



W.P.(MD) No.14133 of 2023.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD) No.14133 of 2023

J.Jaya Balan

.. Petitioner

Vs.

1.The Registrar,
The Tamil Nadu Dr.MGR Medical University,
No.69, Anna Salai,
Guindy, Chennai-600 032.

2.The Principal,
Sun College of Pharmacy and Research Centre,
Udaya Nagar, Ammandivilai Post,
Kanyakumari District,
Tamil Nadu-629 204

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to issue transfer certificate and return the originals of 10th standard mark statement, 11th standard mark statement, 12th standard mark statement, Community Certificate and nativity certificate of the petitioner forthwith.



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For Petitioner : Mr.T.Antony Arulraj
For R2 : Mr.B.Brijesh Kishore
Standing Counsel
For R1 : No appearance

ORDER

This writ petition has been filed in the nature of a mandamus seeking direction to the respondents to issue transfer certificate to the petitioner and to return the originals of 10th, 11th and 12th standard mark statements and also the original of Community Certificate and nativity certificate to the petitioner

2.The petitioner had joined first year in the second respondent college. He had completed only 2 papers out of 5 papers. He had subsequently discontinued the course. He had thought that his future would be better served by leaving the second respondent college and joining yet another college. He is a bright student. He actually got 84% in his Higher Secondary Examination. He had paid about Rs.50,000/- as first year fees to the second respondent. There was financial constraint in his family. Therefore, he took a decision to get Transfer Certificate. He then joined by attending counselling, Government Polytechnic at



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Nagarcoil. That college has insisted that admission will be finalised only if the original 10th, 11th, 12th Standard Mark statements and Community Certificate and Transfer Certificate and Nativity Certificate are produced. It is only natural that those certificates should be produced in original. The second respondent however have taken a decision that unless the petitioner pays the entire fees, they will not return the certificates. This stand cannot with stand the scrutiny of this Court. The second respondent cannot claim any lien over the certificates.

3.It is contended by the learned counsel for the second respondent that at the time of admission an undertaking was given that fees in entirety would be paid, for the Certificates to be issued. If that undertaking had not been given, then in all probability, the petitioner would not have been given admission. Therefore, to get admission, that undertaking was required or necessary or to put it more clearly forced upon the petitioner herein. To that extent, that undertaking could not be said to have been given voluntarily or out of free will. There was no other option. It had to be given. It was therefore given. But when the



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petitioner seeks to move away from the college, the second respondent as Educational Agency should focus on the interest of the student. If owing to financial constraint, the petitioner wants to study in a Government College where the course structure and fees structure are less, then they should give him a golden hand shake and express wishes for his future. They should not withhold the certificates. If at all they have any claim against the petitioner for any fees unpaid, then they can always institute a suit for recovery of money. They cannot strangle the petitioner by withholding his certificates and not permitting him to study elsewhere and forcing him to study in their college, when he has no financial means to pay the fees.

4.The learned counsel appearing for the second respondent also stated that though objections have been raised, they are willing to return back the certificates. The second respondent may return back the certificates to the petitioner and later, within the stipulated period, if the petitioner does not honour their commitment to pay the fees or whatever is demanded by the second respondent can always exercise inherent right



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to institute a suit for claim for fees which. That can always be resisted by the petitioner in the manner known to law. That is a separate proceedings whatsoever and this Court can never state any opinion on the same, but can only direct the second respondent to return the certificates to the petitioner herein. The certificates should be returned on or before 06.07.2023 on obtaining proper acknowledgment from the petitioner herein. The petitioner may also give Xerox copies of the certificates for the records of the second respondent to be retained, as records of the second respondent, since the petitioner had studied under the second respondent and in future may require that record of study for whatever purpose. The originals must however to be handed to the petitioner under proper acknowledgment by on or before 06.07.2023.

5.In view of these reasons, the writ petition stands allowed. No costs.

30.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes



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C.V.KARTHIKEYAN, J.

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To

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