



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2016

CORAM

WEB COPY

THE HONOURABLE **MR. JUSTICE V. BHARATHIDASAN**

W.P(MD) .No.16568 of 2016

B.SARATH KUMAR

... Petitioner

Vs

- 1 THE PRINCIPAL SECERTARY
STATE OF TAMIL NADU
EDUCATIONAL DEPARTMENT.
SECRETARIAT,
FORT ST. GEORGE, CHENNAI.
- 2 THE CHAIRMAN
UNIVERSITY GRANTS COMMISSION
BAHADOOR SHA
JAFAR MARG, NEW DELHI.
- 3 THE VICE CHANCELLOR
BHARATH INSTITUTE OF SCIENCE AND TECHNOLOGY
BHARATH UNIVERSITY, NO. 173 AGHARAM ROAD
CHENNAI-73.
- 4 THE DEAN
FACULTY OF ENGINEERING,
BHARATH UNIVERSITY
SELAIYUR,
TAMBARAM, CHENNAI.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondent No.4 to return back the petitioner's all original Mark Statements, Community Certificate, Provisional Certificate, Transfer Certificate and other relieving certificates by considering his representation dated 26.08.2016.

For petitioner : Mr.I.Sabeer Mohamed

For Respondents : Mr.J.Gunaseelan Muthiah

Government Advocate for R-1

Mr.V.Maharajan for R-2

No appearance for RR-3 & 4

**ORDER**

The Writ petition has been filed for a direction, directing the respondent No.4 to return back the petitioner's all original Mark Statements, Community Certificate, Provisional Certificate, Transfer Certificate and other relieving certificates by considering his representation dated 26.08.2016.

2. According to the petitioner, he has completed B.Tech Automobile Engineering Course from the 3rd and 4th respondents University in the year 2015 and he also passed in all the examinations. Even after the petitioner paid the entire fees, the third and fourth respondents, without any reason, are withholding the original documents of the petitioner. Hence, the petitioner made a representation to the respondents on 26.08.2016, requesting them to give the original certificates i.e Original Mark Statement, Community Certificate, Provisional Certificate and Transfer Certificate. So far, the respondents 3 and 4 are not willing to return the same. Hence, he has filed the present writ petition.

3. The learned counsel for the petitioner would submit that even after the petitioner paid the entire prescribed fees, the third and fourth respondents demanded more fees and for that purpose, they are withholding the original certificates.

4. In this regard, the learned counsel for the petitioner would rely upon an order passed by this Court in W.P.(MD).No.14394 of 2012, dated 18.12.2012, which is also followed by this Court in W.P.(MD).No.28600 of 2015, dated 28.01.2016. The relevant portion of the order reads 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. It is settled law that merely for non-payment of college fees, the College cannot withhold the documents. If the College has any grievance, they would have initiate separate proceedings for the recovery of any arrears of fees, for that purpose, the respondents 3 and 4 cannot withhold the certificates of the petitioner.



6. In view of the above, the respondents 3 and 4 are directed to give the original Mark Statements, Community Certificate, Provisional Certificate, Transfer Certificate and other relieving certificates to the petitioner, by considering his representation, dated 26.08.2016, within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is ordered. There shall be no order as to costs.

Sd/-

Assistant Registrar (Crl. Side)

/True Copy/

Sub Assistant Registrar

VS

To

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EDUCATIONAL DEPARTMENT.
SECRETARIAT,
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+1cc to Spl. Government Pleader Sr.No. 72693

JAM/28.12.16/EM/3p-6c

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