

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.09.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.21827 of 2019

M.Muthukumar

.. Petitioner

/versus/

1. Anna University,
Represented by its Registrar,
Guindy,
Chennai 600 025.

2. The Principal,
SSN College of Engineering,
Old Mahabalipuram Road,
Kalavakkam,
Kanchipuram District 603 110.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to refund a sum of Rs.1,94,500/- (Rupees One Lakh Ninety Four Thousand Five Hundred only) being the amount paid by him towards the tuition fees and hostel fees.

For Petitioners: Mr. N. Kolandaivelu

For Respondent : Mr. M. Vijayakumar,
Standing Counsel for R1
Mr. K. Parthasarathy, for R2

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ORDER

The prayer in the writ petition is to issue a Writ of Mandamus directing the 2nd respondent to refund a sum of Rs.1,94,500/- (Rupees One Lakh Ninety Four Thousand Five Hundred only) being the amount paid by him towards the tuition fees and hostel fees.

2. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the

first respondent and the learned counsel appearing for the second respondent.

3. The petitioner herein joined in the second respondent-College to pursue his B.E. degree from the academic year 2018-2019. After joining the college, he paid the requisite fees including hostel fee, tuition fee and other fees demanded by the Institute. After few days, the petitioner has decided not to pursue the course so, he discontinued the study and sought for the return of certificates and fees paid by him. The petitioner was issued with Transfer Certificate and other Certificates on 14.08.2018. Regarding return of fees, the Management promised him to pay it back later, but except the caution deposit of Rs.12,500/-, rest of the money collected from him was not paid. He has issued a legal notice to the second respondent on 18.02.2019 through registered post demanding return of Rs.1,94,500/- being the amount remitted by him towards the hostel fee and other fee. Since there was no response to his representation, the petitioner has filed the present writ petition seeking Mandamus to direct the second respondent to return the money.

4. In the counter, the second respondent has stated that the petitioner under Lateral Entry System joined B.E. (Computer Science Course) on 12.07.2018 and paid tuition fee and other fee. Later, on 14.08.2018 he discontinued the course and got the certificate back along with the caution deposit of Rs.12,500/- paid by him.

5. As per the All India Council for Technical Education (in short "AICTE"), if a student leave the college after the last date of admission and the seat has not been filled up by any other student, only caution deposit to be refunded. In accordance with the AICTE Regulation, the caution deposit made by the petitioner was refunded. The other fees paid by the petitioner are non-refundable and catena of Judgments rendered by the Hon'ble Supreme Court and the High Courts mandates and clarified that except caution deposit, other fees collected by the Institute need not be refunded.

6. The learned counsel appearing for the second respondent has also relied upon the judgments which according to him in favour of his submissions that except caution deposit, other fee collected by the institute need not be refunded. The thrust of the arguments of the learned counsel appearing for the second respondent is that having joined the college and discontinued midway, the seat remains vacant throughout for the rest of the years and the infrastructure and other facilities provided by the college go un-utilised for which the petitioner is liable to pay. As per AICTE Regulation and the college norms, the caution deposit has been duly refunded to the petitioner

after retaining the other fee collected from him.

7. The above submissions made by the learned counsel appearing for the second respondent is partly sustainable but not in entirety. No doubt, the AICTE Regulation mandates the Institute to refund only the caution deposit, if the student leaves the college after the last date of admission and the seat has not been filled up by any other student, it does not mean that the other fee collected in anticipation of the utilisation of services need not be refunded.

8. From the receipts produced by the petitioner, this Court finds that on the date of admission i.e. 12.07.2018, the second respondent-Institute has collected money and issue two receipts one for Rs.55,000/- towards tuition fees and another for Rs.1,52,000/- with the following break up:

Particulars	Amount in Rs.
Fees for various special facilities including books, Record Books, Lab Coat, ID Card, WiFi, Digital Library fee etc.	57,000-00
College Caution Deposit	5,000-00
Hostel Admission Fees (Non-Refundable)	20,000-00
Hostel Rent	62,500-00
Hostel & Mess Caution Deposit	7,500-00
Total	1,52,000-00

9. The learned counsel appearing for the petitioner would submit that the college has refunded the caution deposit of Rs.5,000/- and hostel and mess caution deposit of Rs.7,500/-. The rest of the money collected from him were not refunded.

10. On going by the judgments referred by the petitioner as well as the respondents along with AICTE Regulation, this Court is of the opinion that the second respondent is entitled only to retain the tuition fee and other fee collected for providing special facilities including Books, Record Books, Lap Coat, ID Card, WiFi, Digital Library fee etc. which is Rs.57,000/- and the hostel admission fee Rs.20,000/- which is at the time of collecting itself, clearly mentioned that it is not refundable. But, the second respondent-College is not entitled to retain the hostel rent of Rs.62,500/- collected from the petitioner since no service nor facility been provided to the petitioner for this amount. This money which is retained

by the second respondent is bound to be returned to the petitioner.

11. Hence, the Writ Petition is disposed of with the direction to the second respondent to refund a sum of Rs.62,500/- collected from the petitioner towards Hostel Rent within 8 weeks from the receipt of the order copy. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. Anna University,
Represented by its Registrar,
Guindy,
Chennai 600 025.

2. The Principal,
SSN College of Engineering,
Old Mahabalipuram Road,
Kalavakkam,
Kanchipuram District 603 110.

+1cc to Mr.N.Kolandaivelu, Advocate SR.81058
+1cc to Mr.K.Parthasarathy, Advocate SR.80934
+1cc to Mr.M.Vijayakumar, Advocate, SR.80814

W.P.No.21827 of 2019

RK(CO)
CB(15/10/2019)

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