

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.36539 of 2016

P.Sekar

... Petitioner

Vs

1. The Registrar,
Anna University,
Chennai.

2. The District Collector,
Namakkal District.

3. The Principal,
JKK Nataraja College of Engineering
and Technology,
College Code : 2647,
N.H.47 (Salem to Coimbatore),
Natarajapuram,
Komarapalayam-638 183,
Namakkal District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing respondents 1 and 2 to issue a suitable directions to the 3rd respondent to return petitioner's originals, namely, Transfer Certificate, 10th Mark Sheet, 12th Mark Statement and Community Certificate, as held by this Court in 2013 (1) CTC 595 by considering petitioner's representation dated 18.07.2016 to the respondents.

For Petitioner : Mr.P.Balaji

For Respondents : Mr.L.P.Shanmugasundaram for R1
Mr.V.Anandhamurthy, AGP for R2

ORDER

The Writ Petition is filed seeking to issue a Writ of Mandamus, directing the respondents 1 and 2 to issue suitable directions to the 3rd respondent to return petitioner's originals, namely, Transfer Certificate, 10th Mark Sheet, 12th Mark Statement and Community Certificate, as held by this Court in 2013 (1) CTC 595 by considering the petitioner's

representation dated 18.07.2016 to the respondents.

2. The case of the petitioner is as follows:

(a) The 1st respondent is an University under whom the 3rd respondent is affiliated and the 2nd respondent is an authority control over the college of the 3rd respondent which is a college of Engineering and Technology imparting education in Engineering and Technology field under whom the petitioner joined B.E. Mechanical Engineering for the academic year 2011-2012 by paying all the necessary fees. While so, due to financial constraints, he could not continue his 3rd year course and decided to discontinue the course.

(b) When the petitioner expressed his position and requested to return all the originals, the same was refused on the ground that he has to pay the remaining two years fees. In this regard, the petitioner has sent a representation dated 18.07.2016 to the 3rd respondent. But, till date no action has been taken to return the originals of the petitioner. Hence the present Writ Petition.

3. Heard Mr.P.Balaji, the learned Counsel for the petitioner, Mr.L.P.Shanmugasundaram, the learned Counsel for the 1st respondent and Mr.V.Anandhamoorthy, learned Additional Government Pleader for the 2nd respondent.

4. It is to be noted that in similar circumstances, this Court in W.P.No.12923/2003 and etc. batch by a common order dated 12.12.2008 has held that the certificates cannot be retained by the authorities and accordingly disposed of the writ petitions on the following terms:

''(1) The PG Degree/Diploma Holders, who applied for their Degree/Diploma course through All India Entrance Examination for selection to All India Quota Seats and admitted to Tamil Nadu Government Medical Colleges are not bound by the terms and conditions issued by the respondents through their prospectus. Even if any candidate executed bond, it will have no effect since they have not applied for admission under the impugned prospectus.

...

(3) No PG Degree/Diploma Holder shall be denied of their certificates in original on their completion of their course as the respondents have no jurisdiction to retain their certificates and the respondents are directed to return all the certificates of the petitioners within two weeks from the date of the receipt of a copy of this order...''

5. The learned Counsel for the petitioner, in support of the claim made by the petitioner, has relied on a decision of this Court in S.Muthukamatchi vs. The Director of Technical Education, Anna University, Guindy, Chennai-2 and others reported in 2013 (1) CTC 595. It is relevant to extract the following paragraph here under:

"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."

6. In the light of the above orders, it is very clear that the 3rd respondent has no authority to retain certificates of the petitioner when he has specifically made a request for the return of the same. The certificates of the petitioner cannot be retained as a bait by the universities. Even presuming that there is a dispute with respect to tuition fees etc., the same has to be resolved independently in appropriate proceedings only.

7. In the light of the reasons assigned above, the 3rd respondent college is directed to return the original certificates collected from the petitioner at the time of admission to B.E. (Mechanical Engineering) Course for the academic year 2011-2012 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 by considering the representation of the petitioner dated 18.07.2016 and the 3rd respondent is at liberty to initiate appropriate legal proceedings to recover the fees due from the petitioner.

8. Accordingly, the Writ Petition is disposed of. No costs.

-s/d-

Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

To

1. The Registrar,
Anna University,
Chennai.

2. The District Collector,
Namakkal District.

3. The Principal,
JKK Nataraja College of Engineering
and Technology,
College Code : 2647,
N.H.47 (Salem to Coimbatore),
Natarajapuram,
Komarapalayam-638 183,
Namakkal District.

+1 cc to M/s.L.P.Shanmuga Sundaram Advocate sr 39810

+1 cc to M/s.P.Balaji Advocate sr 39360

+1 cc to Government Pleader sr 39402

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