

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.40601 of 2016

P.Rabbani Khan

... Petitioner

Vs

Saveetha School of Engineering
rep. by its Principal,
Saveetha University,
Saveetha Nagar,
Thandalam,
Chennai-105.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondent to issue petitioner's Transfer Certificate, XII Standard Mark Sheet, X Standard Mark Sheet, Conduct Certificate and Community Certificate.

For Petitioner : Mr.S.Ganesh
For Respondents : Mr.S.Saravanan

ORDER

The Writ Petition is filed seeking to issue a Writ of Mandamus, directing the respondent to issue petitioner's Transfer Certificate, XII Standard Mark Sheet, X Standard Mark Sheet, Conduct Certificate and Community Certificate.

2. The case of the petitioner is that he completed his XII Standard at EVE Matriculation Secondary School, Triplicane, Chennai-5 during the academic year 2013-14 and scored 752 marks. He opted to go through the Management Quota for B.E. (Civil Engineering) in the respondent college which is an Educational Institution running under Saveetha University. At the time of joining, as demanded by the respondent college, he paid the necessary fees and original documents, such as, Transfer Certificate, Higher Secondary Course Mark Sheet, X Standard Mark Sheet, Conduct Certificate and Community Certificate have also been collected from him by the respondent college. Apart from that, without assigning any reason, his signatures were obtained in blank papers and a stamp paper.

3. The further case of the petitioner is that due to some personal reasons, he could not pursue his studies further. Therefore, he informed the same to the respondent and requested to return all the original documents to him. Though, his request was initially agreed by the respondent, later, they refused to return the originals stating that the petitioner should pay the entire course fee for 4 years which comes to Rs.3,00,000/-. Therefore, the petitioner issued a legal notice dated 24.09.2016 in this regard. In response to the same the respondent asked him to meet the Principal on 13.10.2016 on which date, the Principal promised to return the originals and requested the petitioner to execute a 'No Claim Certificate' on a stamp paper and produce the same and thereafter, he will return all the originals. Accordingly, the petitioner met the Principal on 17.10.2016 wherein he was informed to get 'No Due Certificate from HODs.' of various departments. In this exercise, Mr.Vetri of the Finance Department demanded a sum of Rs.60,000/- from the petitioner for getting back the original certificates. It shows the attitude of the respondent college not interested in returning the certificates. Hence, the present Writ Petition.

4. A detailed counter affidavit has been filed by the respondent in which it is stated that the respondent is ready to return the originals on production of 'No Dues Certificate' from the relevant departments of the college and the Accounts Department which procedure is followed by the University in respect of all the students who discontinue the course in the middle. Since the same was not produced by the petitioner, the originals were not returned. At no point of time, the respondent has demanded the entire course fee for four years. It is further submitted that the petitioner was asked to pay the remaining part of the tuition fee for the academic year 2013-14 which he had attended. Since the petitioner did not pay the fees for the 1st year after undergoing the 1st year course, the official of the Accounts department insisted him to deposit a sum of Rs.60,000/- towards the balance amount of tuition fee for the academic year 2013-14. Hence the present Writ Petition is liable to be dismissed.

5. Heard the learned Counsel for the petitioner and the learned Counsel appearing for the respondent-college.

6. 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...''

7. The learned Counsel for the petitioner, in support of the claim made by the petitioner, has also produced a copy of the order made in W.P.Nos.27809 to 27811 and 27973 to 27975/2014 dated 05.11.2014 and W.P.No.14471/2015 dated 19.08.2015 in similar circumstances.

8. It is useful to extract the relevant portion in the order passed in 14471 of 2015 dated 19.08.2015 here under:

''Similar view has also been taken in the (i) order dated 10.07.2012 made in Crl.O.P.No.9920/2012 (A.John Paul and two others v. State and another) ; (ii) Order dated 18.12.2012 made in W.P.(MD) No.14394 of 2012 (S.Muthulakshmi v. The Director of Technical Education, Anna University, Chennai and others) and in the (iii) Order dated 05.11.2014 made in W.P.Nos.27809 to 27811 and 27973 to 27975 of 2014 (D.Vinoth Kumar and Others v. The Principal Secretary to Government of Tamil Nadu and others). The Madhya Pradesh High Court also, in the order dated 06.08.2014 made in W.P.No.12778/2013 (Vikrant Chourasiya v. State of M.P. and others) has held that there are no statutory rules, regulations or schemes which permit the institute to retain the documents.

20. In the considered opinion of the Court, the above cited decisions are fully applicable to the facts of this case and the ratio laid down in the said decisions is also in consonance with common sense and

logic. Even as per the prospectus of the respondent college, the fees once paid will not be refunded and in case the candidate wants to discontinue/withdraw during the middle of the course, he/she has to pay the entire course fee (for five years) before discontinuing. The petitioner executed affidavit of understanding stating among other things that in case of discontinuation of the course in the middle of any reason, he promises to pay the remaining entire course fees and his father has also counter signed the said affidavit of undertaking and stood as the guarantor for the affidavit of undertaking. It is pertinent to point out at this juncture that even in the said affidavit of undertaking, no promise/undertaking has been given by the petitioner to the effect that unless and until he pays the entire course fees, he is not entitled to get the certificates. Therefore, there is no clause either in the prospectus or in the affidavit of undertaking dated Nil executed by the petitioner, counter signed by his father, to the effect that the certificates cannot be returned unless and until the entire course fees is paid.'

9. In the light of the above orders, it is very clear that the 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.

10. In the light of the reasons assigned above, the respondent college is directed to return the original certificates collected from the petitioner at the time of admission to B.E. (Civil Engineering) Course for the academic year 2013-2014 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 and the respondent is at liberty to initiate appropriate legal proceedings to recover the fees due from the petitioner.

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

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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+1 cc to M/s.S.Saravanan Advocate sr 39341
+1 cc to M/s.S.Ganesh Advocate sr 39588

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