

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.18961 of 2016

and

W.M.P.No.17284 of 2016

D.Steephen Vetharaja

... Petitioner

Vs.

1.The Director of School Education,
Union Territory of Puducherry
A Bolck, I Floor,
Perunthalaivar Kamaraj Centenary
Educational Complex,
100 Feet Road, Puducherry - 605 005.

2.Mr.Ashok Anandan
Founder/Correspondent
Guru Gram - Techno School
Aditya Vidyashram School,
VIP Nagar, Arumparthapuram,
Puducherry - 605 110.

3.The Principal,
Guru Gram - Techno School
Aditya Vidyashram School,
VIP Nagar, Arumparthapuram,
Puducherry - 605 110.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus directing the third respondent to issue transfer certificate to S.S.Shriya Daughter of this petitioner within a time framed fixed by this Court.

For Petitioner : Mr.R.Amizhdhu

For Respondents : Mr.C.T.Ramesh,

Additional Govt Pleader [Pondy]

Mr.S.Ashok Kumar

O R D E R

The petitioner is the father of minor girl viz., S.S.Shriya, who had completed VI Standard and promoted to VII Standard in the third respondent school and vide communication dated 30.03.2016, the petitioner was informed that his

daughter was promoted to VII Standard. The petitioner would further state that on 31.03.2016, he went to the School and met the principal of the School and requested for issuance of Transfer Certificate of his daughter, as he is not satisfied with the quality of education provided to his daughter, however it was not acceded to and therefore, the petitioner has sent a written representation on 04.04.2016 by registered post as well as by E-mail and in spite of it, the certificate sought for by the petitioner has not been returned and came forward to file this writ petition.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the materials placed and would submit that for the purpose of issuing Transfer Certificate and other Certificates, the third respondent school is demanding a sum of Rs.40,000/- towards first term fees and would further add that for issuing the Transfer Certificate and other certificate, as a precondition, the payment of the said amount cannot be insisted and prays for appropriate orders.

3. This Court heard the submission of Mr.C.T.Ramesh, learned Additional Government Pleader (Pondy), who accepts notice on behalf of the first respondent and would submit that the first respondent has nothing to do with the third respondent school.

4. Mr.S.Ashok Kumar, learned counsel, who accepts notice on behalf of the respondents 2 and 3 has drawn the attention of this Court to the typed set of documents and would submit that the third respondent school, as early as on 08.02.2016, has sent a circular stating among other things that in the event of any necessity to transfer the ward from the school for the next academic year 2016-2017, necessary application for transfer certificate is to be submitted on or before 29.02.2016, in order to facilitate the school to fill-up the vacant seat and if any such application is submitted after such date, it will be entertained only on the payment of the first term fee for the next academic year viz., 2016-2017. Therefore, the demand of payment of first term fee is perfectly in order and prays for dismissal of this writ petition.

5. This Court has considered the rival submissions and also perused the materials placed before this Court.

6. The matter in issue is no longer res integra. A single bench of this Court in the common order dated 05.11.2014 made in W.P.Nos.27809 to 27811 and 27973 to 27975 of 2014 [D.Vinodh Kumar and others v. The Principal Secretary to Government, Government of Tamil Nadu, Chennai and others] has considered the very similar issue and held as follows:

"9. Keeping aside the question of entitlement of the petitioners to the imposition of such a condition, it should be pointed out that certificates belonging to students, cannot be retained as a security by the universities or colleges. I had an occasion to consider a similar issue in W.P.(MD).No.14394 of 2012 on the file of the Madurai Bench. By the order passed therein on 18.12.2012, I have held that certificates cannot be retained as a bait by the universities. Therefore, on the entitlement of the petitioners to the first part of the prayer, there cannot be any dispute. The petitioners are entitled to take back their certificates, as the certificates belong to them and no security is created on such a property.

10. But, in so far as the entitlement of the petitioners to the refund of tuition fees and the entitlement of the second respondent to claim the amount as per the agreement bond are concerned, there are dispute. These disputes have to be resolved independently in appropriate proceedings taken by both parties."

7. This Court in yet another decision in Kesavan v. Director of Medical Education, Kilpauk, Chennai-10 and another [(2011) 8 MLJ 454] has considered the case of execution of bond for non-payment of amount and the prayer for return of the testimonials, wherein it has been held that for not paying the bond amount it is open to the respondents to initiate recovery proceedings and in the light of the settled legal position, there cannot be any impediment on the part of the third respondent school to return the Transfer Certificate to the petitioner's daughter.

8. In the result, the writ petition is disposed of with a direction to the third respondent to issue the Transfer certificate to the petitioner's daughter within a period of one week from the date of receipt of a copy of this order. The respondents 2 and 3 are also at liberty to initiate appropriate proceedings against the petitioner for recovery of the first term fee payable before the competent civil forum. No costs. Consequently, connected miscellaneous petition is closed.

vsm

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

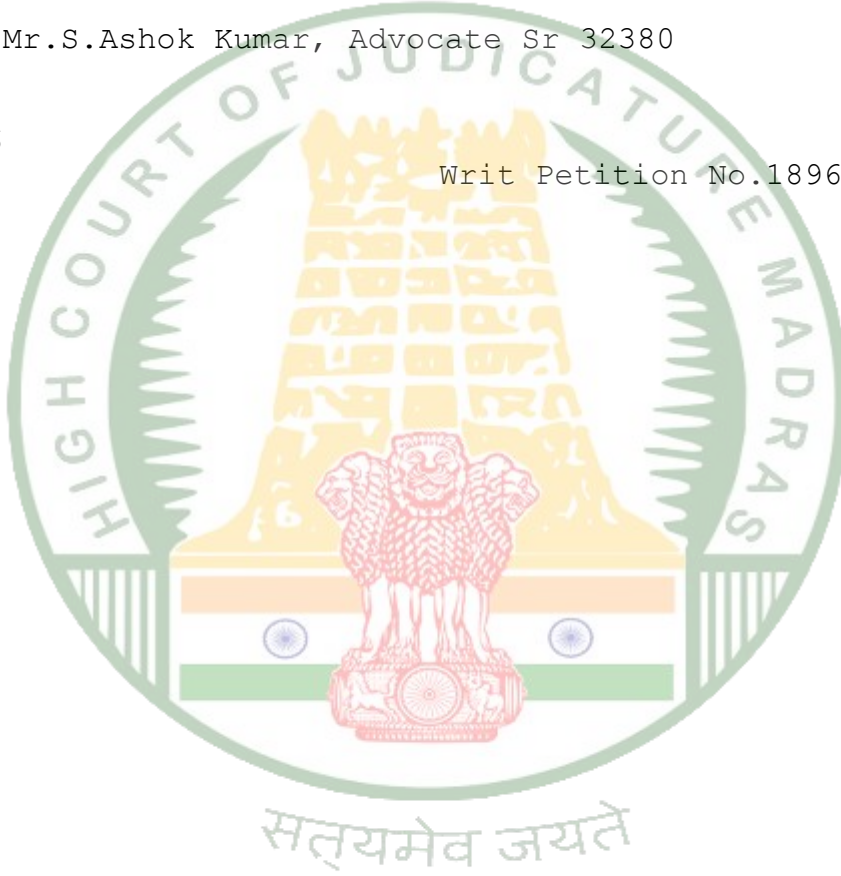
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+ 1 cc to Mr.R.Amizhdhu, Advocate Sr 32232

+ 1 cc to Mr.S.Ashok Kumar, Advocate Sr 32380

KR/15/6/16

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