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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.33905 of 2018

and

W.M.P.Nos.39363, 39364, 39366 of 2018

and

Writ Petition No.3541 of 2019

and

W.M.P.No.3858 of 2019

McGan's Ooty School of Architechture

Represented by its Chair Person E.Sumathy

No.5/635, Perar Road,

Kotagiri-632 002,

The Nilgiris-Tamil nadu.

.. Petitioner in

W.P.No.33905 of 2018

All India Private Educational Institutions

Association Represented by its State

General Secretary K.Palaniyappan,

No.5, M.P. Avenue,

Magestic Colony,

Saligramam,

Chennai.

.. Petitioner in

W.P.No.3541 of 2019

/versus/

1.The Registrar,

Anna University,

Anna University Campus,

Sardar Patel Road,

Guindy, Chennai 600 025.

2.The Member Secretary,

All India Council for Technical Education,

Nelson Mandala Marg,

Vasanth kunj,

New Delhi 110 070.

(R2 suo motu impleaded vide order dated

05/04/2019 made in W.P.No.33905/18 & 3541/2019

.. Respondents in

both W.P.s

Prayer in W.P.No.33905 of 2019:

Writ Petition filed under

Article 226 of the Constitution of India praying to issue a Writ



of Certiorari to call for the records of the respondent's impugned letter dated 04.12.2018 in Letter No.380/CAI/AU/2018 and quash the same in so far as the petitioner institution is concerned.

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Prayer in W.P.No.3541 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent's impugned letter dated 04.12.2018 in Letter No.380/CAI/AU/2018 and quash the same in so far as the petitioner Associated Institutions are concern.

W.P.No.33905 of 2018:

For Petitioner:Mr.R.Gopinath

For Respondents:Mr.Kumar, AAG Asst.by
Mr.L.P.Shanmughasundaram, St.C

W.P.No.3541 of 2019:

For Petitioner :Mr.K.M.Vijayan for
Mr.E.Vijay Anand

For Respondents :Mr.A.Kumar, AAG Asst.by
Mr.M. Vijayakumar

COMMON ORDER

The petitioners are representatives of the Engineering Colleges affiliated under the Anna University. Aggrieved by the communication of the Anna University dated 04.12.2018, directing them to return all the original certificates of the faculty members immediately after verification and not to hold back the original certificates of the faculty members, they are before this Court.

2. According to the petitioners, once the faculty members join their Institutions, they are supposed to hand over all the original Educational Certificates. So that, the Institutions will be able to produce the same whenever the appropriate authority come for inspection. Further more, if the originals are returned immediately after verification, to them, while they are in service, they are possibility for misusing of the original certificates by getting employment elsewhere and suppressing that fact they will be continuing in the roles of the concern Institutions. Hence, they must be permitted to hold back the original certificates of the faculty members, till they are under their employment.

3.However, the learned Additional Advocate General appearing for the Anna University would submit that the



Registrar of Anna University issued a communication dated 04.12.2018, in view of the order passed by this Court in W.P.32757 of 2013 and pursuant to the instructions of the All India Council of Technical Education.

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4. The issue involved in this case is that whenever the faculty members join in the Education Institution, they are supposed to give their original Educational Certificates and till they are in employment under the said Education Institution, the Institution hold back their original certificates. At that time, when the faculty member wants to quit their job and join elsewhere, some of the Institutions refuse to give the original certificates for various reasons. One of the reasons stated by the petitioners is that a faculty member, who joins at the beginning of the academic year, suddenly quits the job in the middle of the academic year causing inconvenience to the Management as well as the Students. So in order to avoid such embarrassment to the Management as well as the Students, they withhold the original certificates of the faculty member. However, when this issue was brought to the notice of the All India Council for Technical Education/approval authority, All India Council for Technical Education has issued a public notice as under:

"AICTE has been receiving a number of complaints against the Institutions for withholding/retaining the original education qualification certificates of faculty/non-teaching staff members resigning/leaving from employment. As per guidelines Institutions are not allowed to retain the original certificates. Any violation in this regard shall attract strict punitive action including "withdrawal of Approval".

Members of faculty/non-teaching staff of technical Institution are also advised to give at least one month's notice while leaving the job in mid-session keeping in view the academic interest of students."

5. Taking cue from the said public notice of the All India Council for Technical Education, the Anna University, vide its communication dated 04.12.2018, has issued the following directions to all the Institutions.

"In this regard, the Chairman and the Principal should ensure that all the Original Certificates of the faculty members are returned to them immediately, after relevant



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verification. The Chairman and the Principal should not hold back the Original Certificates of faculty members working in their colleges. Hon'ble Court has issued directions to the University (Order dated 11.04.2014) in W.P.No.32757 of 2013 stating that University should take serious view of this issue. Hence, any deviation or non-cooperation will be viewed seriously by the University. A reply in this regard should be sent to the University as per the format enclosed on or prior to 17.12.2018 without fail.

6. On a comparative reading of the public notice issued by the All India Council for Technical Education and the Anna University, this Court finds that while the All India Council for Technical Education notification is regarding retention of original Certificates of faculty members, who resign their job from the concerned Education Institutions, the communication of Anna University, which is impugned in these writ petitions covers even the faculty, members who are in service.

7. The learned counsel appearing for the All India Council for Technical Education would circulate the recent communication of the All India Council for Technical Education dated 29.03.2019 regarding withholding the retention of original certificates of faculty members by the employer in their Institution. Here again, All India Council for Technical Education has issued direction not to retain original educational qualification certificates of faculty members of teaching/non-teaching staffs, who are resigning or leaving from the employment. It does not include teaching/non-teaching staffs, who are in service with the Educational Institution. While the communication of the Anna University reflects its intention to safeguard and protect the interest of the faculty members teaching/non-teaching staffs, who want to take up a better job of their choice, is well justified, the restriction or direction to return the original educational certificates in cases of the staff, who are in contract and in service with the Educational Institution, may not be conducive to the interest of the Management as well as the Students.

8. In such circumstances, the impugned communication of the Anna University dated 04.12.2018 is quashed partially. The Registrar of the Anna University is directed to issue proper notification regarding retention of original certificate of faculty members of teaching/non-teaching staffs on par with the communication of All India Council for Technical Education.



9. This Court hasten to add that, this order shall not be a permission to the Institutions to retain the original certificates of the teaching/non teaching staff, who intent to resign from their Institutions during the middle of the academic year. For no reason the Institutions should retain the original certificates of faculty members of teaching/non-teaching staff, who place their resignation letter to the Institution, subject to the condition noted by the letter of the All India Council for Technical Education dated 29th Mary 2018.

10. In the light of the above facts, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS-III)

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Sub-Assistant Registrar

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To

1.The Registrar,
Anna University,
Anna University Campus,
Sardar Patel Road,
Guindy, Chennai 600 025.

2.The Member Secretary,
All India Council for Technical Education,
Nelson Mandala Marg,
Vasanth kunj,
New Delhi 110 070.

+1 CC to Mr.R.Gopinath, Advocate sr 59565.
+1 CC to Mr.E.Vijay Anand, Advocate sr 59477
+1 CC to Mr.L.P.Shanmughasundaram, Advocate sr 60535
+1 CC to Spl. Govt. Pleader(Co Op) sr 60207
+1 CC to Mr.M. Vijayakumar, Advocate sr 59536.

W.P.No.33905/2018

and

W.M.P.Nos.39363, 39364

39366/2018 and

W.P.No.3541/2019

and

W.M.P.No.3858/2019

PM(CO)
SP(16/08/2019)