



WEB COPY



W.P.No.29702 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.29702 of 2022
and
W.M.P.No.29092 of 2022

Prathumnan K.A.

...Petitioner

Vs.

1.The Directorate of Medical Education (DME),
156, Poonamallee High Road,
New Bupathy Nagar, Chetpet,
Chennai - 600 031.

2.The Selection Committee,
Directorate of Medical Education,
162, Periyar E.V.R. High Road,
Kilpauk, Chennai - 600 010.

3.The Principal,
(Bachelor of Dental and Surgery Department),
Annamalai University,
Annamalai Nagar, Chidambaram,
Tamil Nadu - 608 002.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 3rd respondent to release the +2 certificate, transfer certificate and other related certificates which was submitted at the time of admission in the institution of 3rd respondent,



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enabling the petitioner to pursue his MBBS Course at Sri Muthukumaran Medical College Hospital and Research Institute, Chennai.

For Petitioner : Mr.M.S.Govindarajan
For R1 : Mr.U.M.Ravichandran,
Special Government Pleader
For R2 : Ms.M.Sneha,
Standing Counsel
For R3 : Mr.K.Sathish Kumar,
Standing Counsel

ORDER

The prayer sought for is for a Writ of Mandamus to direct the third respondent to release the certificates which was submitted at the time of admission in the third respondent institution, enabling the petitioner to pursue his Bachelor of Medicine and Bachelor of Surgery (in short, MBBS) Course at Sri Muthukumaran Medical College Hospital and Research Institute, Chennai.

2. The petitioner, on selection, joined in the third respondent institution in the First Year Bachelor of Dental and Surgery (in short, BDS) Course on 09.05.2022, for the academic year 2021-2022.



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3. The petitioner joined in the third respondent institution and pursued the course for some time. Subsequently, the petitioner applied for admission in a private Medical College for MBBS course, for which, he cleared National Eligibility cum Entrance Test (NEET) and based on merit, the petitioner had been selected for admission in a said Medical College in the State of Tamil Nadu and admission was also given to him.

4. However, when the petitioner approached the third respondent for getting the original certificates that has been produced by him at the time of joining, the same has not been returned for the reason that, at the time of joining the third respondent institution, the petitioner had executed a bond in favour of third respondent, wherein it is stated that, if the petitioner wants to discontinue the course or to go away for any other institution, the petitioner has to pay a sum of Rs.10,00,000/- for the certificates to be returned.

5. Since the certificates are held back by the third respondent and the same has not been returned to the petitioner, the petitioner is unable to join the institution where admission has been given to him by the second respondent in First Year MBBS Course for the academic year



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2022-2023. Therefore, in order to get back the certificates from the third respondent, the petitioner has approached this Court by filing this writ petition.

6. Heard Mr.M.S.Govindarajan, learned counsel for the petitioner, who having reiterated the aforesaid, seeks indulgence of this Court.

7. Heard Mr.U.M.Ravichandran, learned Special Government Pleader for the first respondent, Ms.M.Sneha, learned Standing Counsel for the second respondent and Mr.K.Sathish Kumar, learned Standing Counsel for the third respondent.

8. The learned counsel for the petitioner has produced a copy of the order passed by this Court in W.P.Nos.27809 of 2014, etc. batch, dated 05.11.2014, where when this kind of issue had come up before a learned Judge, as to whether the certificates belonging to students can be retained as a security by the Universities or Colleges or not, the learned Judge considered the said issue and passed the following order:-

"9. Keeping aside the question of entitlement of the petitioners to the imposition of such a condition, it should be pointed out that certificates



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belonging to students, cannot be retained as a security by the universities or colleges. I had an occasion to consider a similar issue in W.P.(MD) No.14394 of 2012 on the file of the Madurai Bench. By the order passed therein on 18.12.2012, I have held that certificates cannot be retained as a bait by the universities. Therefore, on the entitlement of the petitioners to the first part of the prayer, there cannot be any dispute. The petitioners are entitled to take back their certificates, as the certificates belong to them and no security is created on such a property.

10. But, in so far as the entitlement of the petitioners to the refund of tuition fees and the entitlement of the second respondent to claim the amount as per the agreement bond are concerned, there are disputes. These disputes have to be resolved independently in appropriate proceedings taken by both parties.

11. Therefore, reserving rights of both parties including monetary aspect, the writ petitions are allowed to a limited extent directing the University to return the certificates. No costs. Consequently, the above MPs are closed."



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WEB COPY 9. The said legal position is also not controverted by the learned Special Government Pleader appearing for the first respondent. As it is a settled proposition of law that for whatever the reason, especially the reason for collection of some fees or amount, Educational Institutions cannot retain the certificates of the students as a security and if at all any amount has to be recovered, after returning the certificates, the institution can pursue the matter by initiating appropriate legal proceedings in the manner known to law.

10. In view of the settled legal position and also the fact that retaining the certificates of the petitioner against the due of Rs.10,00,000/- to be paid by the petitioner as per the bond, by the third respondent, may not be justifiable, this Court, by following the judgement cited supra, is inclined to dispose of this writ petition with the following orders:-

(a) that there shall be a direction to the third respondent to release all the original certificates held back by the third respondent to the petitioner forthwith, within a period of one week from the date of receipt of a copy of this order.



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(b) On receipt of the certificates, it is open to the petitioner to produce those certificates to the institution concerned where he has been selected for the First Year MBBS course for the academic year 2022-2023.

(c) The concerned institution, on receipt of the certificates from the petitioner, shall accept it and give admission to the petitioner in the First Year MBBS Course for the academic year 2022-2023.

(d) It is made clear that in this regard, if there is any further impediment for the institution concerned to give admission to the petitioner, the issue can be clarified by the second respondent-Selection Committee, in view of the order passed by this Court.

11. With these directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Speaking order/Non-speaking order

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Note: Issue order copy today, i.e. 09.11.2022



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To



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R. SURESH KUMAR, J.

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