for returning of documents is concerned, the same appears to be legitimate one. The respondent College does not hold lien over the document for payment of fees nor the submission of documents with the respondent can tantamount to pledge for the fees. The petitioner may prosecute some other studies. If the respondent College has any claim for recovery of fees, it can take up such steps as may be permissible in law, however, does not have right to

retain the documents under the said pretext. It is made clear that the petitioner's daughter does not wish to continue with the said course.

6. In the light of above, we pass following order:

O R D E R

- i. Respondent Nos. 2 and 3 shall return the original documents submitted by the petitioner's daughter at the time seeking admission to the first year B.Sc. Nursing Course and shall not retain the same on the ground that fees for further years is to be recovered.
- ii. In case, the respondents have legitimate right to recover the fees for the whole course, the respondent College may take such steps as may be permissible in law.
- iii. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC