

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.43534 of 2016

Rukkumani

... Petitioner

vs.

1.The Assistant Registrar Academic - Admissions
Pondicherry University
Bharat Ratna Dr.B.R.Ambedkar
Administrative Building
R.V.Nagar, Kalapet,
Puducherry - 605 014.

2.The Principal
Sri Balaji Law School
N.R.Complex, Banumathi Murugesan Nagar,
Edaiyanchavadi Road,
Karuvadikuppam, Lawspet,
Puducherry - 605 008.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the 2nd respondent college to refund the tuition fee of a sum of Rs.64,000/- paid by the petitioner vide receipt No.427 dated 04.11.2014 collected by the 2nd respondent.

For Petitioner : Mr.G.Mohanakrishnan
For RespondentNo.1 : Mr.Stalin Abhimanyu
For R2 : No appearance

O R D E R

The petitioner seeks for a mandamus directing the second respondent college to refund the tuition fee of a sum of Rs.64,000/- collected by the second respondent college.

2. After issuing notice in this writ petition, Mr.Stalin Abhimanyu, learned counsel appears for the first respondent University. Though notice was served on the second respondent both through Court and privately, they have not chosen to appear before this Court, either in person or through counsel. Today,

even though the name of the second respondent is printed in the cause list, none appears on behalf of them.

3. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the first respondent University.

4. The petitioner got admission in the second respondent college in L.L.B. (3 years) course for the academic year 2014-2015, after completion of her degree in B.Sc., (Mathematics). The minimum qualification required to admit into LLB course as per the regulation of the first respondent University for MBC candidates is that such candidate should have secured 45% in the Bachelor Degree examination. However, the petitioner got only 44.46% and however, with that marks, the second respondent college has given admission to the petitioner. Thereafter, the first respondent University cancelled the admission of the petitioner since the petitioner has secured less than 45% marks in B.Sc., (Maths). Challenging the said cancellation, the petitioner approached this Court and filed the writ petition in WP.No.5783 of 2015, which came to be dismissed on 25.08.2015. Thereafter, the present writ petition is filed, after making a representation on 05.10.2015, seeking for refund of the tuition fee paid to the second respondent.

5. The learned counsel for the petitioner submitted that when the petitioner had applied to the second respondent college seeking for admission, they ought to have rejected the application then and there, if the petitioner is not qualified for admission. Thus, he submitted that the second respondent, having admitted the petitioner and received the tuition fee towards the said first year course, is not entitled to retain such fee, when the first respondent University has chosen to cancel the admission. Otherwise, it is the contention of the learned counsel for the petitioner that the fault is not on the side of the petitioner, but it is on the side of the second respondent college in admitting the petitioner and receiving fee, knowing fully well that the petitioner is not entitled to get admission.

6. The learned counsel for the first respondent University submitted that the cancellation was rightly made by the University since the petitioner is not having the requisite qualification and such cancellation was also upheld by this Court in the above said writ petition.

7. As stated supra, the second respondent has not chosen to oppose this writ petition by making their appearance despite the service of notice by this Court. As rightly pointed out by the learned counsel for the petitioner, the second respondent has

committed a mistake in admitting the petitioner and consequently they are not entitled to retain the fee paid by the petitioner. It is seen that the petitioner has not mislead the second respondent in respect of the marks obtained by her. Therefore, the second respondent has to be blamed for admitting the petitioner who is not having the requisite qualification. Consequently, the second respondent has to return the fee collected by them from the petitioner. Accordingly, the writ petition is allowed and the second respondent college is directed to return the tuition fee collected from the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

mk

To

1.The Principal
Sri Balaji Law School
N.R.Complex, Banumathi Murugesan Nagar,
Edaiyanchavadi Road,
Karuvadikuppam, Lawspet,
Puducherry - 605 008.

+2cc to Mr.G.Mohanakrishnan, Advocate Sr. 52816
+1cc to Mr.Stalin Abhimanyu, Advocate Sr. 52815

सत्यमेव जयते

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PA (CO)
VR(08/08/2017)

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