



W.P(MD)No.1619 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.1619 of 2023

S.Arshiya Fathima

... Petitioner

Vs

1. The Principal Secretary To Government,
Higher Education Department,
Fort St.George, Chennai-600 009.
2. The Registrar,
Tamil Nadu Agricultural University
(TNAU), Lawley Road, Coimbatore-641 003.
3. The Principal,
S.Thangapazham Agriculture College
(Affiliated to Tamil Nadu Agricultural University,
Coimbatore),
Chinthamaniperiputhur, Athuvazhi,
Vasudevanallur.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to return the petitioner's original certificate, such as Community Certificate,



W.P(MD)No.1619 of 2023

Nativity Certificate, Transfer Certificate, SSLC Mark Sheet, HSC Mark Sheet forthwith by considering her representation, dated 23.12.2022 within a time frame fixed by this Court.

For Petitioner	:Mr. J.Senthil Kumaraiah
For R1	:Mr.M.Ramesh Government Advocate
For R2	:Mr.A.Thirumurthy
For R3	:Mr.F.X.Eugene

ORDER

The writ petition has been filed in the nature of a mandamus, seeking a direction against the respondents, particularly the third respondent/ Principal of S.Thangapazham Agriculture College, which is affiliated to Tamil Nadu Agricultural University, Coimbatore, situated at Chinthamaniperiputhur, Athuvazhi, Vasudevanallur, to return the petitioner's original certificates, such as Community Certificate, Nativity Certificate, Transfer Certificate, SSLC Mark Sheet, HSC Mark Sheet, on consideration of representation, dated 23.12.2022 given by the petitioner herein.

2.The petitioner had joined in the third respondent college, after due process and after attending counselling at the second respondent



W.P(MD)No.1619 of 2023

University in B.Sc., (Hons) Agriculture course for the academic year 2020-2024. The actual date on which she had admitted in the college was 15.02.2021. She claimed that she has remitted the college fees on that date and she was issued with Identity Card. She had completed her first semester. Thereafter, from 11.08.2021, the classes for the second semester started. In the interregnum, due to outbreak of Covid-19, she had attended online classes. In the meantime, she got married on 30.10.2022. Her husband was working abroad and she decided to move abroad to stay with her husband. She had no other option and therefore, she decided to quit her studies. She had applied for transfer certificate from the third respondent and given a representation for return of certificates, which had been forwarded by her at the time of admission. Since there was no response from the third respondent, on 23.12.2022, she made a detailed representation to the respondents No.1 and 2. Thereafter, on 29.12.2022, the third respondent had given a reply by the impugned proceedings and demanded a sum of Rs.2/- lakhs as discontinuation fees for return of original certificates. Claiming that such refusal of return of certificates violated her right, since those documents can be stated as her properties, the present writ petition has been filed in the nature of mandamus seeking return of the documents.



W.P(MD)No.1619 of 2023

3. Notice had been directed to the respondents herein. The learned counsel for the petitioner entered appearance, on behalf of the first, second and third respondents.

4. The learned counsel for the second respondent/Tamil Nadu Agricultural University (TNAU) had forwarded a paper booklet containing various stipulation and placed reliance on the same. It was stated that TNAU in their proceedings, dated 27.11.2019, in R2/BM.189/IV-3/2019 had in their 189th meeting of the Board of Management held on 24.10.2019, approved collection of discontinuation fees of Rs.2/- lakhs from the academic year 2019-2020. Subsequently, this had been further affirmed by a letter addressed by the second respondent to all the Principals of affiliated colleges by letter, dated 16.12.2019, informing about the levy of discontinuation fees of Rs.2/- lakhs. This was again reiterated in letter, dated 02.01.2020, stating that discontinuation fees has to be paid, when transfer certificate was sought on the ground of discontinuation, during midway of the course period.

5. The learned counsel for the second respondent also pointed out that in the prospectus of TNAU, among other conditions, it had been very



W.P(MD)No.1619 of 2023

specifically stated in Clause 2.1.8 that the student must pay discontinuation fee of Rs.2/- lakhs. The learned counsel for the second respondent also pointed out that in Dr.J.Jayalalithaa Fisheries University, Nagapattinam, discontinuation fee from a degree course is charged to a sum of Rs.2/- lakhs and shall be payable by the students. Parallel reference was made to Tamil Nadu Veterinary and Animal Sciences University, Chennai, wherein, again for discontinuation by students, a sum of Rs.3/- lakhs shall be payable by the students. Further reference was made to the prospectus of the Directorate of Medical Education relating to admission to MBBS/BDS Degree, where, again on discontinuation from the course, a sum of Rs.10/- lakhs will have to be paid as discontinuation fees by the students. Pointing out all these aspects, the learned counsel for the second respondent had justified the demand raised by the third respondent for payment of Rs.2/- lakhs as discontinuation fees.

6.The third respondent college drew attention of this Court to an undertaking given by the petitioner and her mother at the time of joining the college. The joint declaration had confirmed the guidelines given by the second respondent. Both the petitioner as well as her mother were thus aware that if the petitioner discontinued the course, a discontinuation fee of Rs.2/-



lakhs will have to be paid by them.

WEB COPY

7.The learned counsel for the second respondent also placed reliance on the Judgment of a learned Single Judge, dated 09.01.2015 in a batch of writ petitions in ***Shanmuga Arts Science and Technology Research Academy (SASTRA University) A Deemed University represented by its Registrar Dr.Balachandran vs. The District Consumer Disputes Redressal Forum Thanjavur 613 002 and others***, wherein, in paragraph number 35 it was held as follows.

“35.Similar reasoning is applicable to the case of the third respondent in WP.15058/2012, who left the college after the course was commenced and after the date of admission was over. In that event, the student is liable to pay the second semester fee as demanded by the petitioner University, which remained unfilled. It is relevant at this juncture, to recollect the observation of the Hon'ble Supreme Court in Islamic Academy of Education v. State of Karnataka's case (cited supra) that the institution is entitled to have reasonable surplus for development of education and expansion of the institution and reasonable surplus doctrine can be given effect to only if the institutions make profits out of their investments. While doing so, they cannot be made to suffer loss due to no fault on their part or due to discontinuance of the course by the student on his own or due to no fault on the part of



the University. It is nobody's case that the 27 petitioner University is deficiency in service and is not willing and ready to impart education to the students, who opted other college and chose to leave the petitioner college for their betterment. Further having found that the specific contention of the petitioner University that the seats consumed by the third respondent students remain unfilled, is nowhere denied by the respondent 2 and 3, it is further held that the petitioner University cannot be penalised for the same.”

8.The learned counsel for the second respondent stated that every educational institution which has been formed for development of education also has as its objective expansion of the Institution, and the Institution should not suffer owing to discontinuation by a student, due to no fault of the University. It was also stated that if there is no deficiency in service, then the University cannot be penalised for discontinuation from the University. In fact, in fact, for the discontinuation of a student halfway, the educational institution should not be made to suffer loss.

9.The learned counsel for the second respondent further pointed out that because the petitioner had discontinued the course in half way, the



W.P(MD)No.1619 of 2023

opportunity to some other student joining in the course had been lost and one seat would go vacant and the third respondent would also suffer loss of fees, during the entire period of course.

10.Both the learned counsels for the second and third respondents pointed out the representation given by the petitioner, wherein, she had stated that she intends to go abroad and live with her husband, and stated that it would be extremely difficult for the third respondent to collect the discontinuation fees, which, as a matter of fact they have right to collect. Therefore, both the learned counsels, sought that this Court must give a direction to the petitioner to furnish at least a bank guarantee. If it is provided, the third respondent is ready to release the certificates to the petitioner.

11.These arguments were countered by the learned counsel for the petitioner, who stated that there cannot be any such direction, since the certificates of the petitioner are her properties, which she had earned out of hard labour of study. It was insisted by the learned counsel for the petitioner that the respondents cannot have a lien over the certificates.



WEB COPY

12.The learned counsel for the petitioner relied on a decision of the learned Single Judge in ***S.Muthukamatchi Vs 1.The Director of Technical Education, Anna University, Guindy, Chennai and others*** reported in ***2013 1 CTC 595***, wherein, the learned Single Judge had examined the representation given for return of certificates. In that particular case, the petitioner had sought refund of fees and certificates. The reason was that the petitioner therein cannot travel daily, from her residence to the college, which was to distance of about 55 kms. It had been held at paragraph No.3 as follows.

“3.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.”

13.The learned counsel for the petitioner also relied on the Judgment of a learned Single Judge in ***W.P.No.6221 of 2021 in G.Karthikvasan Vs The Vice Chancellor, Pondicherry University, Chinna Kalapet, Kalapet, Puducherry and others***, dated 26.04.2021, wherein also,



W.P(MD)No.1619 of 2023

relief was sought to return of original certificates. The learned Single Judge had referred to another order of learned Single Judge in **W.P.No.29359 of 2017, dated 24.01.2018** and had also drawn reference to the Judgment supra in **S.Muthukamatchi v. The Director of Technical Education, Anna University [2013 (1) CTC 595]** and finally held in paragraph No.5 as follows:

“5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the earlier order of this Court dated 24.01.2018 in WP.No.29359 of 2017 (cited supra), which holds good to the facts of the present case, this Court directs the third respondent to consider the petitioner's representation dated 27.02.2021 and return all the original certificates withheld by them to the petitioner forthwith. However, it is open to the third respondent to recover the balance fee payable by the petitioner, if any, in the manner known to law.”

14. I have given careful consideration to the arguments advanced.

15.The facts are simple and are not denied or disputed. The petitioner had joined in the third respondent college for B.Sc.,(Hons) Agriculture Course for the academic year 2020-2024. She paid her fees for



W.P(MD)No.1619 of 2023

the first and second semesters and then got married. Her husband was residing abroad and she was expected to join her husband in abroad.

16.The fact of payment of a sum of Rs.2/- lakhs as discontinuation fees is not disputed. The only issue is whether the respondents have a lien over the certificates of the petitioner. The certificates are the product of hard labour of every student, which can be classified as valuable property. Article 300(A) of Constitution of India provides that there cannot be any dispossession of property, except under authority of law. This would indicate, not only movable but also immovable property. It should only be by due process approved and recognised by law. The certificates which are the product of study and had been issued consequent to merit exhibited by a student are the properties of that student. Nobody else can claim a right over the certificates. Nobody else can claim any credit, except the parents and teachers. Viewed from the angle of the student, they had been obtained out of hard labour for promote further success in life and progress in life. These certificates cannot be retained by anybody, very particularly by Educational Institutions. An Educational Institution must understand the value of a certificate, which can be used for further progress of career in life.



W.P(MD)No.1619 of 2023

WEB COPY

17.I hold that the respondents should have voluntarily returned the certificates. However, they claim discontinuation fees of Rs.2/- lakhs. They can recover the same in manner known to law. The law provides methods for recovery of a money claim. But law certainly does not state that towards any money claim, the certificates of a student can be retained by College. This cannot be the stand taken by a College.

18.The third respondent should act as a model institution and if a student, who is studying in their College, seeks to discontinue the course half-way, it should be understood that it is their personal decision. In the instant case, the petitioner wants to live with her husband and she wants therefore to discontinue the course. It is a personal decision taken by the petitioner herein. There cannot be any scope for any criticism or any opinion over the decision. It is her decision. It should be accepted.

19.The learned single judge in **2013(1)CTC 595** has held that

“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.”.

20.I hold that the respondents have no right to hold on to the certificates of the petitioner. They are not moneylenders to hold on to the certificates. Recognising the value of the certificates, more than the petitioner, they should have come forward to return the certificates. They cannot hold them as a lien for recovery of the discontinuation fees. The law provides lawful methods to recover a debt.

21.In view of the above reasons, a direction is given to the third respondent, to return back the original certificates to the petitioner, within a period of ten working days from the date of receipt of a copy of this order. The petitioner or any authorised person may claim the certificates, on giving undertaking and acknowledgement to the third respondent.

22.The third respondent is at liberty to file appropriate proceedings to recover the discontinuation fees as per law. They cannot indulge in third hand methods. The certificates must be released first and



W.P(MD)No.1619 of 2023

then the process of recovery of discontinuation fees can be initiated.

WEB COPY

23. With the above directions, this Writ Petition stands disposed of. No costs.

26.04.2023

NCS : Yes/No
Index : Yes/No
Internet: Yes/No
PNM

To

1. The Principal Secretary To Government,
Higher Education Department,
Fort St. George, Chennai-600 009.
2. The Registrar,
Tamil Nadu Agricultural University
(TNAU), Lawley Road, Coimbatore-641 003.
3. The Principal,
S.Thangapazham Agriculture College
(Affiliated to Tamil Nadu Agricultural University,
Coimbatore),
Chinthamaniperiputhur, Athuvazhi,
Vasudevanallur.



WEB COPY



W.P(MD)No.1619 of 2023

C.V.KARTHIKEYAN, J.

PNM

ORDER IN
W.P(MD).No.1619 of 2023

26.04.2023