



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.05.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.12109 of 2019

WEB COPY

Kunasekaran

.. Petitioner

Vs.

1.The Registrar,
Anna University,
Chennai - 600 025.

2.The Principal,
Chettinad College of Engineering and Technology,
NH-67, Karur-Trichy Highways,
Puliyur CF,
Karur - 639 114.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to direct the 2nd respondent to return all the original certificates (community certificate, Transfer Certificate, SSLC Mark Sheet and HSSC Mark Sheet) of the Writ Petitioner and repay the admission fee of Rs.10,000/- to petitioner's son K. Shiyam Sundar received by the 2nd respondent, within the time stipulated by this Court.

For Petitioner : M/s. George Stephen Kanikkairaj

For Respondents : Mr. Rajarajan
Government Advocate

ORDER

This writ petition has been filed by the petitioner seeking for a direction to the 1st respondent to direct the 2nd respondent to return all the original certificates ie., Community Certificate, Transfer Certificate, SSLC Mark Sheet and HSSC Mark Sheet, of the petitioner's son K. Shiyam Sundar and repay the admission fee of Rs.10,000/- received by the 2nd respondent to the petitioner, within the time stipulated by this Court.

2. Mr.M.Rajarajan, learned Government Advocate takes notices for the first respondent. Considering the order to be passed in this petition, notice to the 2nd is dispensed with.

<https://hcservices.ecourts.gov.in/hcservices/>

3. By consent of both the parties, this writ petition is

taken up for final hearing at the stage of admission itself.

4. The petitioner's son joined in the second respondent College for the course of B.E. (ECE) during the academic year 2018 - 2019 and attended classes from 01.07.2018 to 31.12.2018. Thereafter, he discontinued his studies stating that he is unable to get education loan. After discontinuing his studies, he requested the 2nd respondent to return of original certificates viz., Community Certificate, Transfer Certificate, SSLC Mark Sheet and HSSC Mark Sheet and to repay the admission fee of Rs.10,000/-. Since the same has not been returned, the petitioner is before this Court.

5. The learned counsel for the petitioner, referring to the public notice issued by the All India Council for Technical Education (AICTE), submitted that the second respondent has no authority to retain the certificates produced by the petitioner's son at the time of admission. In support of the claim made by the petitioner, the learned counsel placed reliance on the decision of this Court in S.Muthukamatchi v. The Director of Technical Education, Anna University [2013 (1) CTC 595], wherein, this Court held that the original certificates of the candidate cannot be retained by the institution as if it is a fixed deposit receipt on which the banks claim general lien in terms of Section 171 of the Contract Act. He would further submit that the petitioner's son is willing to join in any one of the Arts and Science Colleges in the academic year 2019-20 and if the original certificates are not returned as early as possible, his son would not be in a position to join thje Arts College and his son education will be affected. Thus, he prayed for a direction to the second respondent to return the original certificate to the petitioner.

6. The learned counsel for the first respondent fairly submitted that as per the public notice issued by the AICTE, the second respondent college cannot retain the original certificates. However, he would submit that in the event of the petitioner being permitted to leave the college, the vacancy caused cannot be filled up till the duration of the entire course and since the second respondent college is a self-financing college, run on the fees collected from the students, it would be difficult for the 2nd respondent to run the College.

7. Heard the learned counsel for the petitioner as well as the learned counsel for the first respondent.

8. Admittedly, the petitioner' son joined the second respondent college in B.E. (ECE) for the academic year 2018-19 and attended the classes from 01.07.2018 to 31.12.2018. Due to some reasons, he did not continue his course in the second respondent college and sought to return the original certificates produced by him at the time of admission. It is the specific case of the



petitioner that the second respondent college has no authority to retain the certificates produced by the her son at the time of admission, by demanding the course fee.

9. In the decision in **S.Muthukamatchi case** (cited supra), relied on by the petitioner, this Court, under similar circumstances, allowed the writ petition, directing the respondents therein to return all the original certificates deposited by the petitioner therein forthwith. While doing so, this Court held as follows:

"The certificates of the petitioner's daughter represent her property. They cannot be retained by the college at any rate. Even if the college has any monetary claim, the rejection of the said certificates is not the method by which, the claim can be enforced. There is no lien on the certificates of the petitioner's daughter."

10. From the above decision, it is clear that the second respondent cannot retain the certificates in original submitted by the student i.e, the petitioner's son at the time of getting admission. The College, in order to enforce the monetary claim against the student, cannot retain the original certificates of the student. Even if there is any fee to be paid by the petitioner, it can be recovered by the second respondent by instituting appropriate proceedings. The return of certificates has nothing to do with the payment of balance of fee. In this case, though the petitioner has stated that he has paid a sum of Rs.10,000/- as admission fee, he does not say anything about payment of semester fee. Further, he himself admitted that his son attended classes from 01.07.2018 to 31.12.2018. Therefore, this Court is not inclined to issue any direction about refund of admission fee.

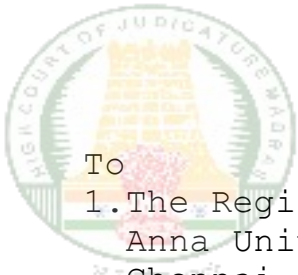
11. In view of the above, the respondents are directed to return all the original certificates ie., Community Certificate, Transfer Certificate, SSLC Mark Sheet and HSSC Mark Sheet, of the petitioner's son K. Shiyam Sundar within a period of one week from the date of receipt of a copy of this order.

12. With the above direction, this Writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar ()

// True Copy //



To
1.The Registrar,
Anna University,
Chennai - 600 025.

WEB COPY

2.The Principal,
Chettinad College of Engineering and Technology,
NH-67, Karur-Trichy Highways,
Puliyur CF,
Karur - 639 114

+1 CC to M/s.A.GEORGE STEPHEN, Advocate (SR-65880[F] dated
16/05/2019)

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-65878[F] dated
16/05/2019)

trp/vsd

W.P (MD) No.12109 of 2019
15.05.2019

KM/(28.05.2019) 4P 5C