



WP(MD)No.19922 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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M.Karthihi Samy

... Petitioner

v.

1.The Director of Collegiate Education,
Office of the Director of Collegiate Education,
9th Floor, EVK Sambath Maligai,
College Road,
Chennai – 600 006.

2.The District Collector,
Namakkal District,
Namakkal.

3.The Principal,
Pavai Engineering College,
Pachal,
Namakkal – 637 018.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to direct the third respondent to return the original certificates, ie., i) 10th mark sheet, ii) 12th mark sheet, iii) transfer certificate, iv) community certificate of



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the petitioner's son M.K.Mugesh Kumar, which were entrusted at the time of admission in the third respondent's college, within a stipulated time limit.

For Petitioner : Mr.R.Anand

For Respondents : Mr.P.T.Thiraviyam,
Government Advocate
for R.1, R.2

No appearance for R.3

ORDER

According to the petitioner, his son, Mukesh Kumar, joined B.E (Mechanical Engineering) in the third respondent college and at the time of admission in the year 2017, the petitioner has paid the necessary fee and the certificates of Mukesh Kumar were submitted before the third respondent College. After the admission, the petitioner's son developed some health issues and affected with APD (Acid Peptic Disease) and he could not proceed with his education. Since the certificates of Mukesh Kumar were entrusted with the College, the petitioner has made a representation for return of certificates and alleging that the said representation was not considered, he has filed this writ petition.



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WEB COP 2. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 & 2. There is no representation for the third respondent / College.

3. This Court, in a similar writ petition in WP(MD)No.14394 of 2012 decided on 18.12.2012, has passed the following order:-

“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



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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 lean 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."

4.Following the above decision, this writ petition stands allowed, directing the third respondent to return all the original certificates deposited by the petitioner's son, forthwith. No costs.

Index : Yes / No
NCC : Yes / No
gk

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