

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.24595 of 2019

K.Kavitha,
D/o.Kamaraj,
No.2/271, Nadutheru,
Madam Village, Pirithimangalam Post,
Kallakurichi Taluk,
Villupuram District.

... Petitioner

/versus/

1. The Vice-Chancellor,
Thiruvalluvar University,
Vellore District.

2. The Correspondent,
Bharathi Women's Arts & Science College,
Thachur,
Kallakurichi Taluk,
Villupuram District.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the 2nd respondent to return the petitioner's original certificates viz., transfer certificate, Semesters Mark statements (6), 12th Mark Statement and Provisional Certificate of U.G based on the petitioner's representation dated 31.07.2019.

For Petitioner : Mr.G.Balamanikandan

For R2 : Mrs.A.Rajeswari Karthikeyan

For R1 : No appearance

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the 2nd Respondent.

2. The petitioner herein has joined B.A - English U.G. Course in the 2nd respondent/College in the year 2015. On completion of her degree, she has joined Post Graduate course M.A - English in the very same college for the academic year 2018-2020. After one year of studies, on commencement of academic year 2019, the petitioner has applied for Law College and want to discontinue her M.A course in the 2nd respondent/College and sought for her educational certificates. It appears that the 3rd respondent has insisted on payment of the fees of Rs.11,000/- to get back the certificates.

3. The Learned Counsel appearing for the petitioner would rely upon the judgment of this Court rendered in S.Muthukamatchi Vs. The Director of Technical Education, Anna University, Chennai, reported in 2013 (1) CTC 595 submits that, the petitioner was forcibly admitted in the 2nd respondent/College and she has attended the classes only for six days in the I-year course and thereafter, she did not attend the College. Hence, the college is not entitled to claim any fees from the petitioner and more so for payment of fees, her certificates cannot be retained by the 2nd respondent, in the light of the judgment cited above.

4. Perusal of the said judgment indicates that, the learned Judge without entering into the controversy of payment of fees and non-payment of the same, has held that certificates are not like fixed deposit receipts on which, bank claims a general lien in terms of Section 171 of the Contract Act. Therefore, the Certificates cannot be retained at any rate. So, observing the Court has directed the Institute to return the Certificates deposited by the Petitioner.

5. As far as this case is concerned, the Education Certificate of the petitioner held by the 2nd respondent is not held as a deposit. Any Institute while admitting a candidate is suppose to receive the original certificates so that, the candidate do not peruse double courses elsewhere. Admittedly the petitioner has sought for Transfer Certificate only in the II-year though she says that she attended only six days in the I-year course. Having occupied a seat in the self finance College, in catena of judgments, this Court has held that the tuition fees alone is to be collected from the candidate, if the candidate venture to discontinue the course. Similarly, in this case also the 2nd respondent/Institute is entitled to ask the Tuition fees from the candidate. The petitioner herein cannot deny the Tuition Fees of Rs.10,175/- payable by her to the Institute. The tuition fees of Rs.10,175/- which the 2nd respondent herein claims from the petitioner. The tuition fees

which is a service rendered for the Education of the petitioner cannot be deprived or denied. Hence, the petitioner herein shall collect the Educational Certificate from the 2nd respondent/Institute on payment of Rs.10,175/-. The judgment cited by the petitioner herein does not apply to the present case in hand since the reasoning cited in that judgment is not relevant to the facts of the present case.

6. Accordingly, the Writ Petition is dismissed. No cost.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

bsm

To,

The Vice-Chancellor,
Thiruvalluvar University,
Vellore District.

+1cc to Mr.G.Balamanikandan, Advocate sr.94254

+1cc to Mrs.A.Rajeswari Karthikeyan, Advocate sr.94859

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