



WP(MD)No.12875 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.12875 of 2023

P.Dharani Devi

... Petitioner

v.

1.The Director,
Directorate of Indian Medicine and Homeopathy,
Arumbakkam, Chennai – 600 106.

2.The Registrar,
Tamil Nadu Dr.MGR Medical University,
Anna Salai, Guindy, Chennai – 600 032.

3.The Dean,
Government Yoga and Naturopathy Medical
College and Hospital,
Near Anna Arch, Arumbakkam,
Chennai – 106.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Certiorarified Mandamus calling for the records
relating to the impugned order in Na.Ka.No.2854/Ma.Ka./2022 dated



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01.11.2022 on the file of the third respondent and quash the same and further directing the respondents to return the original certificates of the petitioner including SSLC Marksheet, HSE Marksheet, Transfer Certificate and Community Certificate, by considering her representation dated 19.04.2023.

For Petitioner : Mr.K.Jeyamohan

For Respondents : Mr.M.Sarangan,
Additional Government Pleader

ORDER

The petitioner got admission for the course of Bachelor of Naturopathy and Yogic Science at Government Yoga and Naturopathy Medical College and Hospital, Arumbakkam, Chennai. She discontinued her studies due to some health issues on 07.10.2022. The respondents insisted the petitioner to pay the balance course amount as a discontinuation fee and also retained the petitioner's certificates. As against the same, the petitioner has filed this writ petition.

2.Learned Additional Government Pleader, on instructions, submitted that due to the conduct of this petitioner in discontinuing the course after two



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years, the seat became vacant and an eligible candidate was deprived of the opportunity to pursue the course. The hostel facilities and other infrastructures provided for the candidates have become waste and therefore, the Government is imposing penalty of Rs.10,00,000/- for those candidates who are discontinuing the course after the cut-off date.

3.He further submitted that the Government has now reduced the penalty amount from Rs.10,00,000/- to Rs.1,00,000/-, vide G.O.(D)No.14, Health and Family Welfare (IM1-2) Department, dated 09.01.2023. A copy of this Government Order was also produced before this Court.

4.This Court considered the rival submissions made on either side and also perused the available materials.

5.A certificate of a candidate is a property, which cannot be retained for want of any payment or default or for any reasons. This Court, in a similar writ petition in WP(MD)No.14394 of 2012 decided on 18.12.2012, has passed the following order:-



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“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.

5.However, Mr.N.Balakrishnan, the learned counsel appearing for the fourth respondent contended that if the student leaves a course in the midstream, he would be entitled to the return of the Certificates, only after paying the tuition fee for the remaining incomplete period of the course. The learned counsel also contended that if a student leaves a College in the midstream, the seat goes waste and that the fixation of fee for every student is actually based upon the cost worked out before the Fee Fixation Committee. Once the particular fee is fixed for a particular academic year, the students admitted in that academic year are obliged to pay the same fee, till the end of the course every year. Similarly, there is an obligation casts upon the College to charge only those fees. In such circumstances, it is implicit that the students like the petitioner's daughter will have to pay the fees for the rest of the course of study for collecting the Certificates.



6.I would not venture to get into that controversy, namely, whether the College is entitled to collect the balance of fees or not. The main grievance of the petitioner is about the Certificates of her daughter. Those Certificates are not like fixed deposit receipt on which, banks claim a general lien in terms of Section 171 of the Contract Act. Therefore, the Certificates cannot be retained at any rate. Hence, this writ petition is allowed directing the fourth respondent to return all the original Certificates deposited by the petitioner forthwith. No costs.”

6.Following the above decision, this writ petition stands allowed with the following directions:-

i) the petitioner shall approach the third respondent, by paying a partial penalty amount of Rs.25,000/- [Rupees Twenty Five Thousand only] and submit an undertaking affidavit for paying the penalty amount, as imposed by the Government vide G.O.(D)No.14, Health and Family Welfare (IM1-2) Department, dated 09.01.2023;

ii) on receipt of the same, the respondents shall return all the original certificates of the petitioner, immediately;

iii) the petitioner shall pay the balance penalty amount of Rs.75,000/- [Rupees Seventy Five Thousand only], within a period of six months time, in three equal instalments.



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There shall be no order as to costs.

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Index : Yes / No
NCC : Yes / No
gk

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