

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

DATED: 15.07.2022**CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.2669 of 2022**

D. Godwin Mohansingh
S/o. P.V. Dharmaraj,
Represented by his General Power of Attorney,
G. Bina Jessica, V/o Godwin Mohansingh,
No.22, Kesava Nagar, Race Course Road,
Trichy-620 023 ... Petitioner

Vs.

1. The Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
2. The Registrar,
Tamil Nadu Dr. MGR Medical University,
Anna Salai, Guindy, Chennai-600 039.
3. The Principal,
Madha Medical College & Research Institute (MMCRI),
Kovur Main Road,
Chennai-600 128. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to return all the original certificates of the petitioner's daughter submitted at the time of her admission in the 3rd respondent college and to refund the fees paid for the 3rd year MBBS in view of the petitioner's daughter's condition and future life based on the representation given by the petitioner dated 25.09.2021.



For Petitioner : Mr.K.K. Senthil
For R-1 : Mr.V.Om. Prakash,
Government Advocate.

For R-2 : Mr. S. Ramesh

For R-3 : Mr. K.R. Shivashankar

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner's daughter joined MBBS course for the academic year 2019-20 in the third respondent college. On account of certain issues, she could not continue the course. She therefore discontinued the course and seeks return of the original certificates entrusted by her at the time of admission.

3. The learned counsel appearing for the third respondent states that as a result of the discontinuance of the course by the writ petitioner's daughter, the seat has lapsed and that the college management has also been put to severe loss. No doubt, the stand of the third respondent is correct. But on that account, the petitioner's daughter's certificates cannot be withheld.



4. It has been held time and again that the educational certificates are not marketable commodities and there can be no right of lien under Section 171 of the Indian Contract Act. In the writ prayer, there are two parts. The second part is for refund of the fee paid by the petitioner's daughter for the second year MBBS course. Obviously, this relief cannot be granted. On the other hand, the third respondent will be entitled to file a civil suit for recovery of damages. However the first part of the writ prayer has to be necessarily granted. The third respondent is directed to return the petition mentioned certificates to the petitioner's daughter that were submitted at the time of admission immediately and without any delay. The third respondent is also directed to issue Transfer Certificate to the petitioner's daughter. This writ petition stands partly allowed. No costs.

15.07.2022

Index : Yes / No
Internet : Yes/ No

PMU



4

W.P.(MD)NO.2669 OF 2022

G.R.SWAMINATHAN,J.

PMU

To:

1. The Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
2. The Registrar,
Tamil Nadu Dr. MGR Medical University,
Anna Salai, Guindy, Chennai-600 039.
3. The Principal,
Madha Medical College & Research Institute (MMCRI),
Kovur Main Road,
Chennai-600 128.

W.P.(MD)No.2669 of 2022

15.07.2022