

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HONOURABLE THIRU JUSTICE B.PUGALENDHI

W.P.No.2493 of 2021

R.Rishikanth

... Petitioner

Vs.

1.Sri Ramachandra Institue of Higher Education
& Research (Deemed to be University)
Rep by its Registrar,
No.1, Ramachandra Nagar,
Porur, Chennai - 600 116.

2.The Dean,
Sri Ramachandra Medical College & Research Institute,
No.1, Ramachandra Nagar, Porur,
Chennai - 600 116.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 & 2 to issue a Transfer Certificate to the petitioner as M.B.B.S 1st year discontinued from the Sri Ramachandra Medical College & Research Centre in the year 2019-2020.

For Petitioner : Mr.Srinivas,
for Mythilisrinivas

For Respondents : Mr.Abishek Jenasenan
Standing Counsel

ORDER

The petitioner who was admitted in the respondent Medical College and Research Institution is now facing a criminal case registered by the CBCID, Theni in Cr.No.1 of 2019. The Principal of the Theni Government Medical College has raised certain doubt with regard to the admission of a student in their medical college. A case in Cr.No.1 of 2019 was registered by the CBCID on 25.09.2019 as against one Udit Surya for the offences punishable under Section 419 and 420 of IPC with an allegation of impersonation and fraud in writing NEET Examinations. Some of the candidates who appeared for the NEET Examination from this State have appeared in the Uttar Pradesh and cleared NEET

Examination by impersonation and since this petitioner has also appeared for the NEET Examination from Uttar Pradesh, the Police is enquiring the case of the petitioner also.

2.Apprehending arrest, the petitioner filed an Anticipatory Bail Application before the Madurai Bench of Madras High Court in CrI.O.P.(MD).No.15651 of 2019 and the same was allowed on 29.11.2019 with certain conditions. In view of the criminal case registered as against this petitioner, though the investigation is pending the respondents did not permit the petitioner to pursue his M.B.B.S. Degree Course from their college.

3.The petitioner has requested to return his certificates to pursue his studies elsewhere. It was reported that some of the documents have been taken over by the Investigation agency for the case of their investigation and therefore the petitioner has filed a Criminal Original Petition before the Madurai Bench of Madras High Court in CrI.O.P.No.8756 of 2020 and this Court has also allowed the same by recording that keeping the documents in the custody of the Court will no way be helpful to complete the investigation and directed the concerned Magistrate to return the certificates of the petitioner after substituting with a photocopy of the same in the case records.

4.Thereafter the petitioner has applied for issuance of his Transfer Certificate with a representation on 16.09.2020 and another representation on 12.10.2020. The second respondent refused to return his original Transfer Certificate by referring to the Criminal Case pending against the petitioner in Cr.No.1 of 2019 on the file of the Theni Police Station and therefore, the petitioner has approached this Court.

5.Mr.Srinivas, learned counsel for the petitioner would submit that the petitioner has not committed any sin and merely because an FIR has been registered and pending investigation the petitioner cannot be deprived from pursuing his education and the respondent institution must either admit the petitioner to pursue his studies or atleast to return his original Transfer Certificate or a Transfer Certificate of the Institution to pursue his studies elsewhere. He also relied upon the e-mails sent by the petitioner's father with regard to the corrections in the admit card of NEET Examination and claim that the petitioner can establish his innocence during the investigation. But if the petitioner is not allowed to pursue his studies, the petitioner will be losing one year of his valid academic career.

6.Mr.Abhisekh Jenasanen, learned Standing counsel for the respondents would submit that the petitioner herein was admitted into the I year MBBS degree course in the respondent Institution on allotment by the Medical Counseling Committee of the

Directorate General of Health Services, New Delhi, (MCC of DGHS) in August, 2019 based on his rank in National Eligibility cum Entrance Test (NEET). Prior to commencement of the counseling process, the information regarding annual tuition fee charged by the Medical Colleges/Universities, bond conditions etc., are uploaded on the website of the Medical Counseling Committee for the knowledge of all interested candidates and parents. It was clearly mentioned on the website of the MCC (Under Annexure - D - Institution Information) during the counseling process for the academic year 2019-20, that the Fee charged by the respondent University is Rs.22,00,000/- per annum for the MBBS course and if any, in case if any candidate resigns after final round of counseling, the first year fee will be forfeited and the student will have to remit the entire course fee for the remaining 4 years also.

7.He would further submit that after admission of candidates allotted to the MBBS Course offered by the respondent University for the Academic year 2019-20, classes for the I year MBBS Course were started on 03.08.2019 and the petitioner attended classes from 16.08.2019. Subsequently, the issue of some candidates obtaining admission fraudulently in MBBS course through impersonation in the NEET exam came to light. According to the instructions given by the MCC of DGHS, in its letter dated 01.10.2019, the respondent University conducted a verification of its records pertaining to the students admitted to I year MBBS and photo mismatch was found with respect to the petitioner herein, i.e., the photo on the NEET admit card did not match with the photo of the petitioner pasted on the Application for admission to MBBS course. Immediately, the said fact was communicated to the MCC of DGHS on 11.10.2019 and also to the CBCID, Tamil Nadu (on 12.10.2019) which is investigating the NEET examination impersonation scam.

8.The learned counsel for the respondent would submit that as per the Rules of the University, the petitioner has to pay a sum of Rs.88,00,000/- as the Fee for the remaining years of the MBBS Course as discontinuation fee.

9.This Court paid its anxious consideration to the rival submissions made and also perused the materials available on record.

10.The case of the petitioner is that the respondent University is not permitting the petitioner to pursue his studies, though he was admitted in the college for the MBBS Course for the academic year 2019-20 and has also paid the required fee of Rs.22,00,000/- to the respondent University. But the stand of the University is that on receipt of the communication from the MCC of DGHS, the respondent University

has verified all the students who are admitted in their institutions and formed some doubt over the petitioner and referred the same to the Investigation Agency. The Investigation Agency is also enquiring with the case of the petitioner in Cr.No.1 of 2019 which was registered pursuant to a case registered in the Theni District. The Investigation is yet to be over. The respondent University has referred the name of the petitioner on certain mismatch of the photographs on the NEET admit card. It is also the case of the petitioner that there was a mismatch on the petitioner ID Card which was also communicated to the concerned Officials directly and even by way of e-mail.

11.The learned counsel for the respondent has relied upon the general Rules from Clause 7 from their prospectus which reads as follows;

"RULES FOR DISCONTINUANCE FROM COURSE OF STUDY

i)Where any student applies for discontinuance, or without any application discontinues on his/her own, from the course to which he/she has been admitted, for any reason, at any stage, either after the cut-off date prescribed by the statutory authorities for admission to the first year of the course concerned or where the seat is rendered vacant without having any chance of being filled up with any other candidate, such students will have to remit the tuition fee and other applicable fees for the 'entire/remaining course period'. Unless and until payment of all the prescribed fees for the entire/remaining period is made to the Deemed to be University account, such student shall not be entitled to any certificate including transfer certificate, mark sheets etc. to be issued by the Deemed to be University and to get back of his/her original certificate deposited with the Deemed to be University at the time of admission.

ii) All students and parent will be required to furnish a declaration agreeing to the above said conditions at the time of admission."

12.As required in the prospectus, the petitioner and his parents have also furnished a declaration in the prescribed format to the respondent institute on 03.07.2019. As per the law laid down by the Courts, the petitioner is bound by the prospectus and the undertaking affidavit and the respondent institute are also prevented from admitting any students after prescribed cut off date and therefore the respondent University is losing one seat in that batch.

13.In this case, the petitioner has not opted to discontinue the course it is infact the respondent/University is not

permitting the petitioner to pursue his studies in their institute, considering the grave allegations contemplated as against this petitioner. Therefore, the respondents are not justified in demanding the entire sum of Rs.88,00,000/- as the discontinuation fees for returning the certificates from the petitioner. The petitioner has already paid a sum of Rs.22,00,000/- for the first year course. As per the calculation of the respondent University he is due to pay a sum of Rs.88,00,000/- as the required fees for the remaining period. Considering the peculiar circumstances of the case that this petitioner has not opted for discontinuation and it is only the institution is not permitting the petitioner to pursue. However, the petitioner is also facing grave allegations, this Court disposes of this Writ Petition with a direction to the petitioner to pay 50% of the amount of Rs.88,00,000/- which is claimed as discontinuance fees by the respondent institution. On such payment of 50% of the amount, the respondent shall return the certificates of the petitioner and issue the Transfer Certificate to the petitioner to enable him to pursue his studies elsewhere.

14. Accordingly, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Registrar,
Sri Ramachandra Institute of Higher Education
& Research (Deemed to be University)
No.1, Ramachandra Nagar,
Porur, Chennai - 600 116.
2. The Dean,
Sri Ramachandra Medical College & Research Institute,
No.1, Ramachandra Nagar, Porur,
Chennai - 600 116.

+2cc to Mr.Abishek, Advocate SR.NO..14286

AKM/08.04.21/ 5P-5C/

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