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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.6221 of 2021

G.Karthikvasan

... Petitioner

Vs

1. The Vice - Chancellor,
Pondicherry University,
Chinna Kalapet,
Kalapet, Puducherry - 605 014.

2. The Registrar,
Pondicherry University,
Chinna Kalapet,
Kalapet, Puducherry - 605 014.

3. The Dean,
Pandit Jawaharlal Nehru College of
Agriculture and Research Institute,
Karaikal - 609 603,
U.T. of Puducherry.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent to return the petitioner's original certificates forthwith by considering his representation dated 27.02.2021.

For Petitioner : Mr.M.Pitchai Muthu

For Respondents : Mr.M.Ravi GA (Pondy)

ORDER

This writ petition has been filed for a direction to the third respondent to consider the petitioner's representation dated 27.02.2021 requesting to return his original certificates forthwith.

2. According to the Petitioner, his father is doing agricultural work. After completion of higher secondary course, he got admission in B.Sc. Agri (Hon) for the academic year 2019 - 2020 at the third respondent College. He paid a sum of



Rs.80,000/- towards 1st semester fees and Rs.18,175/- as caution deposit and establishment charges. At the time of admission, the third respondent received all the original certificates of the petitioner and kept in their custody. During the 1st semester period, due to ill health of his father, the family of the petitioner underwent severe financial crisis, due to which, he could not able to pursue his studies. He applied for the recruitment to the post of Gr.II Police Constable and successfully completed the same, as a result of which, he was called for certificate verification. Hence, the petitioner approached the third respondent and requested his original certificates handed over to them at the time of admission, but the third respondent refused to return the same, for want of payment of the entire 4 years semesters fee. He made a detailed representation on 27.02.2021 requesting to return his original certificates, which was not considered till date. Hence, this Writ Petition.

3. The learned counsel for the petitioner submitted that in an identical case in WP.No.29359 of 2017, this Court by order dated 24.01.2018, considered the issue involved herein and ultimately allowed the writ petition directing the respondent College to issue all the original certificates withheld by them, to the petitioner therein, forthwith. For better appreciation, the relevant passage of the said order is extracted hereunder:

"7.Concededly, the petitioner joined the fourth respondent college in B.E. Computer Science under the Government quota for the academic year 2017-18 and attended the classes from 21.08.2017 to 19.09.2017. Due to some reasons, he did not continue his course in the fourth respondent college and sought to return the original certificates produced by him at the time of admission. Though the fourth respondent returned 10th and 12th mark sheets and community certificate to the petitioner, they retained the transfer certificate and insisted the petitioner to pay the entire course fee for return of the same.

8.It is the specific plea of the petitioner that the fourth respondent college has no authority to retain the certificates produced by the petitioner at the time of admission, by demanding the entire course fee, whereas, it is the stand of the fourth respondent that due to discontinuance of the course by the petitioner in midway, the college would incur loss by his seat remaining vacant during the remaining period of the course and hence, they insisted the petitioner to pay the entire course fee for return of the transfer certificate. In support of their claim, the fourth respondent relied on the decision of the Supreme Court



in Islamic Academy of Education v. State of Karnataka (2003) 6 SCC 697 (cited supra).

9. On a perusal of the records, it could be seen that in response to the petitioner's letter dated 04.11.2017, the AICTE has sent a communication dated 21.11.2017 to the fourth respondent college, wherein, it has been clearly indicated that as per the public notice dated 25.08.2017, it would not be permissible for institute to retain original certificates and demand fee for the subsequent years from the students cancelling their admission at any point of time.

10. Further, in the decision in S. Muthukamatchi v. the Director of Technical Education, Anna University, 2013 (1) CTC 595 (cited supra), relied on by the petitioner, this Court, under similar circumstances, allowed the writ petition, directing the fourth respondent 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".

11. This Court is of the opinion that the fourth respondent college cannot trace any sustenance from the decision of the Supreme Court to withhold the transfer certificate on the ground that the entire course fee was not paid by the petitioner. In Islamic Academy case, it was stated that an educational institution can only charge prescribed fees for one semester/year and if an institution feels that any student may leave in midstream then, at the highest, it may require that student to give a bond/bank guarantee that the balance fees for the whole course would be received by the institute even if the student left in midstream, whereas, in the present case, there is no such bond/bank guarantee executed by the petitioner. Therefore, the fourth respondent college cannot derive any benefit from the ratio laid down therein.

12. In such view of the matter, this Court holds that the fourth respondent college has no right to retain the original certificates of the petitioner and



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they cannot demand the fee, for which, the petitioner did not study. Keeping the original certificates and insisting for payment of dues would amount to a sort of unfair trade practise and also deficiency in service. Even if there is any fee to be paid by the petitioner, it can be recovered by the fourth respondent by instituting appropriate proceedings. The return of certificates has nothing to do with the payment of balance of fee.

13. In the result, this writ petition is allowed by directing the fourth respondent college to issue the transfer certificate and other original certificates, if any, withheld by them forthwith. No costs."

Hence, the learned counsel sought for similar order in this writ petition as well.

4. The learned Government Advocate (Puducherry) taking notice for the respondents fairly conceded the submissions so made by the learned counsel for the petitioner.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the earlier order of this Court dated 24.01.2018 in WP.No.29359 of 2017 (cited supra), which holds good to the facts of the present case, this Court directs the third respondent to consider the petitioner's representation dated 27.02.2021 and return all the original certificates withheld by them to the petitioner forthwith. However, it is open to the third respondent to recover the balance fee payable by the petitioner, if any, in the manner known to law.

6. Accordingly, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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Chinna Kalapet,
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