

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

W.P.No.19276 of 2020

A. Priyanka

... Petitioner

..Vs..

1. The Dean
Saveetha Medical College,
Saveetha Nagar,
Thandalam, Chennai 602 105.

2. The Inspector of Police
CBCID (South)
Theni District.

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in Ref.No.SMC/DEAN/2020/2463 dated 05.10.2020 rejecting the petitioner's representation dated 17.09.2020 requesting to return the original certificates (i) 12th marks sheet (ii) community certificate and (iii) transfer certificate and quash the same, consequently direct both the respondents herein to return the above original certificates.

For Petitioner : Mr.S.Sathiaseelan

For Respondents: Mr.S.Saravanan for R1
No appearance for R2

ORDER

The petitioner joined the MBBS Course in the first respondent Medical College on 22.07.2019 and now facing an allegation that she has passed NEET examination by impersonation. Based on this allegation of impersonation, the second respondent police registered a case against the petitioner in Crime No.1 of 2019 and the same is pending investigation. At the time of admission in the first respondent medical college, the petitioner submitted all her original certificates, namely 12th standard mark sheet, community

certificate and 12th standard T.C. etc., to the first respondent and those documents are now in the custody of the respondents 1 & 2. Based on the said allegation, the admission of the petitioner to the MBBS course has been cancelled by the first respondent. However, the original certificates were not returned to the petitioner. Therefore, the petitioner made a representation on 17.09.2020, to the first respondent medical college to return the original certificates by referring to the similar orders passed by this Court. But, the first respondent rejected the representation of the petitioner to return the original certificate on the ground that the criminal case is pending against her and that there is no direction from the competent Court. As against this communication dated 05.10.2020, the petitioner has filed this writ petition.

2. Mr.S.Saravanan, learned counsel for the first respondent submitted that in the course of investigation in Crime No.1 of 2019, the second respondent has collected certain documents pertaining to the petitioner's admission and in so far as the community certificate, conduct certificate, 10th, 11th and 12th mark sheets, Transfer certificate are concerned those certificates are under the custody of the first respondent. It is further stated that the second respondent police has instructed the first respondent not to part with any of these documents to the petitioner till the investigation in crime No.1 of 2019 is completed and that only based on the no due certificate issued by the concerned department, the original certificates lying with the first respondent would be returned to the writ petitioner.

3. Though the Government Advocate has taken notice for the second respondent there is no representation for the second respondent when the matter is taken up for hearing.

4. This Court paid its anxious consideration to the rival submission made and perused the materials produced before this Court.

5. On a similar circumstances this Court in W.P.No.8588 of 2020 dated 18.09.2020 passed the order as follows:-

" 7. A careful perusal of the written instructions received by the Special Government Pleader reveals the fact that totally ten documents pertaining to the petitioner has been seized in the course of investigation. The petitioner is not asking for the return of any of those documents. According to the petitioner, the original 10th and 12th standard mark sheets remains with the first respondent College and the same

should be returned to the petitioner. Admittedly these documents were not seized by the third respondent in the course of the investigation.

8. In the case of another co-accused from whom even the 10th and 12th standard mark sheet were seized by third respondent Police, this Court passed an order dated 07.09.2020 directing to return those documents to the concerned accused person.

9. Taking into consideration the facts and circumstances of the case and also of the fact that the relevant documents were released insofar as the co-accused is concerned, there shall be a direction to the first respondent College to handover the original 10th and 12th standard mark sheets to the petitioner. The petitioner shall give a sworn affidavit before the first respondent college to the effect that the original mark sheets will be produced as and when required by the third respondent Police during the course of investigation. The first respondent shall handover the certificates after receiving this affidavit. The first respondent college shall thereafter handover this affidavit to the third respondent".

6. Admittedly, in this case also, the school certificates, namely mark sheets and school transfer certificate are very much available with the first respondent and the second respondent police has not seized those certificates in connection with the investigation pending in Crime No.1 of 2019. Mr.S.Saravanan, learned counsel for the first respondent College has also taken a specific stand that there is no other impediment to the first respondent in returning the certificates to the petitioner other than the investigation pending against the petitioner in Crime No.1 of 2019. The investigation agency has recovered some documents and has left remaining school certificates with the first respondent college, as those documents were not required for further course of investigation and the same can be returned after substituting the same with xerox copies. Insofar as those documents are concerned, the respondent University shall return the certificates to the petitioner, within a period of two weeks from the date of receipt of a copy of the order. Insofar as the documents which have been seized by the investigation agency, the same shall be produced before the concerned Judicial Magistrate Court. The petitioner is at liberty to file necessary application for return of those certificates and the concerned Judicial Magistrate shall pass orders on that application for substituting the xerox copies in the place of original

certificates, after obtaining undertaking from the petitioner for producing those certificates for trial as and when required by the trial Court.

7. With the above observation the writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dpq
To

1. The Dean,
Saveetha Medical College,
Saveetha Nagar,
Thandalam, Chennai 602 105.

2. The Inspector of Police,
CBCID (South)
Theni District.

+1cc to Mr.S.Saravanan, Advocate Sr.9046

+1cc to M/s.S.Sathiaseelan, Advocate Sr.9115

W.P.No.19276 of 2020

pa[co]
srg 16/03/2021

सत्यमेव जयते
WEB COPY