



W.P(MD)No.24700 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 22.12.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24700 of 2022

Sanmitha

... Petitioner

Vs

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St George,
Chennai – 09.

2.The Registrar,
Tamil Nadu Dr.M.G.R Medical University,
69, Annasalai, Guindy,
Chennai – 32.

3.The Pricipal,
J.K.K.Nattaraja College of Pharmacy,
Kumarapalayam – 638 183,
Namakkal District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to direct the third respondent to forthwith return back all the original certificates of the petitioner (I-Pharm D-2020-2021) namely (1) Transfer Certificate, (2) Mark Statement of Secondary School Examination, 2018 bearing Roll No. 4044523,



W.P(MD)No.24700 of 2022

(3) Mark Statement of Senior School School Certificate Examination, 2020 bearing Roll No. 20637871, (4) Community Certificate bearing No. TN-5202002285530 within time frame to be fixed by this Court, without insisting the petitioner to pay any fees for the remaining period of course based on the petitioners representation dated 12.10.2022.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.T.Amjad Khan
Government Advocate for R.1

Mr.S.Ramesh for R.2

Mr.P.Samuel Gunasingh for R.3

ORDER

Heard the learned counsel on either side.

2.The petitioner joined the third respondent College in D.Pharm Course. The Petitioner has already discontinued the Course. She wants the petition mentioned original certificates back. It appears that the petitioner has not paid the balance fees. It is too well settled that on this ground, the College Management cannot retain the certificates and that the power to lien is not available over the educational certificates since they are not marketable commodities.



W.P(MD)No.24700 of 2022

3. When a similar issue arose before the Principal Seat in W.A.Nos.2256 to 2257 & 2259 of 2022, it was held as follows:-

“2. The appellants / writ petitioners had undergone Post Graduate Diploma and Post Graduate Degree courses in the third respondent colleges. While securing admission, they had executed bonds undertaking to serve the Government of Tamil Nadu for a period of two years. The bond period has since expired. Now, the appellants / petitioners are in need of original certificates so as to pursue higher education. The authorities are taking the stand that since the bond conditions have not been fulfilled, they would not return the certificates. It has been held in more than one case that Educational Certificates are not marketable commodities and therefore, they cannot be withheld. [R.D.Saxena -Vs- Balram Prasad Sharma 2000 (7) SCC 246] and [S.Muthukamakshi (Vs) Anna University (2013) 1 CTC 595].

3. In this view of the matter, the respective colleges are directed to return the petition mentioned original certificates to the appellants / writ petitioners forthwith and without any delay. The respondents are at liberty to proceed against the appellants / writ petitioners for violation of bond conditions. If according to the authorities, the writ petitioners have to pay damages, it is open to them to file a Civil Suit or take recourse to any other remedy for recovering the same but on that ground, the certificates cannot be retained. There can never be a general lien



W.P(MD)No.24700 of 2022

on educational certificates in terms of Section 171 of the Contract Act.

4.The orders impugned in these writ appeals are set aside and the Writ Appeals are allowed with the aforesaid liberty to the respondents.....”

4.In this view of the matter, the third respondent is directed to return the petition mentioned certificates forthwith and without any delay. The petitioner shall appear before the third respondent tomorrow (23.12.2022) at 2.15 p.m and after giving acknowledgement collect certificates. It is open to the third respondent to initiate appropriate recovery proceedings in the manner known to law.

5.This writ petition is allowed on these terms. There shall be no order as to costs.

22.12.2022

Index : Yes / No
Internet : Yes/ No
mga

Note: Issue Order Copy on 22.12.2022.

To

The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St George, Chennai – 09.



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W.P(MD)No.24700 of 2022

G.R.SWAMINATHAN, J.

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W.P(MD)No.24700 of 2022

22.12.2022