

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.34039 of 2013

B.Mathi

... Petitioner

Vs.

- 1.State of Tamilnadu,
Rep. by its Secretary to Government,
Higher Education Department,
Fort St. George, Chennai -600 009.
 - 2.The Registrar,
Anna University,
Guindy, Chennai -600 025.
 - 3.Karpagam College of Engineering,
Rep. by its Managing Trustee,
S.F.No.758, 759 & 760,
Othakkal Mandapam,
Coimbatore District - 641 032.
- Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 3rd respondent to return the sum of Rs.78,500/- towards fees to the petitioner forthwith.

For Petitioner : Mr.R.Thiagarajan

For Respondents : Mrs.V.Annalakshmi, G.A., for R1
Mr.M.Vijayakumar, for R2
No Appearance, for R3

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O R D E R

The Writ Petition is filed for issuing a Writ of Mandamus, directing the third respondent to return a sum of Rs.78,500/- towards the fees collected from the petitioner's son, forthwith.

2. Despite service of notice to the third respondent and the name of the third respondent having been printed in the

cause list, there was no representation for the third respondent on all occasions, whenever the matter was posted for hearing. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the first respondent and the learned counsel for the second respondent.

3. It is the case of the petitioner that his son was allotted a seat in B.Tech. in the third respondent College for the academic year 2013-14, pursuant to the counselling held on 09.07.2013. It is stated that the petitioner paid the tuition fee of Rs.43,500/-, miscellaneous fee of Rs.30,000/-, hostel fee of Rs.26,000/- and another sum of Rs.5,000/- towards counselling fee.

4. It is further stated that the petitioner's son did not join the course and as per the prospectus, the course commenced on 08.08.2013. It is stated by the petitioner that his son informed the third respondent College that he is intending to pursue the course in some other College and that information was given to the third respondent on 01.08.2013 itself, well before the commencement of the course. It is further stated that on 01.08.2013, the petitioner's son obtained all the certificates from the third respondent-College, as he had opted to leave the third respondent-College even before the commencement of the course.

5. Later, the petitioner's son sought for refund of the amounts paid to the third respondent College. However, it is stated that the third respondent returned only the hostel fee on 05.09.2013. Since the fees paid by the petitioner on other heads were not returned, it is stated by the petitioner that he submitted a written representation and requested in person on 01.08.2013. It is further stated that the third respondent, through a mediator, offered to return only half of the tuition fees. In the circumstances, the petitioner approached this Court by filing the present Writ petition with the above said prayer.

6. Despite notice to the respondents, the third respondent did not file counter and contested this Writ Petition.

7. Since the petitioner's son did not join the Course and informed the third respondent-College about his decision to join in another College even before commencement of the Course, it is stated that the petitioner is entitled for the fees remitted. The petitioner has received only a sum of Rs.26,000/-, which was paid towards hostel fee.

8. The learned counsel for the petitioner produced a Circular before this Court, dated 07.08.2017, from Anna

University, regarding refund of fees, which was addressed to all the Government, Self Financing Engineering Colleges, and Autonomous College affiliated with Anna University. The relevant portion of the said communication is as follows:

"In this regard, AICTE has issued an Approval Process Handbook for 2017-18 to create an academic ambience in the Technical Institutions for nurturing and supporting quality so that Technical Education in India will be one of the best in the world. Further, AICTE has also given the criteria for refund of fee and return of original certificates in case of student's withdrawal of the admission before and after the commencement of the Course are as follows:

- In the event of a student withdrawing before the starting of the Course, the entire fee collected from the student, after a deduction of the processing fee of not more than Rs.1000/- (Rupees one thousand only) shall be refunded by the Institution.
- It would not be permissible for Institutions to retain the School / Institution Leaving Certificates in original.
- Should a student leave after joining the Course and if the vacated seat is consequently filled by another student by the last date of admission, the Institution must refund the fee collected after a deduction of the processing fee of not more than Rs.1000/- (Rupees one thousand only) and proportionate deductions of monthly fee and proportionate hostel rent, where applicable.
- In case the vacated seat is not filled, the Institution should refund the security deposit and return the original documents.
- Institution should not demand fee for the subsequent years from the students cancelling their admission at any point of time. Fee refund along with the return of Certificates should be completed within 7 days.
- Institutions not following guidelines issued by the Council regarding refund of fee on cancellation of admission or delaying refunds shall be liable to any one or more of the following punitive actions by the council.
- Fine for non-compliance of refund of fee levied against each case shall be twice the total fee collected per student.

- Suspension of approval for supernumerary seats, if any for one Academic Year
- Reduction in "Approved Intake"
- No admission in one / more Courses for one Academic Year
- Withdrawal of approval for Programme / Course
- In this regard, you are informed to abide by the criteria in your educational institution in such circumstances as well as to display this circular in the notice board of the College, in order to spread awareness among the students and send the action taken report to the Director, Centre for Student Affairs, Anna University, Chennai. "

9. From the above circular, it is evident that a student withdrawing before starting of the course is entitled to get refund of entire fee collected by the Institution, after deduction of processing fee, not more than a sum of Rs.1,000/-.

10. In the instant case, the petitioner's son did not join the course, and hence he is entitled to refund of entire fees as directed by the University.

11. The learned counsel for the petitioner states that the petitioner's son has paid a sum of Rs.43,500/- towards tuition fees and another Rs.30,000/- towards miscellaneous fees, apart from a sum of Rs.5,000/- towards counselling fee. The petitioner has produced before this Court, the receipts issued by the third respondent-College for collection of the amounts. Since the petitioner has participated in the counselling, it is not proper to seek refund of the amount paid towards counselling. However, rest of the amounts cannot be detained or withheld by the third respondent.

12. Hence, this Writ Petition is allowed and the third respondent is directed to pay a sum of Rs.73,500/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Deputy Registrar

// True Copy//

Sub Assistant Registrar

pvs

To

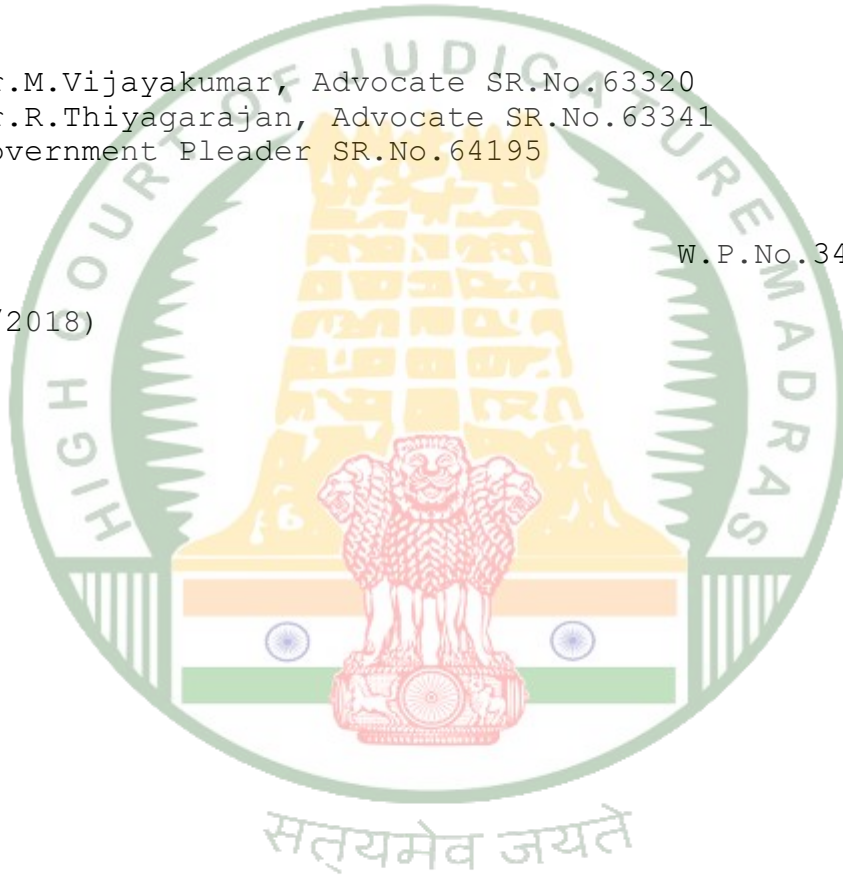
1. Secretary to Government,
State of Tamilnadu,
Higher Education Department,
Fort St. George, Chennai -600 009.

2. The Registrar,
Anna University,
Guindy, Chennai -600 025.

+1cc to Mr.M.Vijayakumar, Advocate SR.No.63320
+1cc to Mr.R.Thiyagarajan, Advocate SR.No.63341
+1cc to Government Pleader SR.No.64195

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RMP (27/09/2018)



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