

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM :
THE HONOURABLE MR. JUSTICE S.S.SUNDAR.J

W.P No. 17152 of 2018
and W.M.P No.20416 of 2018

N.Suresh

.. Petitioner

Vs.

- 1.The Director of Technical Education,
Anna University,
Guindy, Chennai.
- 2.The Vice Chancellor,
Anna University,
Guindy, Chennai.
- 3.The Principal,
Vel Tech Multi Tech, Dr.Rangarajan Dr.Sakunthala
Engineering College,
42, Alamathi Road, Avadi, Thiruvallur, Chennai,
Tamil Nadu-600 062.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 2nd respondent to direct the 3rd respondent to give all original certificates and repay the admission fee of Rs.50,000/- to the petitioner.

For petitioner : Mr.G.Sathiskumar

For R1 : Mr.A.Rajaperumal,
Additional Government Pleader

For R2 : Mr.L.P.Shanmugasundaram,
Senior Counsel

For R3 : Mr.S.Thanka Sivan

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus, directing the 2nd respondent to direct the 3rd respondent to give all the original certificates and to repay the admission fee of Rs.50,000/- to the petitioner.

2.The petitioner's son got admission in B.E - Mechanical Engineering course for the academic year 2017-2018 in 3rd respondent Institution. The petitioner states that his son was given admission under management quota. The petitioner also states that he paid a sum of Rs.1,10,000/- as donation for the said admission and a further sum of Rs.50,000/- as semester fee for the academic year 2017-2018. It is the petitioner's case that his son discontinued the course and the same was intimated to the 3rd respondent. He requested the 3rd respondent to return all the original certificates along with a sum of Rs.1,60,000/- paid by the petitioner at the time of his son's admission. Stating that the 3rd respondent is illegally retaining his son's original certificates despite a request being made by the petitioner, the petitioner has approached this Court for issuing a direction and for repayment of a sum of Rs.50,000/-, allegedly paid by the petitioner towards admission fee.

3.The learned counsel for the 3rd respondent has filed a counter affidavit stating that the petitioner cannot seek for return or re-fund of the fee collected from the petitioner. It is further stated that the 3rd respondent is prepared to give all other original certificates to the petitioner, but would like to retain the Transfer Certificate for collecting the balance fee of Rs.60,000/- from the petitioner. The learned counsel also relied upon the judgment of the Hon'ble Apex Court in the case of Islamic Academy of Education and another Vs. State of Karnataka and others reported in 2003 6 SCC 697 and the relevant portion is extracted here under:

"8.It must be mentioned that during arguments it was pointed out to us that some educational institutions are collecting, in advance, the fees for the entire course i.e., for all the years. It was submitted that this was done because the institute was not sure whether the student would leave the institute midstream. It was submitted that if the student left the course in midstream, then for the remaining years the seat would lie vacant and the institute would suffer. In our view an educational institution can only charge prescribed fees for one semester/year. If an institution feels that any particular student may leave in midstream then, at the highest, it may require that student to give a bond/bank guarantee that the balance fees for the whole course would be received by the institute even if the student left in midstream. If any educational institution has collected fees in advance, only the fees of that semester/year can be used by the institution. The balance fees must be kept invested in fixed

deposits in a nationalised bank. As and when fees fall due for a semester/year only the fees falling due for that semester/year can be withdrawn by the institution. The rest must continue to remain deposited till such time that they fall due. At the end of the course, the interest earned on these deposits must be paid to the student from whom the fees were collected in advance."

The learned counsel therefore submitted that if the student left the course in midstream, the educational Institution can charge prescribed fee for one semester/year in advance and can get a bond/Bank guarantee to ensure collection of fees.

4. However, the learned counsel appearing for the petitioner relied upon the judgment of this Court in the case of S.Muthukamatchi vs. the Director of Technical Education, Anna University, Guindy, Chennai and others reported in 2013 (1) CTC 595, wherein, this Court has held that a student's certificate cannot be retained by the College, even if the College or Institution has monetary claim against the student. It is further stated that the certificates cannot be treated as Fixed Deposit receipt and the Institution cannot have any such claim, which is similar to Banker's claim for a general lien in terms of section 171 of the Contract Act.

5. No doubt, the 3rd respondent cannot retain the certificates in original submitted by the student at the time of getting admission. Irrespective of the fact that the student has to pay balance of fees, the College in order to enforce the monetary claim against the student, cannot retain the original certificates of the student. However, the Transfer Certificate is not the property of the student and hence, the 3rd respondent cannot be insisted to issue Transfer Certificate.

6. The learned counsel appearing for the 3rd respondent states that the fees payable by the student for the academic year 2017-2018 as per the Fee Fixation Committee is Rs.1,10,000/-. Though the petitioner has paid a sum of Rs.50,000/- at the time of admission, a sum of Rs.60,000/- still remains as balance and the 3rd respondent Institution is entitled to collect the balance of Rs.60,000/- which is payable by the student for the first year.

7. In view of the above facts, the Writ petition is allowed, directing the 3rd respondent to hand over all the original certificates forthwith as and when the petitioner or the student approaches the 3rd respondent for this purpose. However, the petitioner is not entitled to get refund of any money which he

has paid at the time of admission. The 3rd respondent is entitled to collect balance fee for the semester. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Director of Technical Education,
Anna University,
Guindy, Chennai.

2.The Vice Chancellor,
Anna University,
Guindy, Chennai.

+1cc to Mr.S.Thangasivan, Advocate, S.R.No.57542.
+1cc to M/s.GSK Law Firm, Advocate, S.R.No.57471.
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.58032.
+1cc to the Government Pleader, S.R.No.57923.

W.P No. 17152 of 2018
and W.M.P No.20416 of 2018

VG II

rrs 17/09/2018

सत्यमेव जयते
WEB COPY