



W.P.No.29342 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.29342 of 2022

S.S.Shrivarshini

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Department,
Secretariat, Chennai – 600 009.
- 2.Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai – 600010.
- 3.Karpaga Vinayaga Institute of Medical Sciences,
Represented by the Chairman,
GST Road, Chinna Kolambakkam,
Palayanoor (PO), Chengalpattu,
Madhurandhagam.
- 4.Sri Lakshmi Narayana Institute of Medical Sciences,
Rep. By the Dean, WPQP Plus 7CJ,
Osudu Agaram Village,
Villianur Commune Kudapakkam Post,
Puducherry – 605502.



W.P.No.29342 of 2022

5. Medical Counselling Committee,
Rep. By Secretary, Directorate General of Health Sciences,
Ministry of Health and Family Welfare,
Government of India, Nirmal Bhawan,
New Delhi 110 011.
(R4 & R5 impleaded vide order dt. 23.11.2022 made
in WMP.30863/2022 in WP.29342/2022 by RSKJ)
..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus, directing the 2nd respondent to direct the 3rd respondent to return the original certificates of the petitioner submitted at the time of admission to the 3rd respondent College and refund the advance fees paid by the petitioner to the 3rd respondent at the time of admission forthwith.

For Petitioner : Mr.E.Manoharan

For Respondents : Mr.T.Seenivasan

Special Government Pleader for R1 & R2

Mr.S.Udayakumar for R3

Ms.Shubaranjani Ananth for R5

ORDER

The prayer in the Writ Petition reads as follows:-

directing the 2nd respondent to direct the 3rd respondent to return the original certificates of the petitioner submitted at the time of admission to the 3rd respondent College and refund



W.P.No.29342 of 2022

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the advance fees paid by the petitioner to the 3rd respondent at the time of admission forthwith.

2.Unfortunately, the petitioner, who joined the Under Graduation course in medicine with the 3rd respondent College for the Academic year 2021-2022 was forced to discontinue due to ill health of her father. She however, appeared for the NEET in the academic year 2022-2023 and was successful and she was able to secure a seat in the management quota available in another private college. When the petitioner sought for return of the original certificates, the 3rd respondent College took a stand that unless she pays the entire course fee, she would not be entitled to return of the certificates. The question as to the right of the institution to retain the certificates of the candidates has a lean over payment of the balance fee is no longer res-integra.

3.This Court has taken a consistent view that certificates of students are not commodities to be retained, in lieu of the fees. In fact, in **S.Muthukamatchi Vs. Director of Technical Education** reported in **2013 (1) CTC 595**, it was pointed out that certificates are the property of the



W.P.No.29342 of 2022

student and they cannot be retained by the College. If the College has got a monetary claim with holding certificate is not a method, in which, a claim can be enforced. In paragraph 4 of the judgment, it was observed as follows:-

“4.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 lean on the Certificates of the Petitioner's daughter.”

This pronouncement was followed in **Dr.M.Balamurugan Vs. Director of Medical Education** reported in **2019 SCC Online Mad 23447**.

4.Recently, i.e., on 03.11.2022, this Court had reiterated the same view. Hon'ble Mr.Justice R.Sureshkumar, who had authored the judgment has held as follows:-

“8.It is a settled legal position by a number of decisions of law Courts including the highest Court of this land, that the certificates denoting the educational qualifications or experience of a citizen of this country are



W.P.No.29342 of 2022

concerned, it is not a commodity and as against those certificates no one including any authority or institution can make a demand and cannot insist that only upon fulfilling the demand only, the certificates would be released. If at all, any amount is to be recovered for the studies already undergone by the student, that amount can be recovered by initiating proper legal proceedings and against such alleged fee or amount, the original certificates cannot be retained by the institution concerned.

9.In that view of the matter, this Court has no hesitation to hold that the third respondent cannot retain the original certificates of the petitioner and therefore, that shall be returned to the petitioner. In so far as the plea of payment of a sum of Rs.5,00,000/- is concerned, it is open to the third respondent institution to recover the same, if it is otherwise legally entitled to, in the manner known to law.”

5.I do not see any reason to take a different view though Mr.S.Udayakumar, learned counsel for the 3rd respondent relied upon a Division Bench judgment of the Karnataka High Court wherein, a right of the College to demand fee for the entire course was reiterated.



W.P.No.29342 of 2022

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6.In view of the above settled legal position and the consistent view taken by this Court, this Writ Petition will stand allowed, there will be a direction to the 3rd respondent to return the certificates of the petitioner within a period of 15 days from today. Liberty is reserved to the 3rd respondent to take appropriate proceedings for recovery of the course fee which it is, in law, entitled to. The 4th respondent is permitted to admit the petitioner upon undertaking that she will produce the certificates within a specific period. No costs.

07.12.2022

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order



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W.P.No.29342 of 2022

To:-

- 1.The Principal Secretary,
State of Tamil Nadu,
Health and Family Department,
Secretariat, Chennai – 600 009.
- 2.Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai – 600010.
- 3.The Secretary,
Medical Counselling Committee,
Directorate General of Health Sciences,
Ministry of Health and Family Welfare,
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W.P.No.29342 of 2022

R.SUBRAMANIAN, J.

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W.P.No.29342 of 2022

07.12.2022