

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.28600 of 2015

S.R.Arun Kumar

... Petitioner

Vs.

1. The Principal,
Air Carnival Aviation Academy,
No.298, Pollachi Main Road,
Othakkalmandapam,
Coimbatore-641 032.
 2. The Director General of Civil Aviation,
Jor Bagh, Lodhi Colony,
New Delhi-110 003.
 3. The Deputy Director General of Civil Aviation,
Southern Region,
Meenambakkam,
Chennai-600 016.
 4. The Registrar,
Bharathiyar University,
Coimbatore-641 046.
- ... Respondents

Prayer:Petition filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus, directing the first respondent to return all the original educational certificates and other certificates including Birth Certificate, S.S.L.C. Certificate, Transfer Certificate, Diploma Certificate in Information Technology, Mark Sheets in Diploma Course submitted by the petitioner to the first respondent at the time of admission.

For Petitioner : Mr.M.Sivavarthanan

For Respondent-1 : Mr.K.GoviGanesan

For Respondent : Mr.J.Madanagopal Rao,
Nos.2 & 3 SCGSC

O R D E R

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 to 3.

2.The petitioner has joined the college of the first respondent during the academic year 2014-15 in B.SC (Air Craft Maintenance Course). At the time of joining, the petitioner paid the first year fees to the first respondent and he has also produced all the original certificates including Birth Certificate, S.S.L.C. Certificate, Transfer Certificate, Diploma Certificate in Information Technology and Mark Sheets in Diploma Course. The petitioner thereafter decided to discontinue the course and sought for return of certificates. It was also forwarded by another representation. Despite the same, they have not been furnished, hence, the present writ petition is filed.

3.The learned counsel appearing for the first respondent submitted that in view of the Memorandum of Understanding signed between the parties, until and unless the entire fees covering all the three years is paid, the petitioner is not entitled to receive the Transfer Certificate either the one deposited by the petitioner or a fresh one to be given by the first respondent.

4.As rightly submitted by the learned counsel for the petitioner, there cannot be any lien over the certificates deposited by the petitioner to the first respondent for the due, if any payable by him. Considering the very same issue, this Court in S.Muthukamatchi Vs. The Director of Technical Education, Anna University, Guindy, Chennai-2 and others [2013 (1) CTC 595] was pleased to hold as follows:

"6.I would not venture to get into that controversy, namely, whether the College is entitled to collect the balance of fees or not. The main grievance of the petitioner is about the certificates of her daughter. Those certificates are not like fixed deposit receipt on which, banks claim a general lien in terms of Section 171 of the Contract Act. Therefore, the Certificates cannot be retained at any rate. Hence, this Writ Petition is allowed directing the Fourth Respondent to return all the original certificates deposited by the petitioner forthwith. No costs."

5.The learned counsel for the first respondent further submitted that while there is no objection to give all the certificates, the transfer certificate of the petitioner cannot be given including the one deposited by him already and the one to be given by the first respondent.

6. In the light of the aforesaid judgment, the writ petition stands allowed. The first respondent is directed to issue all the certificates belonging to the petitioner aforesaid including the original transfer certificate available with him, within a period of two weeks from the date of receipt of a copy of this order. However, it is made clear that this order will not stand in the way of the first respondent to proceed against the petitioner as per law, for the dues if any. No costs.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1. The Principal,
Air Carnival Aviation Academy,
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Chennai-600 016.
4. The Registrar,
Bharathiyar University,
Coimbatore-641 046.

+ 1 cc to Mr.Sivavarathanan, Advocate SR 5154

+ 1 cc to Mr.Govi Ganesan, Advocate SR 5090

+ 1 cc to Mr.Mandanagopal Rao Advocate SR 5063

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